

EMERGENCY POWERS STATUTES:  
PROVISIONS OF FEDERAL LAW  
NOW IN EFFECT DELEGATING TO THE  
EXECUTIVE EXTRAORDINARY AUTHORITY  
IN TIME OF NATIONAL EMERGENCY

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REPORT  
OF THE  
SPECIAL COMMITTEE ON THE  
TERMINATION OF THE  
NATIONAL EMERGENCY  
UNITED STATES SENATE



NOVEMBER 19, 1973

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SPECIAL COMMITTEE ON THE  
TERMINATION OF THE NATIONAL EMERGENCY

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## FOREWORD

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Since March 9, 1933, the United States has been in a state of declared national emergency. In fact, there are now in effect four presidentially proclaimed states of national emergency: In addition to the national emergency declared by President Roosevelt in 1933, there are also the national emergency proclaimed by President Truman on December 16, 1950, during the Korean conflict, and the states of national emergency declared by President Nixon on March 23, 1970, and August 15, 1971.

These proclamations give force to 470 provisions of Federal law. These hundreds of statutes delegate to the President extraordinary powers, ordinarily exercised by the Congress, which affect the lives of American citizens in a host of all-encompassing manners. This vast range of powers, taken together, confer enough authority to rule the country without reference to normal constitutional processes.

Under the powers delegated by these statutes, the President may: seize property; organize and control the means of production; seize commodities; assign military forces abroad; institute martial law; seize and control all transportation and communication; regulate the operation of private enterprise; restrict travel; and, in a plethora of particular ways, control the lives of all American citizens.

With the melting of the cold war—the developing détente with the Soviet Union and China, the stable truce of over 20 years duration between North and South Korea, and the end of U.S. involvement in the war in Indochina—there is no present need for the United States Government to continue to function under emergency conditions.

The Special Committee on the Termination of the National Emergency was created<sup>1</sup> to examine the consequences of terminating the declared states of national emergency that now prevail; to recommend what steps the Congress should take to ensure that the termination can be accomplished without adverse effect upon the necessary tasks of governing; and, also, to recommend ways in which the United States can meet future emergency situations with speed and effectiveness but without relinquishment of congressional oversight and control.

In accordance with this mandate, the Special Committee—in conjunction with the Executive branch, expert constitutional authorities, as well as former high officials of this Government—is now engaged

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<sup>1</sup> S. Res. 9, 93d Cong., 1st Sess.

in a detailed study to determine the most reasonable ways to restore normalcy to the operations of our Government.

A first and necessary step was to bring together the body of statutes, which have been passed by Congress, conferring extraordinary powers upon the Executive branch in times of national emergency. This has been a most difficult task. Nowhere in the Government, in either the Executive or Legislative branches, did there exist a complete catalog of all emergency statutes. Many were aware that there had been a delegation of an enormous amount of power but, of how much power, no one knew. In order to correct this situation, the Special Committee staff was instructed to work with the Executive branch, the Library of Congress, and knowledgeable legal authorities to compile an authoritative list of delegated emergency powers.

This Special Committee study, which contains a list of all provisions of Federal law, except the most trivial, conferring extraordinary powers in time of national emergency, was compiled by the staff under the direction of Staff Director William G. Miller, and Mr. Thomas A. Dine; utilizing the help of the General Accounting Office, the American Law Division of the Library of Congress, the Department of Justice, the Department of Defense, and the Office of Emergency Planning.

The Special Committee is grateful for the assistance provided by Jack Goldklang of the Office of Legal Counsel, Department of Justice; Lester S. Jayson, the director of the Congressional Research Service of the Library of Congress; Joseph E. Ross, head of the American Law Division of CRS; and especially Raymond Celada of the American Law Division and his able assistants, Charles V. Dale and Grover S. Williams; Paul Armstrong of the General Accounting Office; Linda Lee, Patrick Norton, Roland Moore, William K. Sawyer, Audrey Hatry, Martha Mecham, and David J. Kyte.

The Special Committee will also publish a list of Executive Orders, issued pursuant to statutes brought into force by declared states of emergency, at a later date.

CHARLES MCC. MATHIAS, JR.  
FRANK CHURCH,  
*Co-Chairmen.*



# CONTENTS

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|  | Page |
|--|------|
| Foreword.....  | III  |
| Introduction:  |      |
| A—A brief historical sketch of the origins of emergency powers now in force..... | 1    |
| B—Summary views of the present status of emergency powers statutes.....          | 6    |
| Textual Note:  |      |
| Compiling the texts of emergency power statutes.....                             | 15   |
| Summary of statutes delegating powers in time of war or national emergency:      |      |
| United States Code:  |      |
| Title 2.....   | 17   |
| 5.....   | 17   |
| 7.....   | 18   |
| 8.....   | 18   |
| 10.....  | 19   |
| 12.....  | 29   |
| 14.....  | 29   |
| 15.....  | 30   |
| 16.....  | 30   |
| 18.....  | 31   |
| 19.....  | 32   |
| 20.....  | 32   |
| 22.....  | 33   |
| 25.....  | 33   |
| 26.....  | 33   |
| 29.....  | 34   |
| 31.....  | 34   |
| 32.....  | 34   |
| 33.....  | 35   |
| 35.....  | 35   |
| 37.....  | 35   |
| 38.....  | 36   |
| 40.....  | 36   |
| 41.....  | 37   |
| 42.....  | 37   |
| 43.....  | 38   |
| 44.....  | 39   |
| 45.....  | 39   |
| 46.....  | 39   |
| 47.....  | 41   |
| 49.....  | 41   |
| 50.....  | 42   |
| 50 App.....  | 43   |
| Public Laws, enacted by:   |      |
| 68th Congress.....   | 47   |
| 69th Congress.....   | 47   |
| 71st Congress.....   | 48   |
| 72d Congress.....  | 48   |
| 74th Congress.....   | 48   |
| 75th Congress.....   | 49   |
| 79th Congress.....   | 50   |
| 80th Congress.....   | 50   |
| 81st Congress.....   | 50   |
| 82d Congress.....  | 51   |

# Summary of statutes delegating powers in time of war or national emergency—Continued

## Public Laws, enacted by—Continued

|                    | Page |
|--------------------|------|
| 83d Congress.....  | 51   |
| 84th Congress..... | 54   |
| 85th Congress..... | 58   |
| 86th Congress..... | 60   |
| 87th Congress..... | 61   |
| 88th Congress..... | 61   |
| 89th Congress..... | 62   |
| 91st Congress..... | 62   |
| 92d Congress.....  | 62   |

## Texts of statutes delegating powers in time of war or national emergency:

### United States Code, Title 2—The Congress:

|                                |    |
|--------------------------------|----|
| 2 U.S.C. 198. Adjournment..... | 65 |
|--------------------------------|----|

### United States Code, Title 5—Government Organizations and Employees:

|  |    |
|--|----|
| 5 U.S.C. 701. Application; definitions.....  | 65 |
| 702. Right of review.....  | 66 |
| 3101. General authority to employ.....   | 66 |
| 3326. Appointments of retired members of the Armed Forces to positions in the Department of Defense.....   | 68 |
| 5305. Annual pay reports and adjustments.....  | 69 |
| 5335. Periodic step-increases.....   | 70 |
| 5532. Employment of retired officers of the uniformed services; reduced in retired or retirement pay; exceptions.....  | 71 |
| 5564. Travel and transportation; dependents; household and personal effects; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable..... | 72 |
| 8332. Creditable service.....  | 74 |

### United States Code, Title 7—Agriculture:

|  |    |
|--|----|
| 7 U.S.C. 1158. Suspension of quota and authorization provisions.....   | 76 |
| 1332. National marketing quota.....  | 78 |
| 1371. General adjustment of quotas.....  | 79 |
| 1743. Reduction of set-aside.....  | 80 |
| 1903. Limitations on Government procurement and price support; modification during national emergency; statement of eligibility..... | 81 |

### United States Code, Title 8—Aliens and Nationality:

|  |    |
|--|----|
| 8 U.S.C. 1182. Excludable aliens.....  | 82 |
| 1185. Travel control of citizens and aliens during war or national emergency.....  | 82 |
| 1440. Naturalization through active-duty service in the Armed Forces during World War I, World War II, Korean hostilities, Vietnam hostilities, or other periods of military hostilities.....                        | 85 |
| 1440e. Exemption from naturalization fees for aliens naturalized through service during Vietnam hostilities or other subsequent period of military hostilities; reports by clerks of courts to Attorney General..... | 86 |
| 1442. Alien enemies.....   | 87 |
| 1481. Loss of nationality by native-born or naturalized citizen; voluntary action; burden of proof; presumptions.....  | 88 |

## United States Code, Title 10—Armed Forces:

|                  |   |            |
|------------------|---|------------|
| 10 U.S.C. § 123. | Suspension of certain provisions of law relating to reserve commissioned officers.....                                | Page<br>89 |
| 125.             | Functions, powers, and duties; transfer, reassignment, consolidation, or abolition.....                               | 90         |
| 142.             | Chairman.....   | 91         |
| 143.             | Joint Staff.....  | 92         |
| 262.             | Purpose.....  | 93         |
| 263.             | Basic policy for order into Federal service.....  | 94         |
| 269.             | Ready Reserve: placement in; transfer from.....   | 95         |
| 271.             | Ready Reserve: continuous screening.....  | 96         |
| 331.             | Federal aid for State government.....   | 96         |
| 332.             | Use of militia and Armed Forces to enforce Federal authority.....   | 97         |
| 333.             | Interference with State and Federal laws.....   | 97         |
| 334.             | Proclamation to disperse.....   | 97         |
| 351.             | During war or threat to national security.....  | 97         |
| 506.             | Regular components: extension of enlistments during war.....  | 98         |
| 511.             | Reserve components: terms.....  | 99         |
| 519.             | Temporary enlistments: during war or emergency.....   | 100        |
| 565.             | Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency..... | 101        |
| 599.             | Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency..... | 101        |
| 671a.            | Members: service extension during war.....  | 101        |
| 671b.            | Members: service extension when Congress is not in session.....   | 101        |
| 672.             | Reserve components generally.....   | 103        |
| 673.             | Ready Reserve.....  | 104        |
| 674.             | Standby Reserve.....  | 106        |
| 675.             | Retired Reserve.....  | 107        |
| 679.             | Active duty agreements.....   | 107        |
| 681.             | Reserves: release from active duty.....   | 108        |
| 687.             | Non-Regulars: readjustment payment upon involuntary release from active duty.....                                     | 108        |
| 712.             | Foreign governments: detail to assist.....  | 110        |
| 802.             | Art. 2. Persons subject to this chapter.....  | 112        |
| 843.             | Art. 43. Statute of limitations.....  | 113        |
| 871.             | Art. 71. Execution of sentence; suspension of sentence.....   | 114        |
| 1035.            | Deposits of savings.....  | 115        |
| 1161.            | Commissioned officers: limitations on dismissal.....  | 116        |
| 2231.            | Purpose.....  | 116        |
| 2233.            | Acquisition.....  | 117        |
| 2235.            | Administration; other use permitted by Secretary.....   | 118        |
| 2236.            | Contributions to States; other use permitted by States.....   | 118        |
| 2304.            | Purchases and contracts: formal advertising; exceptions.....  | 119        |
| 2542.            | Equipment for instruction and practice: American National Red Cross.....  | 123        |
| 2602.            | American National Red Cross; cooperation and assistance.....  | 123        |
| 2604.            | United Seamen's Service: cooperation and assistance.....  | 124        |

Texts of statutes delegating power in time of war or emergency—Continued

United States Code, Title 10—Armed Forces—Continued

|  |             |
|--|-------------|
| 10 U.S.C. 2632. Transportation to and from certain places of employment.....   | Page<br>125 |
| 2663. Acquisition.....   | 126         |
| 2664. Acquisition of property for lumber production.....   | 127         |
| 2667. Leases: non-excess property.....   | 128         |
| 2674. Establishment and development of military facilities and installations costing less than \$300,000.....                  | 129         |
| 2733. Property loss; personal injury or death; incident to noncombat activities of Department of Army, Navy, or Air Force..... | 130         |
| 2734. Property loss; personal injury or death: incident to noncombat activities of the Armed Forces; foreign countries.....    | 131         |
| 3031. Composition: assignment and detail of members of Army and civilians.....   | 133         |
| 3034. Chief of Staff: appointment; duties.....   | 134         |
| 3062. Policy; composition; organized peace establishment.....  | 135         |
| 3063. Basic branches.....  | 136         |
| 3201. Army: members on active duty.....  | 136         |
| 3202. Army: officers in certain commissioned grades.....   | 137         |
| 3313. Suspension of laws for promotion or mandatory retirement or separation during war or emergency.....                      | 138         |
| 3444. Commissioned officers: during war or emergency.....  | 139         |
| 3445. Officers: additional appointment during war or emergency.....  | 139         |
| 3500. Army National Guard in Federal service: call.....  | 140         |
| 3741. Medal of Honor: award.....   | 140         |
| 3742. Distinguished Service Cross: award.....  | 141         |
| 3746. Silver Star: award.....  | 141         |
| 3750. Soldier's Medal: award; limitations.....   | 142         |
| 4025. Production of supplies and munitions: hours and pay of laborers and mechanics.....                                       | 142         |
| 4501. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations.....                         | 142         |
| 4502. Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness.....     | 143         |
| 4742. Control of transportation systems in time of war.....  | 143         |
| 4776. Emergency construction: fortifications.....  | 144         |
| 4780. Acquisition of buildings in District of Columbia.....  | 144         |
| 5081. Chief of Naval Operations: appointment; term of office; powers; duties.....  | 144         |
| 5201. Commandant: appointment; term; emoluments.....   | 145         |
| 5231. Navy positions: admirals and vice admirals.....  | 146         |
| 5232. Marine Corps positions: general and lieutenant general.....  | 146         |
| 5234. Suspension provision.....  | 147         |
| 5402. Regular Marine Corps: total; enlisted members.....   | 148         |
| 5447. Navy: line officers on the active list; permanent grade.....   | 148         |
| 5448. Marine Corps: officers on the active list; permanent grade.....  | 150         |
| 5449. Navy: staff corps officers on the active list; permanent grade.....  | 152         |
| 5450. Regular Navy: retired flag officers on active duty.....  | 153         |
| 5451. Suspension: preceding sections.....  | 153         |

|  |             |
|--|-------------|
| 10 U.S.C. 5597. Navy and Marine Corps: temporary appointments in time of war or national emergency...                        | Page<br>153 |
| 5598. Naval Reserve and Marine Corps Reserve: temporary appointments in time of war or national emergency.....               | 154         |
| 5599. Medical Corps: acting appointments for temporary service.....  | 155         |
| 5662. Suspension: preceding sections.....  | 155         |
| 5711. Suspension and exceptions: preceding sections..  | 156         |
| 5785. Suspension: preceding sections.....  | 157         |
| 5787. Temporary promotions in time of war or national emergency.....   | 157         |
| 5982. Ships and squadrons: detail of retired officers to command.....  | 160         |
| 6241. Medal of Honor.....  | 161         |
| 6242. Navy Cross.....  | 161         |
| 6244. Silver Star Medal.....   | 161         |
| 6246. Navy and Marine Corps Medal.....   | 162         |
| 6386. Suspension: preceding sections.....  | 162         |
| 6408. Navy and Marine Corps; warrant officers; W-1: limitation on dismissal.....   | 163         |
| 6481. Retired officers of the Regular Navy and Regular Marine Corps: authority to recall...                                  | 163         |
| 6482. Retired enlisted members of the Regular Navy and Regular Marine Corps: authority to recall.....                        | 163         |
| 6485. Members of the Fleet Reserve and Fleet Marine Corps Reserve: authority to recall.....                                  | 164         |
| 6486. Members of the Fleet Reserve and Fleet Marine Corps Reserve: release from active duty..                                | 164         |
| 6487. Retired rear admirals: retired pay after 2 years of active duty.....   | 164         |
| 6911. Aviation cadets: grade; procurement; transfer..  | 165         |
| 7224. Transportation on naval vessels during war-time.....   | 165         |
| 7722. Stay of suit.....  | 165         |
| 7724. Stay of proceedings for taking evidence before suit is filed.....  | 166         |
| 7727. Duration of stay.....  | 166         |
| 8031. Composition: assignment and detail of members of Air Force and civilians.....  | 168         |
| 8034. Chief of Staff: appointment; duties.....   | 169         |
| 8202. Air Force: officers in certain commissioned grades.....  | 170         |
| 8212. Regular Air Force; Air Force Reserve; Air National Guard of United States: strength in grade; temporary increases..... | 171         |
| 8257. Regular Air Force: aviation cadets; qualifications, grade, limitations.....  | 171         |
| 8313. Suspension of laws for promotion or mandatory retirement or separation during war or emergency.....                    | 172         |
| 8395. During war.....  | 172         |
| 8444. Commissioned officers: during war or emergency.....  | 172         |
| 8445. Officers: additional appointments during war or emergency.....   | 173         |
| 8500. Air National Guard in Federal service: call...   | 173         |
| 8741. Medal of Honor: award.....   | 173         |
| 8742. Air Force Cross: award.....  | 174         |
| 8746. Silver Star: award.....  | 174         |
| 8750. Airman's Medal: award; limitations.....  | 175         |

Texts of statutes delegating power in time of war or emergency—Continued

|  |             |
|--|-------------|
| <b>United States Code, Title 10—Armed Forces—Continued</b>   | <b>Page</b> |
| 10 U.S.C. 9022. Contract surgeons.....   | 175         |
| 9025. Production of supplies and munitions: hours and pay of laborers and mechanics.....   | 175         |
| 9441. Status: support by Air Force; employment.....  | 175         |
| 9501. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations.....                                       | 176         |
| 9502. Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness.....                   | 177         |
| 9591. Utilities: proceeds from overseas operations.....  | 178         |
| 9742. Control of transportation systems in time of war.....  | 178         |
| 9773. Acquisition and construction: air bases and depots.....  | 178         |
| 9776. Emergency construction: fortifications.....  | 180         |
| 9780. Acquisition of buildings in District of Columbia.....  | 180         |
| <b>United States Code, Title 12—Banks and Banking:</b>   |             |
| 12 U.S.C. 95. Emergency limitations and restrictions on business of members of Federal Reserve System.....                                   | 180         |
| 95a. Regulation of transactions in foreign exchange of gold and silver; property transfers; vested interests, enforcement and penalties..... | 181         |
| 249. Regulation of consumer credit.....  | 191         |
| 635. Powers and functions of bank.....   | 192         |
| 1425a. Liquidity requirements.....   | 195         |
| 1703. Insurance of financial institutions.....   | 197         |
| 1705. Allocation of funds.....   | 203         |
| 1748b. Insurance of mortgages.....   | 203         |
| <b>United States Code, Title 14—Coast Guard:</b>   |             |
| 14 U.S.C. 3. Relationship to Navy Department.....  | 204         |
| 214. Original appointment of temporary officers.....   | 204         |
| 275. Wartime temporary service promotions.....   | 205         |
| 331. Recall to active duty during war or national emergency.....   | 206         |
| 359. Recall to active duty during war or national emergency.....   | 206         |
| 367. Detention beyond term of enlistment.....  | 206         |
| 371. Aviation cadets; procurement; transfer.....   | 207         |
| 491. Medal of Honor.....   | 208         |
| 493. Coast Guard Medal.....  | 209         |
| 652. Removing restrictions.....  | 210         |
| 778. Suspension of this subchapter in war or national emergency.....   | 210         |
| <b>United States Code, Title 15—Commerce and Trade:</b>  |             |
| 15 U.S.C. 76. Retaliation against restriction of importations in time of war.....  | 211         |
| 77. Discrimination against neutral Americans in time of war.....   | 211         |
| <b>United States Code, Title 16—Conservation:</b>  |             |
| 16 U.S.C. 440. Same; closure in times of national emergency.....   | 213         |
| 590p. Limitation on obligations incurred; Great Plains Conservation Service.....   | 213         |
| 809. Temporary use by Government of projects works for national safety; compensation for use.....  | 219         |
| 824a. Interconnection and coordination of facilities; emergencies; transmission to foreign countries.....                                    | 219         |
| 831d. Directors; maintenance and operation of plant for production, sale, and distribution of fertilizer and power.....                      | 221         |
| 831n-4. Bonds for financing power program.....   | 223         |
| 831s. Possession by Government in time of war; damages to contract holders.....  | 225         |
| 832g. Purchase of supplies and services.....   | 227         |
| 833f. Purchase of supplies and services.....   | 227         |

|   |   |          |
|---|---|----------|
| United States Code, Title 18—Crimes and Criminal Procedure:     |   |          |
| 18 U.S.C.   | 793. Gathering, transmitting or losing defense information.....   | Page 228 |
|   | 794. Gathering or delivering defense information to aid foreign government.....   | 231      |
|   | 795. Photographing and sketching defense installations.....   | 231      |
|   | 798. Disclosure of classified information <sup>1</sup> .....  | 232      |
|   | 798. Temporary extension of section 794 <sup>1</sup> .....  | 233      |
|   | 963. Detention of armed vessel.....   | 234      |
|   | 967. Departure of vessel forbidden in aid of neutrality.....  | 237      |
|   | 1383. Restrictions in military areas and zones.....   | 237      |
|   | 2153. Destruction of war material, war premises; or war utilities.....  | 237      |
|   | 2154. Production of defective war material, war premises, or war utilities.....   | 238      |
|   | 2157. Temporary extension of sections 2153 and 2154.....  | 238      |
|   | 2391. Temporary extension of section 2388.....  | 239      |
|   | 2511. Interception and disclosure of wire or oral communications prohibited.....  | 240      |
|   | 3287. Wartime suspension of limitations.....  | 242      |
| United States Code, Title 19—Customs Duties:                    |   |          |
| 19 U.S.C.   | 1318. Emergencies.....  | 243      |
|   | 1351. Foreign trade agreements.....   | 244      |
|   | 1862. Safeguarding national security.....   | 250      |
| United States Code, Title 20—Education:                         |   |          |
| 20 U.S.C.   | 79. Barro Colorado Island in Gatun Lake to be set aside.....  | 253      |
|   | 241-1. Assistance for current school expenditures in cases of certain disasters.....  | 253      |
|   | 646. Assistance in cases of certain disasters.....  | 256      |
| United States Code, Title 22—Foreign Relations and Intercourse: |   |          |
| 22 U.S.C.   | 401. Illegal exportation of war materials.....  | 259      |
|   | 441. Proclamation of state of war between foreign states.....   | 260      |
|   | 447. Financial transactions.....  | 261      |
|   | 450. Restrictions on use of American ports.....   | 263      |
|   | 451. Submarines and armed merchant vessels.....   | 263      |
|   | 461. Enforcement by courts; employment of land or naval forces.....   | 264      |
|   | 464. Detention by collectors of customs.....  | 265      |
|   | 1611. Congressional declaration of policy; embargo on war materials; denial of assistance to nations failing to embargo shipments; administration of chapter..... | 265      |
|   | 1611a. Responsibility for administration.....   | 266      |
|   | 1611b. Determination of items to be embargoed.....  | 266      |
|   | 1611c. Resumption of assistance.....  | 267      |
|   | 1611d. Definitions.....   | 267      |
|   | 1962. Military assistance; use of Armed Forces.....   | 268      |
|   | 1963. United Nations Emergency Force.....   | 269      |
|   | 1965. Expiration.....   | 269      |
|   | 2370. Prohibitions against furnishing assistance.....   | 269      |
|   | 2410. Sale of supersonic planes to Israel.....  | 278      |
| United States Code, Title 25—Indians:                           |   |          |
| 25 U.S.C.   | 72. Abrogation of treaties.....   | 278      |
| United States Code, Title 26—Internal Revenue Code:             |   |          |
| 26 U.S.C.   | 168. Amortization of emergency facilities.....  | 279      |
|   | 7508. Time for performing certain acts postponed by reason of war.....  | 284      |
| United States Code, Title 29—Labor:                             |   |          |
| 29 U.S.C.   | 176. National emergencies; appointment of board of inquiry by President; report; contents; filing with service.....   | 286      |

Texts of statutes delegating power in time of war or emergency—Continued

United States Code, Title 29—Labor—Continued

|           |  |             |
|-----------|--|-------------|
| 29 U.S.C. | 178. Same; strikes subject to injunction; inapplicability of sections 101 to 115 of this title; review | Page<br>287 |
|-----------|--|-------------|

United States Code, Title 31—Money and Finance:

|           |   |     |
|-----------|---|-----|
| 31 U.S.C. | 80a. Same; extension of time during war or emergency  | 288 |
|           | 80b. Administrative examination of accounts of U.S. Marine Corps expenditures                               | 288 |
|           | 80c. Administrative examination of accounts of Navy expenditures; extension of time during war or emergency | 289 |
|           | 203. Assignments of claims; set-off against assignee  | 290 |
|           | 241. Same; payments   | 293 |

United States Code, Title 32—National Guard:

|           |   |     |
|-----------|---|-----|
| 32 U.S.C. | 104. Units; location; organization; command   | 296 |
|           | 111. Suspension of certain provisions of this title   | 297 |
|           | 302. Enlistments, reenlistments, and extensions   | 298 |
|           | 715. Property loss; personal injury or death: activities under certain sections of this title | 299 |

United States Code, Title 33—Navigation and Navigable Waters:

|           |  |     |
|-----------|--|-----|
| 33 U.S.C. | 853. Appointments and promotions made by President; suspension during war or emergency                     | 301 |
|           | 854a-1. Temporary appointment or advancement of commissioned officers in time of war or national emergency | 301 |
|           | 855. Cooperation with and transfer to military departments   | 302 |

United States Code, Title 35—Patents:

|           |  |     |
|-----------|--|-----|
| 35 U.S.C. | 181. Secrecy of certain inventions and withholding of patent | 303 |
|-----------|--|-----|

United States Code, Title 37—Pay and Allowances of the Uniformed Services:

|           |   |     |
|-----------|---|-----|
| 37 U.S.C. | 202. Pay grades; assignment to; rear admirals of upper half; officers holding certain positions in the Navy | 305 |
|           | 310. Special pay; duty subject to hostile fire  | 305 |
|           | 407. Travel and transportation allowances; dislocation allowance  | 306 |
|           | 427. Family separation allowance  | 306 |
|           | 901. Wartime pay of officer of Armed Force exercising command higher than his grade                         | 307 |

United States Code, Title 38—Veterans' Benefits:

|           |  |     |
|-----------|--|-----|
| 38 U.S.C. | 101. Definitions   | 307 |
|           | 521. Veterans of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era | 312 |

United States Code, Title 40—Public Buildings, Property, and Works:

|           |  |     |
|-----------|--|-----|
| 40 U.S.C. | 71d. Proposed Federal and District developments and projects   | 313 |
|           | 276a-5. Suspension of sections 276a to 276a-5 during emergency                                       | 314 |
|           | 278b. Same; exception of certain vital leases during war or emergency                                | 314 |
|           | 314. Sale of war supplies, lands, and buildings  | 316 |
|           | 484. Disposal of surplus property  | 316 |
|           | 534. Waiver of procedures for disposal of urban lands, acquisition or change of use of real property | 319 |

United States Code, Title 41—Public Contracts:

|           |   |     |
|-----------|---|-----|
| 41 U.S.C. | 11. No contracts or purchases unless authorized or under adequate appropriation; report to the Congress | 319 |
|           | 15. Transfers of contracts; assignments of claims; set-off against assignee                             | 321 |
|           | 252. Purchases and contracts for property   | 324 |



|   |      |
|---|------|
| United States Code, Title 42—The Public Health and Welfare:   | Page |
| 42 U.S.C. 204. Composition of commissioned corps; appointment of commissioned officers of Regular and Reserve Corps.....  | 326  |
| 210-1. Annual and sick leave.....   | 327  |
| 211. Promotion of commissioned officers.....  | 327  |
| 211b. Promotion of commissioned officers.....   | 331  |
| 217. Use of Service in time of war or emergency.....  | 332  |
| 266. Special quarantine powers in time of war.....  | 332  |
| 1313. Assistance for U.S. citizens returned from foreign countries.....   | 333  |
| 1477. Preferences for veterans and families of deceased servicemen.....   | 334  |
| 1541. Termination of subchapters II-VII; saving clause.....   | 335  |
| 1592. Authority of Administrator.....   | 335  |
| 1711. Definitions.....  | 336  |
| 1712. Disqualification from benefits.....   | 339  |
| 2138. Suspension of licenses during war or national emergency.....  | 339  |
| 2165. Security restrictions.....  | 340  |
| 2201. General duties of Commission (AEC).....   | 342  |
| United States Code, Title 43—Public Lands:  |      |
| 43 U.S.C. 155. Withdrawal, reservation, or restriction of public lands for defense purposes; definition; exception.....   | 348  |
| 315q. Withdrawal of lands for war or national defense purposes; payment for cancellation of permits or licenses.....  | 333  |
| 616ll. Restriction on delivery of water for production of excessive basic commodities.....  | 349  |
| 1314. Rights and powers retained by the United States; purchase of natural resources; condemnation of lands.....  | 349  |
| 1341. Reservation of lands and rights.....  | 350  |
| United States Code, Title 44—Public Printing and Documents:   |      |
| 44 U.S.C. 1505. Documents to be published in the Federal Register.....  | 351  |
| 3311. Destruction of records outside continental United States in time of war or when hostile action seems imminent; written report to Administrator of General Services..... | 353  |
| United States Code, Title 45—Railroads:   |      |
| 45 U.S.C. 228c-1. Military service.....   | 353  |
| United States Code, Title 46—Shipping:  |      |
| 46 U.S.C. 133. Hospital ships in time of war.....   | 354  |
| 134. Designation by President of hospital ships exempted.....   | 355  |
| 249a. Distinctive service ribbon bar; issuance; cost; replacements.....   | 355  |
| 835. Restrictions on transfer of shipping facilities during war or national emergency.....  | 356  |
| 861. Purpose and policy of United States.....   | 359  |
| 1132. Citizenship of officers and crew.....   | 360  |
| 1151. Subsidy authorized for vessels to be operated in foreign trade.....   | 361  |
| 1161. Reserve funds for construction or acquisition of vessels; taxation.....   | 363  |
| 1202. Insurance requirements; repairs; inspection by Secretary; termination of charter in national emergency.....   | 364  |
| 1241. Transportation in American vessels of Government personnel and certain cargoes.....   | 365  |

Texts of statutes delegating power in time of war or emergency—Continued

United States Code, Title 46—Shipping—Continued

|  |   |             |
|--|---|-------------|
| 46 U.S.C. 1242.  | Requisition or purchase of vessels in time of emergency.....  | Page<br>367 |
| 1294.  | Expiration of authority to provide insurance....  | 369         |
| 1402.  | Application for subsidy; conditions.....  | 369         |
| 1406.  | Supervision of construction; submission of plans to Secretary of Defense.....   | 371         |
| United States Code, Title 47—Telegraphs, Telephones, and Radio-telegraphs: |   |             |
| 47 U.S.C. 308.   | Same; application; conditions and restrictions in license for foreign communication.....  | 371         |
| 606.   | War powers of President.....  | 373         |
| United States Code, Title 49—Transportation:                               |   |             |
| 49 U.S.C. 1.   | Regulation in general; car service; alteration of line.....   | 375         |
| 6.   | Schedules and statements of rates, etc., joint rail and water transportation.....   | 380         |
| 1020.  | Special powers during time of war or other emergency.....   | 382         |
| 1343.  | General powers and duties of Administrator....  | 382         |
| 1348.  | Airspace control and facilities.....  | 383         |
| United States Code, Title 50—War and National Defense:                     |   |             |
| 50 U.S.C. 21.  | Restraint, regulation, and removal.....   | 384         |
| 82.  | Procurement of ships and material during war; changes in contracts; commandeering factories, etc.....   | 384         |
| 98d.   | Release of stockpile materials.....   | 385         |
| 167c.  | Licensing.....  | 385         |
| 191.   | Regulation of anchorage and movement of vessels during national emergency.....  | 388         |
| 196.   | Emergency foreign vessel acquisition; purchase or requisition of vessels lying idle in U.S. waters.....   | 389         |
| 197.   | Same; voluntary purchase or charter agreements.....   | 389         |
| 198.   | Same; documentation of vessels; waiver of compliance; coastwise trade; inspection; reconditioning of vessels; effective period; definition..... | 390         |
| 205.   | Suspension of commercial intercourse with State in insurrection.....  | 392         |
| 206.   | Suspension of commercial intercourse with part of State in insurrection.....  | 392         |
| 207.   | Persons affected by suspension of commercial intercourse.....   | 393         |
| 208.   | Licensing or permitting commercial intercourse with State or region in insurrection.....  | 393         |
| 212.   | Confiscation of property employed to aid insurrection.....  | 394         |
| 223.   | Forfeiture of vessels owned by citizens of insurrectionary States.....  | 394         |
| 451.   | Congressional declaration of purpose and policy..   | 394         |
| 452.   | Definitions.....  | 395         |
| 453.   | Powers and duties of Secretary of Defense.....  | 396         |
| 454.   | Plant disposal; modification of national security clause; transfer to Administrator of General Services; machine tools.....                     | 396         |
| 455.   | Acceptance of plants by Administrator of General Services; disposition; conditions of lease.....  | 397         |
| 456.   | Powers of Secretary of Defense respecting property in national industrial reserve.....  | 398         |

|  |   |             |
|--|---|-------------|
| 50 U.S.C. 457.   | Transportation, maintenance, disposition, etc., by Administrator of General Services of transferred property.....   | Page<br>399 |
| 458.   | Limitation on acquisition of property.....  | 399         |
| 459.   | Industrial Reserve Review Committee; composition, appointment, tenure, and compensation; laws applicable.....   | 400         |
| 460.   | Duties of committee; recommendations.....   | 401         |
| 461.   | Reports to Congress.....  | 401         |
| 462.   | Appropriations.....   | 401         |
| 812.   | Declaration of "internal security emergency" by President; events warranting; period of existence.....  | 401         |
| 832.   | Full field investigation and appraisal.....   | 402         |
| 1431.  | Authorization; official approval.....   | 403         |
| 1435.  | Effective period.....   | 403         |
| 1511.  | Reports to Congress.....  | 406         |
| 1512.  | Transportation, open air testing, and disposal; Presidential determination; report to Congress; notice to Congress and State Governors.....   | 406         |
| 1513.  | Deployment, storage, and disposal; notification to host country and Congress; international law violations; reports to Congress and international organizations.....  | 407         |
| 1515.  | Suspension; Presidential authorization.....   | 408         |
| 1516.  | Delivery systems.....   | 408         |
| 1517.  | Immediate disposal when health or safety are endangered.....  | 409         |
| 1518.  | Disposal; detoxification; report to Congress; emergencies.....  | 409         |
| United States Code, Title 50, Appendix—War and National Defense: |   |             |
| 50 U.S.C. App. 3.  | Acts prohibited.....  | 409         |
| 4.   | Licenses to enemy or ally of enemy insurance or reinsurance companies; change of name; doing business in United States.....   | 410         |
| 5.   | Suspension of provisions relating to ally of enemy; regulation of transactions in foreign exchange of gold or silver, property transfers, vested interests, enforcement and penalties.....  | 413         |
| 6.   | Alien Property Custodian; general powers and duties.....  | 415         |
| 7.   | Lists of enemy or ally of enemy officers, directors or stockholders of corporations in United States; acts constituting trade with enemy prior to passage of act; conveyance of property to custodian; voluntary payment to custodian by holder; acts under order, rule, or regulation.....                                       | 415         |
| 8.   | Contracts, mortgages, or pledges against or with enemy or ally of enemy; abrogation of contracts; suspension of limitations.....  | 420         |
| 9.   | Claims to property transferred to custodian; notice of claim; filing; return of property; suits to recover; sale of claimed property in time of war or during national emergency.....   | 421         |
| 10.  | Acts permitted; applications for patents, or registration of trademarks or copyrights; payment of tax in relation thereto; licenses under enemy owned patent or copyright; statements by licensees; term and cancellation; suits against licensees; restraining infringements; powers of attorney; keeping secret inventions..... | 430         |
| 11.  | Importations prohibited.....  | 433         |
| 12.  | Property transferred to Alien Property Custodian.....   | 434         |

Texts of statutes delegating power in time of war or emergency—Continued

United States Code, Title 50, Appendix—War, etc.—Continued

|                |   |             |
|----------------|---|-------------|
| 50 U.S.C. App. | 14. Same; refusal of clearance; reports of gold or silver coin in cargoes for export.....   | Page<br>436 |
|                | 19. Print, newspaper, or publication in foreign languages.....  | 436         |
|                | 32. Return of property.....   | 438         |
|                | 38. Shipment of relief supplies; definitions.....   | 443         |
|                | 40. Intercustodial conflicts involving enemy property; authority of President to conclude; delegation of authority.....   | 444         |
|                | 785. Effective date of sections 781 to 785.....   | 444         |
|                | 1211. Congressional declaration of policy.....  | 445         |
|                | 1213. Definitions.....  | 446         |
|                | 1216. Exemptions.....   | 447         |
|                | 1622. Disposal to local governments and nonprofit institutions.....   | 453         |
|                | 1742. Price adjustment on prior sales to citizens.....  | 457         |
|                | 1744. Composition of national defense reserve fleet; vessels available to State marine schools.....   | 460         |
|                | 1878e. Extension of loan to France; availability of vessels to European, Latin America, and Far Eastern nations; pool of vessels; rules and regulations.....            | 460         |
|                | 1878s. Loans of naval vessels to friendly foreign nations from Reserve Fleet.....   | 462         |
|                | 1878vv. Five-year period limitation on loans; discretionary extension; acts of warfare by recipient country, early termination.....                                     | 462         |
|                | 2005. Prisoners of war.....   | 463         |
|                | 2071. Priority in contracts and orders.....   | 468         |
|                | 2072. Hoarding of designated scarce materials.....  | 470         |
|                | 2073. Penalties.....  | 471         |
|                | 2093. Purchase of raw materials and installation of equipment.....  | 471         |
|                | 2151. Small business.....   | 473         |
|                | 2152. Definitions.....  | 475         |
|                | 2153. Delegation of authority; creation of new agencies; appointment and compensation of officers and personnel; State representation in regional offices.....          | 476         |
|                | 2154. Rules, regulations, and orders.....   | 476         |
|                | 2155. Investigations; records; reports; subpoenas; right to counsel.....  | 477         |
|                | 2157. Liability for compliance with invalid regulations; discrimination against orders or contracts affected by priorities or allocations.....                          | 479         |
|                | 2158. Voluntary agreements and programs; exemptions from antitrust laws and Federal Trade Commission Act; surveys and reports to Congress; termination.....             | 479         |
|                | 2159. Exemption from Administrative Procedure Act; statements in rules, regulations, and orders as to consultation with industry representatives.....                   | 480         |
|                | 2160. Employment of personnel; appointment policies; nucleus executive reserve; use of confidential information by employees; printing and distribution of reports..... | 481         |
|                | 2161. Appropriations authorized; availability of funds.....   | 484         |
|                | 2162. Joint Committee on Defense Production.....  | 485         |
|                | 2163. Territorial application of act.....   | 487         |
|                | 2166. Termination of Act.....   | 487         |
|                | 2291. Sections 2291 to 2297 of this appendix effective only during civil defense emergency; proclamation of emergency; termination.....                                 | 489         |

|   | Page |
|---|------|
| 50 U.S.C. App. 2292. Utilization of Federal departments and agencies.....   | 490  |
| 2293. Emergency powers of Administrator.....  | 491  |
| 2294. Government immune from liability for death or<br>personal injury to employees; benefits em-<br>ployees entitled to..... | 492  |
| 2295. Waiver of Administrative Procedure Act.....   | 492  |
| 2297. Termination of sections 2291 to 2297 of this<br>appendix.....   | 492  |
| 2401. Congressional findings.....   | 493  |
| 2402. Congressional declaration of policy.....  | 493  |
| 2403. Authority to effectuate policy.....   | 494  |
| 2404. Consultations for determination of controls;<br>standards or criteria established.....                                  | 496  |
| 2405. Violations and penalties.....   | 496  |
| 2406. Enforcement.....  | 497  |
| 2407. Exemption from administrative procedure and<br>judicial review provisions.....  | 498  |
| 2408. Information to exporters.....   | 499  |
| 2409. Quarterly reports.....  | 499  |
| 2410. Definitions.....  | 499  |
| 2411. Effects on other acts.....  | 500  |
| 2412. Effective date.....   | 500  |
| 2413. Termination date.....   | 500  |
| <b>Public Laws:</b>   |      |
| 68th Cong., Public Law 438—43 Stat. 959—60.....   | 501  |
| 479—43 Stat. 984—5.....   | 502  |
| 568—43 Stat. 1129.....  | 504  |
| 69th Cong., Public Law 99—44 Stat. 241.....   | 505  |
| 314—44 Stat. 677.....   | 505  |
| 71st Cong., Public Law 222—46 Stat. 329—32.....   | 506  |
| 280—46 Stat. 479.....   | 506  |
| 72d Cong., Public Law 382—47 Stat. 1367—8.....  | 507  |
| 74th Cong., Public Law 598—49 Stat. 1278.....   | 508  |
| 624—49 Stat. 1387.....  | 509  |
| 704—49 Stat. 1535—6.....  | 510  |
| 730—49 Stat. 1557—8.....  | 510  |
| 75th Cong., Public Law 316—50 Stat. 696.....  | 511  |
| 689—52 Stat. 833—4.....   | 512  |
| 79th Cong., Public Law 465—60 Stat. 332.....  | 513  |
| 80th Cong., Public Law 885—62 Stat. 1229—30.....  | 514  |
| 81st Cong., Public Law 97—63 Stat. 169—70.....  | 515  |
| 593—64 Stat. 310—11.....  | 516  |
| 755—64 Stat. 591—2.....   | 517  |
| 82d Cong., Public Law 222—65 Stat. 658.....   | 519  |
| 377—66 Stat. 128—9.....   | 520  |
| 559—66 Stat. 727—8.....   | 520  |
| 83d Cong., Public Law 39—67 Stat. 38.....   | 521  |
| 56—67 Stat. 54.....   | 522  |
| 92—67 Stat. 120.....  | 523  |
| 169—67 Stat. 244.....   | 523  |
| 315—68 Stat. 32.....  | 524  |
| 327—68 Stat. 51.....  | 525  |
| 386—68 Stat. 171.....   | 527  |
| 493—68 Stat. 474—7.....   | 528  |
| 534—68 Stat. 535.....   | 529  |
| 556—68 Stat. 586.....   | 530  |
| 711—68 Stat. 974—5.....   | 531  |
| 712—68 Stat. 975—6.....   | 532  |
| 713—68 Stat. 977—8.....   | 533  |
| 716—68 Stat. 980—2.....   | 534  |
| 84th Cong., Public Law 49—69 Stat. 68—70.....   | 535  |
| 50—69 Stat. 70—1.....   | 536  |
| 52—69 Stat. 79.....   | 538  |
| 77—69 Stat. 138—9.....  | 538  |
| 142—69 Stat. 293—4.....   | 540  |
| 156—69 Stat. 300—1.....   | 541  |

# Texts of statutes delegating power in time of war or emergency—Continued

## Public Laws—Continued

|   | Page |
|---|------|
| 84th Cong., Public Law 301—69 Stat. 592-3.....                | 542  |
| 410—70 Stat. 17-8.....  | 543  |
| 413—70 Stat. 21-3.....  | 544  |
| 428—70 Stat. 35-6.....  | 547  |
| 521—70 Stat. 156.....   | 548  |
| 598—70 Stat. 296.....   | 549  |
| 616—70 Stat. 335-6.....                                       | 549  |
| 618—70 Stat. 336-7.....                                       | 550  |
| 706—70 Stat. 536-7.....                                       | 550  |
| 719—70 Stat. 550-1.....                                       | 551  |
| 729—70 Stat. 577.....   | 552  |
| 740—70 Stat. 590.....   | 553  |
| 819—70 Stat. 698.....   | 554  |
| 872—70 Stat. 793.....   | 555  |
| 85th Cong., Public Law 46—71 Stat. 46-8.....                  | 556  |
| 157—71 Stat. 391.....   | 557  |
| 185—71 Stat. 467.....   | 558  |
| 204—71 Stat. 478-9.....                                       | 559  |
| 205—71 Stat. 479-80.....                                      | 560  |
| 236—71 Stat. 516-7.....                                       | 561  |
| 258—71 Stat. 580-3.....                                       | 562  |
| 260—71 Stat. 584-7.....                                       | 563  |
| 545—72 Stat. 401.....   | 564  |
| 548—72 Stat. 403-4.....                                       | 565  |
| 799—72 Stat. 965.....   | 566  |
| 86th Cong., Public Law 323—73 Stat. 594-5.....                | 567  |
| 473—74 Stat. 143.....   | 568  |
| 602—74 Stat. 355-6.....                                       | 570  |
| 611—74 Stat. 369-71.....                                      | 571  |
| 87th Cong., Public Law 328—75 Stat. 688.....                  | 572  |
| 654—76 Stat. 530.....   | 573  |
| 733—76 Stat. 697.....   | 574  |
| 794—76 Stat. 877.....   | 575  |
| 88th Cong., Public Law 228—77 Stat. 470-1.....                | 576  |
| 89th Cong., Public Law 188—79 Stat. 793.....                  | 577  |
| 257—79 Stat. 982.....   | 578  |
| 568—80 Stat. 739.....   | 579  |
| 91st Cong., Public Law 142—83 Stat. 293.....                  | 580  |
| 202—84 Stat. 20.....  | 581  |
| 92d Cong., Public Law 145—85 Stat. 394.....                   | 582  |
| Citation of statutes in accordance to committee jurisdiction: |      |
| Standing Committees:  |      |
| Agriculture and Forestry.....                                 | 585  |
| Armed Services.....   | 585  |
| Banking, Housing and Urban Affairs.....                       | 586  |
| Commerce.....   | 586  |
| District of Columbia.....                                     | 587  |
| Finance.....  | 587  |
| Foreign Relations.....  | 587  |
| Government Operations.....                                    | 587  |
| Interior and Insular Affairs.....                             | 588  |
| The Judiciary.....  | 588  |
| Labor and Public Welfare.....                                 | 588  |
| Post Office and Civil Service.....                            | 588  |
| Public Works.....   | 589  |
| Rules and Administration.....                                 | 589  |
| Veterans' Affairs.....  | 589  |
| Joint Committee on Atomic Energy.....                         | 589  |

## APPENDIX

### Tables:

|   |             |
|---|-------------|
| 1. Provisions of the United States Code that refer to Truman Emergency Proclamation <i>eo nomine</i> or by date.....  | Page<br>591 |
| 2. Provisions of the United States Code that refer to Presidential declaration or proclamation of national emergency that may be affected by termination of Truman Emergency Proclamation.....  | 591         |
| 3. Provisions of the United States Code that empower the President to declare a national emergency (the President alone or the President or the Congress in the alternative) or refer to a presidentially declared emergency.....         | 591         |
| 4. Provisions of the United States Code that provide for a congressional declaration of national emergency (the Congress alone or the Congress or the President in the alternative) or refer to a congressionally declared emergency..... | 592         |
| 5. Provisions of the United States Code that refer to a declaration of national emergency without reference to any declarant.....   | 592         |
| 6. Provisions of the United States Code that specify emergency authority applicable in "time of war" or "during a war".....   | 593         |
| 7. Provisions of the United States Code that refer to a state of war or war declared by the Congress.....   | 593         |
| Proclamations of national emergency still in effect:  |             |
| Excerpt from Public Law 1, 73d Cong., 1st Sess. (1933).....   | 594         |
| Proclamation No. 2914, Dec. 16, 1950.....   | 594         |
| Proclamation No. 3972, Mar. 23, 1970.....   | 596         |
| Proclamation No. 4074, Aug. 15, 1971.....   | 597         |
| Subject index.....  | 598         |





## EMERGENCY POWERS STATUTES:

### PROVISIONS OF FEDERAL LAW NOW IN EFFECT DELEGATING TO THE EXECUTIVE EXTRAORDINARY AUTHORITY IN TIME OF NATIONAL EMERGENCY

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November 19, 1973.—Ordered to be printed

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Mr. MATHIAS (for Mr. CHURCH) as co-chairman of the Special Committee on the Termination of the National Emergency, submitted the following

## REPORT

[Pursuant to S. Res. 9, 93d Cong.]

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## INTRODUCTION

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### A—A BRIEF HISTORICAL SKETCH OF THE ORIGINS OF EMERGENCY POWERS NOW IN FORCE

A majority of the people of the United States have lived all of their lives under emergency rule. For 40 years, freedoms and governmental procedures guaranteed by the Constitution have, in varying degrees, been abridged by laws brought into force by states of national emergency. The problem of how a constitutional democracy reacts to great crises, however, far antedates the Great Depression. As a philosophical issue, its origins reach back to the Greek city-states and the Roman Republic. And, in the United States, actions taken by the Government in times of great crises have—from, at least, the Civil War—in important ways shaped the present phenomenon of a permanent state of national emergency.

American political theory of emergency government was derived and enlarged from John Locke, the English political-philosopher whose thought influenced the authors of the Constitution. Locke argued that the threat of national crisis—unforeseen, sudden, and potentially catastrophic—required the creation of broad executive

emergency powers to be exercised by the Chief Executive in situations where the legislative authority had not provided a means or procedure of remedy. Referring to emergency power in the 14th chapter of his *Second Treatise on Civil Government* as "prerogative," Locke suggested that it:

... should be left to the discretion of him that has the executive power... since in some governments the lawmaking power is not always in being and is usually too numerous, and so too slow for the dispatch requisite to executions, and because, also it is impossible to foresee and so by laws to provide for all accidents and necessities that may concern the public, or make such laws as will do no harm, if they are executed with an inflexible rigour on all occasions and upon all persons that may come in their way, therefore there is a latitude left to the executive power to do many things of choice which the laws do not prescribe.

To what extent the Founding Fathers adhered to this view of the executive role in emergencies is a much disputed issue. Whatever their conceptions of this role, its development in practice has been based largely on the manner in which individual Presidents have viewed their office and its functions. Presidents Theodore Roosevelt and William Howard Taft argued the proper role of the President and, perhaps, their debate best expounds diametrically opposed philosophies of the presidency. In his *Autobiography*, Roosevelt asserted his "stewardship theory."

My view was that every Executive officer... was a steward of the people bound actively and affirmatively to do all he could for the people and not to content himself with the negative merit of keeping his talents undamaged in a napkin... My belief was that it was not only [the President's] right but his duty to do anything that the needs of the Nation demanded unless such action was forbidden by the Constitution or by the laws. Under this interpretation of executive power I did and caused to be done many things not previously done by the President and the heads of departments. I did not usurp power but I did greatly broaden the use of executive power. In other words, I acted for the common well being of all our people whenever and whatever measure was necessary, unless prevented by direct constitutional or legislative prohibition.

Roosevelt compared this principle of "stewardship" to what he called the Jackson-Lincoln theory, and contrasted it to the theory ascribed to William Howard Taft.

Roosevelt's ideas on the ambit of presidential authority and responsibility were vigorously disputed by Taft. In lectures on the presidency—delivered at Columbia University in 1915-1916—Taft responded that: "... the wide field of action that this would give to the Executive one can hardly limit. A President can exercise no power which cannot fairly and reasonably be traced to some specific grant of power." And he cautioned that: "... such specific grants must be

either in the Federal Constitution, or in any Act of Congress passed in pursuance thereof. There is no undefined residuum of power which he can exercise because it seems to him to be in the public interest."

In recent years, most scholars have interpreted the Roosevelt-Taft dispute in Roosevelt's favor. In the prevailing academic view, Roosevelt is described as "active," "expansionist," and "strong." The historical reality, in fact, does not afford such a sharp distinction either between the actions of these two Presidents, or between their analysis of the problem of emergency powers. Taft, in his concluding remarks to his Columbia lectures, said: "Executive power is limited, so far as it is possible to limit such a power consistent with that discretion and promptness of action that are essential to preserve the interests of the public in times of emergency or legislative neglect or inaction." Thus, even Taft was disposed to employ emergency power when the need arose, but, he did not wish to go beyond his own narrower, conservative conception of what was meant by constitutional and legal bounds. Thus, the dispute was over where those bounds lay, rather than the nature of the office itself.

Taft's successor, Woodrow Wilson, was no less zealous in observing what he thought the Constitution demanded. Faced with the exigencies of World War I, Wilson found it necessary to expand executive emergency powers enormously. In many respects, this expansion of powers in wartime was based on precedents set by Lincoln decades earlier. Unlike Lincoln, however, Wilson relied heavily on Congress for official delegations of authority no matter how broadly these might be.

Wilson's exercise of power in the First World War provided a model for future Presidents and their advisors. During the preparedness period of 1915-1916, the submarine crisis in the opening months of 1917, and the period of direct involvement of U.S. armed forces from April 1917 to November 1918, Wilson utilized powers as sweeping as Lincoln's. Because governmental agencies were more highly organized and their jurisdictions wider, presidential powers were considerably more effective than ever before. Yet, perhaps, because of Wilson's scrupulous attention to obtaining prior congressional concurrence, there was only one significant congressional challenge to Wilson's war-time measures.

That challenge came in February-March 1917, following the severance of diplomatic relations with Germany. A group of Senators successfully filibustered a bill authorizing the arming of American merchant ships. In response—records American historian Frank Freidel in his book *Roosevelt: the Apprenticeship*—Assistant Secretary of the Navy Franklin D. Roosevelt found an old statute under which the President could proceed without fresh authorization from Congress. Roosevelt, impatient for action, was irritated because Wilson waited a few days before implementing the statute.

Lincoln had drawn most heavily upon his power as Commander-in-Chief; Wilson exercised emergency power on the basis of old statutes and sweeping new legislation—thus drawing on congressional delegation as a source of authority. The most significant Wilsonian innovations were economic, including a wide array of defense and war agencies, modeled to some extent upon British wartime

precedents. In August 1916 just prior to United States entry into the war, Congress at Wilson's behest established a Council of National Defense—primarily advisory. In 1917, a War Industries Board, also relatively weak, began operating. The ineffectiveness of the economic mobilization led Republicans in Congress—in the winter of 1917–1918—to demand a coalition War Cabinet similar to that in England. Wilson forestalled Congress by proposing legislation delegating him almost total economic power and, even before legislative approval, authorized the War Industries Board to exercise extensive powers. Subsequently Congress enacted Wilson's measure, the Overman Act, in April 1918. Other legislation extended the economic authority of the Government in numerous directions.

Following the Allied victory, Wilson relinquished his wartime authority and asked Congress to repeal the emergency statutes, enacted to fight more effectively the war. Only a food-control measure and the 1917 Trading With the Enemy Act were retained. This procedure of terminating emergency powers when the particular emergency itself has, in fact, ended has not been consistently followed by his successors.

The next major development in the use of executive emergency powers came under Franklin D. Roosevelt. The Great Depression had already overtaken the country by the time of Roosevelt's inauguration and confronted him with a totally different crisis. This emergency, unlike those of the past, presented a nonmilitary threat. The Roosevelt administration, however, conceived the economic crisis to be a calamity equally as great as a war and employed the metaphor of war to emphasize the depression's severity. In his inaugural address, Roosevelt said: "I shall ask the Congress for the one remaining instrument to meet the crisis—broad executive power to wage a war against the emergency, as great as the power that would be given me if we were in fact invaded by a foreign foe."

Many of the members of the Roosevelt administration, including F.D.R. himself, were veterans of the economic mobilization of World War I and drew upon their experiences to combat the new situation. The first New Deal agencies, indeed, bore strong resemblance to wartime agencies and many had the term "emergency" in their titles—such as the Federal Emergency Relief Administration and the National Emergency Council.

In his first important official act, Roosevelt proclaimed a National Bank Holiday on the basis of the 1917 Trading With the Enemy Act—itsself a wartime delegation of power. New Deal historian William E. Leuchtenburg writes:

When he sent his banking bill to Congress, the House received it with much the same ardor as it had greeted Woodrow Wilson's war legislation. Speaker Rainey said the situation reminded him of the late war when "on both sides of this Chamber the great war measures suggested by the administration were supported with practical unanimity. . . . Today we are engaged in another war, more serious even in its character and presenting greater dangers to the Republic." After only 38 minutes debate, the House passed the administration's banking bill, sight unseen.

The Trading With the Enemy Act had, however, been specifically designed by its originators to meet only *wartime* exigencies. By employing it to meet the demands of the depression, Roosevelt greatly extended the concept of "emergencies" to which expansion of executive powers might be applied. And in so doing, he established a pattern that was followed frequently: In time of crisis the President should utilize any statutory authority readily at hand, regardless of its original purposes, with the firm expectation of *ex post facto* congressional concurrence.

Beginning with F.D.R., then, extensive use of delegated powers exercised under an aura of crisis has become a dominant aspect of the presidency. Concomitant with this development has been a de-meaning of the significance of "emergency." It became a term used to evoke public and congressional approbation, often bearing little actual relation to events. Roosevelt brain-truster, Rexford G. Tugwell, has described the manner in which Roosevelt used declarations of different degrees of emergency:

The "limited emergency" was a creature of Roosevelt's imagination, used to make it seem that he was doing less than he was. He did not want to create any more furor than was necessary. The qualifying adjective had no limiting force. It was purely for public effect. But the finding that an emergency existed opened a whole armory of powers to the Commander-in-Chief, far more than Wilson had had.

Roosevelt and his successor, Harry S. Truman, invoked formal states of emergency to justify extensive delegations of authority during actual times of war. The Korean war, however, by the fact of its never having been officially declared a "war" as such by Congress, further diluted the concept of what constituted circumstances sufficiently critical to warrant the delegation of extraordinary authority to the President.

At the end of the Korean war, moreover, the official state of emergency was not terminated. It is not yet terminated. This may be primarily attributed to the continuance of the Cold War atmosphere which, until recent years, made the imminent threat of hostilities an accepted fact of everyday life, with "emergency" the normal state of affairs. In this, what is for all practical purposes, permanent state of emergency, Presidents have exercised numerous powers—most notably under the Trading With the Enemy Act—legitimated by that on-going state of national emergency. Hundreds of others have lain fallow, there to be exercised at any time, requiring only an order from the President.

Besides the 1933<sup>1</sup> and Korean war emergencies,<sup>2</sup> two other states of declared national emergency remain in existence. On March 23, 1970, confronted by a strike of Postal Service employees, President Nixon declared a national emergency.<sup>3</sup> The following year, on August

<sup>1</sup> See Appendix. D. 594.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*, p. 596.

15, 1971, Nixon proclaimed another emergency,<sup>1</sup> under which he imposed stringent import controls in order to meet an international monetary crisis. Because of its general language, however, that proclamation could serve as sufficient authority to use a substantial proportion of all the emergency statutes now on the books.

Over the course of at least the last 40 years, then, Presidents have had available an enormous—seemingly expanding and never-ending—range of emergency powers. Indeed, at their fullest extent and during the height of a crisis, these “prerogative” powers appear to be virtually unlimited, confirming Locke’s perceptions. Because Congress and the public are unaware of the extent of emergency powers, there has never been any notable congressional or public objection made to this state of affairs. Nor have the courts imposed significant limitations.

During the New Deal, the Supreme Court initially struck down much of Roosevelt’s emergency economic legislation (*Schechter v. United States*, 295 U.S. 495). However, political pressures, a change in personnel, and presidential threats of court-packing, soon altered this course of decisions (*NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1). Since 1937, the Court has been extremely reluctant to invalidate any congressional delegation of economic powers to the President. It appears that this will not change in the foreseeable future.

In a significant case directly confronting the issue of wartime emergency powers, *Youngstown Sheet & Tube Co. v. Sawyer* (343 U.S. 579), the Court refused to allow the President to rely upon *implied* constitutional powers during a crisis. The action at issue involved presidential seizure of steel plants in a manner apparently directly at odds with congressional policy. Justice Black’s plurality opinion specifically acknowledges that if Congress delegates powers to the President for use during an emergency, those powers are absolutely valid within constitutional restraints on Congress’ *own* power to do so. Concurring opinions appear to agree on this point. It should be noted, therefore, that *all statutes* in this compilation are precisely these kinds of specific congressional delegations of power.

The 2,000-year-old problem of how a legislative body in a democratic republic may extend extraordinary powers for use by the executive during times of great crisis and dire emergency—but do so in ways assuring both that such necessary powers will be terminated immediately when the emergency has ended and that normal processes will be resumed—has not yet been resolved in this country. Too few are aware of the existence of emergency powers and their extent, and the problem has never been squarely faced.

#### B—SUMMARY VIEWS OF THE PRESENT STATUS OF EMERGENCY POWERS STATUTES

A review of the laws passed since the first state of national emergency was declared in 1933, reveals a consistent pattern of law-making. It is a pattern showing that the Congress, through its own actions, transferred awesome magnitudes of power to the executive ostensibly to meet the problems of governing effectively in times of great crisis. Since 1933, Congress has passed or recodified over 470 significant statutes delegating to the President powers that had been

<sup>1</sup> *Ibid.*, p. 597.

the prerogative and responsibility of the Congress since the beginning of the Republic. No charge can be sustained that the Executive branch has usurped powers belonging to the Legislative branch; on the contrary, the transfer of power has been in accord with due process of normal legislative procedures.

It is fortunate that at this time that, when the fears and tensions of the cold war are giving way to relative peace and détente is now national policy, Congress can assess the nature, quality, and effect of what has become known as emergency powers legislation. Emergency powers make up a relatively small but important body of statutes—some 470 significant provisions of law out of the total of tens of thousands that have been passed or recodified since 1933. But emergency powers laws are of such significance to civil liberties, to the operation of domestic and foreign commerce, and the general functioning of the U.S. Government, that, in microcosm, they reflect dominant trends in the political, economic, and judicial life in the United States.

A number of conclusions can be drawn from the Special Committee's study and analysis of emergency powers laws now in effect. Congress has in most important respects, except for the final action of floor debate and the formal passage of bills, permitted the Executive branch to draft and in large measure to "make the laws." This has occurred despite the constitutional responsibility conferred on Congress by Article I Section 8 of the Constitution which states that it is Congress that "makes all Laws . . ."

Most of the statutes pertaining to emergency powers were passed in times of extreme crisis. Bills drafted in the Executive branch were sent to Congress by the President and, in the case of the most significant laws that are on the books, were approved with only the most perfunctory committee review and virtually no consideration of their effect on civil liberties or the delicate structure of the U.S. Government of divided powers. For example, the economic measures that were passed in 1933 pursuant to the proclamation of March 5, 1933, by President Roosevelt, asserting that a state of national emergency now existed, were enacted in the most turbulent circumstances. There was a total of only 8 hours of debate in both houses. There were no committee reports; indeed, only one copy of the bill was available on the floor.

This pattern of hasty and inadequate consideration was repeated during World War II when another group of laws with vitally significant and far reaching implications was passed. It was repeated during the Korean war and, again, in most recent memory, during the debate on the Tonkin Gulf Resolution passed on August 6, 1964.

On occasion, legislative history shows that during the limited debates that did take place, a few, but very few, objections were raised by Senators and Congressmen that expressed serious concerns about the lack of provision for congressional oversight. Their speeches raised great doubts about the wisdom of giving such open-ended authority to the President, with no practical procedural means to withdraw that authority once the time of emergency had passed.

For example, one of the very first provisions passed in 1933 was the Emergency Banking Act based upon Section 5(b) of the Trading With the Enemy Act of 1917. The provisions gave to President Roosevelt, with the full approval of the Congress, the authority

to control major aspects of the economy, an authority which had formerly been reserved to the Congress. A portion of that provision, still in force, is quoted here to illustrate the kind of open-ended authority Congress has given to the President during the past 40 years:

(b) (1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest.

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction,



or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

To cite two further examples:

In the context of the war powers issue and the long debate of the past decade over national commitments, 10 U.S.C. 712 is of importance:

10 U.S.C. 712. Foreign governments: detail to assist.

(a) Upon the application of the country concerned, the President, whenever he considers it in the public interest, may detail members of the Army, Navy, Air Force, and Marine Corps to assist in military matters—

(1) any republic in North America, Central America, or South America;

(2) the Republic of Cuba, Haiti, or Santo Domingo and

(3) during a war or a declared national emergency, any other country that he considers it advisable to assist in the interest of national defense.

(b) Subject to the prior approval of the Secretary of the military department concerned, a member detailed under this section may accept any office from the country to which he is detailed. He is entitled to credit for all service while so detailed, as if serving with the armed forces of the United States. Arrangements may be made by the President, with countries to which such members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions.

The Défense Department, in answer to inquiries by the Special Committee concerning this provision, has stated that it has only been used with regard to Latin America, and interprets its applicability as being limited to noncombatant advisers. However, the language of Section 712 is wide open to other interpretations. It could be construed as a way of extending considerable military assistance to any foreign country. Since Congress has delegated this power, arguments could be made against the need for further congressional concurrence in a time of national emergency.

The repeal of almost all of the Emergency Detention Act of 1950 was a constructive and necessary step, but the following provision remains:

18 U.S.C. 1383. Restrictions in military areas and zones.

Whoever, contrary to the restrictions applicable thereto, enters, remains in, leaves, or commits any act in any military area or military zone prescribed under the authority of an Executive order of the President, by the Secretary of the Army, or by any military commander designated by the Secretary of the Army, shall, if it appears that he knew or

should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both.

18 U.S.C. 1383 does not appear on its face to be an emergency power. It was used as the basis for internment of Japanese-Americans in World War II. Although it seems to be cast as a permanent power, the legislative history of the section shows that the statute was intended as a World War II emergency power only, and was not to apply in "normal" peacetime circumstances. Two years ago, the Emergency Detention Act was repealed, yet 18 U.S.C. 1383 has almost the same effect.

Another pertinent question among many, that the Special Committee's work has revealed, concerns the statutory authority for domestic surveillance by the FBI. According to some experts, the authority for domestic surveillance appears to be based upon an Executive Order issued by President Roosevelt during an emergency period. If it is correct that no firm statutory authority exists, then it is reasonable to suggest that the appropriate committees enact proper statutory authority for the FBI with adequate provision for oversight by Congress.

What these examples suggest and what the magnitude of emergency powers affirm is that most of these laws do not provide for congressional oversight or termination. There are two reasons which can be adduced as to why this is so. First, few, if any, foresaw that the temporary states of emergency declared in 1933, 1939, 1941, 1950, 1970, and 1971 would become what are now regarded collectively as virtually permanent states of emergency (the 1939 and 1941 emergencies were terminated in 1952). Forty years can, in no way, be defined as a temporary emergency. Second, the various administrations who drafted these laws for a variety of reasons were understandably not concerned about providing for congressional review, oversight, or termination of these delegated powers which gave the President enormous powers and flexibility to use those powers.

The intense anxiety and sense of crisis was contained in the rhetoric of Truman's 1950 proclamation:

Whereas recent events in Korea and elsewhere constitute a grave threat to the peace of the world and imperil the efforts of this country and those of the United Nations to prevent aggression and armed conflict; and

Whereas world conquest by communist imperialism is the goal of the forces of aggression that have been loosed upon the world; and

Whereas, if the goal of communist imperialism were to be achieved, the people of this country would no longer enjoy the full and rich life they have with God's help built for themselves and their children; they would no longer enjoy the blessings of the freedom of worshipping as they severally choose, the freedom of reading and listening to what they choose, the right of free speech, including the right to criticize their Government, the right to choose those who con-

duct their Government, the right to engage freely in collective bargaining, the right to engage freely in their own business enterprises, and the many other freedoms and rights which are a part of our way of life; and

Whereas, the increasing menace of the forces of communist aggression requires that the national defense of the United States be strengthened as speedily as possible:

Now, therefore, I, Harry S. Truman, President of the United States of America, do proclaim the existence of a national emergency, which requires that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible to the end that we may be able to repel any and all threats against our national security and to fulfill our responsibilities in the efforts being made through the United Nations and otherwise to bring about lasting peace.

I summon all citizens to make a united effort for the security and well-being of our beloved country and to place its needs foremost in thought and action that the full moral and material strength of the Nation may be readied for the dangers which threaten us.

I summon our farmers, our workers in industry, and our businessmen to make a mighty production effort to meet the defense requirements of the Nation and to this end to eliminate all waste and inefficiency and to subordinate all lesser interests to the common good.

I summon every person and every community to make, with a spirit of neighborliness, whatever sacrifices are necessary for the welfare of the Nation.

I summon all State and local leaders and officials to cooperate fully with the military and civilian defense agencies of the United States in the national defense program.

I summon all citizens to be loyal to the principles upon which our Nation is founded, to keep faith with our friends and allies, and to be firm in our devotion to the peaceful purposes for which the United Nations was founded.

I am confident that we will meet the dangers that confront us with courage and determination, strong in the faith that we can thereby "secure the Blessings of Liberty to ourselves and our Posterity."

In witness whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the City of Washington this 16th day of December (10:20 a.m.) in the year of our Lord nineteen hundred and fifty, and of the Independence of the United States of America the one hundred and seventy-fifth.

HARRY S. TRUMAN.

[SEAL]

By the President:

DEAN ACHESON,  
*Secretary of State.*

The heightened sense of crisis of the cold war so evident in Truman's proclamation has fortunately eased. The legislative shortcomings contained in this body of laws can be corrected on the basis of rational study and inquiry.

In the view of the Special Committee, an emergency does not now exist. Congress, therefore, should act in the near future to terminate officially the states of national emergency now in effect.

At the same time, the Special Committee is of the view that it is essential to provide the means for the Executive to act effectively in an emergency. It is reasonable to have a body of laws in readiness to delegate to the President extraordinary powers to use in times of real national emergency. The portion of the concurring opinion given by Justice Jackson in the *Youngstown Steel* case with regard to emergency powers provides sound and pertinent guidelines for the maintenance of such a body of emergency laws kept in readiness to be used in times of extreme crisis. Justice Jackson, supporting the majority opinion that the "President's power must stem either from an act of Congress or from the Constitution itself" wrote:

The appeal, however, that we declare the existence of inherent powers *ex necessitate* to meet an emergency asks us to do what many think would be wise, although it is something the forefathers omitted. They knew what emergencies were, knew the pressures they engender for authoritative action, knew, too, how they afford a ready pretext for usurpation. We may also suspect that they suspected that emergency powers would tend to kindle emergencies. Aside from suspension of the privilege of the writ of habeas corpus in time of rebellion or invasion, when the public safety may require it, they made no express provision for exercise of extraordinary authority because of a crisis. I do not think we rightfully may so amend their work, and, if we could, I am not convinced it would be wise to do so, although many modern nations have forthrightly recognized that war and economic crises may upset the normal balance between liberty and authority. Their experience with emergency powers may not be irrelevant to the argument here that we should say that the Executive, of his own volition, can invest himself with undefined emergency powers.

Germany, after the First World War, framed the Weimar Constitution, designed to secure her liberties in the Western tradition. However, the President of the Republic, without concurrence of the Reichstag, was empowered temporarily to suspend any or all individual rights if public safety and order were seriously disturbed or endangered. This proved a temptation to every government, whatever its shade of opinion, and in 13 years suspension of rights was invoked on more than 250 occasions. Finally, Hitler persuaded President Von Hindenburg to suspend all such rights, and they were never restored.

The French Republic provided for a very different kind of emergency government known as the "state of seige." It differed from the German emergency dictatorship particularly in that emergency powers could not be assumed at will

by the Executive but could only be granted as a parliamentary measure. And it did not, as in Germany, result in a suspension or abrogation of law but was a legal institution governed by special legal rules and terminable by parliamentary authority.

Great Britain also has fought both World Wars under a sort of temporary dictatorship created by legislation. As Parliament is not bound by written constitutional limitations, it established a crisis government simply by delegation to its Ministers of a larger measure than usual of its own unlimited power, which is exercised under its supervision by Ministers whom it may dismiss. This has been called the "high-water mark in the voluntary surrender of liberty," but, as Churchill put it, "Parliament stands custodian of these surrendered liberties, and its most sacred duty will be to restore them in their fullness when victory has crowned our exertions and our perseverance." Thus, parliamentary controls made emergency powers compatible with freedom.

This contemporary foreign experience may be inconclusive as to the wisdom of lodging emergency powers somewhere in a modern government. But it suggests that emergency powers are consistent with free government only when their control is lodged elsewhere than in the Executive who exercises them. That is the safeguard that would be nullified by our adoption of the "inherent powers" formula. Nothing in my experience convinces me that such risks are warranted by any real necessity, although such powers would, of course, be an executive convenience.

In the practical working of our Government we already have evolved a technique within the framework of the Constitution by which normal executive powers may be considerably expanded to meet an emergency. Congress may and has granted extraordinary authorities which lie dormant in normal times but may be called into play by the Executive in war or upon proclamation of a national emergency. In 1939, upon congressional request, the Attorney General listed ninety-nine such separate statutory grants by Congress of emergency or wartime executive powers. They were invoked from time to time as need appeared. Under this procedure we retain Government by law—special, temporary law, perhaps, but law nonetheless. The public may know the extent and limitations of the powers that can be asserted, and persons affected may be informed from the statute of their rights and duties.

In view of the ease, expedition and safety with which Congress can grant and has granted large emergency powers, certainly ample to embrace this crisis, I am quite unimpressed with the argument that we should affirm possession of them without statute. Such power either has no beginning or it has no end. If it exists, it need submit to no legal restraint. I am not alarmed that it would plunge us straightway into dictatorship, but it is at least a step in that wrong direction.

\* \* \* \* \*

But I have no illusion that any decision by this Court can keep power in the hands of Congress if it is not wise and timely in meeting its problems. A crisis that challenges the President equally, or perhaps primarily, challenges Congress. If not good law, there was worldly wisdom in the maxim attributed to Napoleon that "The tools belong to the man who can use them." We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers.

The essence of our free Government is "leave to live by no man's leave, underneath the law"—to be governed by those impersonal forces which we call law. Our Government is fashioned to fulfill this concept so far as humanly possible. The Executive, except for recommendation and veto, has no legislative power. The executive action we have here originates in the individual will of the President and represents an exercise of authority without law. No one, perhaps not even the President, knows the limits of the power he may seek to exert in this instance and the parties affected cannot learn the limit of their rights. We do not know today what powers over labor or property would be claimed to flow from Government possession if we should legalize it, what rights to compensation would be claimed or recognized, or on what contingency it would end. With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations.

Such institutions may be destined to pass away. But it is the duty of the Court to be last, not first, to give them up.

With these guidelines and against the background of experience of the last 40 years, the task that remains for the Special Committee is to determine—in close cooperation with all the Standing Committees of the Senate and all Departments, Commissions, and Agencies of the Executive branch—which of the laws now in force might be of use in a future emergency. Most important, a legislative formula needs to be devised which will provide a regular and consistent procedure by which any emergency provisions are called into force. It will also be necessary to establish a means by which Congress can exercise effective oversight over such actions as are taken pursuant to a state of national emergency as well as providing a regular and consistent procedure for the termination of such grants of authority.

## TEXTUAL NOTE

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### COMPILING THE TEXTS OF EMERGENCY POWER STATUTES

Pursuant to S. Res. 9 of January 6, 1973, the U.S. Senate directed the Special Committee on the Termination of the National Emergency to study and investigate emergency powers legislation now in force.

From the outset of its work, the Special Committee faced the problem of determining, with reasonable accuracy, the number, nature, and extent of emergency statutes passed by Congress since 1933 which delegate extraordinary powers to the President in time of crisis or impending catastrophe. It was evident, initially, that existing listings of executive emergency powers were either out-of-date or inadequate for the Special Committee's purposes. It became apparent, too, that the United States Government has been operating under an unrelieved state of emergency of 40 years' duration. During this period, an enormous body of laws dealing with severe economic crisis and America's response to three wars had been passed by Congress through an almost unnoticed process of gradual accretion.

In the past, the only way to compile a catalog useful to Congress would have required going through every page of the 86 volumes of the Statutes-at-Large. Fortunately, the U.S. Code (1970 edition and one supplement) was put onto computer tapes by the United States Air Force in the so-called LITE System, which is located at a military facility in the State of Colorado. The Special Committee staff, working in conjunction with the Justice Department, the Library of Congress, and the General Accounting Office, devised several programs for computer searches. These programs were based on a wide spectrum of key words and phrases contained in typical provisions of law which delegate extraordinary powers. Examples of some trigger words are "national emergency," "war," "national defense," "invasion," "insurrection," etc. These programs, designed to produce a computer printout of all provisions of the U.S. Code that pertain to a state of war or national emergency, resulted in several thousand citations. At this point, the Special Committee staff and the staff of the American Law Division, Library of Congress, went through the printouts, separated out all those provisions of the U.S. Code most relevant to war or national emergency, and weeded out those provisions of a trivial or extremely remote nature. Two separate teams worked on the computer printouts and the results were put together in a third basic list of U.S. Code citations.

To determine legislative intent, the U.S. Code citations were then hand checked against the Statutes-at-Large, the Reports of Stand-

ing Committees of the U.S. Senate and House of Representatives and, where applicable, Reports of Senate and House Conferences.

In addition, the laws passed since the publishing of the 1970 Code were checked and relevant citations were added to the master list. The compilation was then checked against existing official catalogs: That of the Department of Defense, "Digest of War and Emergency Legislation Affecting the Department of Defense"; that of the Office of Emergency Planning, "Guide to the Emergency Powers Conferred by Laws in Effect on January 1, 1969"; and, the 1962 House Judiciary Committee synopsis of emergency powers, "Provisions of Federal Law in Effect in Time of National Emergency."

The task of compiling a catalog of emergency powers statutes, therefore, has been immeasurably assisted by use of computers, but computers could not replace the need for a systematic and very laborious hand search of all of the volumes of the U.S. Code, the Statutes-at-Large, and Senate and House Reports. The following compilation is intended to be used as a working list of the most relevant emergency provisions of the law. The Special Committee cannot be certain that every statute that could or may be called into use during a time of war or national emergency is in the following compilation. However, the Special Committee believes that the most significant provisions are herein cataloged.

The compilation is organized as follows:

1. A summary of all the U.S. Code citations in order of their appearance in the Code, and specific Public Laws with the Congress and the year they were enacted.
2. The texts of U.S. Code citations and Public Laws with explanatory notes and such material from Senate and House Reports which explains Congress' primary intent concerning these provisions of law.
3. Citation of statutes in accordance to committee jurisdictions.

The appendix contains:

1. Seven tables that list various breakdowns of the usage of the United States Code.
2. The four proclamations of national emergency now in effect.
3. A subject index.



# **SUMMARY OF STATUTES DELEGATING POWERS IN TIME OF WAR OR NATIONAL EMERGENCY**

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## **UNITED STATES CODE**

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### **TITLE 2—THE CONGRESS**

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- 2 U.S.C.      Adjournment date for Congress is not applicable if a  
§ 198.          state of war exists pursuant to a declaration of war by  
                the Congress.
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### **TITLE 5—GOVERNMENT ORGANIZATIONS AND EMPLOYEES**

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- 5 U.S.C.      Right to review of agency action by government em-  
§§ 701-702.    ployees "except . . . in time of war or in occupied ter-  
                ritory."
- § 3101.        Until termination of the "national emergency pro-  
                claimed by the President on December 16, 1950," heads  
                of executive departments and agencies may require that  
                initial appointments in the civil service be made on a  
                temporary or indefinite basis.
- § 3326.        Permits the appointments of retired members of the  
                Armed Forces to positions in the Department of De-  
                fense when a state of national emergency exists.
- § 5305.        Provides procedures for annual pay reports and adjust-  
                ments for Federal employees during a national emer-  
                gency or economic conditions.
- § 5335.        Relates to periodic step-increases for Federal employ-  
                ees during a period of war or national emergency.
- § 5532.        Relates to exceptions to reductions in retirement pay for  
                retired officers of the uniformed services because of spe-  
                cial or emergency employment needs.
- § 5564.        Relates to the sale of household and personal effects of  
                employees during an emergency.
- § 8332.        Under the Civil Service Retirement Act, as amended, an  
                employee who, "during the period of any war, or of any  
                national emergency as proclaimed by the President or

declared by the Congress," leaves his position to enter the military service, shall not be considered as separated from his civilian position by reason of such military service, unless he shall apply for and receive a lump-sum benefit under the act.

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## TITLE 7—AGRICULTURE

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- 7 U.S.C.  
§ 1158. The President may suspend quota provisions of the Sugar Act of 1947 whenever he "finds and proclaims that a national economic or other emergency exists" with respect to a sugar or liquid sugar.
- § 1332. Relates to termination of national marketing quota for wheat because of a national emergency.
- § 1371. The Secretary of Agriculture may make an investigation to determine whether an increase or termination of marketing quotas in certain commodities is necessary because of a "national emergency."
- § 1743. Commodity set-asides, under the Agricultural Act of 1954, may be reduced by disposal for disaster relief purposes in the United States or to meet any national emergency declared by the President.
- § 1903. During the period of any national emergency declared by the President or the Congress, the President, to the extent deemed by him to be necessary to meet the essential procurement needs during such emergency, may modify the limitations on the procurement of livestock products produced or processed by any slaughterer or processor who slaughters or handles livestock by methods other than methods designated and approved by the Secretary of Agriculture.

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## TITLE 8—ALIENS AND NATIONALITY

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- 8 U.S.C.  
§§ 1182, 1185, 1481. The Immigration and Nationality Act of 1952 provides that—
- (a.) an alien who departs from or remains out of the United States in order to avoid military training and service "in time of war or a period declared by the President to be a national emergency" is ineligible for admission into the United States;
  - (b.) the travel of aliens to and from the United States may be controlled "when the United States is at war or during the existence of any national emergency proclaimed by the President"; and

(c.) a native-born or naturalized citizen shall lose his nationality if he departs from or remains outside the jurisdiction of the United States "in time of war or during a period declared by the President to be a period of national emergency," in order to evade or avoid military training and service.

- § 1440. Relates to naturalization through active duty service "during any . . . period which the President by Executive Order shall designate as a period . . . involving armed conflict with a hostile foreign force . . ."
- § 1440e. Relates to exemption from naturalization fee for aliens who served "during any . . . period which the President by Executive Order shall designate as a period . . . involving armed conflict with a hostile foreign force."
- § 1442. Relates to exceptions from classification of alien enemies during hostilities.

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#### TITLE 10—ARMED FORCES

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- 10 U.S.C.  
§ 123. "In time of war, or of emergency declared by Congress," the President may suspend certain provisions of law relating to reserve commissioned officers of any armed force.
- § 125. Relates to the functions; powers, and duties, etc. of the Armed Forces during periods of hostilities or an imminent threat of hostilities.
- § 142. Relates to appointment to Chairman of the Joint Chiefs of Staff "in time of war declared by Congress."
- § 143. Relates to the tenure of the Joint Chiefs of Staff, "except in time of war."
- § 262. The purpose of the reserve components is to provide trained units and qualified persons available for active duty in the armed forces "in time of war or national emergency."
- § 263. Relates to presidential authorization to order Ready Reserve to active duty during national emergencies.
- § 269. The provision that requires transfer to the Standby Reserves, of any member of a reserve component who is not on active duty, shall not be in effect "in time of war or national emergency declared by Congress."
- § 271. Relates to regulations to be prescribed by the President regarding continuous screening of the Ready Reserve to insure "due regard to national security and military requirements."

- § 331. Relates to Federal aid for State governments whenever there is "an insurrection" in any State against its Government.
- § 332. Relates to the use of militia and armed forces to enforce Federal authority to suppress rebellions.
- § 333. Relates to authority of President to "take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy."
- § 334. Relates to the President to issue a proclamation to disperse to insurgents to retire peaceably to their abodes within a limited time.
- § 351. "During a war and at any other time when the President determines that the security of the United States is threatened," the President may arm any watercraft or aircraft that is capable of being used as a means of transportation.
- § 506. Relates to the extension of enlistments of the regular components during a "period of war."
- § 511. Enlistments in a reserve component in effect at the beginning of a war or of a national emergency declared by Congress, or entered into during such period, continues until six months after the end of that war or emergency.
- § 519. Relates to temporary enlistments "in time of war or of emergency declared by Congress."
- §§ 565, 599. "In time of war, or of emergency declared after May 29, 1954, by Congress or the President," the President may suspend operation of any provision of law relating to promotion, or mandatory retirement or separation, of permanent regular or reserve warrant officers of any armed force.
- § 671a. Relates to extension of active service in armed forces "for the duration of war."
- § 671b. Relates to Presidential authority to extend active duty service in "the national interest."
- § 672. "In time of war or of national emergency declared by Congress," any member or unit of a reserve component may be ordered to active duty, without his consent, for the duration of such war or emergency and six months.
- § 673. Relates to the Ready Reserve in time of a national emergency.
- § 674. Units and members in the Standby Reserve may be ordered to active duty (other than for training) "only in time of war, of national emergency declared by Congress, or when otherwise authorized by law."

- §§ 675, 672. A member in the Retired Reserve may, if qualified, be ordered to active duty without his consent only "in time of war or of national emergency declared by Congress," or when otherwise authorized by law.
- § 679. If an active duty agreement of a reservist expires "during a war or during a national emergency declared by Congress or the President after January 1, 1953," the reservist may be kept on active duty without his consent.
- § 681. "In time of war or of national emergency declared by Congress or the President after January 1, 1953," a member of a reserve component may be released from active duty only upon certain conditions.
- § 687. Relates to the readjustment payment upon involuntary release from active duty of non-regulars in the Armed Forces, except in time of "war or national emergency."
- § 712. "During a war or a declared national emergency" the President may detail officers and enlisted men of the Army, Navy, Air Force, and Marine Corps to the governments of such other countries as he deems it in the interest of national defense to assist.
- § 802, Art. 2. Relates to persons subject to provisions of military justice "in time of war."
- § 843, Art. 43. Relates to the Statute of Limitations relating to court martial offenses in time of war.
- § 871, Art. 71. "In time of war or national emergency," the Secretary of the branch of the service concerned may commute a sentence of dismissal of officers to reduction to any enlisted grade.
- § 1035. Relates to interest on savings deposits of members of the armed forces during the Vietnam conflict. For the purposes of this section, the Vietnam conflict ends on the date "designated by the President by Executive order."
- § 1161. Relates to the limitations on dismissal of commissioned officers in "time of war."
- §§ 2231, 2233. The Secretary of Defense is authorized to acquire and expand facilities necessary for use of Reserve components in time of war or national emergency.
- § 2235. The Secretary of Defense may not permit any use or disposition of facilities acquired for certain national defense purposes, that would interfere with its use "in time of war or national emergency" by other units of the Armed Forces or by the United States for any other purpose.

- § 2236. States or Territories receiving contributions for expansion, etc., of facilities for Reserve components of the Armed Forces, may not permit any use or disposition of such facility as would interfere with its use "in time of war or national emergency."
- § 2304. Contracts for supplies and services may be negotiated without advertising if determined to be necessary in the public interest "during a national emergency declared by Congress or the President."
- § 2542. Secretaries of the military departments may, in time of war, lend equipment to the Red Cross for the purpose of aiding the Armed Services.
- § 2602. Whenever the Presidents finds it necessary he may accept the services of the American National Red Cross.
- § 2604. Relates to authority of President "whenever . . . necessary to the interest of United States commitments abroad" to cooperate with and assist the United Seamen's Service.
- § 2632. Transportation to and from place of employment may be furnished, at reasonable rates, to persons employed in a military department "during a war or during a national emergency declared by Congress or the President."
- §§ 2663, 2664. The Secretary of a military department may "in time of war or when war is imminent," take and use property, including property for lumber production, immediately upon the filing of petition for condemnation.
- § 2667. Property leased to another by the Secretary of a military department, must be revocable by the Secretary "during a national emergency declared by the President."
- § 2667. Leases of real or personal property must be revocable "during a national emergency declared by the President."
- § 2674. Until June 30, 1962, the Secretary of a military department may lease housing facilities at or near military installations for assignment as public quarters to members and their dependents, when there is a lack of housing facilities at such installations.
- § 2733. Relates to property loss, personal injury or death incident to noncombat activities of the Armed Forces.
- § 2734. Relates to property loss, personal injury or death incident to noncombat activities of the armed forces in foreign countries.
- § 3031. Limitations on the number of officers of the Army assigned to permanent duty in the executive office of the Department of the Army not to apply "in time of war,

or of national emergency declared by Congress, or whenever the President finds that it is in the national interest" to increase the number so assigned.

- § 3034. Relates to Presidential appointment of the Chief of Staff "in time of war or national emergency."
- § 3062. The organized peace establishment of the Army consists of all organizations and units necessary to form the basis for a complete and immediate mobilization for the national defense "in the event of a national emergency."
- § 3063. The Secretary of the Army may discontinue or consolidate basic branches of the Army for the "duration of any war, or of any national emergency declared by Congress."
- § 3201. Restrictions on the authorized personnel strength of any component of the Armed Forces are suspended until July 1, 1963.
- § 3202. "In time of war, or of national emergency declared after May 5, 1954, by Congress or the President," the President may suspend the provisions of law relating to officers in certain commissioned grades in the Army.
- § 3313. "In time of war or of emergency declared by Congress or the President," the President may suspend the operation of any provision of law relating to promotion, or mandatory retirement or separation, of commissioned officers of the Regular Army.
- § 3444. "In time of emergency declared by Congress or the President, and in time of war," the President may appoint any qualified person in any temporary commissioned grade.
- § 3445. "In time of war or of national emergency declared by the President," a Regular officer or Reserve warrant officer may be appointed to a temporary grade higher than his Regular or Reserve grade without vacating that grade.
- §§ 3500, 8500. The President may call into the Federal Service members and units of the National Guard of the States, etc., whenever "the United States . . . is invaded or is in danger of invasion by a foreign nation."
- § 3741. Relates to the medal of honor during service during an armed conflict.
- § 3742. Relates to Presidential award of the distinguished service cross to persons "while engaged in military operations involving conflict with an opposing foreign force."
- § 3746. Relates to the presentation of the silver star during service during an armed conflict.

- § 3750. Relates to the presentation of soldier's medal during actual conflict.
- § 4025. The regular working hours of laborers and mechanics employed by the Department of the Army "during a national emergency declared by the President," shall be 8 hours per day or 40 hours per week.
- §§ 4501, 4502, 9501, 9502. "In time of war or when war is imminent" the President may order necessary products to be manufactured at private plants or take over such plants upon refusal to comply with such orders; and maintain lists of plants capable of war production.
- § 4742. Relates to presidential control of transportation systems "in time of war."
- § 4776. "If in an emergency the President considers it urgent," a temporary fort or fortification may be built on private land if the owner consents in writing.
- § 4780. Relates to the acquisition of buildings in the District of Columbia in time of war or when war is imminent.
- § 5081. Relates to the reappointment of the Chief of Naval Operations in time of war or national emergency.
- § 5201. Relates to appointment of Commandant of Marine Corps "in time of war or national emergency."
- § 5231. "In time of war or national emergency" the limit on the number of officers serving in the grades of admiral and vice admiral shall not apply.
- § 5232. The President may designate officers on the active list of the Marine Corps above the grade of lieutenant colonel for appropriate higher commands or the performance of duty of great importance and responsibility "in time of war or national emergency;" and during such time the provision restricting the number of positions in the grade of lieutenant general to two, shall not apply; such number may be increased to ten.
- § 5234. "During a war or national emergency," the President may suspend certain provisions relating to distribution of certain high grades in the Navy and Marine Corps.
- § 5402. The authorized strength of the Regular Marine Corps, excluding retired members, is 400,000, "except in time of war or national emergency declared by Congress after June 28, 1952."
- § 5447. The limit on the number of officers not restricted in the performance of duty who may hold permanent appointments on the active list in the line of the Navy in the grade of rear admiral shall not apply "in time of war or national emergency."



- § 5448(e). The limit on the number of officers who may have permanent appointments on the active list of the Marine Corps in the grades of major general and brigadier general shall not apply "in time of war or national emergency."
- § 5448(f). The number of Marine Corps officers on the active list designated for supply duty holding permanent appointments in the grade of brigadier general may not exceed four, "except in time of war or national emergency."
- § 5449(a). The limit on the numbers of officers who may hold permanent appointments on the active list of the Navy in certain designated corps, in the grade of rear admiral, shall not apply "in time of war or national emergency."
- § 5450. The limit on the number of retired officers of the Regular Navy in the grade of rear admiral and above who may be on active duty shall not apply "in time of war or national emergency."
- § 5451. "During a war or national emergency," the President may suspend any provisions of law relating to distribution in grade of officers of the Navy and Marine Corps.
- § 5451(b). The President may suspend provisions of law relating to officers serving in grades above lieutenant in the Navy or captain in the Marine Corps "only during a war or national emergency declared by Congress or the President after May 5, 1954."
- § 5597. Certain temporary appointments in the Navy and Marine Corps, provided for in U.S.C. 10:5597, may be made only "in time of war or during a national emergency declared by the President."
- § 5598. "In time of national emergency declared by the President or by Congress, and in time of war," temporary appointments may be made in any commissioned grade in the Naval Reserve or the Marine Corps Reserve from qualified persons; such appointments to be effective until 6 months after such war or emergency.
- § 5599. The President may increase the number of appointments made in the Medical Corps in the Navy "in time of war or declared national emergency."
- § 5662. "During a war or national emergency," the President may suspend certain provisions of law (10 U.S.C. §§ 5651-5661) relating to running mates in the Navy.
- § 5711. "During a war or national emergency," the President may suspend provisions of law (10 U.S.C. §§ 5701-5710) relating to Navy and Marine Corps selection boards.

- § 5785. "During a war or national emergency," the President may suspend provisions of law (10 U.S.C. §§ 5751-5784) relating to Navy and Marine Corps promotions.
- § 5787. Certain temporary promotions in the Navy and Marine Corps may be made "only in time of war or during a national emergency declared by the President."
- § 5982. Relating to the detail of retired officers to command on ships and squadrons in time of war.
- § 6241. Relates to the presentation of the Medal of Honor in the Navy while engaged in armed conflict.
- § 6242. Relating to the presentation of the Navy Cross while engaged in armed conflict.
- § 6244. Relates to Presidential award of the Silver Star medal to persons "engaged in military operations involving conflict with an opposing hostile force."
- § 6246. Relates to the presentation of Navy and Marine Corps medals during a period of armed conflict.
- § 6386(c). The President may suspend provisions of law (10 U.S.C. §§ 6371-6385) relating to involuntary retirement, separation, and furlough of officers of the Navy and Marine Corps "during a war or national emergency."
- § 6408. Relates to the limitation on dismissal of Navy and Marine Corps warrant officers, except in time of war.
- § 6481. "In time of war or national emergency declared by the President," the Secretary of the Navy may order any retired officer of the Regular Navy or the Regular Marine Corps to active duty at sea or on shore.
- § 6482. "In time of war or national emergency," the Secretary of the Navy may order to active duty any retired enlisted member of the Regular Navy or the Regular Marine Corps.
- § 6485(a). A member of the Fleet Reserve or the Fleet Marine Corps Reserve may be called to active duty without his consent "in time of war or national emergency declared by Congress," or "in time of national emergency declared by the President."
- § 6486. "In time of war or national emergency declared by Congress or by the President after January 1, 1953," a member of the Fleet Reserve or the Fleet Marine Corps Reserve may be released from active duty only under certain conditions.
- § 6587. Rear admirals on the retired list entitled to pay of the lower half and who serve satisfactorily for two years on active duty "in time of war or national emergency" in that grade or higher, are entitled to retired pay equal to 75 percent of pay of a rear admiral in the upper half.

- § 6911(b). The requirement that 20 percent of the aviation cadets procured in each fiscal year shall be procured from qualified enlisted members of the Regular Navy and the Regular Marine Corps, shall not apply "in time of war or emergency declared by Congress."
- § 7224. The Secretary of the Navy may authorize the transportation and subsistence of certain persons on naval vessels at Government expense, "in time of war or during a national emergency as declared by the President."  
"In time of war or during a national emergency declared by the President" persons designated by the Secretary of the Navy may be transported and subsisted on naval vessels at Government expense.
- § 7722. Relates to stay of court proceedings endangering the security of naval operations "in time of war."
- § 7724. Relates to the stay of proceedings for taking evidence before a suit is filed for damages caused by naval action in time of war.
- § 7727. Relates to the duration of stay of proceedings for suits relating to naval damages in time of war.
- § 8031(c). The limit on the number of officers of the Air Force who may be assigned to permanent duty in the executive part of the Department, shall not apply in time of war or of national emergency declared by Congress, or "whenever the President finds that it is in the national interest" to increase the number.
- § 8031(d). Restrictions on the tour of duty of commissioned officers of the Air Force detailed to duty in the executive part of the Department shall not apply "in time of war, or of national emergency declared by Congress."
- § 8034. Relates to appointment of Chief of Staff of the Air Force "in time of war or national emergency."
- § 8202. "In time of war, or of national emergency declared after May 5, 1954, by Congress or the President," the President may suspend provisions of law relating to the authorized strength of officers in the Air Force.
- § 8212. Relates to the strength in grade, temporary increases of the Air Force during an emergency.
- § 8257(d). The requirement that at least 20 percent of the aviation cadets designated in each fiscal year shall be selected from members of the Regular Air Force or the Regular Army who are eligible and qualified, shall not apply "in time of war or of emergency declared by Congress."
- § 8313. "In time of war or of emergency declared by Congress or the President" the President may suspend the operation of any provision of law relating to promotion, or mandatory retirement or separation, of commissioned officers of the Regular Air Force.

- § 8395. Relates to appointment of reserve officers "in time of war."
- § 8444(a). "In time of emergency declared by Congress or the President, and in time of war," the President may appoint any qualified person in any temporary commissioned grade in the Air Force.
- § 8445(a). "In time of war or of national emergency declared by the President," a Regular officer or Reserve warrant officer may be appointed in a temporary grade of the Air Force higher than his Regular or Reserve grade without vacating that grade.
- § 8741. Relates to the presentation of the Medal of Honor to members of the Air Force during armed conflict.
- § 8742. Relates to Presidential award of Air Force cross to persons "engaged in military operations involving conflict with an opposing foreign force."
- § 8746. Relates to the presentation of the Silver Star to members of the Air Force during armed conflict.
- § 8750. Relates to the presentation of the Airmans' Medal to members of the Air Force during armed conflict.
- § 9022. Relating to the employment of contract surgeons by the Air Force during an emergency.
- § 9025. "During a national emergency declared by the President," the regular working hours of laborers and mechanics of the Department of the Air Force are 8 hours a day or 40 hours a week.
- § 9441. Relating to the payment of travel expenses to members of the Civil Air Patrol "in time of war or of national emergency."
- § 9501(c). The Secretary of the Air Force may authorize payment of travel expenses and allowances for members of the Civil Air Patrol while engaged in carrying out certain missions "in time of war or national emergency . . . declared by the Congress or the President, after May 27, 1954."
- § 9502. Relates to industrial mobilization in time of war or when war is imminent.
- § 9591. Relates to the operations of a public utility by the Air Force in field overseas during actual or threatened hostilities.
- § 9742. Relates to Presidential control of transportation systems "in time of war."
- § 9773. Relates to the acquisition and construction of air bases and depots during national emergencies.
- § 9776. If in "an emergency" the President considers it urgent a temporary airbase or fortification may be built on private land if the owner consents in writing.

- § 9780. Relates to the acquisition of buildings in the District of Columbia by the Air Force in time of war or when war is imminent.
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## TITLE 12—BANKS AND BANKING

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- 12 U.S.C.  
§ 95. Relates to limitations and restrictions on business of members of the Federal Reserve System "during such emergency period as the President . . . may prescribe."
- § 95a. "During the time of war or during any other period of national emergency declared by the President," he may provide for the regulation of transactions in foreign exchange, and certain transactions of member banks of the Federal Reserve System, etc.
- § 249. Control over consumer credit may be exercised only "during the time of war beginning after" August 8, 1947, "or any national emergency declared by the President" after such date.
- § 635f. The operating authority of the Export-Import Bank of Washington is extended for a period of 5 years, namely from June 30, 1958, to June 30, 1963.
- § 1425a. Relates to suspension of liquidity requirements for savings and loan associations in time of national emergency.
- § 1703(b). The authority to insure financial institutions making loans under the National Housing Act is continued to September 30, 1965.  
The authority under the Defense Housing and Community Facilities and Services Act to make loans to public and nonprofit agencies for construction of hospitals, is revived to continue until June 30, 1962.
- § 1705. Relates to the allocation of funds for housing mortgages for emergency purposes.
- § 1784b. A limitation is placed on the insurance of mortgages under the Armed Services Housing Mortgage Insurance Title of the National Housing Act, after October 1, 1962.
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## TITLE 14—COAST GUARD

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- 14 U.S.C.  
§ 3. Relates to operation of the Coast Guard as a service in the Navy "[u]pon declaration of war or when the President directs.
- § 214. Relates to the original appointment of temporary officers in the Regular Coast Guard.

- § 275. Relates to suspension of provisions pertaining to the selection, promotion, and involuntary separation of officers "[i]n time of war, or of national emergency declared by the President or Congress."
- § 331. In time of war or national emergency, the Secretary may order any regular officer of the Coast Guard on the retired list to active duty.
- § 359. The Commandant of the Coast Guard may "in times of war or national emergency," order enlisted men on the retired list to active duty.
- § 367. "During a period of war or national emergency as proclaimed by the President," enlisted men of the Coast Guard may be detained beyond the term of their enlistments.
- § 371. Relates to procurement of aviation cadets "in time of war or national emergency declared by Congress."
- § 491. Relates to the presentation of the Medal of Honor to members of the Coast Guard during an armed conflict.
- § 493. Relates to Presidential presentation of Coast Guard Medal for Service "not involving an actual conflict with the enemy."
- § 652. Relates to the removal of restrictions on purchase contracts by the Coast Guard during a war or national emergency.
- § 778. "In time of war or national emergency declared by the Congress," the President may suspend provisions of law relating to reserved commissioned officers of the Coast Guard.

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#### TITLE 15—COMMERCE AND TRADE

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- 15 U.S.C.  
§ 76. Relates to Presidential authority to retaliate against restrictions of importations "during the existence of a war in which the United States is not engaged."
- § 77. Relates to discrimination against neutral Americans "during the existence of a war in which the United States is not engaged."

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#### TITLE 16—CONSERVATION

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- 16 U.S.C.  
§ 440. The Secretary of the Interior may in case of a national emergency close Fort McHenry military reservation and use it for such period of time thereafter as the public needs may require.

- § 590p. Relates to termination or modification of agreements with owners and operators of land in the Great Plains area "because of an emergency created by drought or other disaster."
- § 809. Projects licensed under the Federal Water Power Act for the manufacture of nitrates, etc., may be requisitioned by the United States when, in the opinion of the President the safety of the United States demands it.
- § 824a. The Federal Power Commission may, in time of war or when it determines that an electrical power crisis exists, require whatever generation, delivery, or transmission of electrical energy as will best meet the emergency.
- § 831d. Relates to maintenance and operation of plants for production, sale, and distribution of fertilizers and power "in case of war or, until six months after the termination of the national emergency proclaimed by the President on December 16, 1950."
- § 831n-4. Restrictions on the sale or delivery of electric power by the TVA outside certain areas shall not prevent the transmission of TVA power to the Atomic Energy Commission or the Department of Defense or any agency thereof, on certification of the President that "an emergency defense need for such power exists."
- § 831s. Relates to power of the United States Government to take possession of fertilizer and power plants "in case of war or national emergency declared by Congress."
- § 832g. Relates to the purchase of supplies and services by the Army from certain public works projects.
- § 833f. Relates to the purchase of supplies and services by the Army from various public works projects.

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## TITLE 18—CRIMES AND CRIMINAL PROCEDURE

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- 18 U.S.C.  
§ 793. Relates to criminal penalties for gathering, transmitting, or losing defense information.
- § 794. Relates to provisions of the Criminal Code on espionage and censorship on the gathering or delivering defense information to aid a foreign government.
- § 795. Relates to the provisions of the Criminal Code relating to photographing and sketching defense installations.
- §§ 798, 2157,  
2391. Provisions of the Criminal Code which impose heavier penalties for certain acts of espionage and sabotage in time of war, are continued in effect "until six months after the termination of the national emergency proclaimed by the President on December 16, 1950."

- § 963. Relates to Presidential authority to detain armed vessels "during a war in which the United States is a neutral nation."
- § 967. Relates to the departure of vessels forbidden in aid of neutrality during a war.
- § 1383. Provides for the imprisonment or fining of anyone who knowingly enters a military zone prescribed by the President, the Secretary of the Army, or any military commander designated by the Secretary of the Army.
- §§ 2153, 2154. When the United States is at war, or in times of national emergency as declared by the President or by the Congress, wilful injury to or destruction of war material or the production of defective war material is punishable by a fine of \$10,000 and/or imprisonment up to thirty years.
- § 2511. Relates to the Criminal Code provisions on interception and disclosure of wire or oral communications.
- § 3287. Relates to wartime suspension of the statute of limitations for certain offenses.

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#### TITLE 19—CUSTOMS DUTIES

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- 19 U.S.C.  
§ 1318. "Whenever the President shall by proclamation declare an emergency to exist by reason of a state of war or otherwise," he may extend the time for the performance of certain acts under the Tariff Act of 1930, and permit free importation of food, clothing, and medical supplies for use in emergency relief work.
- § 1351. Relates to the authority of the President to modify import restrictions "for the duration of war or an emergency."
- § 1862. Relating to the report on investigations by the Director of Office of Emergency Preparedness.

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#### TITLE 20—EDUCATION

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- 20 U.S.C.  
§ 79. Relates to the authority of the President to preserve a certain area in the Canal Zone "except in the event of declared national emergency."
- § 241-1. Relates to assistance for current school expenditures in cases of certain disasters.
- § 646. Relates to assistance by the Office of Emergency Planning relating to schools, etc. during cases of disasters.



## TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

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- 22 U.S.C.  
§ 401. The President may order the seizure and detention of arms or munitions of war being exported or shipped out of the United States in violation of law.
- § 441. Relates to proclamation of state of war between foreign states.
- § 447. Relates to financial transactions during a state of war.
- § 450. Relates to restrictions on use of American ports during any war.
- § 451. Relates to the restrictions on submarines and armed merchant vessels during any war.
- § 461. Relates to the prevention of offenses against neutrality during any war.
- § 464. Relates to detention by collectors of customs of arms and munitions of wars.
- § 1611. Relates to congressional declaration of policy, embargo on war materials, denial of assistance to nations failing to embargo shipments during a war.
- § 1962. Relates to military assistance in the general area of the Middle East against armed aggression from any country controlled by international communism.
- § 1963. Relates to the furnishing of military assistance to the United Nations Emergency Force.
- § 1965. Relates to the expiration of the provisions relating to the Middle East peace and stability.
- § 2370. Relates to the prohibitions against furnishing foreign assistance in the national interest.
- § 2410. Relates to Presidential authority to negotiate a sale of supersonic planes to Israel to prevent future Arab aggression.
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## TITLE 25—INDIANS

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- 25 U.S.C.  
§ 72. Relates to the abrogation of Indian Treaties when any Indian tribe is in actual hostility.
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## TITLE 26—INTERNAL REVENUE CODE

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- 26 U.S.C.  
§ 168. Relates to determination of adjusted basis of facility certified by the President "as necessary in the interest of national defense during [an] emergency period" for purposes of amortization.

- § 7508. Relates to the time for performing certain acts under the Internal Revenue Code postponed by reason of war.

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#### TITLE 29—LABOR

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- 29 U.S.C.  
§ 176. Relates to the appointment of boards of inquiry by the President in national emergencies because of labor disputes.
- § 178. Relates to strikes, subject to injunction during national emergencies because of labor disputes.

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#### TITLE 31—MONEY AND FINANCE

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- 31 U.S.C.  
§§ 80a, 80b. "In time of war or national emergency," and for 18 months thereafter, the time for examination of monthly accounts of disbursing officers of the Army, Navy, Marine Corps, and Coast Guard, is extended from 60 to 90 days.
- § 80c. Relates to extension of time for examination of accounts of Navy expenditures "in time of war or during any emergency declared by Congress."
- § 203. The Assignment of Claims Act of 1940 is amended so as to facilitate the financing of defense contracts "in time of war or national emergency proclaimed by the President (including the national emergency proclaimed December 16, 1950) or by Act or joint resolution of the Congress and until such war or national emergency has been terminated."
- § 241. Relates to time limitations for presentation of certain claims by members of the uniformed services "in time of war or in time of armed conflict."

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#### TITLE 32—NATIONAL GUARD

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- 32 U.S.C.  
§ 104. Relates to the organization of the Army National Guard and the composition of its units subject "in time of peace" to certain general exceptions.
- § 111. Relates to Presidential authority to suspend operation of certain provisions relating to the recognition and discharge of officers in the Army National Guard or Air National Guard "[i]n time of war, or of emergency declared by Congress."

- § 302. Enlistments in the National Guard (which are for three years for original enlistments and one to three for re-enlistments), may, if "an emergency is declared by Congress," be extended by the President until six months after the termination of that emergency.
- § 715. Relates to certain claims against the United States subject to exceptions for claims accruing "in time of war or armed conflict."

### TITLE 33—NAVIGATION AND NAVIGABLE WATERS

- 33 U.S.C.  
§ 853. "In time of emergency declared by the President or by the Congress, and in time of war," the President may suspend provisions of the Coast and Geodetic Survey Commissioned Officers' Act pertaining to promotion.
- § 854a-1. Relates to temporary appointment or advancement of commissioned officers of the National Oceanic and Atmospheric Administration "in time of war or national emergency."
- § 855. The President may transfer vessels, equipment, stations, and personnel of the Coast and Geodetic Survey to the jurisdiction of the Department of Defense, "whenever in his judgment a sufficient national emergency exists."

### TITLE 35—PATENTS

- 35 U.S.C.  
§ 181. Orders to keep inventions secret and withhold patents in effect or issued, "during a time when the United States is at war" or "during a national emergency declared by the President," shall remain in effect for the duration of the war and 1 year following cessation of hostilities, and for the duration of the emergency plus 6 months.

### TITLE 37—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

- 37 U.S.C.  
§ 202. Relates to pay grades of certain retired rear admirals who served on active duty "in time of war or national emergency."
- § 310. Relates to special pay for members of the uniformed services whose duty was subject to hostile fire.

- § 407. Exempts the provisions of law relating to travel and transportation allowances of the uniformed services in time of national emergency.
- § 427. Relates to family separation allowances of members of uniformed services subject to exceptions for "war or . . . national emergency."
- § 901. Relates to wartime pay of an officer of the armed forces exercising command higher than his grade.

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#### TITLE 38—VETERANS' BENEFITS

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- 38 U.S.C.  
§ 101. Relates to definitions for purposes of Title 38.—Veterans Benefits. The term "period of war" is defined to begin "on the date of any future declaration of war by the Congress" and ending on the date "prescribed by Presidential proclamation or concurrent resolution of the Congress."
- § 521. Relates to non-service-connected disability pensions for veterans of wars.

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#### TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

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- 40 U.S.C.  
§ 71d. "During wartime or national emergency," the procedures prescribed for proposed Federal and District of Columbia developments and projects shall not apply to projects within the Capitol grounds or to structures erected on military reservations.
- § 276a-5. "In the event of a national emergency" the President may suspend provisions of the act of August 30, 1935, relating to rate of wages for laborers and mechanics employed on public buildings.
- § 278b. "During war or a national emergency declared by Congress or by the President" provisions of the act of June 30, 1932, restricting the rental on buildings leased to the Government to 15 percent of the fair market value, may be suspended.
- § 314. Relates to the authority of the President to make sales of war supplies to foreign states or governments "engaged in war against any government with which the United States is at war."
- § 484. The General Services Administrator may negotiate for disposal of surplus property without regard to requirements of advertising for bids, etc., but subject to obtaining such competition as is feasible under the cir-

cumstances, if necessary in the public interest "during the period of a national emergency declared by the President or the Congress."

- § 534. Relates to waiver of procedures for disposal and acquisition of real property "during any period of national emergency declared by the President."

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#### TITLE 41—PUBLIC CONTRACTS

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- 41 U.S.C.  
§ 11. Permits the Armed Services to purchase clothing, forage, fuel, and other supplies without an appropriation from Congress.
- § 15. The Assignment of Claims Act of 1940 is amended so as to facilitate the financing of defense contracts "in time of war or national emergency proclaimed by the President (including the national emergency proclaimed December 16, 1950) or by Act or joint resolution of the Congress and until such war or national emergency has been terminated."
- § 252. Contracts for supplies and services, under the Federal Property and Administrative Services Act of 1949, may be negotiated without advertising if determined to be necessary in the public interest "during the period of a national emergency declared by the President or by the Congress."

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#### TITLE 42—THE PUBLIC HEALTH AND WELFARE

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- 42 U.S.C.  
§ 204. Relates to the composition of commissioned Regular Corps and a Reserve Corps "for the purpose of securing a reserve for duty in the Service in time of national emergency."
- § 210-1. The prohibition on granting of annual leave to officers of the Public Health Service between date of application for, and effective date of retirement, is waived in cases of "emergency."
- § 211. "In time of war, or of national emergency proclaimed by the President," commissioned officers of the Regular Corps of the Public Health Service may be recommended for promotion whether or not a vacancy occurs in such grade.
- § 217. "In time of war, or of emergency proclaimed by the President," the President may utilize the Public Health Service to such extent as he deems necessary in the public interest.

- § 266. Relates to special quarantine powers of the Public Health Service in time of war.
- § 1313. The Secretary of Health, Education, and Welfare is authorized to provide temporary assistance to United States citizens and their dependents who have been returned to the United States from a foreign country because of "war, threat of war, invasion, or similar crisis . . . and are without available resources."
- § 1477. Relates to preferences for veterans and families of deceased servicemen. "Veteran" is defined to mean "a person who served in the military forces of the United States during any war between the United States and any other nation."
- § 1541. Relates to termination of certain provisions pertaining to defense, housing projects, and works "[w]hen the President shall have declared that the emergency declared by him on September 8, 1939, has ceased to exist."
- § 1592. Relates to the authority of the administrator of the Housing and Home Finance Administration relating to critical defense housing areas.
- § 1711. Defines "war-risk hazard," "hostile force or person," and "war activities" for the purposes of public health and welfare statutes.
- § 1712. Relates to the definition of war-risk hazard for such benefits.
- § 2138. "Whenever the Congress declares that a state of war or national emergency exists" the Atomic Energy Commission may suspend licenses granted under the Atomic Energy Act.
- §§ 2165,  
2201. The Atomic Energy Act of 1954 is amended so as to provide (1) that "whenever the Congress declares that a state of war exists, or in the event of a national disaster due to enemy attack," the Atomic Energy Commission may employ individuals and permit them to have access to Restricted Data, before completion of their security check, and (2) to authorize the Commission to establish a succession of authority which will assure the continuity of direction of the Commission's operations "in the event of a national disaster due to enemy activity."

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#### TITLE 43—PUBLIC LANDS

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- 43 U.S.C.  
§ 155. The requirement that withdrawals or reservations of more than 5,000 acres of public lands of the United States for use of the Defense Department for defense

purposes be made only by act of Congress, is not applicable "in time of war or national emergency hereafter declared by the President or the Congress."

- § 1616*ll*. Relates to restrictions on delivery of water for production of excessive basic commodities "in the interest of national security."
- § 1314. Relates to certain rights and powers retained by the United States pertaining to the purchase of national resources "[i]n time of war or when necessary for national defense."
- § 1341. All leases issued under the Outer Continental Shelf Lands Act shall contain a provision vesting authority in the Secretary of the Interior, "during a state of war or national emergency declared by the Congress or the President of the United States" after August 7, 1953, to suspend operations under any such lease.

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#### TITLE 44—PUBLIC PRINTING AND DOCUMENTS

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- 44 U.S.C.  
§ 1505. Relates to Presidential authority to suspend requirements for filing of documents for publication in the Federal Register "as a result of attack or threatened attack."
- § 3311. Relates to the authority of the head of an agency of the United States Government to destroy records outside the continental United States "during a state of war between the United States and another nation, or when hostile action by a foreign power appears imminent."

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#### TITLE 45—RAILROADS

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- § 228c-1. Relates to provisions for inclusion of years of military service in determining eligibility for an annuity and computations under the Railroad Retirement Act of 1937. The term "war period" is defined as beginning on "the date on which the Congress of the United States declared war."

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#### TITLE 46—SHIPPING

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- 46 U.S.C.  
§§ 133, 134. Relates to Presidential designation of "hospital ships" which shall "in time of war" be exempted from all dues and taxes imposed on vessels by the laws of the United States.

- § 249a. The Secretary of Commerce may issue distinguished service ribbon bars for outstanding and meritorious service by members of the United States Merchant Marine after June 30, 1950, "in any time of war, or national emergency proclaimed by the President or by Congress."
- § 835. "When the United States is at war, or during any national emergency, the existence of which is declared by proclamation of the President," it shall be unlawful, without the consent of the Federal Maritime Board, to transfer American ships to a foreign registry, to sell American vessels to other than citizens, to agree to construct vessels for other than citizens, etc.
- § 861. Declaration of policy to develop and encourage the maintenance of the merchant marine for use in time of war or national emergency.
- § 1132. "During a national emergency as proclaimed by the President," he may suspend provisions of section 302 of the Merchant Marine Act of 1936, relating to citizenship of officers and crews of vessels.
- § 1151. Applications to the Federal Maritime Board for construction differentials must not be approved by the Board unless plans and specifications indicate vessel will be suitable for use by the United States "in time of war or national emergency."
- § 1161. Relates to the establishment of reserve funds for the construction or acquisition of vessels certified by the Secretary of Commerce to be "desirable for use by the United States in case of war or national emergency."
- §§ 1202, 1242. Charters of vessels may be terminated by the Federal Maritime Board, and vessels of citizens may be requisitioned "whenever the President shall proclaim that the security of the national defense makes it advisable, or during any national emergency declared by proclamation of the President."
- § 1241. In amending the Merchant Marine Act so as to provide permanent legislation for the transportation of a substantial portion of waterborne cargoes in United States-flag vessels, Congress stipulates that provisions under the amendment may be waived "whenever the Congress by concurrent resolution or otherwise, or the President of the United States or the Secretary of Defense declares that an emergency exists justifying a temporary waiver."
- § 1294. Whenever adequate insurance is not otherwise available, until September 7, 1965, the Secretary of Commerce may provide (1) war risk insurance for waterborne commerce of the United States, and (2) certain marine and liability insurance for the protection of certain vessels, cargoes, and crews.



- § 1402. Relates to federal subsidies for construction of private fishing vessels which are suitable for use by the United States for National Defense or Military purposes "in time of war or national emergency."
- § 1406. The law providing a program to assist certain depressed segments of the fishing industry by allowing subsidies to aid in construction of new fishing vessels, stipulates that the plans and specifications for the vessel are suitable, among other things, for use by the United States for national defense or military purposes "in time of war or national emergency."

#### TITLE 47—TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS

- 47 U.S.C.  
§ 308. The requirement that the Federal Communications Commission receive written application before granting a radio station construction permit or station license may be waived "during a national emergency proclaimed by the President or declared by the Congress and during the continuance of any war in which the United States is engaged," and when such action is necessary for the national defense.
- § 606(a). Under the Communications Act of 1934, the President is authorized, "during the continuance of a war in which the United States is engaged," to direct that preference be given to communications that he deems essential to national defense.
- § 606(c). "Upon proclamation by the President that there exists war or a threat of war, or a state of public peril or disaster or other national emergency," the President may suspend rules and regulations applicable to radio stations or to electromagnetic radiation control.

#### TITLE 49—TRANSPORTATION

- 49 U.S.C.  
§ 1. Certain preferences and priorities in the transportation of traffic under sections 1(15) and 420 of the Interstate Commerce Act, are continued in full force and effect "until six months after the termination of the national emergency proclaimed by the President on December 16, 1950," or until such earlier date as the Congress by concurrent resolution designates.
- § 6. Relates to preferences of shipments in time of war to the United States.

- § 1020. Relates to special powers of freight forwarders during time of war or other emergency.
- § 1343. Relates to the powers of the Federal aviation administration in time of war.
- § 1348. Relates to the use of airspace control and facilities for military emergencies.

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#### TITLE 50—WAR AND NATIONAL DEFENSE

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- 50 U.S.C.  
§ 21. Relates to the restraint, regulations, and removal of alien enemies during a declared war.
- § 82. Relates to the procurement of ships and material during war.
- § 98d. Stocks of strategic and critical materials acquired under the Stockpiling Act shall not be released for use, sale, etc., except "in time of war or during a national emergency."
- § 167c. "Whenever Congress or the President declares that a war or national emergency exists," the Secretary of the Interior may suspend licenses issued for the sale and transportation of helium in interstate commerce.
- § 191. The President may provide for the control and anchorage of foreign-flag vessel in territorial waters of the United States, whenever he "finds that the security of the United States is endangered by reason of actual or threatened war, or invasion or insurrection, or subversive activity," etc.
- §§ 196–198. The President may, though the Secretary of Commerce, acquire foreign-flag vessels lying idle in United States waters, whenever the security of the national defense makes it advisable or "during any national emergency declared by proclamation of the President."
- § 205. Relates to the suspension of commercial intercourse with a State in insurrection.
- § 206. Relates to the suspension of commercial intercourse with part of State in insurrection.
- § 207. Relates to the actions of persons affected by suspension of commercial intercourse when a State is in insurrection.
- § 208. Relates to the licensing or permitting commercial intercourse with a State or region in insurrection.
- § 212. Relates to the confiscation of property employed to aid insurrection in a State.

- § 223. Relates to forfeiture of vessels owned by citizens of insurrectionary States.
- §§ 451-462. Relates to comprehensive program to assure a national reserve of machine tools and industrial manufacturing equipment to supply the needs of the Armed Forces "in time of national emergency or in anticipation thereof."
- § 812. In the event of a declaration of a war by Congress, or if the President finds on account of certain existing circumstances that the proclamation of an emergency is essential to the preservation, protection, and defense of the constitution, he may proclaim such as an Internal Security Emergency whereupon certain defensive measures shall be provided.
- § 832. Relates to full field investigation and appraisal of personnel security procedures in the National Security Agency.
- § 1431. Relates to the authorization and restrictions of National Defense Contracts.
- § 1435. Effective "during a national emergency declared by Congress or the President and for six months after the termination thereof or until such earlier time as Congress, by concurrent resolution, may designate," the President may authorize any department or agency of the Government exercising functions in connection with the prosecution of the national defense effort, to enter into contracts or amendments or modifications of contracts, and to make advance payments thereon without regard to other provisions of law relating to contracts whenever he deems such action would facilitate the national defense.
- [*Note.*—This authority which was contained in Title II of the First War Powers Act and was to have expired thereunder June 30, 1958, is now permanently on the books for activation during any periods of national emergency.]
- §§ 1511, 1512, 1513, 1515, 1516, 1517, 1518. Relates to reports to Congress on chemical and biological warfare program.

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## TITLE 50, APPENDIX—WAR AND NATIONAL DEFENSE

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- 50 U.S.C.  
§ 3. Relates to Presidential authority under the Trading With the Enemy Act to censor certain communications passing between the United States and any foreign country "during the present war."

- § 4. Relates to the licenses to enemy or allies of enemy insurance or reinsurance companies doing business in the United States.
- § 5. Relates to Presidential authority under the Trading With the Enemy Act to regulate transactions in foreign exchange of gold and silver, property transfers, vested interests, enforcement and penalties "during the time of war or during any other period of national emergency declared by the President."
- § 6. Relates to Presidential authority under the Trading With the Enemy Act to appoint and prescribe the duties of an alien property custodian "who shall be empowered to receive all money and property in the United States due or belonging to an enemy."
- § 7. Relates to procedures to be followed such as lists of enemy or ally of enemy officers, directors or stockholders of corporations in United States, etc. under the Trading With the Enemy Act.
- § 8. Relates to suspension of the statute of limitations under the Trading With the Enemy Act on certain contracts and obligations "until after the end of the war."
- § 9. Relates to claims to property, etc., under the Trading With the Enemy Act in time of war or during national emergency.
- § 10. Relates to procedures, etc. relating to patents, trademarks or copyrights under the Trading With the Enemy Act.
- § 11. Relates to Presidential authority under the Trading With the Enemy Act to impose certain prohibitions on imports "during the present war."
- § 12. Relates to procedures to be followed in the transfer of property to the Alien Property Custodian under the Trading With the Enemy Act.
- § 14. Relates to refusal to grant clearance for export of gold or silver coin in cargoes "[d]uring the present war" under the Trading With the Enemy Act."
- § 19. Relates to the printing, newspaper or publication in foreign languages under the Trading With the Enemy Act.
- § 32. Relates to the procedure of return of enemy property by the Alien Property Custodian, under the Trading With the Enemy Act.
- § 38. Relates to the shipment of relief supplies under the Trading With the Enemy Act.
- § 40. Relates to the authority of the President relating to intercustodial conflicts involving enemy property under the Trading With the Enemy Act.

- § 785. The restriction on the making of photographs and sketches of properties of the military establishment (originally to be effective for the duration of World War II), is continued in effect "until six months after the termination of the national emergency proclaimed by the President on December 16, 1950."
- § 1211. Relates to renegotiation of contracts for the procurement of property, processes, and services, and construction of facilities "necessary for the national defense."
- § 1213. Relates to definitions for purposes of provisions pertaining to renegotiation of contracts. "Department" is defined to include any agency of the Government "exercising functions having a direct and immediate connection with the national defense which is designated by the President during a national emergency proclaimed by the President, or declared by the Congress."
- § 1216. Relates to exceptions to the applicability of certain provisions pertaining to the renegotiation of contracts "during a national emergency proclaimed by the President."
- § 1622. "During any national emergency declared by the President or by the Congress," the United States may have exclusive or nonexclusive control and possession of airports disposed of as surplus under authority of this act.
- § 1742. Places limit on compensation to be paid for the use of a vessel by the United States prior to the termination of the 1941 national emergency.
- § 1744. Relates to the sale of surplus war-built vessels.
- §§ 1878e,  
1878s,  
1878vv. Relates to the loan of ships to friendly nations in an emergency.
- § 2005. Relates to benefits, etc. for prisoners of war.
- §§ 2071-73,  
2151-63,  
2166. Certain powers of the President under the National Defense Production Act of 1950, are extended to June 30, 1972, such as: (1) priorities and allocations of materials and facilities for defense contracts, (2) encouragement to small business enterprises to make contributions towards defense efforts, and (3) employment of experts and consultants, at daily rates of compensation.
- § 2093. The authority to purchase strategic materials under section 303 of the Defense Production Act is extended from June 30, 1963, to June 30, 1965.
- § 2291. Relates to proclamation of emergency and termination thereof during a civil defense emergency.
- § 2292. Relates to the utilization of Federal departments and agencies during a civil defense emergency.

- § 2293. Relates to the emergency powers of the Civil Defense administrator.
- § 2294. Relates to the liability of the Federal Government for death or personal injury to employees during a civil defense emergency.
- § 2295. Relates to the waiver of the Administrative Procedure Act during a civil defense emergency.
- § 2297. The standby powers of the Administrator of the Office of Emergency Planning (formerly the Office of Civil and Defense Mobilization) are extended to June 30, 1962.
- §§ 2401-2413. Relates to authority to control exports from the United States "to the extent necessary to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States."

## PUBLIC LAWS

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### 68TH CONGRESS

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#### PUBLIC LAW 68-438

The conveyance of a perpetual easement upon a portion of the military reservation on Anastasia Island, Fla., to the St. Johns Electric Co., shall be subject to the right of the United States, "*in case of an emergency*," to assume control and use of the property. [Act of February 21, 1925; 43 Stat. 959.]

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#### PUBLIC LAW 68-479

The transfer of the Hoboken Manufacturers' Railroad to the Port of New York Authority shall be on condition that the railroad facility may be used by the United States "*in the event of war or any other national emergency*." [Act of February 26, 1925; 43 Stat. 984.]

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#### PUBLIC LAW 68-568

The conveyance of certain portion of the military reservation of the Presidio of San Francisco to the city and county of San Francisco shall provide that "*in the event of war or any other great national emergency*," the United States shall have the right to take exclusive possession of the property. [Act of March 3, 1925; 43 Stat. 1129.]

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### 69TH CONGRESS

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#### PUBLIC LAW 69-99

Lease to city of Tucson, Ariz., of certain public lands for a municipal aviation field shall be upon condition that the Government may assume control of the land "*in case of emergency*." [Act of April 12, 1926; 44 Stat. 241.]

[Emphasis supplied.]

## PUBLIC LAW 69-314

Public lands authorized to be conveyed for the establishment of an aviation field near Yuma, Ariz., shall be on condition that the Defense Department may assume absolute control of the field "*in case of emergency*." [Act of May 29, 1926; 44 Stat 677.]

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## 71ST CONGRESS

## PUBLIC LAW 71-222

"*In case of national emergency declared by the President*," the Secretary of the Navy may revoke the lease of the floating dry dock and waterfront accessories at the New Orleans Naval Station. [Act of May 14, 1930; 46 Stat. 332 § 10.]

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## PUBLIC LAW 71-280

The lease of the United States naval destroyer and submarine base at Squantum, Mass., shall be revocable "*in case of national emergency declared by the President*." [Act of May 29, 1930; 46 Stat. 479.]

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## 72D CONGRESS

## PUBLIC LAW 72-382

Deed conveying certain properties to Arlington County, Va., in order to connect Lee Boulevard with Arlington Memorial Bridge shall contain condition that the United States may resume possession whenever "*in the judgment of the President an emergency exists*" that requires its use. [Act of February 28, 1933; 47 Stat. 1368 § 4.]

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## 74TH CONGRESS

## PUBLIC LAW 74-598

"*In time of national emergency*" the property authorized to be conveyed to the city of Little Rock, Ark., shall, upon request of the Secretary of Defense, be turned over to the United States. [Act of May 15, 1936; 49 Stat. 1278.]



## PUBLIC LAW 74-624

Real property: recapture of certain area formerly part of Charleston Army Base Terminal, South Carolina.

*In time of national emergency, and upon order of the President, a certain area, formerly part of Charleston Army Base Terminal, South Carolina, may be taken by the United States for the use of the Army during the period of the emergency. [49 Stat. 1387.] [See also, P.L. 97, 81st Cong., 63 Stat. 169-170, and P.L. 428, 84th Cong., 70 Stat. 35-36.]*

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## PUBLIC LAW 74-704

Certain land at Kahului is conveyed to the Territory [State] of Hawaii upon condition that the United States may use it *whenever in the judgment of the President an emergency exists* that requires its use. [Act of June 19, 1936; 49 Stat. 1535.]

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## PUBLIC LAW 74-730

Real property: recapture of Port Newark Army Base, New Jersey.

*In time of war, or of national emergency declared by Congress, the United States may take possession of the Port Newark Army Base, New Jersey, for the duration of the war or emergency. For each year or part of a year that the United States is in possession, the United States must pay the city of Newark a certain amount as liquidated damages. Upon termination of the war or emergency, the property reverts to the city of Newark. [Act of June 20, 1936; 49 Stat. 1557.]*

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## 75TH CONGRESS

## PUBLIC LAW 75-316

Real property: recapture of Fort Schuyler, New York.

*When in the judgment of the Secretary of the Army an emergency exists that requires the use of the property for the public defense, the United States may resume possession of Fort Schuyler Military Reservation, New York, notwithstanding the lease to the State of New York. [Act of Aug. 19, 1937; 50 Stat. 696.]*

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## PUBLIC LAW 75-689

Deed of conveyance of Hoboken Pier Terminals to the city of Hoboken to stipulate that "*in event of a national emergency,*" the property may be taken for use of the Department of Defense during such emergency. [Act of June 21, 1938; 52 Stat. 834 § 3.]

[Emphasis supplied.]

79TH CONGRESS

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## PUBLIC LAW 79-465

Fort Morgan military reservation is conveyed to the State of Alabama on condition that *at any time during any future national emergency*, the Department of Defense may reoccupy the property. [Act of June 28, 1946; 60 Stat. 332.]

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80TH CONGRESS

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## PUBLIC LAW 80-885

The deed conveying certain property of Santa Rosa Island in Florida, to Okaloosa County, shall stipulate that "*in the event of a national emergency*" the United States shall have the right to use the property. [Act of July 2, 1948; 62 Stat. 1230 § 1(e).]

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81ST CONGRESS

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## PUBLIC LAW 81-593

The conveyance of part of Camp Joseph T. Robinson to the State of Arkansas shall be upon condition that the United States may use the property "*whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist.*" [Act of June 30, 1950; 64 Stat. 311 § 3.]

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## PUBLIC LAW 81-755

Real property: recapture of certain land formerly part of Fort Schuyler, New York.

*In time of war, or of national emergency declared by Congress or the President*, and upon a determination by the Secretary of a military department that certain land, formerly part of Fort Schuyler, New York, is useful for military, air, naval, or defense purposes, the United States may assume, without payment, control and use the property concerned, including any improvements made by the grantee. [Act of Sept. 5, 1950; 64 Stat. 591.]

## 82D CONGRESS

## PUBLIC LAW 82-222

Real property; recapture of Castle Island Terminal Facility, South Boston, Massachusetts.

The Secretary of the Navy is authorized to convey certain lands comprising Castle Island Terminal Facility at South Boston to the State of Massachusetts on condition that "*in time of war or national emergency*" the United States shall have the right of the free and unlimited use of all of said property; but the United States shall be responsible for the entire cost of maintaining it during the period of such use. [Act of October 27, 1951; 65 Stat. 658, as amended by Act of August 28, 1957; 71 Stat. 473.]

## PUBLIC LAW 82-377

Certain real property at the former Naval Air Station, Kahului, Wailuku, Maui, is authorized to be conveyed to the Territory [State] of Hawaii on condition that "*in time of war or national emergency*" the United States shall have the right of free and unlimited use of the property. [Act of June 5, 1952; 66 Stat. 128 § 2.] See also, P.L. 87-654, 76 Stat. 530.]

## PUBLIC LAW 82-559

Real property: recapture of certain land in Austin, Texas.

*In time of war, or national emergency, declared by Congress, or of emergency declared by the President*, and upon a determination by the Secretary of Defense that certain land in Austin, Texas, is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency. Six months after the termination of the war or emergency, the property concerned, including any improvements made by the grantee, reverts to the grantee. [Act of July 16, 1952; 66 Stat. 727.]

## 83D CONGRESS

## PUBLIC LAW 83-39

The President is authorized to continue in effect, until released, the appointments of officers and warrant officers of the Army and the Air Force who are in a status of missing under the Missing Per-

sons Act from June 25, 1950 and *before the termination of the national emergency proclaimed by the President on December 16, 1950*, whose appointments would normally terminate prior to such release. [Act of May 27, 1953; 67 Stat. 38.]

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PUBLIC LAW 83-56

The conveyance of certain Veterans' Administration property in Johnson City, Tenn., shall contain a provision that "*whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist*," and the property is deemed to be useful in the interest of national defense, the United States may reenter and use the property until *six months* after the termination of such war or emergency. [Act of June 6, 1953; 67 Stat. 54.]

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PUBLIC LAW 83-92

Sections 1301-1304 of the Second War Powers Act, providing for the inspection and audit of books and records of defense contractors, are continued in force and effect "*until six months after the termination of the national emergency proclaimed by the President on December 16, 1950*," or until such earlier date as the Congress by concurrent resolution, or the President, shall designate. [Act of June 30, 1953; 67 Stat. 120.]

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PUBLIC LAW 83-169

The authority of the President under section 6 of the Interstate Commerce Act, to demand that preference and precedence be given to military traffic in time of war or threatened war is continued "*in full force and effect until six months after the termination of the national emergency proclaimed by the President on December 16, 1950*," or until such earlier date as the Congress, by concurrent resolution, shall designate. [Act of July 31, 1953; 67 Stat. 244.]

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PUBLIC LAW 83-315

The conveyance of certain land located in Windsor Locks, Conn., to the State shall be on condition that "*whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*," and the Secretary of Defense deems it necessary for the national defense, the United States may use the property and upon termination of such state of war or emergency plus 6 months, the property shall revert to the State. [Act of March 26, 1954; 68 Stat. 32 § 4.]

## PUBLIC LAW 83-327

The conveyance of a certain portion of Camp Butner Military Reservation to the State of North Carolina, shall be on condition that "*whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency to exist,*" and the Secretary of Defense deems it necessary for the national defense, the United States may use the property during such war emergency plus 6 months, after which it shall revert to the State. [Act of April 2, 1954; 68 Stat. 51.]

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## PUBLIC LAW 83-386

"*In time of war or national emergency heretofore or hereafter declared by the President or the Congress,*" the United States may use all or any part of the land in Marion County authorized hereunder to be conveyed to the State of Indiana. [Act of June 4, 1954; 68 Stat. 172 § 2(1); 173 § 2(3).]

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## PUBLIC LAW 83-493

"*In the event of the existence of any national emergency declared by proclamation of the President or by action of the Congress,*" the United States may use the land situated within Camp Blanding Military Reservation, authorized hereunder to be conveyed to the Armory Board of the State of Florida. [Act of July 14, 1954; 68 Stat. 475, § 2(1), 476 § 2(3).]

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## PUBLIC LAW 83-534

Any lease authorized to be entered into between the Secretary of the Army and the Commonwealth of Massachusetts for certain properties within the Boston Army Base, shall provide "*that during any national emergency declared by the President, or in the event the Congress shall declare a state of war to exist,*" the United States shall have the right to use the property; and Massachusetts may thereupon terminate the lease or have it extended for the period of such use. [Act of July 27, 1954; 68 Stat. 538 § 103(c).]

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## PUBLIC LAW 83-556

The authority to release to the city of Philadelphia the Hog Island tract of land for further development, is upon condition that the United States shall have the right to reenter and use the premises "*whenever the Congress of the United States shall declare a state of war or other national emergency.*" [Act of July 29, 1954; 68 Stat. 586 § 2.]

## PUBLIC LAW 83-711

*"Whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency,"* the United States may use the property within the Fort Bliss Military Reservation authorized under this act to be conveyed to the State of Texas, when it is deemed that the property is needed in the interest of national defense. [Act of August 30, 1954; 68 Stat. 975 § 5.] [See also P.L. 91-202; 84 Stat. 20.]

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## PUBLIC LAW 83-712

The United States may use the land located in proximity to San Antonio authorized to be conveyed to the State of Texas, *"whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency,"* if the property is deemed to be necessary in the interest of national defense. [Act of August 30, 1954; 68 Stat. 977 § 5.]

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## PUBLIC LAW 83-713

The deed of conveyance of certain land in the city of Houston to the State of Texas, shall provide that *"during any state of war or national emergency and for six months thereafter,"* the United States may use the land and upon termination of such use shall revert to the State. [Act of August 30, 1954; 68 Stat. 977 § 2.]

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## PUBLIC LAW 83-716

The conveyance transferring certain property of the United States in Klamath County, Oreg., to the State shall provide that *"whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist,"* the United States may use the property for the duration of such war or emergency plus 6 months. [Act of August 30, 1954; 68 Stat. 981.]

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## 84TH CONGRESS

## PUBLIC LAW 84-49

The conveyance transferring certain property located in Austin (Travis County) to the State of Texas shall provide that *"whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency,"* the United States may use the property for the duration of such war or emergency plus 6 months. [Act of June 1, 1955; 69 Stat. 70 § 5.]

[Emphasis supplied.]

## PUBLIC LAW 84-50

The State of Iowa shall agree that the United States may use the land located in Polk County, described as Camp Dodge and Polk County Target Range, authorized to be conveyed to the State, "*in the event that the Congress of the United States declares a state of war or other national emergency, or the President declares a state of national emergency.*" [Act of June 1, 1955; 69 Stat. 71 § 5.]

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## PUBLIC LAW 84-52

The property comprising Jackson Barracks is conveyed to the State of Louisiana upon condition that it may be reentered and used by the United States "*during a national emergency.*" [Act of June 1, 1955; 69 Stat. 79.]

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## PUBLIC LAW 84-77

The conveyance of property in the Wyoming National Guard Camp Guernsey area, shall be upon condition that the United States may reenter and use the property, "*whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist.*" [Act of June 16, 1955; 69 Stat. 139 § 1.]

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## PUBLIC LAW 84-142

The deed conveying a portion of Fort Devens Military Reservation to the Commonwealth of Massachusetts shall provide that "*whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist,*" the United States may use the property for the duration of such war or emergency plus 6 months. [Act of July 11, 1955; 69 Stat. 294.]

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## PUBLIC LAW 84-156

Members of the Reserve components of the Army, Navy, Air Force, and Marine Corps who are ordered to extended active duty in excess of 30 days "*in time of war or national emergency,*" may elect to receive either compensation and allowances for such duty or the pension, retirement pay, etc., to which they are entitled by reason of prior military service. [Act of July 12, 1955; 69 Stat. 300-301.]

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## PUBLIC LAW 84-301

The deed conveying a portion of the former O'Reilly General Hospital at Springfield, to the State of Missouri, shall provide that "*during any period of national emergency,*" the United States shall

have the right of exclusive use without charge therefor. [Act of August 9, 1955; 69 Stat. 592.]

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## PUBLIC LAW 84-410

*"Whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency,"* the tract of land situated in the vicinity of Houston (Harris County), Tex., and authorized to be conveyed to the State, may be used by the United States for the duration of such war or emergency, plus 6 months. [Act of February 15, 1956: 70 Stat. 18 § 5.]

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## PUBLIC LAW 84-413

Conveyance of Port Newark Army base to the city of Newark, New Jersey, is made upon condition that the United States may reenter and use the property *"whenever the Congress of the United States declares a state of war or other national emergency to exist."* [Act of February 18, 1956; 70 Stat. 21.]

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## PUBLIC LAW 84-521

Real property: recapture of land comprising Camp Livingston and Camp Beauregard, Louisiana.

When needed *during a national emergency*, the United States may reenter and use the land comprising Camp Livingston and Camp Beauregard, Louisiana. [Act of May 14, 1956; 70 Stat. 156.]

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## PUBLIC LAW 84-598

The conveyance of certain property in Santa Fe, to the State of New Mexico, is conditioned upon the reentry and use by the United States in the event of need therefor *"during a national emergency declared by the President or the Congress."* [Act of June 19, 1956; 70 Stat. 296.]

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## PUBLIC LAW 84-618

The deed, conveying certain lands in Anastasia Island to the State of Florida, shall contain a covenant that *"in the event of a national emergency"* the property shall be available for use by the Federal Government. [Act of June 25, 1956; 70 Stat. 335 § 3.]

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## PUBLIC LAW 84-618

The deed, conveying a portion of the former prisoner of war camp, near Douglas, Wyo., to the State, shall expressly reserve to

[Emphasis supplied.]



the United States the right of exclusive use "*during any period of national emergency.*" [Act of June 25, 1956; 70 Stat. 337 § 1.]

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PUBLIC LAW 84-706

The conveyance of certain land comprising part of the Ethan Allen Air Force Base to the State of Vermont is made subject to the right of reentry and use by the United States in the event of need therefor "*during a national emergency declared by the President or the Congress.*" [Act of July 14, 1956; 70 Stat. 537 § 2.]

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PUBLIC LAW 84-719

Certain land situated in the vicinity of Williamsburg authorized to be conveyed to the State of Virginia shall be upon condition that "*whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency,*" the United States may use the land for the duration of such war or emergency plus 6 months. [Act of July 14, 1956; 70 Stat. 551 § 5.]

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PUBLIC LAW 84-729

Lands of the La Crosse National Guard Target Range located near La Crosse, Wis., may be conveyed to the State on condition that the United States may reenter and use the land in the event of need therefor "*during a national emergency declared by the Congress or the President of the United States.*" [Act of July 18, 1956; 70 Stat. 577 § 1.] [Note.—Under an act approved May 29, 1958 (Public Law 85-431) Congress authorized the release of the reservation contained in the 1956 Act upon payment by the State, and conveyance to it, of the land in question. However, on June 29, 1960, Congress repealed the 1958 Act by Public Law 86-551.]

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PUBLIC LAW 84-740

The interests of the United States in certain land conditionally granted to it by the city of Montgomery, W. Va., are released to the city provided that "*whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency,*" the United States may use the land for the duration of the war plus 6 months. [Act of July 20, 1956; 70 Stat. 590.] [Note.—In 1956 Congress revised and enacted into positive law, titles 10 and 32 of the United States Code. Title 10 which formerly covered the Army now includes the Army, Navy, Marine Corps, and Air Force. The pertinent emergency provisions contained in this revision are listed here by code citation, instead of by the act of 1956 (i.e. August 10, 1956, Public Law 1028, 84th Cong.; 70A Stat.).]

## PUBLIC LAW 84-819

Certain lands situated about 6 miles south of the city of San Antonio, in Bexar County, Tex., may be conveyed to the State on condition that "*whenever the Congress of the United States declares a state of war or other national emergency or the President declares a state of emergency,*" the United States may use the property for the duration of such war or emergency plus 6 months. [Act of July 27, 1956; 70 Stat. 698, § 5.]

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## PUBLIC LAW 84-872

The deed conveying certain land in Clackamas County, Oreg., to the State shall provide that "*whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist,*" the United States may use the property for the duration of such war or emergency plus 6 months. [Act of August 1, 1956; 70 Stat. 793, § 2.]

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## 85TH CONGRESS

## PUBLIC LAW 85-46

A teacher in public schools of the District of Columbia who "*during the period of any war, or of any national emergency as proclaimed by the President or declared by the Congress,*" leaves his position to enter the military service, shall not be considered as separated from his teaching position for purposes of retirement. [Act of June 4, 1957; 71 Stat. 47 § 8.]

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## PUBLIC LAW 85-157

A member of the District of Columbia Metropolitan Police force, the Fire Department, the United States Park Police force, and the White House Police force who, "*during any war or national emergency as proclaimed by the President or declared by the Congress,*" leaves his position to enter the military service, shall not be considered as separated from his position for purposes of retirement. [Act of August 21, 1957; 71 Stat. 393 § 4.]

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## PUBLIC LAW 85-185

The deed conveying lands comprising the Fort Preble Military Reservation at South Portland, to the State of Maine, shall provide that "*during any state of war or national emergency and for six months thereafter,*" the United States may reenter and use the land if deemed necessary for national defense purposes. [Act of August 28, 1957; 71 Stat. 467, § 2(b).]

[Emphasis supplied.]

## PUBLIC LAW 85-204

The conveyance of the real property comprising Esler Field to the State of Louisiana, shall be upon condition that "*whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency,*" the United States may use the property for the duration of such war or emergency plus six months. [Act of August 28, 1957; 71 Stat. 479.]

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## PUBLIC LAW 85-205

The conveyance of Camp Livingston and Camp Beauregard to the State of Louisiana is conditioned upon the right of reentry and use by the United States in the event of need therefor "*during a national emergency.*" [Act of May 14, 1956; 70 Stat. 156 as amended August 28, 1957; 71 Stat. 479 § 4.]

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## PUBLIC LAW 85-236

The conveyance of a certain portion of the property known as Veterans Center Reservation, Los Angeles, to the State of California, shall be upon condition that "*whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency,*" the United States shall have the right to use the property for the duration of such war or emergency plus 6 months. [Act of August 30, 1957; 71 Stat. 517.]

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## PUBLIC LAW 85-258

The conveyance of certain property of the former United States Marine Corps Air Station at Eagle Mountain Lake, to the State of Texas, shall be on condition that "*whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency,*" the United States may use the property for the duration of the war or emergency plus 6 months. [Act of September 2, 1957; 71 Stat. 583.]

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## PUBLIC LAW 85-260

The conveyance of a portion of the military reservation at Fort Schuyler to the State of New York shall be on condition that "*during any emergency declared by the President or the Congress of the United States in existence at the time of enactment of this Act, or whenever the President or the Congress of the United States declares a state of war or other national emergency,*" the United States shall have the right to the full unrestricted use of the property. [Act of September 2, 1957; 71 Stat. 585, § 3.]

## PUBLIC LAW 85-545

The conveyance of property in York County, Va., to the Board of Supervisors of York County is conditioned upon the provision that "*whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency,*" and the property is needed, the United States may re-enter and use the property for the duration of such war or emergency. [Act of July 22, 1958; 72 Stat. 401, § 6.]

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## PUBLIC LAW 85-548

The conveyance of certain land in Boston Neck, Narragansett, Rhode Island, is conditioned upon the right of reentry and use by the United States "*whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency,*" and the property is necessary for national defense. [Act of July 22, 1958; 72 Stat. 404, § 4.]

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## PUBLIC LAW 85-799

The conveyance of certain land of the United States to the State Board of Education of the State of Florida shall be upon condition that "*during any state of war or national emergency and for six months thereafter,*" the United States may reenter and use all or any part of the land if needed for national defense purposes. [Act of August 28, 1958; 72 Stat. 965, § 1(b).]

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## 86TH CONGRESS

## PUBLIC LAW 86-323

The Secretary of the Army, in conveying certain property in Hot Springs National Park to the State of Arkansas, is required to include a provision to insure the right of reentry and use of the property "*whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency,*" and the property is needed in the interest of national defense. [Act of September 21, 1959; 73 Stat. 595 § 4.]

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## PUBLIC LAW 86-473

The sale of certain vessels to the Republic of China for use in Chinese trade in Far East and Near East waters exclusively, is made subject to the condition that they be returned to the ownership of the United States "*during any national emergency declared by the President of the United States or during any war in which the United States is participating,*" for a certain price. [Act of May 14, 1960; 74 Stat. 143.]

[Emphasis supplied.]

## PUBLIC LAW 86-602

The conveyance of certain property of the Boston Naval Shipyard to the Massachusetts Port Authority is made upon condition that "*in time of war or national emergency*" the United States shall have the right of free and unlimited use of the property. [Act of July 7, 1960; 74 Stat. 356 § 2.]

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## PUBLIC LAW 86-611

The instrument conveying to the State of Illinois certain lands in Will County (the Des Plaines Public Hunting and Refuge Area and the Joliet Arsenal Military Reservation) shall expressly require that "*whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*," the United States shall have the right to reenter and use the property for the duration of such period plus six months. [Act of July 12, 1960; 74 Stat. 370 § 2(b).]

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## 87TH CONGRESS

## PUBLIC LAW 87-328

The Delaware River Basin Compact contains a stipulation that nothing contained therein shall be deemed to restrict the executive powers of the President "*in the event of a national emergency*." [Act of September 27, 1961; 75 Stat. 714.]

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## PUBLIC LAW 87-733

Expressing the determination of the United States with respect to the situation in Cuba *including the use of arms*. [Act of Oct. 3, 1962; 76 Stat. 697.]

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## PUBLIC LAW 87-794

No action shall be taken pursuant to this Act or the Tariff Act of 1930 to decrease or eliminate the duty or other import restriction on any article "*if the President determines that such reduction or elimination would threaten to impair the national security*." [Act of Oct. 11, 1962; 76 Stat. 877.]

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## 88TH CONGRESS

## PUBLIC LAW 88-228

Real property: recapture of certain land formerly part of the Fort Miles Military Reservation, Delaware.  
[Emphasis supplied.]

*In time of national emergency declared by the President or Congress, the Secretary of Defense may, without cost to the United States, enter upon and use certain lands conveyed to the State of Delaware that were formerly part of the Fort Miles Military Reservation if he considers such lands necessary for national defense purposes. [Pub. L. 88-228, § 3; 77 Stat. 470.]*

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89TH CONGRESS

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PUBLIC LAW 89-188

Provides that all lands comprising the Bolling-Anacostia complex *should be retained for military purposes.* [Pub. L. 89-188, 79 Stat. 793.] [See also Pub. L. 89-568, 80 Stat. 739.]

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PUBLIC LAW 89-257

Authorizes certain members of the Armed Forces to accept and wear decorations of certain foreign nations *"during any period in which members of the Armed Forces of the United States are serving with friendly foreign forces engaged in an armed conflict in Vietnam . . . or during any period of hostilities in Vietnam in which the United States may be engaged."* [P.L. 89-257, 79 Stat. 982.]

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91ST CONGRESS

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PUBLIC LAW 91-142

Real property: recapture of National Guard Facility, Pier 91, Seattle, Washington.

*In time of war or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the National Guard facility, Pier 91, Seattle, Washington, or any part thereof is useful or necessary for national defense purposes, the United States may enter and use the property or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency and six months thereafter. Upon termination of such use, the property reverts to the State of Washington. [P.L. 91-142, § 805; 83 Stat. 319.]*

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92D CONGRESS

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PUBLIC LAW 92-145

Real property: recapture of certain land formerly part of Fort Bliss, Texas.

[Emphasis supplied.]

*That whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the State of Texas, for the duration of such state of war or of such emergency. Upon the termination of such state of war or of such emergency plus six months such property shall revert to the State of Texas, together with all appurtenances and utilities belonging or appertaining thereto. [P.L. 92-145, § 708; 85 Stat. 412.]*





# TEXT OF STATUTES DELEGATING POWERS IN TIME OF WAR OR NATIONAL EMERGENCY

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## UNITED STATES CODE

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### TITLE 2—THE CONGRESS

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#### 2 U.S.C. 198. ADJOURNMENT

(a) Unless otherwise provided by the Congress, the two Houses shall—

(1) adjourn sine die not later than July 31 of each year; or

(2) in the case of an odd-numbered year, provide, not later than July 31 of such year, by concurrent resolution adopted in each House by roll-call vote, for the adjournment of the two Houses from that Friday in August which occurs at least thirty days before the first Monday in September (Labor Day) of such year to the second day after Labor Day.

(b) This section shall not be applicable in any year if on July 31 of such year *a state of war exists* pursuant to a declaration of war by the Congress. (Aug. 2, 1946, ch. 753, title I, § 132, 60 Stat. 831; Oct. 26, 1970, Pub L. 91-510, title IV, § 461(b), 84 Stat. 1193.)

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#### TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

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#### 5 U.S.C. 701. APPLICATION; DEFINITIONS

(a) This chapter applies, according to the provisions thereof, except to the extent that—

(1) statutes preclude judicial review; or

(2) agency action is committed to agency discretion by law.

(b) For the purpose of this chapter—

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

(A) the Congress;

(B) the courts of the United States;

[Emphasis supplied.]

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

(D) the government of the District of Columbia;

(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891-1902, and former section 1641(b) (2), of title 50, appendix; and

(2) "person", "rule", "order", "license", "sanction", "relief", and "agency action" have the meanings given them by section 551 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392.)

## 5 U.S.C. 702. RIGHT OF REVIEW

A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392.)

### —NOTE—

Section 702 provides judicial review under Title V only for wrongs suffered as a result of "agency" actions. Section 701, however, excludes courts martial, military commissions, etc., the types of action which might be utilized under declarations of martial law from the definition of "agency."

## 5 U.S.C. 3101. GENERAL AUTHORITY TO EMPLOY

Each Executive Agency, military department, and the government of the District of Columbia may employ such number of employees of the various classes recognized by chapter 51 of this title as Congress may appropriate for from year to year. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 414.)

### EMPLOYMENT OF PERSONNEL DURING NATIONAL EMERGENCY PROCLAIMED ON DEC. 16, 1950

Section 1310 of act Nov. 1, 1951, ch. 664, Ch. XIII, 65 Stat. 757, as amended June 5, 1952, ch. 369, Ch. XIII, § 1302, 66 Stat. 122; Sept. 1, 1954, ch. 1208, title VI, § 602, 68 Stat. 1115; Oct. 11, 1962, Pub. L. 87-793, § 717(b), 76 Stat. 858; Aug. 6, 1965, Pub. L. 89-114, 79 Stat. 448; Oct. 11, 1967, Pub. L. 90-105, § 3, 81 Stat. 274, provided that:

"Immediately upon the enactment of this Act [Nov. 1, 1951] and until termination of the national emergency proclaimed by the President on December 16, 1950:

[Emphasis supplied.]

"(a) The Civil Service Commission and the heads of the executive departments, agencies, and corporations shall make full use of their authority to require that initial appointments to positions in and outside the competitive service shall be made on other than a permanent basis in order to limit the number of permanent employees to that required for the efficiency of the Federal civil service: *Provided*, That any position vacated by a permanent employee called to military service or transferred to a national defense agency shall not be filled except on a temporary or indefinite basis. All appointments, reinstatements, transfers, and promotions to positions subject to the Classification Act of 1949 [chapter 51 of this title] shall be made with the condition and notice to each individual appointed, reinstated, transferred, or promoted that the classification grade of the position is subject to post-audit and correction by the appropriate departmental or agency personnel office or the Civil Service Commission.

"(b) The Civil Service Commission shall facilitate the transfer of Federal employees from nondefense to defense activities and encourage the retention of employees in defense activities, and shall provide reemployment rights for permanent employees in the activities from which such employees are transferred.

"(c) The Civil Service Commission shall make full use of its authority to prevent excessively rapid promotions in the competitive civil service and to require correction of improper allocations to higher grades of positions subject to the Classification Act of 1949, as amended [now section 5101 et seq. of this title]. No person in any executive department or agency whose position is subject to the Classification Act of 1949, as amended [now section 5101 et seq. of this title], shall be promoted or transferred to a higher grade subject to such Act [now section 5101 et seq. of this title] without having served at least one year in the next lower grade: *Provided*, That the Civil Service Commission for positions in the competitive service and the head of the employing agency for positions outside the competitive service may by regulation provide for promotions of two grades in one year (1) to positions not higher than GS-5; (2) to positions not higher than GS-11 which are in a line of work properly classified under the Classification Act of 1949 [now section 5101 et seq. of his title] at two-grade intervals; (3) to positions in the same line of work when the employee has completed a training period under a training program approved by the Civil Service Commission for positions in the competitive service, or approved by the head of the employing agency for positions outside the competitive service; and (4) of an employee of the agency concerned when there is no position in the normal line of promotion in the grade immediately below that of the position to be filled: *Provided further*, That this subsection shall not apply to any case involving an employee who is within reach for appointment to a higher grade position on a competitive civil service register, or is eligible for appointment, in accordance with a regular appointment system or procedure established prior to September 1, 1950, to a higher grade position outside the competitive Civil Service, of being advanced up to a grade level from which he had been demoted or separated because of reduction in force or being advanced to a grade level not exceeding that for which he had previously established eligibility as required by the terms hereof: *Provided further*, That, notwithstanding the provisions hereof, and in order to avoid undue hardship or inequity, the Civil Service Commission, when requested by the head of the agency involved, may authorize promotions in individual cases of meritorious nature.

"(d) From time to time, but at least annually, each executive department and agency shall (1) review all positions which since September 1, 1950, have been created or placed in a higher grade or level of difficulty and responsibility of work or in a higher basic pay level, (2) abolish all such positions which are found to be unnecessary, (3) with respect to such positions which are found to be necessary, make such adjustments as may be appropriate in the classification grades of those positions which are subject to the Classification Act of 1949, as amended [now section 5101 et seq. of this title], or in the basic pay levels of those positions which are subject to other pay-fixing authority. Not later than July 31 of each year each department and agency shall submit a report to the Post Office and Civil Service Committees and Appropriations Committees of the Senate and House of Representatives concerning the action taken under this paragraph, together with information comparing the total number of employees on the payroll on June 30 and their average grade and

salary with similar information for the previous June 30, and each annual and supplemental budget estimate shall include a statement comparing the average grade and salary provided for in each item of appropriation or fund allowance therein with similar figures reported for the two previous periods.

"(e) This section does not and shall not be construed to amend or modify the Veterans' Preference Act of 1944 (Public Law 359, Seventy-eighth Congress), as amended.

"(f) This section shall not apply to the postal field service of the Post Office Department."

### —NOTE—

EXCERPT FROM HOUSE REPT. 1222, 82D CONG., 1ST SESS. (1951)

The original Whitten Amendment was adopted last year to (1) prevent further expansion in the number of permanent Federal employees, (2) prevent a repetition of the serious job inflation in the Federal service which developed during the last war as a result of expanded grade levels and faulty classification, (3) encourage the transfer of regular career employees to defense activities, and (4) prevent discrimination against individuals called into military service or transferring to defense work by making all replacements temporary. The language included in the accompanying bill continues these requirements in effect, with the following perfecting provisions: (a) transfers at the same or a lower grade may be made on permanent rather than temporary basis, (b) all rights which go with permanent status must be preserved for employees changed to temporary basis, (c) promotions may be made only after service of at least one year in the next lower grade, (d) re-employment rights in the activities from which people are transferred to military service or defense work must be protected, and (e) annual reports are required from each department and agency outlining actions taken to abolish unnecessary positions and reduce grades where positions are not properly classified, and comparing the number of employees and average grades and salaries on December 1 of each year.

#### 5 U.S.C. 3326. APPOINTMENTS OF RETIRED MEMBERS OF THE ARMED FORCES TO POSITIONS IN THE DEPARTMENT OF DEFENSE

(a) For the purpose of this section, "member" and "Secretary concerned" have the meanings given them by section 101 of title 37.

(b) A retired member of the armed forces may be appointed to a position in the civil service in or under the Department of Defense (including a non-appropriated fund instrumentality under the jurisdiction of the armed forces) during the period of 180 days immediately after his retirement only if—

(1) the proposed appointment is authorized by the Secretary concerned or his designee for the purpose, and, if the position is in the competitive service, after approval by the Civil Service Commission;

(2) the minimum rate of basic pay for the position has been increased under section 5303 of this title; or

(3) *a state of national emergency exists.*

(c) A request by appropriate authority for the authorization, or the authorization and approval, as the case may be, required by subsection (b) (1) of this section shall be accompanied by a statement which shows the actions taken to assure that—

(1) full consideration, in accordance with placement and promotion procedures of the department concerned, was given to eligible career employees;

(2) when selection is by other than certification from an established civil service register, the vacancy has been publicized to give interested candidates an opportunity to apply;

(3) qualification requirements for the position have not been written in a manner designed to give advantage to the retired member; and

(4) the position has not been held open pending the retirement of the retired member.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 423.)

#### 5 U.S.C. 5305. ANNUAL PAY REPORTS AND ADJUSTMENTS

(a) In order to carry out the policy stated in section 5301 of this title, the President shall—

(1) direct such agent as he considers appropriate to prepare and submit to him annually, after considering such views and recommendations as may be submitted under the provisions of subsection (b) of this section, a report that—

(A) compares the rates of pay of the statutory pay systems with the rates of pay for the same levels of work in private enterprise as determined on the basis of appropriate annual surveys that shall be conducted by the Bureau of Labor Statistics;

(B) makes recommendation for appropriate adjustments in rates of pay; and

(C) includes the views and recommendations submitted under the provisions of subsection (b) of this section;

(2) after considering the report of his agent and the findings and recommendations of the Advisory Committee on Federal Pay reported to him under section 5306(b)(3) of this title, adjust the rates of pay of each statutory pay system in accordance with the principles under section 5301(a) of this title, effective as of the beginning of the first applicable pay period commencing on or after October 1 of the applicable year; and

(3) transmit to Congress a report of the pay adjustment, together with a copy of the report submitted to him by his agent and the findings and recommendations of the Advisory Committee on Federal Pay reported to him under section 5306(b)(3) of this title.

(c) (1) If, because of *national emergency* or economic conditions affecting the general welfare, the President should, in any year, consider it inappropriate to make the pay adjustment required by subsection (a) of this section, he shall prepare and transmit to Congress before September 1 of that year such alternative plan with respect to a pay adjustment as he considers appropriate, together with the reasons therefore, in lieu of the pay adjustments required by subsection (a) of this section.

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#### 5 U.S.C. 5335. PERIODIC STEP-INCREASES

(a) An employee paid on an annual basis, and occupying a permanent position within the scope of the General Schedule, who has not reached the maximum rate of pay for the grade in which his position is placed, shall be advanced in pay successively to the next higher rate within the grade at the beginning of the next pay period following the completion of—

- (1) each 52 calendar weeks of service in pay rates 1, 2, and 3;
- (2) each 104 calendar weeks of service in pay rates 4, 5, and 6; or
- (3) each 156 calendar weeks of service in pay rates 7, 8, and 9;

subject to the following conditions:

(A) the employee did not receive an equivalent increase in pay from any cause during that period; and

(B) the work of the employee, except a hearing examiner appointed under section 3105 of this title, is of an acceptable level of competence as determined by the head of the agency.

(b) Under regulations prescribed by the Civil Service Commission, the benefit of successive step-increases shall be preserved for employees whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment *during a period of war or national emergency*.

(c) When a determination is made under subsection (a) of this section that the work of an employee is not of an acceptable level of competence, the employee is entitled to prompt written notice of that determination and an opportunity for reconsideration of the determination within his agency under uniform procedures prescribed by the Commission. If the determination is affirmed on reconsideration, the employee is entitled to appeal to the Commission. If the reconsideration or appeal results in a reversal of the earlier determination, the new determination supersedes the earlier determination and is deemed to have been made as of the date of the earlier determination. The authority of the Commission to prescribe procedures and the entitlement of the employee to appeal to the Commission do not apply to a determination of acceptable level of competence made by the Librarian of Congress.

[Emphasis supplied.]

(d) An increase in pay granted by statute is not an equivalent increase in pay within the meaning of subsection (a) of this section.

(e) This section does not apply to the pay of an individual appointed by the President, by and with the advice and consent of the Senate. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 469; Pub. L. 90-83, § 1(20), Sept. 11, 1967, 81 Stat. 199.)

**5 U.S.C. 5532. EMPLOYMENT OF RETIRED OFFICERS OF THE UNIFORMED SERVICES, REDUCTION IN RETIRED OR RETIREMENT PAY; EXCEPTIONS**

(a) For the purpose of this section, "period for which he receives pay" means the full calendar period for which a retired officer of a regular component of a uniformed service receives the pay of a position when employed on a full-time basis, but only the days for which he actually receives that pay when employed on a part-time or intermittent basis.

(b) A retired officer of a regular component of a uniformed service who holds a position is entitled to receive the full pay of the position, but during the period for which he receives pay, his retired or retirement pay shall be reduced to an annual rate equal to the first \$2,000 of the retired or retirement pay plus one-half of the remainder, if any. In the operation of the formula for the reduction of retired or retirement pay under this subsection, the amount of \$2,000 shall be increased, from time to time, by appropriate percentage, in direct proportion to each increase in retired or retirement pay under section 1401a(b) of title 10 to reflect changes in the Consumer Price Index.

(c) The reduction in retired or retirement pay required by subsection (b) of this section does not apply to a retired officer of a regular component of a uniformed service—

(1) whose retirement was based on disability—

(A) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(B) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 301 of title 38; or

(2) employed on a temporary (full-time or part-time) basis, any other part-time basis, or an intermittent basis, for the first 30-day period for which he receives pay.

The exemption from reduction in retired or retirement pay under paragraph (2) of this subsection does not apply longer than—

(i) the first 30-day period for which he receives pay under one appointment from the position in which he is employed, if he is serving under not more than one appointment; and

(ii) the first period for which he receives pay under more than one appointment, in a fiscal year, which consists in the aggregate of 30 days, from all positions in which he is employed, if he is serving under more than one appointment in that fiscal year.

(d) Except as otherwise provided by this subsection, the Civil Service Commission, subject to the supervision and control of the President, may prescribe regulations under which exceptions may be made to the restrictions in subsection (b) of this section when *appropriate authority determines that the exceptions are warranted because of special or emergency employment needs* which otherwise cannot be readily met. The President of the Senate with respect to the United States Senate, the Speaker of the House of Representatives with respect to the United States House of Representatives, and the Architect of the Capitol with respect to the Office of the Architect of the Capitol each may provide for a means by which exceptions may be made to the restrictions in subsection (b) of this section when he determines that the exceptions are warranted because of special or emergency employment needs which otherwise cannot be readily met. The Administrator of the National Aeronautics and Space Administration may except, at any time, an individual appointed to a scientific, engineering, or administrative position under section 2473(b)(2)(A) of title 42 from the restrictions in subsection (b) of this section *when he determines that the exception is warranted because of special or emergency employment needs* which otherwise cannot be readily met, but not more than 30 exceptions may exist at any one time under this authority. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 482.)

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5 U.S.C. 5564. TRAVEL AND TRANSPORTATION; DEPENDENTS; HOUSEHOLD AND PERSONAL EFFECTS; MOTOR VEHICLES; SALE OF BULKY ITEMS; CLAIMS FOR PROCEEDS; APPROPRIATION CHARGEABLE

(a) For the purpose of this section, "household and personal effects" and "household effects" may include, in addition to other authorized weight allowances, one privately owned motor vehicle which may be shipped at United States expense.

(b) Transportation (including packing, crating, draying, temporarily storing, and unpacking of household and personal effects) may be provided for the dependents and household and personal effects of an employee in active service (without regard to pay grade) who is officially reported as dead, injured, or absent for more than 29 days in a status listed in section 5561(5)(A)-(E) of this title to—

- (1) the official residence of record for the employee;
  - (2) the residence of his dependent, next of kin, or other person entitled to the effects under regulations prescribed by the head of the agency concerned; or
  - (3) another location determined in advance or later approved by the head of the agency concerned or his designee on request of the employee (if injured) or his dependent, next of kin, or other person described in paragraph (2) of this subsection.
- (c) When an employee described in subsection (b) of this section is in an injured status, transportation of dependents and household

[Emphasis supplied.]



and personal effects may be provided under this section only when prolonged hospitalization or treatment is anticipated.

(d) Transportation on request of a dependent may be authorized under this section only when there is a reasonable relationship between the circumstances of the dependent and the destination requested.

(e) Instead of providing transportation for dependents under this section, when the travel has been completed the head of the agency concerned may authorize—

(1) reimbursement for the commercial cost of the transportation; or

(2) a monetary allowance, instead of transportation, as authorized by statute for the whole or that part of the travel for which transportation in kind was not furnished.

(f) The head of the agency concerned may store the household and personal effects of an employee described in subsection (b) of this section until proper disposition can be made. The cost of the storage and transportation (including packing, crating, draying, temporarily storing, and unpacking) of household and personal effects shall be charged against appropriations currently available.

(g) *When the head of the agency concerned determines that an emergency exists* and that a sale would be in the best interests of the United States, he may provide for the public or private sale of motor vehicles and other bulky items of the household and personal effects of an employee described in subsection (b) of this section. Before a sale, and if practicable, a reasonable effort shall be made to determine the desires of interested persons. The net proceeds from the sale shall be sent to the owner or other person entitled thereto under regulations prescribed by the head of the agency concerned. If there is no owner or other person entitled thereto, or if the owner or other person or their addresses are not ascertained within 1 year from the date of sale, the net proceeds may be covered into the Treasury of the United States as miscellaneous receipts.

(h) A claim for net proceeds covered into the Treasury under subsection (g) of this section may be filed with the General Accounting Office by the owner, his heir or next of kin, or his legal representative at any time before the end of 5 years from the date the proceeds are covered into the Treasury. When a claim is filed, the General Accounting Office shall allow or disallow it. A claim that is allowed shall be paid from the appropriation for refunding money erroneously received and covered. If a claim is not filed before the end of 5 years from the date the proceeds are covered into the Treasury, it is barred from being acted on by the General Accounting Office or the courts.

(i) This section does not amend or repeal—

(1) section 2575, 2733, 4712, 4713, 6522, 9712, or 9713 of title 10;

(2) section 507 of title 14; or

(3) chapter 171 of title 28.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 491; Pub. L. 90-83; § 1(3), Sept. 11, 1967, 81 Stat. 201.)

[Emphasis supplied.]

## 5 U.S.C. 8332. CREDITABLE SERVICE

(a) The total service of an employee or Member is the full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

(b) The service of an employee shall be credited from the date of original employment to the date of separation on which title to annuity is based in the civilian service of the Government. Credit may not be allowed for a period of separation from the service in excess of 3 calendar days. The service includes—

- (1) employment as a substitute in the postal field service;
- (2) service in the Pan American Sanitary Bureau;
- (3) subject to section 8334(c) and 8339(h) of this title, service performed before July 10, 1960, as an employee of a county committee established under section 590h(b) of title 16 or of a committee or an association of producers described by section 610(b) of title 7;
- (4) service as a student-employee as defined by section 5351 of this title only if he later becomes subject to this subchapter;
- (5) a period of satisfactory service of a volunteer or volunteer leader under chapter 34 of title 22 only if he later becomes subject to this subchapter;
- (6) employment under section 709 of title 32, United States Code or any prior corresponding provision of law;
- (7) a period of service of a volunteer under part A of title VIII of the Economic Opportunity Act of 1964 only if he later becomes subject to this subchapter; and
- (8) subject to section 8334(c) and 8339(h) of this title, service performed on and after February 19, 1929, and prior to the effective date of section 442 of the Legislative Reorganization Act of 1970, as a United States Capitol Guide.

The Civil Service Commission shall accept the certification of the Secretary of Agriculture or his designee concerning service for the purpose of this subchapter of the type performed by an employee named by paragraph (3) of this subsection. The Civil Service Commission shall accept the certification of the Capitol Guide Board concerning service for the purpose of this subchapter of the type described in paragraph (8) of this subsection and performed by an employee. For the purpose of paragraph (5) of this subsection—

(A) a volunteer and a volunteer leader are deemed receiving pay during their service at the respective rates of readjustment allowances payable under sections 2504(c) and 2505(l) of title 22; and

(B) the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and the termination of that service by the President or by death or resignation.

Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32, United

States Code, on or after the effective date of the National Guard Technicians Act of 1968.

(c) Except as provided by subsection (d) of this section, an employee or Member shall be allowed credit for periods of military service before the date of the separation on which title to annuity is based. However, if an employee or Member is awarded retired pay on account of military service, his military service may not be credited unless the retired pay is awarded—

(1) on account of a service-connected disability—

(A) incurred in combat with an enemy of the United States; or

(B) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by section 301 of title 38; or

(2) under chapter 67 of title 10.

(d) For the purpose of section 8339(c)(1) of this title, a Member—

(1) shall be allowed credit only for periods of military service not exceeding 5 years, plus military service performed by the Member on leaving his office, for the purpose of performing military service, *during a war or national emergency proclaimed by the President or declared by Congress* and before his final separation from service as Member; and

(2) may not receive credit for military service for which credit is allowed for purpose of retired pay under other statute.

(e) This subchapter does not affect the right of an employee or Member to retired pay, pension, or compensation in addition to an annuity payable under this subchapter.

(f) Credit shall be allowed for leaves of absence without pay granted an employee while performing military service or while receiving benefits under subchapter I of chapter 81 of this title. An employee or former employee who returns to duty after a period of separation is deemed, for the purpose of this subsection, to have been in a leave of absence without pay for that part of the period in which he was receiving benefits under subchapter I of chapter 81 of this title or any earlier statute on which such subchapter is based. Except for a substitute in the postal field service, credit may not be allowed for so much of other leaves of absence without pay as exceeds 6 months in the aggregate in a calendar year.

(g) An employee who *during the period of a war, or of a national emergency as proclaimed by the President or declared by Congress*, leaves his position to enter the military service is deemed, for the purpose of this subchapter, as not separated from his civilian position because of that military service, unless he applies for and receives a lump-sum credit under this subchapter. However, the employee is deemed as not retaining his civilian position after December 31, 1956, or after the expiration of 5 years of that military service, whichever, is later.

[Emphasis supplied.]

## TITLE 7—AGRICULTURE

## 7 U.S.C. 1158. SUSPENSION OF QUOTA AND AUTHORIZATION PROVISIONS

(a) Emergencies; duration of suspension; investigations and reports.

Whenever pursuant to the provisions of this chapter *the President finds and proclaims that a national economic or other emergency exists* with respect to sugar or liquid sugar, he shall by proclamation suspend the operation, except as provided in section 1117 of this title, of all the provisions of subchapter II of this chapter, and, thereafter, the operation of subchapter II of this chapter shall continue in suspense until the President finds and proclaims that the facts which occasioned such suspension no longer exist. The Secretary shall make such investigations and reports thereon to the President as may be necessary to aid him in carrying out the provisions of this section. During any period that the operation of the provisions of subchapter II of this chapter is so suspended by the President, the Secretary shall estimate for each year the amount of sugar needed to meet requirements of consumers in the United States and the amount the quota for each country would be if calculated on the basis as provided in section 1112 of this title. Notice of such estimate and quota calculation shall be published in the Federal Register. If any country fails to import into the continental United States within the quota year, an amount of sugar equal to the amount the quota would be as calculated for such country by the Secretary for such year, the quota established for such country in subsequent years under the provisions of subchapter II of this chapter shall be reduced as provided in section 1112(d)(4) of this title: *Provided*, That quotas for subsequent years shall not be reduced when quotas are suspended under this subsection and reestablished in the same calendar year.

(b) Discrimination in distribution of quotas or authorizations; duration of suspension; allocation of suspended quantities.

In the event *the President in his discretion*, determines that any foreign country having a quota or receiving any authorization under this chapter to import sugar into the United States, has been or is allocating the distribution of such quota or authorization within that country so as to discriminate against citizens of the United States, he shall suspend the quota or other authorization of that country until such time as he has received assurances, satisfactory to him, that the discrimination will not be continued. Any quantity so suspended shall be allocated in the same manner as deficits are allocated under the provisions of section 1114 of this title.

(c) Seizure of property of United States citizens; discrimination in taxation and other exactions; restrictive maintenance or operational conditions; remedial measures; duration of suspension; allocation of suspended quantities.

In any case in which a nation or political subdivision thereof has, on or after January 1, 1967, (1) nationalized, expropriated, or other-

[Emphasis supplied.]

wise seized the ownership or control of the property or business enterprise owned or controlled by United States citizens or any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or (2) imposed upon or enforced against such property or business so owned or controlled, discriminatory taxes or other exactions, or restrictive maintenance or operational conditions (including limiting or reducing participation in production, export, or sale of sugar to the United States under quota allocation pursuant to this chapter) not imposed or enforced with respect to the property or business enterprise of a like nature owned or operated by its own nationals or the nationals of any government other than the Government of the United States, or (3) imposed upon or enforced against such property or business enterprise so owned or controlled, discriminatory taxes or other exactions, or restrictive maintenance or operational conditions (including limiting or reducing participation in production, export, or sale of sugar to the United States under quota allocation pursuant to this chapter), or has taken other actions, which have the effect of nationalizing, expropriating or otherwise seizing ownership or control of such property or business enterprise, or (4) violated the provisions of any bilateral or multilateral international agreement to which the United States is a party, designed to protect such property or business enterprise so owned or controlled, and has failed within six months following the taking of action in any of the above categories to take appropriate and adequate steps to remedy such situation and to discharge its obligations under international law toward such citizen or entity, including the prompt payment to the owner or owners of such property or business enterprise so nationalized, expropriated or otherwise seized or to provide relief from such taxes, exactions, conditions or breaches of such international agreements, as the case may be, or to arrange, with the agreement of the parties concerned, for submitting the question in dispute to arbitration or conciliation in accordance with procedures under which final and binding decision or settlement will be reached and full payment or arrangements with the owners for such payment made within twelve months following such submission, the *President may withhold or suspend* all or any part of the quota under this chapter of such national, and either in addition or as an alternative, the President may, under such terms and conditions as he may prescribe, cause to be levied and collected at the port of entry an impost on any or all sugar sought to be imported into the United States from such nation in an amount not to exceed \$20 per ton, such moneys to be covered in the Treasury of the United States into a special trust fund, and he shall use such fund to make payment of claims arising on or after January 1, 1961, as a result of such nationalization, expropriation, or other type of seizure or action set forth herein, except that if such nation participates in the quota for the West Indies, the *President may suspend* a portion of the quota for the West Indies which is not in excess of the quantity imported from that nation during the preceding year, until he is satisfied that appropriate steps are being taken, and either in addition or as an alternative he may cause to be

[Emphasis supplied.]

levied and collected an impost in an amount not to exceed \$20 per ton on any or all sugar sought to be imported into the United States from such nation for the payment of claims as provided herein. Any quantity so withheld or suspended shall be allocated under section 1112(d)(1)(B) of this title. With respect to any action taken during 1961 in any of the categories set forth in this subsection, the provisions of this subsection relating to levying and collecting an impost shall apply only if the President so determines.

(Aug. 8, 1947, ch. 519, title IV, § 408, 61 Stat. 933; July 6, 1960, Pub. L. 86-592, § 3, 74 Stat. 330; Oct. 14, 1971, Pub. L. 92-138, § 17, 85 Stat. 389.)

## 7 U.S.C. 1332. NATIONAL MARKETING QUOTA

### (a) Proclamation; duration of program.

Whenever prior to April 15 in any calendar year the Secretary determines that the total supply of wheat in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for wheat shall be in effect for such marketing year and for either the following marketing year or the following two marketing years, if the Secretary determines and declares in such proclamation that a two- or three-year marketing quota program is necessary to effectuate the policy of the chapter.

### (b) Amount; minimum.

If a national marketing quota for wheat has been proclaimed for any marketing year, the Secretary shall determine and proclaim the amount of the national marketing quota for such marketing year not earlier than January 1 or later than April 15 of the calendar year preceding the year in which such marketing year begins. The amount of the national marketing quota for wheat for any marketing year shall be an amount of wheat which the Secretary estimates (i) will be utilized during such marketing year for human consumption in the United States as food, food products, and beverages, composed wholly or partly of wheat, (ii) will be utilized during such marketing year in the United States for seed, (iii) will be exported either in the form of wheat or products thereof, and (iv) will be utilized during such marketing year in the United States as livestock (including poultry) feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 1339c of this title; less (A) an amount of wheat equal to the estimated imports of wheat into the United States during such marketing year and, (B) if the stocks of wheat owned by the Commodity Credit Corporation are determined by the Secretary to be excessive, an amount of wheat determined by the Secretary to be a desirable reduction in such marketing year in such stocks to achieve the policy of the chapter: Provided, That if the Secretary determines that the total stocks of wheat in the Nation are insufficient to assure an adequate carryover for the next succeeding marketing year, the national marketing quota otherwise determined shall be increased by the amount the

Secretary determines to be necessary to assure an adequate carryover: And provided further, That the national marketing quota for wheat for any marketing year shall be not less than one billion bushels.

(c) National emergencies or material increase in demand: investigation; increase or termination.

If, after the proclamation of a national marketing quota for wheat for any marketing year, *the Secretary* has reason to believe that, *because of a national emergency* or because of a material increase in the demand for wheat, the national marketing quota should be terminated or the amount thereof increased, he shall cause an immediate investigation to be made to determine whether such action is necessary *in order to meet such emergency* or increase in the demand for wheat. If, on the basis of such investigation, the Secretary finds that such action is necessary, he shall immediately proclaim such finding and the amount of any such increase found by him to be necessary and thereupon such national marketing quota shall be so increased or terminated. In case any national marketing quota is increased under this subsection, the Secretary shall provide for such increase by increasing acreage allotments established under this part by a uniform percentage.

(d) Farm marketing quotas for wheat crops planted in calendar years 1966-1970.

Notwithstanding any other provision of this chapter, the Secretary shall proclaim a national marketing quota for the crops of wheat planted for harvest in the calendar years 1966 through 1970, and farm marketing quotas shall not be in effect for such crops of wheat. (Feb. 16, 1938, ch. 30, title III, § 332, 52 Stat. 53; Aug. 28, 1954, ch. 10041, title III, § 307, 68 Stat. 903; Sept. 27, 1962, Pub. L. 87-703, title III, § 311, 76 Stat. 619; Nov. 3, 1965, Pub. L. 89-321, title V, § 501(1), 79 Stat. 1199; Oct. 11, 1968, Pub. L. 90-559, § 1(1), 82 Stat. 996.)

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#### 7 U.S.C. 1371. GENERAL ADJUSTMENT OF QUOTAS

(a) Investigation and adjustment to maintain normal supply.

If at any time the Secretary has reason to believe that in the case of cotton, rice, peanuts, or tobacco the operation of farm marketing quotas in effect will cause the amount of such commodity which is free of marketing restrictions to be less than the normal supply for the marketing year for the commodity then current, he shall cause an immediate investigation to be made with respect thereto. In the course of such investigation due notice and opportunity for hearing shall be given to interested persons. If upon the basis of such investigation the Secretary finds the existence of such fact, he shall proclaim the same forthwith. He shall also in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such commodity which is free of marketing restrictions equal the normal supply.

[Emphasis supplied.]

## (b) Adjustment because of emergency or export demand.

*If the Secretary has reason to believe that, because of a national emergency or because of a material increase in export demand, any national marketing quota or acreage allotment for cotton, rice, peanuts, or tobacco should be increased or terminated, he shall cause an immediate investigation to be made to determine whether the increase or termination is necessary to meet such emergency or increase in export demand. If, on the basis of such investigation, the Secretary finds that such increase or termination is necessary, he shall immediately proclaim such finding (and if he finds an increase is necessary, the amount of the increase found by him to be necessary) and thereupon such quota or allotment shall be increased, or shall terminate, as the case may be.*

## (c) Increase of farm quota on increase of national quota.

In case any national marketing quota or acreage allotment for any commodity is increased under this section, each farm marketing quota for the commodity shall be increased in the same ratio. (Feb. 16, 1938, ch. 30, title III, § 371, 52 Stat. 64; Apr. 3, 1941, ch. 39, § 5, 55 Stat. 92; Aug. 28, 1954, ch. 1041, title III, § 312, 68 Stat. 905; Sept. 27, 1962, Pub. L. 87-703, title III, § 321, 76 Stat. 626.)

## 7 U.S.C. 1743. REDUCTION OF SET-ASIDE

(a) Such commodity set-aside shall be reduced by disposals made in accordance with the directions of the President as follows:

(1) Donation, sale, or other disposition for disaster or other relief purposes outside the United States pursuant to and subject to the limitations of subchapter III of chapter 41 of this title;

(2) Sale or barter (including barter for strategic materials) to develop new or expanded markets for American agricultural commodities, including but not limited to disposition pursuant to and subject to the limitations of subchapter II of chapter 41 of this title;

(3) Donation to school-lunch programs;

(4) Transfer to the national stockpile established pursuant to sections 98 to 98h of Title 50, without reimbursement from funds appropriated for the purposes of said sections;

(5) Donation, sale, or other disposition for research, experimental, or educational purposes;

(6) Donation, sale, or other disposition for disaster relief purposes in the United States *or to meet any national emergency declared by the President*; and

(7) Sale for unrestricted use to meet a need for increased supplies at not less than 105 per centum of the parity price in the case of agricultural commodities and a price reflecting 105 per centum of the parity price of the agricultural commodity in the case of products of agricultural commodities.

The President shall prescribe such terms and conditions for the disposal of commodities in the commodity set-aside as he determines

[Emphasis supplied.]



will provide adequate safeguards against interference with normal marketings of the supplies of such commodities outside the commodity set-aside. Strategic materials acquired by the Commodity Credit Corporation under paragraph (2) of this subsection shall be transferred to the national stockpile established pursuant to sections 98 to 98h of Title 50, and the Commodity Credit Corporation shall be reimbursed for the value of the commodities bartered for such strategic materials from funds appropriated pursuant to section 98g of Title 50. For the purpose of such reimbursement, the value of any commodity so bartered shall be the lower of the domestic market price or the Commodity Credit Corporation's investment therein as of the date of such barter, as determined by the Secretary of Agriculture.

(b) The quantity of any commodity in the commodity set-aside shall be reduced to the extent that the Commodity Credit Corporation inventory of such commodity is reduced, by natural or other cause beyond the control of the Corporation, below the quantity then charged to the commodity set-aside. (Aug. 28, 1954, ch. 1041, title I, § 103, 68 Stat. 897.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 1927, 83D CONG., 2D SESS. (1954)

#### COMMODITY SET-ASIDE

*Authority is provided for the Commodity Credit Corporation, as the President requested, to set-aside reserves up to a value of \$2,500 million from the present CCC stocks. These stocks will be insulated from the commercial supplies and used in constructive ways, such as in school-lunch programs, disaster relief, aid to the people of other countries, and stockpiled reserves at home for use in a national emergency.*

#### 7 U.S.C. 1903. LIMITATIONS ON GOVERNMENT PROCUREMENT AND PRICE SUPPORT; MODIFICATION DURING NATIONAL EMERGENCY; STATEMENT OF ELIGIBILITY

The public policy declared in this chapter shall be taken into consideration by all agencies of the Federal Government in connection with all procurement and price support programs and operations and after June 30, 1960, no agency or instrumentality of the United States shall contract for or procure any livestock products produced or processed by any slaughterer or processor which in any of its plants or in any plants of any slaughterer or processor with which it is affiliated slaughters or handles in connection with slaughter livestock by any methods other than methods designated and approved by the Secretary of Agriculture (hereinafter referred to as the Secretary) pursuant to section 1904 of this title: *Provided, That during the period of any national emergency declared by the President or the Congress, the limitations on procurement required by this section*

[Emphasis supplied.]

*may be modified by the President to the extent determined by him to be necessary to meet essential procurement needs during such emergency.* For the purposes of this section a slaughterer or processor shall be deemed to be affiliated with another slaughterer or processor if it controls, is controlled by, or is under common control with, such other slaughterer or processor. After June 30, 1960, each supplier from which any livestock products are procured by any agency of the Federal Government shall be required by such agency to make such statement of eligibility under this section to supply such livestock products as, if false, will subject the maker thereof to prosecution, section 287 of Title 18. (Pub. L. 85-765, § 3, Aug. 27, 1958, 72 Stat. 862.)

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## TITLE 8—ALIENS AND NATIONALITY

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### 8 U.S.C. 1182. EXCLUDABLE ALIENS

#### (a) General classes.

Except as otherwise provided in this chapter, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

- \* \* \* \*
- (22) Aliens who are ineligible to citizenship, except aliens seeking to enter as nonimmigrants; or persons who have departed from or who have remained outside the United States to avoid or evade training or service in the armed forces *in time of war or a period declared by the President to be a national emergency*, except aliens who were at the time of such departure nonimmigrant aliens and who seek to reenter the United States as nonimmigrants;

\* \* \* \*

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### 8 U.S.C. 1185. TRAVEL CONTROL OF CITIZENS AND ALIENS DURING WAR OR NATIONAL EMERGENCY

#### (a) Restrictions and prohibitions on aliens.

When the United States *is at war or during the existence of any national emergency proclaimed by the President*, or, as to aliens, whenever there exists a state of war between or among two or more states, and the President shall find that the interests of the United States require that restrictions and prohibitions in addition to those provided otherwise than by this section be imposed upon the departure of persons from and their entry into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or the Congress, be unlawful—

- (1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such rea-

[Emphasis supplied.]

sonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe;

(2) for any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section;

(3) for any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(4) for any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(5) for any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(6) for any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(7) for any persons knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit, or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid.

(b) Citizens.

After such proclamation as is provided for in subsection (a) of this section has been made and published and while such proclamation is in force, it shall, *except as otherwise provided by the President, and subject to such limitations and exceptions as the President may authorize and prescribe*, be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid passport.

(c) Penalties.

Any person who shall willfully violate any of the provisions of this section, *or of any order or proclamation of the President promulgated*, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$5,000, or, if a natural person, imprisoned for not more than five years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by like fine or imprisonment, or both; and any vehicle, vessel, or aircraft together with its appurtenances, equipment, tackle, apparel, and furniture concerned in any such violation, shall be forfeited to the United States.

(d) Definitions.

The term "United States" as used in this section includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The term "person" as used in this section shall be deemed to mean any individual, partner-

[Emphasis supplied.]

ship, association, company, or other incorporated body of individuals, or corporation, or body politic.

(e) Nonadmission of certain aliens.

Nothing in this section shall be construed to entitle an alien to whom a permit to enter the United States has been issued to enter the United States, if, upon arrival in the United States, he is found to be inadmissible under any of the provisions of this chapter, or any other law, relative to the entry of aliens into the United States.

(f) Revocation of proclamation as affecting penalties.

The revocation of any proclamation, rule, regulation, or order issued in pursuance of this section shall not prevent prosecution for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under this section prior to the revocation of such proclamation, rule, regulation, or order.

(g) Permits to enter.

Passports, visas, reentry permits, and other documents required for entry under this chapter may be considered as permits to enter for the purposes of this section. (June 27, 1952, ch. 477, title II, ch. 2, § 215, 66 Stat. 190.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 485, 65TH CONG., 2D SESS. (1917)

The bill is intended to stop an important gap in the war legislation of the United States. When the war began in 1914 the necessity of controlling foreign travel was immediately recognized by the belligerents and all adopted stringent systems of regulation. It is a matter of common knowledge that Germany has from time to time closed her borders entirely. As soon as this country entered the war *the President provided by regulations 9 and 10 of this proclamation of April 6, 1917*, that German alien enemies might not enter or leave the United States without securing permission. When war was declared against Austria-Hungary similar regulations were promulgated concerning Austro-Hungarian alien enemies.

This measure of limitation of foreign travel was far from sufficient. To begin with it left unaffected journeys by women of enemy nationality. Such journeys are now partially restrained by section 3(b) of the Trading With the Enemy Act. Even this act leaves American citizens and neutrals perfectly free to come and go. No argument is necessary to indicate the probability that Germany will wherever possible employ renegade Americans or neutrals as her agents instead of employing Germans about whom suspicion would easily be excited. The danger of the transference of important military information causes the Government great anxiety, particularly as the Attorney General has formally ruled that neither the President nor the executive departments have power to curb the general departure and entry of travelers.

[Emphasis supplied.]

**8 U.S.C. 1440. NATURALIZATION THROUGH ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, KOREAN HOSTILITIES, VIETNAM HOSTILITIES, OR OTHER PERIODS OF MILITARY HOSTILITIES**

**(a) Requirements.**

Any person who, while an alien or a noncitizen national of the United States, has served honorably in an active-duty status in the military, air, or naval forces of the United States during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date *designated by the President by Executive order* as of the date of termination of the Vietnam hostilities, *or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force*, and who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if (1) at the time of enlistment or induction such person shall have been in the United States, the Canal Zone, American Samoa, or Swains Island, whether or not he has been lawfully admitted to the United States for permanent residence, or (2) at any time subsequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under which such person served shall determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: Provided, however, That no person who is or has been separated from such service on account of alienage, or who was a conscientious objector who performed no military, air, or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purposes of this section. No period of service in the Armed Forces shall be made the basis of a petition for naturalization under this section if the applicant has previously been naturalized on the basis of the same period of service.

**(b) Exceptions.**

A person filing a petition under subsection (a) of this section shall comply in all other respects with the requirements of this subchapter, except that—

(1) he may be naturalized regardless of age, and notwithstanding the provisions of section 1429 of this title as they relate to deportability and the provisions of section 1442 of this title;

(2) no period of residence or specified period of physical presence within the United States or any State shall be required;

(3) the petition for naturalization may be filed in any court having naturalization jurisdiction regardless of the residence of the petitioner;

[Emphasis supplied.]

(4) service in the military, air or naval forces of the United States shall be proved by a duly authenticated certification from the executive department under which the petitioner served or is serving, which shall state whether the petitioner served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date *designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force*, and was separated from such service under honorable conditions; and

(5) notwithstanding section 1447 (c) of this title, the petitioner may be naturalized immediately if prior to the filing of the petition the petitioner and the witnesses shall have appeared before and been examined by a representative of the Service.

(c) Revocation.

Citizenship granted pursuant to this section may be revoked in accordance with section 1451 of this title if at any time subsequent to naturalization the person is separated from the military, air, or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other provided by law. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation.

(d) Applicability of petitions filed prior to January 1, 1947.

The eligibility for naturalization of any person who filed a petition for naturalization prior to January 1, 1947, under section 701 of the Nationality Act of 1940, as amended (56 Stat. 182, 58 Stat. 886, 59 Stat. 658), and which is still pending on the effective date of this chapter, shall be determined in accordance with the provisions of this section. (June 27, 1952, ch. 477, title III, ch. 2, § 329, 66 Stat. 250; Sept. 26, 1961, Pub. L. 87-301, § 8, 75 Stat. 654; Oct. 24, 1968, Pub. L. 90-633, §§ 1, 2, 6, 82 Stat. 1343, 1344.)

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**8 U.S.C. 1440e. EXEMPTION FROM NATURALIZATION FEES FOR ALIENS NATURALIZED THROUGH SERVICE DURING VIETNAM HOSTILITIES OR OTHER SUBSEQUENT PERIOD OF MILITARY HOSTILITIES; REPORT BY CLERKS OF COURTS TO ATTORNEY GENERAL**

Notwithstanding any other provision of law, no clerk of a United States court shall charge or collect a naturalization fee from an alien who has served in the military, air, or naval forces of the United States *during a period beginning February 28, 1961, and ending on the date designated by the President by Executive order as*

[Emphasis supplied.]

the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and who is applying for naturalization during such periods under section 1440 of this title, for filing a petition for naturalization or issuing a certificate of naturalization upon his admission to citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected. A report of all transactions under this section shall be made to the Attorney General as in the case of other reports required of clerks of courts by this subchapter. (Pub. L. 90-633, § 3, Oct. 24, 1968, 82 Stat. 1344.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 1968, 90TH CONG., 2D SESS. (1968)

. . . This section represents a long legislative history which has made service *during prescribed periods* the sole criterion for eligibility without regard to the areas in which the service may have been performed. The House conferees recognized and agreed that a serviceman's availability for assignment to a combat zone is ever present and that servicemen serving *during the period of the Vietnam hostilities* are no less deserving of such special naturalization privileges than those who served during World War I, World War II, or the Korean conflict. Furthermore, limiting the special benefits to members of the Armed Forces serving in defined combatant areas will lead to uncertainty and become a question of fact in each case whether the serviceman has served in such an area.

### 8 U.S.C. 1442. ALIEN ENEMIES

#### (a) Naturalization under specified conditions.

An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the *United States is at war* may, after his loyalty has been fully established upon investigation by the Attorney General, be naturalized as a citizen of the United States if such alien's petition for naturalization shall be pending at the beginning of the state of war and the petitioner is otherwise entitled to admission to citizenship.

#### (b) Procedure.

An alien embraced within this section shall not have his petition for naturalization called for a hearing, or heard, except after ninety days' notice given by the clerk of the court to the Attorney General to be represented at the hearing, and the Attorney General's objection to such final hearing shall cause the petition to be continued

[Emphasis supplied.]

from time to time for so long as the Attorney General may require.

(c) Exceptions from classification.

The Attorney General may, in his discretion, upon investigation fully establishing the loyalty of any alien enemy who did not have a petition for naturalization pending at the beginning of the state of war, except such alien enemy from the classification of alien enemy for the purposes of this subchapter, and thereupon such alien shall have the privilege of filing a petition for naturalization.

(d) Effect of cessation of hostilities.

An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war shall cease to be an alien enemy within the meaning of this section upon the determination by *proclamation of the President, or by concurrent resolution of the Congress, that hostilities between the United States and such country, state, or sovereignty have ended.* Notwithstanding the provisions of section 405 (b) of this Act, this subsection shall also apply to the case of any such alien whose petition for naturalization was filed prior to the effective date of this chapter and which is still pending on that date.

(e) Apprehension and removal.

Nothing contained herein shall be taken or construed to interfere with or prevent the apprehension and removal, consistent with law, or any alien enemy at any time prior to the actual naturalization of such alien. (June 27, 1952, ch. 477, title III, ch. 2, § 331, 66 Stat. 252.)

—NOTE—

EXCERPT FROM HOUSE REPT. 1365, 82D CONG., 2D SESS. (1952)

ALIEN ENEMIES

The bill continues the provisions of existing law with reference to the naturalization of alien enemies. However, subsection (e) of section 331 is new, and provides that an alien enemy shall cease to have that status within the meaning of the section, upon the determination *by proclamation of the President, or by concurrent resolution of the Congress*, that hostilities between the United States and the alien's former country have ended. This new provision will permit the processing of petitions for naturalization of alien enemies after hostilities have ceased but before an actual treaty has been ratified.

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8 U.S.C. 1481. LOSS OF NATIONALITY BY NATIVE-BORN OR NATURALIZED CITIZEN; VOLUNTARY ACTION; BURDEN OF PROOF; PRESUMPTIONS

(a) From and after the effective date of this chapter a person who is a national of the United States whether by birth or naturalization, shall lose his nationality by

\* \* \* \* \*

[Emphasis supplied.]



(10) departing from or remaining outside of the jurisdiction of the United States *in time of war or during a period declared by the President to be a period of national emergency* for the purpose of evading or avoiding training and service in the military, air, or naval forces of the United States. For the purposes of this paragraph failure to comply with any provision of any compulsory service laws of the United States shall raise the presumption that the departure from or absence from the United States was for the purpose of evading or avoiding training and service in the military, air, or naval forces of the United States.

### —NOTE—

EXCERPT FROM HOUSE REPT. 1365, 82D CONG., 2D SESS. (1952)

The tenth act causing loss of nationality is departing from or remaining outside of the United States *in time of war or during a proclaimed national emergency* for the purpose of evading or avoiding training and service in the military, air, or naval forces. The bill adds a provision that the failure to comply with any provision of any compulsory service laws of the United States shall raise the presumption that the departure from or absence from the United States was for the purpose of evading or avoiding training and service.

### TITLE 10—ARMED FORCES

#### 10 U.S.C. 123. SUSPENSION OF CERTAIN PROVISIONS OF LAW RELATING TO RESERVE COMMISSIONED OFFICERS

(a) *In time of war, or of national emergency declared by Congress, the President may suspend the operation of any provision of the following sections of this title with respect to any armed force:* 281, 592, 1002, 1005, 1006, 1007, 1374, 3217, 3218, 3219, 3220, 3352(a) (last sentence), 3353, 3354, 3359, 3360, 3362, 3363, 3364, 3365, 3366, 3367, 3368, 3369, 3370, 3371, 3375, 3378, 3380, 3382, 3383, 3384, 3385, 3386, 3388, 3389, 3390, 3392, 3393, 3494, 3571, 3819, 3820(c), 3843, 3844, 3845, 3846, 3847, 3848, 3850, 3851, 3852, 3853, 3854, 3855, 5414, 5457, 5458, 5506, 5600, 5665, 5867, 5891, 5892, 5893, 5894, 5895, 5896, 5897, 5898, 5899, 5900, 5901, 5902, 5903, 5904, 5905, 5906, 5908, 5909, 5910, 5911, 6391, 6397, 6398, 6403, 6410, 8217, 8218, 8219, 8353, 8354, 8358, 8359, 8360, 8361, 8362, 8363, 8365, 8366, 8367, 8368, 8370, 8371, 8372, 8373, 8374, 8375, 8376, 8377, 8378, 8379, 8380, 8381, 8392, 8393, 8494, 8571, 8819, 8843, 8844, 8845, 8846, 8847, 8848, 8850, 8851, 8852, 8853, and 8855.

(b) If a provision is so suspended, the Secretary of Defense shall, before the end of that suspension, recommend to Congress legislation necessary to adjust the grades of reserve commissioned officers other

[Emphasis supplied.]

than commissioned warrant officers. So far as practicable, this legislation shall be the same as that recommended for adjusting the grades of officers of the regular component of the armed force concerned. (Added Pub. L. 85-861, § 1 (2) (A), Sept. 2, 1958, 72 Stat. 1437, and amended Pub. L. 86-559, § 1 (1), June 30, 1960, 74 Stat. 264; Pub. L. 89-718, § 1, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 90-130, § 1(1), Nov. 8, 1967, 81 Stat. 374.)

(b) Notwithstanding subsection (a), *if the President determines it to be necessary because of hostilities or an imminent threat of hostilities, any function, power, or duty, including one assigned to the Army, Navy, Air Force, or Marine Corps by section 3062(b), 5012, 5013, or 8062(c) of this title, may be transferred, reassigned, or consolidated. The transfer, reassignment, or consolidation remains in effect until the President determines that hostilities have terminated or that there is no longer an imminent threat of hostilities, as the case may be.*

(c) Notwithstanding subsection (a), *the Secretary of Defense may assign or reassign the development and operational use of new weapons or weapons systems to one or more of the military departments or one or more of the armed forces. However, notwithstanding any other provision of this title or any other law, the Secretary of Defense shall not direct or approve a plan to initiate or effect a substantial reduction or elimination of a major weapons system until the Secretary of Defense has reported all the pertinent details of the proposed action to the Congress of the United States while the Congress is in session.*

(d) In subsection (a)(1), "major combatant function, power, or duty" does not include a supply or service activity common to more than one military department. The Secretary of Defense shall, whenever he determines it will be more effective, economical, or efficient, provide for the performance of such an activity by one agency or such other organizations as he considers appropriate. (Added Pub. L. 87-651, title II, § 201(a), Sept. 7, 1962, 76 Stat. 515 and amended Pub. L. 89-501, title IV, § 401, July 13, 1966, 80 Stat. 278.)

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#### 10 U.S.C. 125. FUNCTIONS, POWERS, AND DUTIES: TRANSFER, REASSIGNMENT, CONSOLIDATION, OR ABOLITION

(a) Subject to section 401 of title 50, *the Secretary of Defense shall take appropriate action (including the transfer, reassignment, consolidation, or abolition of any function, power, or duty) to provide more effective, efficient, and economical administration and operation, and to eliminate duplication, in the Department of Defense. However, except as provided by subsections (b) and (c), a function, power, or duty vested in the Department of Defense, or an officer, official, or agency thereof, by law may not be substantially transferred, reassigned, consolidated, or abolished unless the Secretary reports the details of the proposed transfer, reassignment, consolidation, or abolition to the Committees on Armed Services of the*

[Emphasis supplied.]

Senate and House of Representatives. The transfer, reassignment, consolidation, or abolition concerned takes effect on the first day after the expiration of the first 30 days that Congress is in continuous session after the Secretary so reports, unless either of those Committees, within that period, reports a resolution recommending that the proposed transfer reassignment, consolidation, or abolition be rejected by the Senate or the House of Representatives, as the case may be, because it—

(1) proposes to transfer, reassign, consolidate, or abolish a major combatant function, power, or duty assigned to the Army, Navy, Air Force, or Marine Corps by section 3062(b), 5012, 5013 or 8062(c) of this title; and

(2) would in its judgment, tend to impair the defense of the United States.

If either of those Committees, within that period, reports such a resolution and it is not adopted by the Senate or the House of Representatives, as the case may be, within the first 40 days that Congress is in continuous session after that resolution is so reported, the transfer, reassignment, consolidation, or abolition concerned takes effect on the first day after the expiration of that forty-day period. For the purposes of this subsection, a session may be considered as not continuous only if broken by an adjournment of Congress sine die. However, in computing the period that Congress is in continuous session, days that the Senate or the House of Representatives is not in session because of an adjournment of more than three days to a day certain are not counted.

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#### 10 U.S.C. 142. CHAIRMAN

(a) The Chairman of the Joint Chiefs of Staff shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. He serves at the pleasure of the President for a term of two years, and may be reappointed in the same manner for one additional term. However, *in time of war declared by Congress there is no limit on the number of reappointments.*

(b) In addition to his other duties as a member of the Joint Chiefs of Staff, the Chairman shall, subject to the authority and direction of the President and the Secretary of Defense—

(1) preside over the Joint Chiefs of Staff;

(2) provide agenda for the meetings of the Joint Chiefs of Staff and assist them in carrying on their business as promptly as practicable; and

(3) inform the Secretary of Defense, and, when the President or the Secretary of Defense considers it appropriate, the President, of those issues upon which the Joint Chiefs of Staff have not agreed.

(c) While holding office, the Chairman outranks all other officers of the armed forces. However, he may not exercise military com-

[Emphasis supplied.]

mand over the Joint Chiefs of Staff or any of the armed forces. (Aug. 10, 1956, ch. 1041, 70A Stat. 7; Sept. 7, 1962, Pub. L. 87-649, § 14c(1), 76 Stat. 501.)

#### 10 U.S.C. 143. JOINT STAFF

(a) There is under the Joint Chiefs of Staff a Joint Staff consisting of not more than 400 officers selected by the Joint Chiefs of Staff with the approval of the Chairman. The Joint Staff shall be selected in approximately equal numbers from—

- (1) the Army;
- (2) the Navy and the Marine Corps; and
- (3) the Air Force.

The tenure of the members of the Joint Staff is subject to the approval of the Chairman of the Joint Chiefs of Staff, and *except in time of war*, no such tenure of duty may be more than three years. *Except in time of war*, officers completing a tour of duty with the Joint Staff may not be reassigned to the Joint Staff for a period of not less than three years following their previous tour of duty on the Joint Staff except that selected officers may be recalled to Joint Staff duty in less than three years with the approval of the Secretary of Defense in each case. The number of such officers recalled to Joint Staff duty in less than three years shall not exceed 30 serving on the Joint Staff at any one time.

(b) The Chairman of the Joint Chiefs of Staff in consultation with the Joint Chiefs of Staff, and with the approval of the Secretary of Defense, shall select the Director of the Joint Staff. *Except in time of war*, the tour of duty of the Director may not exceed three years. Upon the completion of a tour of duty as Director of the Joint Staff, the Director, except in time of war, may not be reassigned to the Joint Staff. The Director must be an officer junior in grade to each member of the Joint Chiefs of Staff.

(c) The Joint Staff shall perform such duties as the Joint Chiefs of Staff or the Chairman prescribes. The Chairman of the Joint Chiefs of Staff manages the Joint Staff and its Director, on behalf of the Joint Chiefs of Staff.

(d) The Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority. The Joint Staff may be organized and may operate along conventional staff lines to support the Joint Chiefs of Staff in discharging their assigned responsibilities. (Aug. 10, 1956, ch. 1041, 70A Stat. 7; Aug. 6, 1958, Pub. L. 85-599, § 5 (a), 72 Stat. 517.)

#### —NOTE—

EXCERPT FROM SENATE REPT. 1876, 87TH CONG., 2D SESS. (1962)

The proposed legislation *will give the executive branch*, in clear and unequivocal terms, authority to accomplish all that it has said it wants to do. *At the same time, provision*

[Emphasis supplied.]

*is made for Congress to retain and exercise the responsibilities imposed upon it by the Constitution.*

\* \* \* \* \*

The policy provision of existing law and the proposed legislation states that the military departments are not to be merged. All witnesses appearing before the committee, and the President, have stated that the military departments should not be merged. Great emphasis has been placed on the efficiency of decentralization in an organization of this magnitude.

\* \* \* \* \*

Finally, it should be noted that the *proposed section 3 gives the President full and absolute power*, without restrictions of any nature, to transfer, reassign, or consolidate any function (including combatant functions) *in time of hostilities or imminent threat of hostilities. Upon the termination of hostilities or imminent threat of hostilities, the functions will revert to their former status.* The paragraph of the proposed section 3 gives the President unlimited flexibility when immediate decisions are required. *The President is given the sole authority to determine when hostilities exist or when there is "imminent threat of hostilities."*

### —NOTE—

EXCERPT FROM HOUSE REPT. 1066, 82D CONG., 2D SESS. (1952)

#### MISSION AND PURPOSE OF THE RESERVE COMPONENTS

Generally.—The mission of the reserve components is to provide the initial forces in mobilization. It is not to be construed to imply that the Reserves will be relieved when additional personnel and units are available, but that they will be continued on active duty or released in accordance with the needs of the Armed Forces dependent upon the extent of the planned mobilization. In addition, the mission of the reserve components includes the supplying of personnel necessary for enabling the Armed Forces to attain their authorized strengths at other times.

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#### 10 U.S.C. 262. PURPOSE

The purpose of each reserve component is to provide trained units and qualified persons available for active duty in the armed forces, *in time of war or national emergency and at such other times as the national security requires*, to fill the needs of the armed forces whenever, during, and after the period needed to procure and train additional units and qualified persons to achieve the planned mobilization, more units and persons are needed than are in the regular

[Emphasis supplied.]

components. (Aug. 10, 1956, ch. 1041, 70A Stat. 10; Dec. 1, 1967, Pub. L. 90-168, § 2(5), 81 Stat. 521.)

## 10 U.S.C. 263. BASIC POLICY FOR ORDER INTO FEDERAL SERVICE

Whenever Congress determines that more units and organizations are needed for the national security than are in the regular components of the ground and air forces, the Army National Guard of the United States and the Air National Guard of the United States, or such parts of them as are needed, together with units of other reserve components necessary for a balanced force, shall be ordered to active duty and retained as long as so needed. (Aug. 10, 1956, ch. 1041, 70A Stat. 11.)

### HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code)               | Source (Statutes at Large)   |
|-----------------|----------------------------------|--|
| 263-----        | 50: 921 (b) (less 1st sentence). | July 9, 1952, ch. 608, § 201(b) (less 1st sentence), 66 Stat. 482. |

The words "It is the intent of Congress that" are omitted as surplusage. The words "more \* \* \* than are in" are substituted for the words "in excess of those". The words "active duty" are substituted for the words "active military service of the United States". The words "as long as so needed" are substituted for the words "so long as such necessity exists".

### PRESIDENTIAL AUTHORIZATION TO ORDER READY RESERVE TO ACTIVE DUTY

Pub. L. 89-687, title I, § 101, Oct. 15, 1966, 80 Stat. 981, as amended by Pub. L. 90-500, title III, § 303, Sept. 20, 1968, 82 Stat. 850, provided that:

"(a) Notwithstanding any other provision of law, until June 30, 1968, the *President may order to active duty* any member of the Ready Reserve of an armed force who—

"(1) is not assigned to, or participating satisfactorily in, a unit in the Selected Reserve, and

"(2) has not fulfilled his statutory reserve obligation, and

"(3) has not served on active duty or active duty for training for a total of twenty-four months.

"(b) Notwithstanding the provisions of any other law, until June 30, 1968, the *President may order to active duty* any member of the Ready Reserve of an armed force who had become a member of a reserve component prior to July 1, 1966; and who

"(1) has not served on active duty or active duty for training for a period of one hundred and twenty days or more; and

"(2) has not fulfilled his statutory reserve military obligation.

"(c) A member ordered to active duty under this section may be required to serve on active duty until his total service on active duty or active duty for training equals twenty-four months. If the enlistment or period of military service of a member of the Ready Reserve ordered to active duty under subsection (a) or (b) of this section would expire before he has served the required period of active duty prescribed herein, his enlistment or period of military service may be extended until that service on active duty has been completed.

[Emphasis supplied.]

"(d) In order to achieve fair treatment as between members in the Ready Reserve who are being considered for active duty under this section, appropriate consideration shall be given to—

"(1) family responsibilities; and

"(2) employment necessary to maintain the national health, safety, or interest.

"(e) Notwithstanding any other provision of law, until June 30, 1969, the President may, when he deems it necessary, order to active duty any unit of the Ready Reserve of an armed force for a period of not to exceed twenty-four months."

Pub. L. 87-736, Oct. 3, 1962, 76 Stat. 710, authorized the President, until February 28, 1963, to order any unit, and any member of the Ready Reserve of an armed force to active duty for not more than twelve consecutive months.

Pub. L. 87-117, Aug. 1, 1961, 75 Stat. 242, authorized the President, until July 1, 1962, to order any unit, and any member not assigned to a unit organized to serve as a unit, in the Ready Reserve of an armed force to active duty for not more than twelve consecutive months.

#### 10 U.S.C. 269. READY RESERVE: PLACEMENT IN; TRANSFER FROM

(a) Each person required under law to serve in a reserve component shall, upon becoming a member, be placed in the Ready Reserve of his armed force for his prescribed term of service, unless he is eligible to transfer to the Standby Reserve under subsection (e).

(b) The units and members of the Army National Guard of the United States and of the Air National Guard of the United States are in the Ready Reserve of the Army and the Ready Reserve of the Air Force, respectively.

(c) All Reserves assigned to units organized to serve as units and designated as units in the Ready Reserve are in the Ready Reserve.

(d) Under such regulations as the *Secretary concerned may prescribe*, any qualified Reserve may, upon his request, be placed in the Ready Reserve. However, a member of the Retired Reserve who is entitled to retired pay may not be placed in the Ready Reserve unless the Secretary concerned makes a special finding that the member's services in the Ready Reserve are indispensable. The Secretary concerned may not delegate his authority under the preceding sentence:

(e) *Except in time of war or of national emergency declared by Congress*, a Reserve who is not on active duty, or who is on active duty for training, shall, upon his request, be transferred to the Standby Reserve for the rest of his term of service, if—

(1) he served on active duty (other than for training) in the armed forces for an aggregate of at least five years; or

(2) he served on active duty (other than for training) in the armed forces for an aggregate of less than five years, but satisfactorily participated, as determined by the Secretary concerned, in an accredited training program in the Ready Reserve for a period which, when added to his period of active duty (other than for training), totals at least five years, or such shorter period as the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military

{[Emphasis supplied.]}

department, may prescribe for satisfactory participation in an accredited training program designated by the Secretary concerned.

This subsection does not apply to a member of the Ready Reserve while he is serving under an agreement to remain in the Ready Reserve for a stated period.

(f) Subject to subsection (g), a member in the Ready Reserve may be transferred to the Standby Reserve or, if he is qualified and so requests, to the Retired Reserve, under such regulations as the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, may prescribe.

(g) A member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred to the Standby Reserve only with the consent of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned. (Aug. 10, 1956, ch. 1041, 70A Stat. 12; Sept. 2, 1958, Pub. L. 85-861, § 1 (4), 72 Stat. 1437; June 30, 1960, Pub. L. 86-599, § 1 (2) (A), 74 Stat. 264; Dec. 1, 1967, Pub. L. 90-168, § 2 (9), 81 Stat. 522.)

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#### 10 U.S.C. 271. READY RESERVE: CONTINUOUS SCREENING

Under regulations *to be prescribed by the President*, each armed force shall provide a system of continuous screening of units and members of the Ready Reserve to insure that—

- (1) there will be no significance attrition of those members or units during a mobilization;
- (2) there is a proper balance of military skills;
- (3) except for those with military skills for which there is an overriding requirement, members having critical civilian skills are not retained in numbers beyond the need for those skills;
- (4) with due regard to national security and military requirements, recognition will be given to participation in combat; and
- (5) members whose mobilization *in an emergency* would result in an extreme personal or community hardship are not retained in the Ready Reserve.

(Added Pub. L. 85-861, § 1 (5) (A), Sept. 2, 1958, 72 Stat. 1438.)

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#### 10 U.S.C. 331. FEDERAL AID FOR STATE GOVERNMENTS

Whenever there is an insurrection in any State against its government, *the President may*, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection. (Aug. 10, 1956, ch. 1041, 70A Stat. 15.)

[Emphasis supplied.]



### 10 U.S.C. 332. USE OF MILITIA AND ARMED FORCES TO ENFORCE FEDERAL AUTHORITY

Whenever the *President considers* that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion. (Aug. 10, 1956, ch. 1041, 70A Stat. 15.)

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### 10 U.S.C. 333. INTERFERENCE WITH STATE AND FEDERAL LAW

*The President*, by using the militia or the armed forces, or both, or by any other means, *shall take such measures as he considers necessary* to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution. (Aug. 10, 1956, ch. 1041, 70A Stat. 15.)

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### 10 U.S.C. 334. PROCLAMATION TO DISPERSE

*Whenever the President considers it necessary* to use the militia or the armed forces under this chapter, *he shall, by proclamation*, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time. (Aug. 10, 1956, ch. 1041, 70A Stat. 16.)

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### 10 U.S.C. 351. DURING WAR OR THREAT TO NATIONAL SECURITY

(a) *The President*, through any agency of the Department of Defense designated by him, *may arm, have armed, or allow to be armed, any watercraft or aircraft* that is capable of being used as a means of transportation on, over, or under water, and is documented, registered, or licensed under the laws of the United States.

[Emphasis supplied.]

(b) This section applies *during a war and at any other time when the President determines* that the security of the United States is threatened by the application, or the imminent danger of application, of physical force by any foreign government or agency against the United States, its citizens, the property of its citizens, or their commercial interests.

(c) Section 463 of title 22 does not apply to vessels armed under this section. (Aug. 10, 1956, ch. 1041, 70A Stat. 16.)

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10 U.S.C. 506. REGULAR COMPONENTS: EXTENSION OF ENLISTMENTS  
DURING WAR

An enlistment in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard in effect at the beginning of a war, or entered into during a war, *unless sooner terminated by the President, continues in effect until six months after the termination of that war.* (Added Pub. L. 90-235, § 2(a) (1) (B), Jan. 2, 1968, 81 Stat. 754.)

—NOTE—

EXCERPT FROM HOUSE REPT. 868, 90TH CONG., 2D SESS. (1968)

While the bill is not designed to make substantive changes in the law, one substantive change is made concerning authority for involuntary extension of enlistments and other periods of active duty. *The change is proposed to tighten up congressional authority and control in this area.*

The Secretary of the Navy, under present law, has discretionary authority in *time of war or in time of national emergency* to extend enlistments involuntarily "for such periods as he considers necessary." The Navy Secretary used this authority to extend enlistments in 1965 for 4 months using the authority of the Korean war national emergency which was declared in December 1950, and is still in effect. The Secretaries of the Army and the Air Force, by contrast, do not have this national emergency authority to extend enlistments; their powers are limited to periods of war.

As originally submitted by the Department of Defense, the bill would have made the discretionary authority of the Secretary of the Navy available to all of the services. After consultation with the Committee on Armed Services, the Department of Defense agreed to having the bill revised so as to eliminate the discretionary authority of the Navy Secretary and to apply to all of the service Secretaries a section of law limiting their power to involuntarily extend service to periods of war. The committee strongly feels *that for anything short of war, service should not be involuntarily extended while Congress is still in session without action*

[Emphasis supplied.]

of the Congress. It should be noted that in the past when it was felt extension authority was required in identical periods for the Army and the Air Force, the Congress readily provided such authority, as in the Berlin and Cuban crises.

The committee recognized, however, that there was a gap in the law in that there would be no authority in those extreme emergencies when Congress is not in session. There was included in the bill, therefore, a new section, section 671b, *which authorizes the President, when he determines the national interest so requires, to extend enlistments or other periods of active duty when Congress is not in session, having adjourned sine die, if such enlistments or periods of active duty are due to expire before the 30th day after the Congress next convenes or reconvenes.* The committee emphasizes that such authority is only granted when Congress is out of session and only affects enlistments of periods of service that expire either before Congress returns or within 30 days after Congress returns. The provision, therefore, is meant to fill a gap in the law and *to apply only in cases of extreme emergency.* Extensions under this provision could not be for more than 6 months and in no case could they run beyond 60 days after the Congress next convenes or reconvenes.

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#### 10 U.S.C. 511. RESERVE COMPONENTS: TERMS

(a) Except as otherwise prescribed by law, enlistments as Reserves are for terms prescribed by the Secretary concerned. However, an enlistment that is in effect at the *beginning of a war or of a national emergency declared by Congress*, or entered into during such a war or emergency, and that would otherwise expire, *continues in effect until the expiration of six months after the end of that war or emergency*, whichever is later, unless sooner terminated by the Secretary concerned.

(b) Under regulations to be prescribed by the Secretary concerned, a person who is qualified for enlistment for active duty in an armed force, and who is not under orders to report for induction into an armed force under sections 451-473 of title 50, appendix, may be enlisted as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve, for a term of six years. Each person enlisted under this subsection shall serve—

- (1) on active duty for a period of two years;
- (2) satisfactorily as a member of the Ready Reserve for a period that, when added to his active duty under clause (1), totals five years; and
- (3) the rest of his period of enlistment as a member of the Standby Reserve.

[Emphasis supplied.]

(c) *In time of war or of national emergency declared by Congress*, the term of service of an enlisted member transferred to a reserve component according to law, that would otherwise expire, *continues until the expiration of six months after the end of that war or emergency*, whichever is later, unless sooner terminated by the Secretary concerned.

(d) Under regulations to be prescribed by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a non-prior-service person who is under 26 years of age, who is qualified for induction for active duty in an armed force, and who is not under orders to report for induction into an armed force under the Military Selective Service Act of 1967 (50 App. U.S.C. 451-473), except as provided in section 6(c) (2) (A) (ii) and (iii) of such Act, may be enlisted in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve, for a term of six years. Each person enlisted under this subsection shall perform an initial period of active duty for training of not less than four months to commence insofar as practicable within 180 days after the date of that enlistment. (Aug. 10, 1956, ch. 1041, 70A Stat. 18; Sept. 2, 1958, Pub. L. 85-861, § 1(8), 72 Stat. 1439; Sept. 3, 1963, Pub. L. 88-110, § 3, 77 Stat. 135; Dec. 1, 1967, Pub. L. 90-168, § 2(11), 81 Stat. 523.)

#### 10 U.S.C. 519. TEMPORARY ENLISTMENTS: DURING WAR OR EMERGENCY

Except as provided in section 505 of this title and except for enlistments as Reserves of an armed force—

(1) temporary enlistments in an armed force entered into *in time of war or of emergency declared by Congress* shall be for the duration of the war or emergency plus six months; and

(2) only persons at least eighteen years of age and otherwise qualified under regulations to be prescribed by the Secretary concerned are eligible for such enlistments.

(Added Pub. L. 90-235, § 2(a) (1) (B), Jan. 2, 1968, 81 Stat. 755.)

#### —NOTE—

EXCERPT FROM HOUSE REPT. 868, 90TH CONG., 2D SESS. (1968)

Sections 3254 and 8254 of title 10, United States Code, provide that temporary enlistments in the Army or Air Force, as the case may be, entered into *in time of war or of emergency declared by Congress* shall be for the duration of the war or emergency plus 6 months; and that only persons at least 18 years of age and otherwise qualified under regulations to be prescribed by the Secretary concerned are eligible for such enlistments. There is no comparable provi-

[Emphasis supplied.]

sion for the Navy and Marine Corps. Section 519 is a proposed new section to be added to subtitle A of title 10, United States Code, which extends this provision governing temporary enlistments to the Navy and Marine Corps.

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**10 U.S.C. 565. WARRANT OFFICERS: SUSPENSION OF LAWS FOR PROMOTION OR MANDATORY RETIREMENT OR SEPARATION DURING WAR OR EMERGENCY**

*In time of war, or of emergency declared after May 29, 1954, by Congress or the President, the President may suspend the operation of any provision of law relating to promotion, or mandatory retirement or separation, of permanent regular warrant officers of any armed force. (Aug. 10, 1956, ch. 1041, 70A Stat. 24.)*

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**10 U.S.C. 599. WARRANT OFFICERS: SUSPENSION OF LAWS FOR PROMOTION OR MANDATORY RETIREMENT OR SEPARATION DURING WAR OR EMERGENCY**

*In time of war, or of emergency declared after May 29, 1954, by Congress or the President, the President may suspend the operation of any provision of law relating to promotion, or mandatory retirement or separation, of permanent reserve warrant officers of any armed force. (Aug. 10, 1956, ch. 1041, 70A Stat. 26.)*

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**10 U.S.C. 671a. MEMBERS: SERVICE EXTENSION DURING WAR**

Unless terminated at an earlier date by the Secretary concerned, the period of active service of any member of an armed force is extended for the duration of any war in which the United States may be engaged and for six months thereafter. (Added Pub. L. 90-235, § 1(a) (1) (A), Jan. 2, 1968, 81 Stat. 753.)

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**10 U.S.C. 671b. MEMBERS: SERVICE EXTENSION WHEN CONGRESS IS NOT IN SESSION**

(a) Notwithstanding any other provision of law, when the President determines that the national interest so requires, he may, if Congress is not in session, having adjourned sine die, authorize the Secretary of Defense to extend for not more than six months enlistments, appointments, periods of active duty, periods of active duty for training, periods of obligated service, or other military status, in any component of the Armed Forces of the United States, that expire before the thirtieth day after Congress next convenes or reconvenes.

[Emphasis supplied.]

(b) An extension under this section continues until the sixtieth day after Congress next convenes or reconvenes or until the expiration of the period of theological or divinity school. (Added Pub. L. 85-861, § 1 (15), Sept. 2, 1958, 72 Stat. 1441.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 868, 90TH CONG., 2D SESS. (1968)

The Secretary of the Navy, under present law, has discretionary authority *in time of war or in time of national emergency* to extend enlistments involuntarily "for such periods as he considers necessary." The Navy Secretary used this authority to extend enlistments in 1965 for 4 months using the authority of the Korean war national emergency which was declared in December 1950, and is still in effect. The Secretaries of the Army and the Air Force, by contrast, do not have this national emergency authority to extend enlistments; their powers are limited to periods of war.

As originally submitted by the Department of Defense, the bill would have made the discretionary authority of the Secretary of the Navy available to all of the services. After consultation with the Committee on Armed Services, the Department of Defense agreed to having the bill revised so as to eliminate the discretionary authority of the Navy Secretary and to apply to all of the service Secretaries a section of law limiting their power to involuntarily extend service to periods of war. The committee strongly feels that for anything short of war, service should not be involuntarily extended while Congress is still in session without action of the Congress. It should be noted that in the past when it was felt extension authority was required in critical periods for the Army and the Air Force, the Congress readily provided such authority, as in the Berlin and Cuban crises.

The committee recognized, however, that there was a gap in the law in that there would be no authority *in those extreme emergencies when Congress is not in session*. There was included in the bill, therefore, a new section, section 671b, *which authorizes the President, when he determines the national interest so requires, to extend enlistments or other periods of active duty when Congress is not in session, having adjourned sine die, if such enlistments or periods of active duty are due to expire before the 30th day after the Congress next convenes or reconvenes*. The committee emphasizes that such authority is only granted when Congress is out of session and only affects enlistments or periods of service that expire either before Congress returns or within 30 days after Congress returns. The provision, therefore, is meant to fill a gap in the law and *to apply only in cases of extreme emergency*. Extensions under this

[Emphasis supplied.]

provision could not be for more than 6 months and in no case could they run beyond 60 days after the Congress next convenes or reconvenes.

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#### 10 U.S.C. 672. RESERVE COMPONENTS GENERALLY

(a) *In time of war or of national emergency declared by Congress, or when otherwise authorized by law*, an authority designated by the Secretary concerned may, without the consent of the persons affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of a reserve component under the jurisdiction of that Secretary to active duty (other than for training) for the duration of the war or emergency and for six months thereafter. However—

(1) a member on an inactive status list or in a retired status may not be ordered to active duty under this subsection unless the Secretary concerned, with the approval of the Secretary of Defense in the case of the Secretary of a military department, determines that there are not enough qualified Reserves in an active status or in the inactive National Guard in the required category who are readily available; and

(2) a member of the Standby Reserve may not be ordered to active duty under this subsection unless the Director of Selective Service determines that the member is available for active duty.

#### —NOTE—

EXCERPT FROM HOUSE REPT. 1066, 82D CONG., 2D SESS. (1952)

#### DUTY AND RELEASE FROM DUTY

##### Liability for active duty

When authorized by Congress.—This subsection authorizes any member of a reserve component to be ordered to active duty without his consent *in time of war or national emergency hereafter declared by the Congress or when otherwise authorized by law*. In time of war or national emergency declared by Congress, members ordered to active duty would be liable to serve for the duration of the war or national emergency and for 6 months thereafter. The committee has added a safeguard so that members in an inactive or retired status would not be ordered to active duty without their consent unless the appropriate Secretary determined that no qualified members of the Ready Reserve or members of the Stand-by Reserve in an active status with appropriate qualifications were readily available. This section authorizes members to be called as individuals or as units, but the committee has provided a safeguard so that members of units organized to serve as units can only be

[Emphasis supplied.]

called with their unit. This would not prevent the ordering of individuals from units organized for training purposes only.

#### 10 U.S.C. 673. READY RESERVE

(a) *In time of national emergency declared by the President after January 1, 1953, or when otherwise authorized by law*, an authority designated by the Secretary concerned may, without the consent of the persons concerned, order any unit, and any member not assigned to a unit organized to serve as a unit, in the Ready Reserve under the jurisdiction of that Secretary to active duty (other than for training) for not more than 24 consecutive months.

(b) To achieve fair treatment as between members in the Ready Reserve who are being considered for recall to duty without their consent, consideration shall be given to—

(1) the length and nature of previous service, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;

(2) family responsibilities; and

(3) employment necessary to maintain the national health, safety, or interest.

The Secretary of Defense shall prescribe such policies and procedures as he considers necessary to carry out this subsection. He shall report on those policies and procedures at least once a year to the Committees on Armed Services of the Senate and the House of Representatives.

(c) Not more than 1,000,000 members of the Ready Reserve may be on active duty (other than for training), without their consent, under this section at any one time. (Aug. 10, 1956, ch. 1041, 70A Stat. 28; Sept. 2, 1958, Pub. L. 85-861, §§ 1 (14), 33(a) (5), 72 Stat. 1441, 1564.)

#### —NOTE—

EXCERPT FROM HOUSE REPT. 1066, 82D CONG., 2D SESS. (1952)

#### NATIONAL EMERGENCY DECLARED BY THE PRESIDENT

*In time of national emergency proclaimed by the President, or when otherwise authorized by law*, any member of the Ready Reserve may be ordered to active duty without his consent for such period of time not to exceed 24 consecutive months, but no member could be ordered to active duty, under the committee amendment, until the Congress had determined the number of members needed for the national security. Members may be ordered as individuals or as units, but as in the previous subsection the committee has provided a safeguard against the ordering of individual members of units organized to serve as units. This provision would apply *only in a future national emergency proclaimed by the President* but would retain in effect the

[Emphasis supplied.]



authority to order such members to active duty under section 21 of the UMTS Act with the limitations contained therein.

At present time all members of the Naval Reserve, Marine Corps Reserve, and the Coast Guard Reserve, may be ordered to active duty in time of Presidential emergency for the duration of the emergency and for 6 months thereafter. In addition, the President may, at any time, call out the National Guard and Air National Guard to enforce the laws of the United States, to quell insurrection, and in case of actual or threatened invasion. As far as the Naval Reserve, Marine Corps Reserve, and Coast Guard Reserve are concerned, this subsection represents a substantial decrease in the number and the period of service of reservists liable to be ordered to active duty *in time of Presidential emergency*.

### —NOTE—

EXCERPT FROM HOUSE REPT. 1066, 82D CONG., 2D SESS. (1952)

#### THE READY RESERVE

The Ready Reserve defined by this section would contain those portions of the reserve components which would be most liable for active duty and which would be subject to call *in time of war, or national emergency declared by the President or the Congress, or when otherwise authorized by law*. The last phrase includes authority to order reservists to active duty pursuant to section 21 of the Universal Military Training and Service Act which is not affected by this bill.

Note, however, that under section 234 (b), which authorizes the ordering of the Ready Reserve to active duty *in time of national emergency declared by the President*, the Congress must first determine the number of members who may be so ordered.

The Ready Reserve would be the only part of the reserve components which could be used *in a Presidential emergency* without further congressional action. At the present time, all of the Naval Reserve, Marine Corps Reserve, and Coast Guard Reserve could be called to active service in a Presidential emergency. In addition, the entire National Guard and the entire Air National Guard is now callable by the President in case of threatened or actual invasion, insurrection, or to execute the Federal laws.

### —NOTE—

Under this provision 1,000,000 men can be called to active duty. In addition the National Guard can be federalized in a

[Emphasis supplied.]

national emergency, which adds several thousand men to the total. In time of national emergency, therefore, in addition to existing armed forces at least eight divisions of troops, over 100 squadrons of aircraft and 55 ships can be activated by order of the President.

#### 10 U.S.C. 674. STANDBY RESERVE

(a) Units and members in the Standby Reserve may be ordered to active duty (other than for training) only as provided in section 672 of this title.

(b) *In time of emergency*—

(1) no unit in the Standby Reserve organized to serve as a unit or any member thereof may be ordered to active duty (other than for training), unless the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, determines that there are not enough of the required kinds of units in the Ready Reserve that are readily available; and

(2) no other member in the Standby Reserve may be ordered to active duty (other than for training) as an individual without his consent, unless the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, determines that there are not enough qualified members in the Ready Reserve in the required category who are readily available.

(Aug. 10, 1956, ch. 1041, 70A Stat. 29; Sept. 7, 1962, Pub. L. 87-651, title I, § 130, 76 Stat. 514.)

#### —NOTE—

EXCERPT FROM HOUSE REPT. 1066, 82D CONG., 2D SESS. (1952)

##### STANDBY RESERVE

The Standby Reserve established by this section would be available for active duty only upon action by the Congress authorizing its call. The phrase "*or when otherwise authorized by law*" includes authority to order members of the Standby Reserve to active duty under section 21 of the Universal Military Training and Service Act. The restriction on the call of inactive and volunteer reservists who served for more than a year during World War II would apply to members of the Standby Reserve who are not members of organized units and who are ordered to active duty under that section. It is necessary to continue existing authority until a sufficiently large Reserve is established through Selective Service and UMT when authorized. Due to the current world situation, it is impossible to maintain an effective source of replacement of present reservists

[Emphasis supplied.]

during this transition period without continuing section 21 in effect.

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#### 10 U.S.C. 675. RETIRED RESERVE

A member in the Retired Reserve may, if qualified, *be ordered to active duty without his consent, but only as provided in section 672 (a) of this title.* (Aug. 10, 1956, ch. 1041, 70A Stat. 29.)

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#### 10 U.S.C. 679. ACTIVE DUTY AGREEMENTS

(a) To provide definite terms of active duty (other than for training) for Reserves with their consent, the Secretary concerned may make a standard written agreement with any member of a reserve component under his jurisdiction requiring the member to serve for a period of active duty (other than for training) of not more than five years. When such an agreement expires, a new one may be made. This subsection does not apply in time of war declared by Congress.

(b) An agreement may not be made under subsection (a) unless the specified period of duty is at least 12 months longer than any period of active duty that the member is otherwise required to perform.

(c) Agreements made under subsection (a) shall be uniform so far as practicable, and are subject to such standards and policies as may be prescribed by the Secretary of Defense for the armed forces under his jurisdiction or by the Secretary of the Treasury for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(d) If an agreement made under subsection (a) expires *during a war or during a national emergency declared by Congress or the President after January 1, 1953*, the Reserve concerned may be kept on active duty, without his consent, as otherwise prescribed by law. (Aug 10, 1956, ch. 1041, 70A Stat. 30.)

#### —NOTE—

EXCERPT FROM HOUSE REPT. 1066, 82D CONG., 2D SESS. (1952)

#### CONTINUATION OF ACTIVE DUTY

This section provides that *in time of a future war or national emergency* any member whose term of service expires under a contract for active duty may be continued on active duty in accordance with laws and regulations, so that he will have the same liability for involuntary service as other members of the reserve components in the same category.

[Emphasis supplied.]

## 10 U.S.C. 681. RESERVES: RELEASE FROM ACTIVE DUTY

(a) Except as otherwise provided in this title, the Secretary concerned may at any time release a Reserve under his jurisdiction from active duty.

(b) *In time of war or of national emergency declared by Congress or the President after January 1, 1953*, a member of a reserve component may be released from active duty (other than for training) only if—

(1) a board of officers convened at his request by an authority designated by the Secretary concerned recommends the release and the recommendation is approved;

(2) the member does not request that a board be convened; or

(3) his release is otherwise authorized by law.

This subsection does not apply to an armed force during a period of demobilization or reduction in strength of that armed force. (Aug. 10, 1956. ch. 1041, 70A Stat. 31.)

## 10 U.S.C. 687. NON-REGULARS: READJUSTMENT PAYMENT UPON INVOLUNTARY RELEASE FROM ACTIVE DUTY

(a) Except for members covered by subsection (b), a member of a reserve component or a member of the Army or the Air Force without component who is released from active duty involuntarily, or because he was not accepted for an additional tour of active duty for which he volunteered after he had completed a tour of active duty, and who has completed, immediately before his release, at least five years of continuous active duty, is entitled to a readjustment payment computed by multiplying his years of active service (*other than in time of war or of national emergency declared by Congress after June 28, 1962*), but not more than eighteen, by two months' basic pay of the grade in which he is serving at the time of his release. However, a member who is released from active duty because his performance of duty has fallen below standards prescribed by the Secretary concerned, or because his retention on active duty is not clearly consistent with the interests of national security, is entitled to a readjustment payment computed on the basis of one-half of one month's basic pay of the grade in which the member is serving at the time of his release from active duty. A person covered by this subsection may not be paid more than two years' basic pay of the grade in which he is serving at the time of his release or \$15,000, whichever amount is the lesser. For the purposes of this subsection—

(1) a period of active duty is continuous if it is not interrupted by a break in service of more than 30 days;

(2) a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded; and

[Emphasis supplied.]

(3) a period for which the member concerned has received readjustment pay under another provision of law may not be included.

(b) Subsection (a) does not apply to a member who—

(1) is released from active duty at his request;

(2) is released from active duty for training;

(3) under regulations to be prescribed by the Secretary of Defense, or by the Secretary of the Treasury with respect to the Coast Guard when it is not operating as a service in the Navy, is released from active duty because of moral or professional dereliction;

(4) upon release from active duty, is immediately eligible for retired pay or retainer pay based entirely on his military service;

(5) upon release from active duty, is immediately eligible for severance pay (other than under section 680 of this title) based on his military service and who elects to receive that severance pay; or

(6) upon release from active duty, is immediately eligible for disability compensation under a law administered by the Veterans' Administration and who elects to receive that compensation.

However, a member covered by clause (6) may receive a readjustment payment under this section and disability compensation if an amount equal to 75 percent of the readjustment payment is deducted from the disability compensation. This subsection does not prevent a member who elects to receive a readjustment payment under this section from becoming entitled to disability compensation based on his service performed after he makes that election.

(c) A member to whom a readjustment payment is made under this section is not entitled to mustering-out pay under the Mustering-Out Payment Act of 1944 (58 Stat. 8), the Veterans' Readjustment Assistance Act of 1952 (66 Stat. 663), or chapter 43 of title 38. If he was paid mustering-out pay under one of those provisions before he became entitled to a readjustment payment under this section, the amount of that mustering-out pay shall be deducted from the amount to which he is entitled under this section.

(d) Any readjustment payment to which a member becomes entitled under this section shall be reduced by the amount of any previous payment made to him under this section that he has not repaid to the United States. If he has repaid that amount to the United States, the period covered by it shall be treated as a period for which a payment has not been made under this section.

(e) Repealed. Pub. L. 89-718, § 6(4), Nov. 2, 1966, 80 Stat. 1116.

(f) If a member who received a readjustment payment under this section after June 28, 1962, qualifies for retired pay under any provision of this title or title 14 that authorizes his retirement upon completion of twenty years of active service, an amount equal to 75 percent of that payment, without interest, shall be deducted immediately from his retired pay. (Added Pub. L. 87-651, title I, §

102(a), Sept. 7, 1962, 76 Stat. 506, and amended Pub. L. 89-718, § 6, Nov. 2, 1966, 80 Stat. 1115.)

#### 10 U.S.C. 712. FOREIGN GOVERNMENTS: DETAIL TO ASSIST

(a) Upon the application of the country concerned, the President, whenever he considers it in the public interest, may detail members of the Army, Navy, Air Force, and Marine Corps to assist in military matters—

(1) any republic in North America, Central America, or South America;

(2) the Republic of Cuba, Haiti, or Santo Domingo; and

(3) *during a war or a declared national emergency*, any other country that he considers it advisable to assist in the interest of national defense.

(b) Subject to the prior approval of the Secretary of the military department concerned, a member detailed under this section may accept any office from the country to which he is detailed. He is entitled to credit for all service while so detailed, as if serving with the armed forces of the United States. Arrangements may be made by the President, with countries to which such members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions. (Aug. 10, 1956, ch. 1041, 70A Stat. 32; June 30, 1958, Pub. L. 85-477, ch. V, § 502 (k), 72 Stat. 275.)

#### —NOTE—

EXCERPT FROM SENATE REPT. 7, 69TH CONG., 1ST SESS. (1952)

The Committee on Military Affairs, to which was referred the bill (S. 1480) to authorize the President to detail officers and enlisted men of the United States Army, Navy, and Marine Corps to assist the Governments of the Latin American Republics in military and naval matters, has had the same under consideration and recommends that it pass.

A similar provision was favorably reported to the Senate in the Sixty-eighth Congress in the bill S. 1974, providing for sundry matters affecting the Military Establishment (Rept. 195). Referring to this provision, that report said:

The advantages of such authority as is indicated in the proposed section are manifest. The primary consideration is that of the future solidarity of Pan American views and aims which will be brought about by bringing the armies of the Republics of North and South America in close touch with that of the United States. The presence of officers of our Army will also greatly assist to promote friendly relations between the United

[Emphasis supplied.]

States and the country in which they are serving, and the experience of these officers will be very valuable to the War Department and add greatly to the information concerning Latin American countries.

Prior to the World War several European nations took a very active part in the military affairs of various countries in South America, and the effects of these efforts were very thoroughly impressed upon the armies concerned. Besides the military effect mentioned the influence of European countries was also seen in various political and economic matters. Since the World War the efforts indicated have been resumed with more or less effect.

It is believed that such a condition of affairs is not conducive to the best interests of the United States and that, if authority is granted to send officers of our Army to Latin American countries in the manner indicated by the proposed section, our national prestige will be enhanced and those countries will gradually be brought to the point of realizing that it is greatly to their advantage to adopt the methods and systems in use in the United States rather than those of European countries.

Your attention is invited to the *act of June 5, 1920, whereby authority was granted for the President* to detail officers of the United States naval service to assist the Governments of the Republics of South America in naval affairs. Under the authority granted, a number of naval officers have recently been detailed to assist the Government of Brazil in naval matters, and it is highly probable that the advantage resulting therefrom will greatly promote the friendly relations between the two countries. The detail of American Army officers to South American countries in principle has the approval of the State Department and enhances our national prestige and influence in those countries.

After the bill was drafted the War Department in consultation with the State Department and the Navy Department reached the conclusion that it would be advisable to extend the privileges granted in this section to the Navy and Marine Corps, and amendments are recommended for this purpose, together with amendment permitting, without question, the detailing of officers for service in Central America, Cuba, Haiti, and Santo Domingo.

[Emphasis supplied.]

## —NOTE—

EXCERPT FROM HOUSE REPT. 1018, 69TH CONG., 2D SESS. (1926)

The following paragraph is quoted from a letter from former Secretary of State Charles E. Hughes to the chairman of the Committee on Military Affairs, dated January 7, 1925, regarding the passage of this legislation.

The convention for the limitation of armaments signed by the Central American Governments in a conference which met in Washington in the early part of 1923 contemplates the employment of foreign instructors to assist in organizing in each Republic a national guard to maintain public order. The Government of Nicaragua has now expressed an intention to organize such a national guard and has indicated a desire to have American marine officers as instructors. I should be especially glad to meet Nicaragua's wishes in this matter in order that the new national guard may be organized in such a manner that there will be no disturbances in the country after the withdrawal of the legation guard of about 100 American marines, which has been stationed in Nicaragua for several years past. This legation guard will be withdrawn early in February. It would be very helpful to this department, therefore, in this situation if the legislation to which I have referred could be approved in the immediate future.

While not for the purpose of encouraging the increase of armaments, it is felt a more efficient and economical organization of their existing forces would be a real service to the governments concerned, especially in those countries where a more efficient military force might be helpful in promoting political stability. It is also felt that this is a service which should, if possible, be performed by the United States rather than by European Governments.

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[Chapter 47—Uniform Code of Military Justice]

10 U.S.C. 802. ART. 2. PERSONS SUBJECT TO THIS CHAPTER

The following persons are subject to this chapter:

- (1) Members of a regular component of the armed forces, including those awaiting discharge after expiration of their terms of enlistment; volunteers from the time of their muster or acceptance into the armed forces; inductees from the time of their actual induction into the armed forces; and *other persons lawfully called or ordered into, or to duty in or for training in,*

[Emphasis supplied.]



the armed forces, from the dates when they are required by the terms of the call or order to obey it.

(2) Cadets, aviation cadets, and midshipmen.

(3) Members of a reserve component while they are on inactive duty training authorized by written orders which are voluntarily accepted by them and which specify that they are subject to this chapter.

(4) Retired members of a regular component of the armed forces who are entitled to pay.

(5) Retired members of a reserve component who are receiving hospitalization from an armed force.

(6) Members of the Fleet Reserve and Fleet Marine Corps Reserve.

(7) Persons in custody of the armed forces serving a sentence imposed by a court-martial.

(8) Members of the Environmental Science Services Administration, Public Health Service, and other organizations, when assigned to and serving with the armed forces.

(9) Prisoners of war in custody of the armed forces.

(10) *In time of war, persons serving with or accompanying an armed force in the field.*

(11) Subject to any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, persons serving with, employed by, or accompanying the armed forces outside the United States and outside the following: the Canal Zone, Puerto Rico, Guam, and the Virgin Islands.

(12) Subject to any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, persons within an area leased by or otherwise reserved or acquired for the use of the United States which is under the control of the Secretary concerned and which is outside the United States and outside the following, the Canal Zone, Puerto Rico, Guam, and the Virgin Islands.

(Aug. 10, 1956, ch. 1041, 70 A Stat. 37; June 25, 1959, Pub. L. 86-70, § 6(b), 73 Stat. 142; July 12, 1960, Pub. L. 86-624, § 4(b), 74 Stat. 411; Sept. 7, 1962, Pub. L. 87-651, title I, § 104, 76 Stat. 508; Nov. 2, 1966, Pub. L. 89-718, § 8 (a), 80 Stat. 1117.)

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#### 10 U.S.C. 843. ART. 43. STATUTE OF LIMITATIONS

(a) A person charged with desertion or absence without leave *in time of war*, or with aiding the enemy, mutiny, or murder, may be tried and punished at any time without limitation.

(b) Except as otherwise provided in this article, a person charged with desertion in time of peace or any of the offenses punishable under sections 919-932 of this title (articles 119-132) is not liable to be tried by court-martial if the offense was committed more than three years before the receipt of sworn charges and specifications by

[Emphasis supplied.]

an officer exercising summary court-martial jurisdiction over the command.

(c) Except as otherwise provided in this article, a person charged with any offense is not liable to be tried by court-martial or punished under section 815 of this title (article 15) if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under section 815 of this title (article 15).

(d) Periods in which the accused was absent from territory in which the United States has the authority to apprehend him, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this article.

(e) For an offense the trial of which *in time of war* is certified to the President by the Secretary concerned to be detrimental to the *prosecution of the war or inimical to the national security*, the period of limitation prescribed in this article is extended to six months *after the termination of hostilities as proclaimed by the President or by a joint resolution of Congress*.

(f) When the United States *is at war*, the running of any statute of limitations applicable to any offense under this chapter—

(1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not;

(2) committed in connection with the acquisition, care, handling, custody, control, or disposition of any real or personal property of the United States; or

(3) committed in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency;

is suspended until three years after the termination of hostilities as proclaimed by the President or by a joint resolution of Congress. (Aug. 10, 1956, ch. 1041, 70A, Stat. 51.)

#### 10 U.S.C. 871. ART. 71. EXECUTION OF SENTENCE; SUSPENSION OF SENTENCE

(a) No court-martial sentence extending to death or involving a general or flag officer may be executed until approved by the President. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of the sentence or any part of the sentence, as approved by him, except a death sentence.

(b) No sentence extending to the dismissal of a commissioned officer (other than a general or flag officer), cadet, or midshipman may be executed until approved by the Secretary concerned, or such

[Emphasis supplied.]

Under Secretary or Assistant Secretary as may be designated by him. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of any part of the sentence as approved by him. *In time of war or national emergency*, he may commute a sentence of dismissal to reduction to any enlisted grade. A person so reduced may be required to serve for the *duration of the war or emergency and six months thereafter*.

(c) No sentence which includes, unsuspended, a dishonorable or bad-conduct discharge, or confinement for one year or more, may be executed until affirmed by a Court of Military Review and, in cases reviewed by it, the Court of Military Appeals.

(d) All other court-martial sentences, unless suspended or deferred, may be ordered executed by the convening authority when approved by him. The convening authority may suspend the execution of any sentence, except a death sentence. (Aug. 10, 1956, ch. 1041, 70A Stat. 62; Oct. 24, 1968, Pub. L. 90-632, § 2(32), 82 Stat. 1342.)

#### 10 U.S.C. 1035. DEPOSITS OF SAVINGS

(a) Under joint regulations prescribed by the Secretaries concerned, a member of the armed force who is on a permanent duty assignment outside the United States or its possessions may deposit during that tour of duty not more than his unallotted current pay and allowances in amounts of \$5 or more, with any branch, office, or officer of a uniformed service. Amounts so deposited shall be deposited in the Treasury and kept as a separate fund, and shall be accounted for in the same manner as public funds.

(b) Interest at a rate *prescribed by the President* not to exceed 10 per centum a year, will accrue on amounts deposited under this section. However, the maximum amount upon which interest may be paid under this Act to any member is \$10,000, except that such limitation shall not apply to deposits made on or after September 1, 1966, in the case of those members in a missing status, as defined in section 551(2) of title 37, during the Vietnam conflict. Interest under this subsection shall terminate ninety days after the member's return to the United States or its possessions. For purposes of this subsection, *the Vietnam conflict begins on February 28, 1961, and ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam*.

(c) Except as provided in joint regulations prescribed by the Secretaries concerned, payments of deposits, and interest thereon, may not be made to the member while he is on duty outside the United States or its possessions.

(d) An amount deposited under this section, with interest thereon, is exempt for liability for the member's debts, including any indebtedness to the United States or any instrumentality thereof, and is not subject to forfeiture by sentence of a court-martial.

(e) The Secretary concerned, or his designee, may in the interest of a member who is in a missing status (as defined in section 551(2)

[Emphasis supplied.]

of title 37) or his dependents, initiate, stop, modify, and change allotments, and authorize a withdrawal of deposits, made under this section, even though the member had an opportunity to deposit amounts under this section and elected not to do so. Interest may be computed from the day the member entered a missing status or September 1, 1966, whichever is later. (Aug. 10, 1956, ch. 1041, 70A Stat. 80; Aug. 14, 1966, Pub. L. 89-538, § 1(1), 80 Stat. 347; Nov. 3, 1967, Pub. L. 90-122, § 1, 81 Stat. 361; Feb. 26, 1970, Pub. L. 91-200, 84 Stat. 16.)

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#### 10 U.S.C. 1161. COMMISSIONED OFFICERS: LIMITATIONS ON DISMISSAL

(a) No commissioned officer may be dismissed from any armed force except—

(1) by sentence of a general court-martial;

(2) in commutation of a sentence of a general court-martial;

or

(3) *in time of war, by order of the President.*

(b) The President may drop from the rolls of any armed force any commissioned officer (1) who has been absent without authority for at least three months, or (2) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final. (Aug. 10, 1956, ch. 1041, 70A Stat. 89.)

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#### [Chapter 133—Facilities for Reserve Components]

##### 10 U.S.C. 2231. PURPOSE

The purpose of this chapter is to provide for —

(1) the acquisition, by purchase, lease, transfer, construction, expansion, rehabilitation, or conversion of facilities necessary for the proper development, training, operation, and maintenance of the reserve components of the armed forces, including troop housing and messing facilities;

(2) the joint use of those facilities by units of two or more of those reserve components, to the greatest practicable extent for efficiency and economy;

(3) the use of those facilities, *in time of war or national emergency*, by those units and other units of the armed forces, to the greatest practicable extent for efficiency and economy; and

(4) any other use of those facilities by the United States, *in time of war or national emergency*, to the greatest practicable extent for efficiency and economy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 120; Aug. 29, 1957, Pub. L. 85-215, § 1, 71 Stat. 489.)

[Emphasis supplied.]

## 10 U.S.C. 2233. ACQUISITION

(a) Subject to sections 2233a, 2234, 2235, 2236, and 2238 of this title and subsection (c) of this section, the *Secretary of Defense* may—

(1) acquire by purchase, lease, or transfer, and construct, expand, rehabilitate, or convert and equip, such facilities as he determines to be necessary to carry out the purposes of this chapter;

(2) contribute to any State or Territory, Puerto Rico, or the District of Columbia such amounts as he determines to be necessary to expand, rehabilitate, or convert facilities owned by it for use jointly by units of two or more reserve components of the armed forces;

(3) contribute to any State or Territory, Puerto Rico, or the District of Columbia such amounts as he determines to be necessary to expand, rehabilitate, or convert facilities owned by it (or to acquire, construct, expand, rehabilitate, or convert additional facilities) made necessary by the conversion, redesignation, or reorganization of units of the Army National Guard of the United States or the Air National Guard of the United States authorized by the Secretary of the military department concerned; and

(4) contribute to any State or Territory, Puerto Rico, or the District of Columbia such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by it of additional facilities as he determines to be required by any increase in the strength of the Army National Guard of the United States or the Air National Guard of the United States.

(b) Title to property acquired by the United States under subsection (a) (1) vests in the United States.

(c) The *Secretary of Defense* may delegate any of his authority or functions under this chapter to any department, agency, or officer of the Department of Defense.

(d) The expenses of leasing property under subsection (a) (1) may be paid from appropriations available for the payment of rent.

(e) The Secretary of Defense may procure advance planning, construction design, and architectural services in connection with facilities to be established or developed under this chapter which are not otherwise authorized by law.

(f) Facilities authorized by subsection (a) shall not be considered "military public works" under the provisions of the military construction authorization acts that repeal prior authorizations for military public works. (Aug. 10, 1956, ch. 1041, 70A Stat. 121; Aug. 20, 1958, Pub. L. 85-685, title VI, § 601 (1), (2), 72 Stat. 664; Sept. 2, 1958, Pub. L. 85-861, § 1 (37)-(39), 72 Stat. 1456.)

[Emphasis supplied.]

10 U.S.C. 2235. ADMINISTRATION; OTHER USE PERMITTED BY  
SECRETARY

(a) The Secretary of Defense, after consulting the Committees on Armed Services of the Senate and the House of Representatives on matters of policy, may—

(1) administer, operate, maintain, and equip facilities constructed, expanded, rehabilitated, or converted under section 2233 (a) (1) of this title or otherwise acquired and used for the purposes of this chapter;

(2) permit persons or organizations other than members and units of the armed forces to use those facilities under such leases or other agreements as he considers appropriate; and

(3) cover the payments received under those leases or agreements into the Treasury to the credit of the appropriation from which the cost of maintaining the facility, including its utilities and services, is paid.

(b) The Secretary may not permit any use or disposition to be made of a facility covered by subsection (a) that would interfere with its use—

(1) for administering and training the reserve components of the armed forces; or

(2) *in time of war or national emergency*, by other units of the armed forces or by the United States for any other purpose. (Aug. 10, 1956, ch. 1041, 70A Stat. 122.)

10 U.S.C. 2236. CONTRIBUTIONS TO STATES; OTHER USE PERMITTED  
BY STATES

(a) Contributions under section 2233 of this title are subject to such terms as the Secretary of Defense, after consulting the Committees on Armed Services of the Senate and the House of Representatives, considers necessary for the purposes of this chapter. Except as otherwise agreed when the contribution is made, a facility provided by a contribution under section 2233 (a) (3) or (4) of this title may be used jointly by units of two or more reserve components of the armed forces only to the extent that the State or Territory, Puerto Rico, or the District of Columbia, whichever is concerned, considers practicable.

(b) A contribution made for an armory under section 2233 (a) (4) of this title may not be more than 75 percent of the cost of the construction to which it is applied. For the purpose of computing the cost of construction under this subsection, the amount contributed by the State or Territory, Puerto Rico, or the District of Columbia, whichever is concerned, may not include the cost or market value of any real property that it has contributed.

(c) If a State or Territory, Puerto Rico, or the District of Columbia acquires, constructs expands, rehabilitates, or converts a facility with amounts contributed under section 2233 of this title, it may—

[Emphasis supplied.]

(1) permit persons or organizations other than members and units of the armed forces to use the facility under such leases or other agreements as it considers appropriate; and

(2) apply amounts received under those leases or agreements to the cost of maintaining the facility.

(d) Except as otherwise agreed when the contribution is made, and except as the agreement is later changed, a State or Territory, Puerto Rico, or the District of Columbia may not permit any use or disposition of the facility that would interfere with its use—

(1) for administering and training the reserve components of the armed forces; or

(2) *in time of war or national emergency*, by other units of the armed forces or by the United States for any other purpose.

(Aug. 10, 1956, ch. 1041, 70A Stat. 122; Sept. 2, 1958, Pub. L. 85-861, § 1 (40), 72 Stat. 1456.)

#### 10 U.S.C. 2304. PURCHASES AND CONTRACTS: FORMAL ADVERTISING; EXCEPTIONS

(a) Purchases of and contracts for property or services covered by this chapter shall be made by formal advertising in all cases in which the use of such method is feasible and practicable under the existing conditions and circumstances. If use of such method is not feasible and practicable, the head of an agency, subject to the requirements for determinations and findings in section 2310, may negotiate such a purchase or contract, if—

(1) it is determined that such action is necessary in the public interest *during a national emergency declared by Congress or the President*;

(2) the public exigency will not permit the delay incident to advertising;

(3) the aggregate amount involved is not more than \$2,500;

(4) the purchase or contract is for personal or professional services;

(5) the purchase or contract is for any service by a university, college, or other educational institution;

(6) the purchase or contract is for property or services to be procured and used outside the United States and the Territories, Commonwealths, and possessions;

(7) the purchase or contract is for medicine or medical supplies;

(8) the purchase or contract is for property for authorized resale;

(9) the purchase or contract is for perishable or nonperishable subsistence supplies;

(10) the purchase or contract is for property or services for which it is impracticable to obtain competition;

(11) the purchase or contract is for property or services that he determines to be for experimental, developmental, or research

[Emphasis supplied.]

work, or for making or furnishing property for experiment, test, development, or research;

(12) the purchase or contract is for property or services whose procurement he determines should not be publicly disclosed because of their character, ingredients, or components;

(13) the purchase or contract is for equipment that he determines to be technical equipment whose standardization and the interchangeability of whose parts are necessary in the public interest and whose procurement by negotiation is necessary to assure that standardization and interchangeability;

(14) The purchase or contract is for technical or special property that he determines to require a substantial initial investment or an extended period of preparation for manufacture, and for which he determines that formal advertising would be likely to result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property;

(15) the purchase or contract is for property or services for which he determines that the bid prices received after formal advertising are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which (A) he has notified each responsible bidder of intention to negotiate and given him reasonable opportunity to negotiate; (B) the negotiated price is lower than the lowest rejected bid of any responsible bidder, as determined by the head of the agency; and (C) the negotiated price is the lowest negotiated price offered by any responsible supplier;

(16) he determines that (A) it is in the interest of national defense to have a plant, mine, or other facility, or a producer, manufacturer, or other supplier, available for furnishing property or services *in case of a national emergency*; or (B) the interest of *industrial mobilization in case of such an emergency*, or the interest of national defense in maintaining active engineering, research, and development, would otherwise be subserved; or

(17) negotiation of the purchase or contract is otherwise authorized by law.

(b) The data respecting the negotiation of each purchase or contract under clauses (1) and (7)-(17) of subsection (a) shall be kept by the contracting agency for six years after the date of final payment on the contract.

(c) This section does not authorize—

(1) the negotiation of a contract to construct or repair any building, road, sidewalk, sewer main, or similar item, unless—

(A) it is made under clauses (1)-(3), (10)-(12), or (15) of subsection (a); or

(B) it is to be performed outside the United States; or

(2) the erection, repair, or furnishing of any public building or public improvement.

(d) Whenever the head of the agency determines it to be practicable, such advance publicity as he considers suitable with regard to

[Emphasis supplied.]



the property involved and other relevant considerations shall be given for a period of at least 15 days before making a purchase of or contract for property, or a service, under clause (7) or (8) of subsection (a) involving more than \$10,000.

(e) A report shall be made to Congress, on May 19 and November 19 of each year, of the purchases and contracts made under clauses (11) and (16) of subsection (a) during the period since the date of the last report. The report shall—

- (1) name each contractor;
- (2) state the amount of each contract; and
- (3) describe, with consideration of the national security, the property and services covered by each contract.

(f) For the purposes of the following laws, purchases or contracts negotiated under this section shall be treated as if they were made with formal advertising:

- (1) Sections 35-45 of title 41.
- (2) Sections 276a-276a-5 of title 40.
- (3) Sections 324 and 325a of title 40.

(g) In all negotiated procurements in excess of \$2,500 in which rates or prices are not fixed by law or regulation and in which time of delivery will permit, proposals, including price, shall be solicited from the maximum number of qualified sources consistent with the nature and requirements of the supplies or services to be procured, and written or oral discussions shall be conducted with all responsible offerors who submit proposals within a competitive range, price, and other factors considered: Provided, however, That the requirements of this subsection with respect to written or oral discussions need not be applied to procurements in implementation of authorized set-aside programs or to procurements where it can be clearly demonstrated from the existence of adequate competition or accurate prior cost experience with the product, that acceptance of an initial proposal without discussion would result in fair and reasonable prices and where the request for proposals notifies all offerors of the possibility that award may be made without discussion.

(h) Except in a case where the Secretary of Defense determines that military requirements necessitate specification of container sizes, no contract for the carriage of Government property in other than Government-owned cargo containers shall require carriage of such property in cargo containers of any stated length, height, or width. (Aug. 10, 1956, ch. 1041, 70A Stat. 128; Aug. 28, 1958, Pub. L. 85-800, § 8, 72 Stat. 967; Sept. 2, 1958, Pub. L. 85-861, § 33(a) (12), 72 Stat. 1565; Sept. 10, 1962, Pub. L. 87-653, § 1(a)-(c), 76 Stat. 528; Mar. 16, 1968, Pub. L. 90-286, § 5, 82 Stat. 50; Sept. 20, 1968, Pub. L. 90-500, title IV, § 405, 82 Stat. 851.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 109, 80TH CONG., 1ST SESS. (1947)

The principle underlying this provision has been previously recognized in the Act of June 16, 1938 (52 Stat. 707; 50 U.S.C. 91), under which the Secretary of War is authorized, subject to the approval of the President, to

place so-called educational orders for special munitions with selected commercial concerns for the purpose of familiarizing them with the manufacture of such munitions and accessories and parts thereof. Even before the war, the lack of such authorization proved disadvantageous to the Navy. It is anticipated that only a small number of contracts will be placed under this provision. The requirement that any determinations made under this subsection be approved by the President and reported to the Congress will assure close scrutiny of their necessity.

\* \* \* \* \*

The experiences gained during World War II make it essential that the *War and Navy Departments have the powers inherent in this provision*. We cannot depend upon the hope that *in future emergencies* there will be time for the reorganization of our industrial strength for the needs of war. This exception gives the armed services power to use negotiated procurement as a dynamic instrument of preparedness, and to take into consideration such factors as geographical location, avoidance of over concentration in a few companies, and maintenance of a basic core of plants, facilities, skills, and personnel, around which there can be expansion when it is urgently needed.

\* \* \* \* \*

Also, through the use of educational orders the services can constantly develop the industrial facilities and production know-how necessary to keep abreast of the industrial requirements arising out of the discovery and application of new weapons. Without such powers, the plants, facilities, skills, and personnel needed *during an emergency* may atrophy through disuse or may not be constructed and ready for use.

\* \* \* \* \*

IF DETERMINED TO BE NECESSARY IN THE PUBLIC INTEREST  
DURING THE PERIOD OF A NATIONAL EMERGENCY DECLARED BY  
THE PRESIDENT

A vital defect in preemergency legislation was the absence of any provision permitting, in *the event of national danger*, suspension of the advertisement method of procurement and the simultaneous substitution therefor of procurement procedures suitable for wartime. With the prospect that any future war may start with great suddenness, minimum preparedness requires that legislation be available to permit the shedding of peacetime requirements simultaneously with *the declaration of any emergency by the President*. The bill would empower the War and Navy Departments, in such an event, to procure by negotiation rather than by advertising.

\* \* \* \* \*

[Emphasis supplied.]

The bill provides small business concerns with an opportunity to secure a fair proportion of the total value of all purchases and contracts by requiring the Services to procure supplies and services in reasonably small lots when not of manifest disadvantage and to give suitable advance publicity of their intention to negotiate contracts for certain supplies and services. The committee believes that this will not only benefit small business but will also assist the Services in the development of a larger number of known and capable suppliers geographically spread over the entire country instead of in concentrated centers, thus affording added production security in the event of any emergency and establishing insurance against acute production bottlenecks; . . .

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10 U.S.C. 2542. EQUIPMENT FOR INSTRUCTION AND PRACTICE:  
AMERICAN NATIONAL RED CROSS

The Secretary of a military department, under regulations to be prescribed by him, may lend equipment under the jurisdiction of that department that is on hand, and that can be temporarily spared, to any organization formed by the American National Red Cross that needs it for instruction and practice for the purpose of aiding the Army, Navy, or Air Force *in time of war*. The Secretary shall by regulation require the immediate return, upon request, of equipment lent under this section. The Secretary shall require a bond, in double the value of the property issued under this section, for the care and safekeeping of that property and for its return when required. (Aug. 10, 1956, ch. 1041, 70A Stat. 142.)

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10 U.S.C. 2602. AMERICAN NATIONAL RED CROSS: COOPERATION AND ASSISTANCE

(a) *Whenever the President finds it necessary*, he may accept the cooperation and assistance of the American National Red Cross, and employ it under the armed forces under regulations to be prescribed by the Secretary of Defense.

(b) Personnel of the American National Red Cross who are performing duties in connection with its cooperation and assistance under subsection (a) may be furnished—

(1) transportation, at the expense of the United States, while traveling to and from, and while performing, those duties, in the same manner as civilian employees of the armed forces;

(2) meals and quarters, at their expense or at the expense of the American National Red Cross, except that where civilian employees of the armed forces are quartered without charge, employees of the American National Red Cross may also be quartered without charge; and

(3) available office space, warehousing, wharfage, and means of communication, without charge.

[Emphasis supplied.]

(c) No fee may be charged for a passport issued to an employee of the American National Red Cross for travel outside the United States to assume or perform duties under this section.

(d) Supplies of the American National Red Cross, including gifts for the use of the armed forces, may be transported at the expense of the United States, if it is determined under regulations prescribed under subsection (a) that they are necessary to the cooperation and assistance accepted under this section.

(e) For the purposes of this section, employees of the American National Red Cross may not be considered as employees of the United States. (Aug. 10, 1956, ch. 1041, 70A Stat. 145.)

#### 10 U.S.C. 2604. UNITED SEAMEN'S SERVICE: COOPERATION AND ASSISTANCE

(a) *Whenever the President finds it necessary* in the interest of United States commitments abroad to provide facilities and services for United States merchant seamen in foreign areas, he may authorize the Secretary of Defense, under such regulations as the Secretary may prescribe, to cooperate with and assist the United Seamen's Service in establishing and providing those facilities and services.

(b) Personnel of the United Seamen's Service who are performing duties in connection with the cooperation and assistance under subsection (a) may be furnished—

(1) transportation, at the expense of the United States, while traveling to and from, and while performing those duties, in the same manner as civilian employees of the armed forces;

(2) meals and quarters, at their expense or at the expense of the United Seamen's Service, except that where civilian employees of the armed forces are quartered without charge, employees of the United Seamen's Service may also be quartered without charge; and

(3) available office space (including space for recreational activities for seamen), warehousing, wharfage, and means of communication, without charge.

(c) No fee may be charged for a passport issued to an employee of the United Seamen's Service for travel outside the United States to assume or perform duties under this section.

(d) Supplies of the United Seamen's Service, including gifts for the use of merchant seamen, may be transported at the expense of the United States, if it is determined under regulations prescribed under subsection (a) that they are necessary to the cooperation and assistance provided under this section.

(e) Where practicable, the President shall also make arrangements to provide for convertibility of local currencies for the United Seamen's Service, in connection with its activities under subsection (a).

(f) For the purposes of this section, employees of the United Seamen's Service may not be considered as employees of the United

[Emphasis supplied.]

States. (Added Pub. L. 91-603, § 3(1), Dec. 31, 1970, 84 Stat. 1674.)

### —NOTE—

EXCERPT FROM SENATE REPT. 890, 80TH CONG., 2D SESS. (1948)

Under the *temporary wartime authority* contained in Public Law 779, Seventy-seventh Congress, as amended by the Seventy-ninth Congress, the Army and Navy Departments are providing transportation to and from work for personnel working in installations which are not served with adequate commercial facilities. It frequently happens that installations operated by the armed services are relatively much more isolated with respect to residential areas than is usually the case with permanent civilian industrial plants. In such cases, a requirement for transportation exists only during the going-to-work and the away-from-work periods. Furthermore, the installation is frequently temporary and for that reason the providing of transportation facilities is often not attractive to commercial carriers. The effect of these factors is to make it necessary for the armed services to continue the wartime practice of providing to-and-from-work transportation for employees at these installations which are not adequately served by commercial means.

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#### 10 U.S.C. 2632. TRANSPORTATION TO AND FROM CERTAIN PLACES OF EMPLOYMENT

(a) Whenever the Secretary of a military department determines that it is necessary for the effective conduct of the affairs of that department, he may, at reasonable rates of fare fixed under regulations to be prescribed by him, provide assured and adequate transportation by motor vehicle or water carrier to and from their places of employment for persons attached to, or employed in, that department, and *during a war or during a national emergency declared by Congress or the President*, for persons attached to, or employed in, a private plant that is manufacturing material for that department.

(b) Transportation may not be provided under subsection (a) unless the Secretary of the military department concerned, or an officer of the department concerned designated by the Secretary, determines that—

(1) other facilities are inadequate and cannot be made adequate;

(2) a reasonable effort has been made to induce operators of private facilities to provide the necessary transportation; and

(3) the service to be furnished will make proper use of transportation facilities and will supply the most efficient transportation to the persons concerned.

[Emphasis supplied.]

(c) To provide transportation under subsection (a), the department may—

(1) buy, lease, or charter motor vehicles or water carriers having a seating capacity of 12 or more passengers;

(2) maintain and operate that equipment by—

(A) enlisted members of the Army, Navy, Air Force or Marine Corps, as the case may be;

(B) employees of the department concerned; and

(C) private persons under contract; and

(3) lease or charter the equipment to private or public carriers for operation under terms that are considered necessary by the Secretary or by an officer of the department designated by the Secretary, and that may provide for the pooling of Government-owned and privately owned equipment and facilities and for the reciprocal use of that equipment.

(d) Fares received under subsection (a), and proceeds of the leasing or chartering of equipment under subsection (c) (3), shall be covered into the Treasury as miscellaneous receipts. (Aug. 10, 1956, ch. 1041, 70A Stat. 146.)

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#### 10 U.S.C. 2663. ACQUISITION

(a) The Secretary of a military department may have proceedings brought in the name of the United States, in a court of proper jurisdiction, to acquire by condemnation any interest in land, including temporary use, needed for—

(1) the site, construction, or operation of fortifications, coast defenses, or military training camps;

(2) the construction and operation of plants for the production of nitrate and other compounds, and the manufacture of explosives or other munitions of war; or

(3) the development and transmission of power for the operation of plants under clause (2).

(b) *In time of war or when war is imminent*, the United States may, immediately upon the filing of a petition for condemnation under subsection (a), take and use the land to the extent of the interest sought to be acquired.

(c) The Secretary of the military department concerned may contract for or buy any interest in land, including temporary use, needed for any purpose named in subsection (a), as soon as the owner fixes a price for it and the Secretary considers that price to be reasonable.

(d) The Secretary of the military department concerned may accept for the United States a gift of any interest in land, including temporary use, for any purpose named in subsection (a). (Aug. 10, 1956, ch. 1041, 70A Stat. 147; Sept. 2, 1958, Pub. L. 85-861, § 33 (a) (14), 72 Stat. 1565.)

[Emphasis supplied.]

## —NOTE—

EXCERPT FROM SENATE REPT. 55, 65TH CONG., 1ST SESS. (1917)

In making preparation for the mobilization and training of the military forces to be raised under the provisions of the act approved May 18, 1917, it will be necessary to provide extensive camp or cantonment sites in various parts of the country far in excess of the existing facilities. It is manifestly impracticable to secure adequate and sufficient sites by private negotiation, and some means must be provided by which the Government can obtain such sites at reasonable prices and with the greatest possible expedition. *The proposed measure is simply an extension of the power of the Government over lands for purposes other than military.* There appears to be no statute expressly authorizing in general terms the condemnation of private property for this purpose.

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10 U.S.C. 2664. ACQUISITION OF PROPERTY FOR LUMBER PRODUCTION

(a) The Secretary of a military department, the Secretary of Commerce, and the Chairman of the Federal Maritime Board, or any one or more of them, may have proceedings brought in the name of the United States to acquire by condemnation any interest in property named in subsection (b), including temporary use, and needed for—

(1) the production of aircraft, vessels, dry docks, or equipment for them;

(2) the procurement of supplies for aircraft, vessels, and dry docks; or

(3) housing for persons employed by the United States in connection with functions of the Army, Navy, Air Force, or Marine Corps, or the functions transferred to the Secretary of Commerce or the Federal Maritime Board by 1950 Reorganization Plan No. 21, effective May 24, 1950 (64 Stat. 1273), as the case may be.

(b) The kinds of property that may be acquired by condemnation under subsection (a) are—

(1) standing or fallen timber;

(2) sawmills;

(3) camps;

(4) machinery;

(5) logging roads;

(6) rights-of-way;

(7) supplies; and

(8) works, property, or appliances suitable for the production of lumber and timber products.

[Emphasis supplied.]

(c) Jurisdiction over condemnation proceedings under this section is vested in the United States District Court for the district in which the property, or any part of it, sought to be condemned is located, regardless of its value.

(d) *In time of war or when war is imminent*, the United States may, immediately upon the filing of a petition for condemnation under subsection (a), take and use the property to the extent of the interest sought to be acquired.

(e) A person named in subsection (a) may contract for or buy any interest in property named in subsection (b), including temporary use, needed for any purpose named in subsection (a), as soon as the owner fixes a price for it and that person considers that price to be reasonable.

(f) A person named in subsection (a) may accept for the United States a gift of any property named in subsection (b), including temporary use, for any purpose named in subsection (a). (Aug. 10, 1956, ch. 1041, 70A Stat. 148; Sept. 2, 1958, Pub. L. 85-861, § 33 (a) (15), 72 Stat. 1565.)

#### 10 U.S.C. 2667. LEASES: NON-EXCESS PROPERTY

(a) Whenever the Secretary of a military department considers it advantageous to the United States, he may lease to such lessee and upon such terms as he considers will promote the national defense or be in the public interest, real or personal property that is—

- (1) under the control of that department;
- (2) not for the time needed for public use; and
- (3) not excess property, as defined by section 472 of title 40.

(b) A lease under subsection (a)—

(1) may not be for more than five years, unless the Secretary concerned determines that a lease for a longer period will promote the national defense or be in the public interest;

(2) may give the lessee the first right to buy the property if the lease is revoked to allow the United States to sell the property under any other provision of law;

(3) must permit the Secretary to revoke the lease at any time, unless he determines that the omission of such a provision will promote the national defense or be in the public interest;

(4) *must be revocable by the Secretary during a national emergency declared by the President*; and

(5) may provide, notwithstanding section 303b of title 40 or any other provision of law, for the maintenance, protection, repair, or restoration, by the lessee, of the property leased, or of the entire unit or installation where a substantial part of it is leased, as part or all of the consideration for the lease.

(c) This section does not apply to oil, mineral, or phosphate lands.

(d) Money rentals received by the United States directly from a lease under this section shall be covered into the Treasury as miscel-

[Emphasis supplied.]



laneous receipts. Payments for utilities or services furnished to the lessee under such a lease by the department concerned may be covered into the Treasury to the credit of the appropriation from which the cost of furnishing them was paid.

(e) The interest of a lessee of property leased under this section may be taxed by State or local governments. A lease under this section shall provide that, if and to the extent that the leased property is later made taxable by State or local governments under an act of Congress, the lease shall be renegotiated. (Aug. 10, 1956, ch. 1041, 70A Stat. 150.)

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## 10 U.S.C. 2674. ESTABLISHMENT AND DEVELOPMENT OF MILITARY

### FACILITIES AND INSTALLATIONS COSTING LESS THAN \$300,000

(a) Under *such regulations as the Secretary of Defense may prescribe*, the Secretary of a military department may acquire, construct, convert, extend, and install, at military installations and facilities, urgently needed permanent or temporary public works *not otherwise authorized by law*, including the preparation of sites and the furnishing of appurtenances, utilities, and equipment, but excluding the construction of family quarters. However, a determination that a project is urgently needed is not required for a project costing not more than \$50,000.

(b) This section does not authorize a project costing more than \$300,000. A project costing more than \$100,000 must be approved in advance by the Secretary of Defense, and a project costing more than \$50,000 must be approved in advance by the Secretary concerned.

(c) Not more than one allotment may be made for any project authorized under this section.

(d) Not more than \$50,000 may be spent under this section during a fiscal year to convert structures to family quarters at any one installation or facility.

(e) Appropriations available for military construction may be used for the purposes of this section. In addition, the Secretary concerned may spend, from appropriations available for maintenance and operations, amounts necessary for any project costing not more than \$50,000 that is authorized under this section.

(f) The Secretary of each military department shall report in detail every six months to the Committees on Armed Services of the Senate and House of Representatives on the administration of this section. (Added Pub. L. 85-861, § 1 (51), Sept. 2, 1958, 72 Stat. 1459, and amended Pub. L. 87-651, title I, § 112(b), Sept. 7, 1962, 76 Stat. 511; Pub. L. 88-174, title VI, § 608, Nov. 7, 1963, 77 Stat. 328; Pub. L. 89-188, title VI, § 613, Sept. 16, 1965, 79 Stat. 819; Pub. L. 89-568, title VI, § 608, Sept. 12, 1966, 80 Stat. 756; Pub. L. 91-511, title VI, § 607 (2)-(4), Oct. 26, 1970, 84 Stat. 1224.)

[Emphasis supplied.]

10 U.S.C. 2733. PROPERTY LOSS; PERSONAL INJURY OR DEATH: INCIDENT TO NONCOMBAT ACTIVITIES OF DEPARTMENT OF ARMY, NAVY, OR AIR FORCE

(a) Under such regulations as the Secretary concerned may prescribe, he, or, subject to appeal to him, the Judge Advocate General of an armed force under his jurisdiction, or the chief legal officer of the Coast Guard, as appropriate, if designated by him, may settle, and pay in an amount not more than \$15,000, a claim against the United States for—

(1) damage to or loss of real property, including damage or loss incident to use and occupancy;

(2) damage to or loss of personal property, including property bailed to the United States and including registered or insured mail damaged, lost, or destroyed by a criminal act while in the possession of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be; or

(3) personal injury or death;

either caused by a civilian officer or employee of that department, or the Coast Guard, or a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, acting within the scope of his employment, or otherwise incident to noncombat activities of that department, or the Coast Guard.

(b) A claim may be allowed under subsection (a) only if—

(1) it is presented in writing within two years after it accrues, except that if the claim accrues *in time of war or armed conflict or if such a war or armed conflict intervenes within two years after it accrues*, and if good cause is shown, the claim may be presented not later than two years after the war or armed conflict is terminated;

(2) it is not covered by section 2734 of this title or section 2672 of title 28;

(3) it is not for personal injury or death of such a member or civilian officer or employee whose injury or death is incident to his service;

(4) the damage to, or loss of, property, or the personal injury or death, was not caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee; or, if so caused, allowed only to the extent that the law of the place where the act or omission complained of occurred would permit recovery from a private individual under like circumstances; and

(5) it is substantiated as prescribed in regulations of the Secretary concerned.

For the purposes of clause (1), the dates of the beginning and ending of an armed conflict are the dates established by concurrent resolution of Congress or by a determination of the President.

(c) Payment may not be made under this section for reimbursement for medical, hospital, or burial services furnished at the expense of the United States.

[Emphasis supplied.]

(d) If the Secretary concerned considers that a claim in excess of \$15,000 is meritorious and would otherwise be covered by this section, he may pay the claimant \$15,000 and report the excess to Congress for its consideration.

(e) Except as provided in subsection (d), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(f) For the purposes of this section, a member of the Environmental Science Services Administration or of the Public Health Service who is serving with the Navy or Marine Corps shall be treated as if he were a member of that armed force.

(g) In any case where the amount to be paid is not more than \$2,500, the authority contained in subsection (a) may be delegated to any officer of an armed force under the jurisdiction of the department concerned, subject to appeal to the Secretary concerned, or his designee for that purpose.

(h) Under such regulations as the Secretary of Defense may prescribe, he or his designee has the same authority as the Secretary of a military department under this section with respect to the settlement of claims based on damage, loss, personal injury, or death caused by a civilian officer or employee of the Department of Defense acting within the scope of his employment or otherwise incident to noncombat activities of that department. (Aug. 10, 1956, ch. 1041, 70A Stat. 153; Aug. 23, 1958, Pub. L. 85-729, 72 Stat. 813; Sept. 2, 1958, Pub. L. 85-861, § 1(54), 72 Stat. 1461; Nov. 2, 1966, Pub. L. 89-718, § 8(a), 80 Stat. 1117; Sept. 26, 1968, Pub. L. 90-522, 82 Stat. 875; Sept. 26, 1968, Pub. L. 90-525, §§ 1, 3, 4, 5, 82 Stat. 877, 878; July 8, 1970, Pub. L. 91-312, § 2, 84 Stat. 412.)

#### 10 U.S.C. 2734. PROPERTY LOSS; PERSONAL INJURY OR DEATH: INCIDENT TO NONCOMBATANT ACTIVITIES OF THE ARMED FORCES; FOREIGN COUNTRIES

(a) To promote and maintain friendly relations through the prompt settlement of meritorious claims the Secretary concerned or any officer designated by him may, under such regulations as the Secretary may prescribe, appoint one or more claims commissions, each composed of one or more commissioned officers of the armed forces, to settle and pay any claim for not more than \$15,000, for—

(1) damage to, or loss of, real property of any foreign country or of any political subdivision or inhabitant of a foreign country, including damages or loss incident to use and occupancy;

(2) damage to, or loss of, personal property of any foreign country or of any political subdivision or inhabitant of a foreign country, including property bailed to the United States; or

(3) personal injury to, or death of, any inhabitant of a foreign country;

if the damage, loss, personal injury, or death occurs outside the United States, or the Territories, Commonwealths, or possessions,

and is caused by, or is otherwise incident to noncombat activities of, the armed forces under his jurisdiction, or is caused by a member thereof or by a civilian employee of the military department concerned or the Coast Guard, as the case may be. The claim of an insured, but not that of a subrogee, may be considered under this subsection. In this section, "foreign country" includes any place under the jurisdiction of the United States in a foreign country. An officer may serve on a claims commission under the jurisdiction of another armed force only with the consent of the Secretary of his department, or his designee, but shall perform his duties under regulations of the department appointing the commission.

(b) A claim may be allowed under subsection (a) only if—

(1) it is presented within two years after it accrues;

(2) in the case of a national of a country *at war with the United States*, or of any ally of that country, the claimant is determined by the commission or by the local military commander to be friendly to the United States; and

(3) it did not arise from action by an enemy or result directly or indirectly from *an act of the armed forces of the United States in combat*, except that a claim may be allowed if it arises from an accident or malfunction incident to the operation of an aircraft of the armed forces of the United States, including its airborne ordnance, indirectly related to combat, and occurring while preparing for, going to, or returning from a combat mission.

(c) Allowance of a claim for more than \$2,500 under subsection (a) may, by regulation, be made subject to the approval of any commissioned officer designated by the Secretary concerned.

(d) If the Secretary concerned considers that a claim in excess of \$15,000 is meritorious and would otherwise be covered by this section, he may pay the claimant \$15,000 and certify the excess to Congress as a legal claim for payment from appropriations made by Congress therefor, together with a brief statement of the claim, the amount claimed, the amounts allowed, and the amount paid.

(e) Except as provided in subsection (d), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(f) Upon the request of the department concerned, a claim arising in that department and covered by subsection (a) may be settled and paid by a commission appointed under subsection (a) and composed of officers of an armed force under the jurisdiction of another department.

(g) Payment of claims against the Coast Guard arising while it is operating as a service in the Department of the Treasury shall be made out of the appropriation for the operating expenses of the Coast Guard.

(h) The Secretary of Defense may designate any claims commission appointed under subsection (a) to settle and pay, as provided in this section, claims for damage caused by a civilian employee of the Department of Defense other than an employee of a military department. Payments of claims under this subsection shall be made from

[Emphasis supplied.]

appropriations available to the Office of the Secretary of Defense for the payment of claims. (Aug. 10, 1956, ch. 1041, 70A Stat. 154; Sept. 2, 1958, Pub. L. 85-861, § 1 (55), 72 Stat. 1461; Sept. 1, 1959, Pub. L. 86-223, § 1(1), 73 Stat. 453; Apr. 8, 1960, Pub. L. 86-411, 73 Stat. 16; Sept. 26, 1968, Pub. L. 90-521, § 1, 3, 82 Stat. 874; July 8, 1970, Pub. L. 91-312, § 1, 84 Stat. 412.)

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10 U.S.C. 3031. COMPOSITION: ASSIGNMENT AND DETAIL OF MEMBERS OF ARMY AND CIVILIANS

(a) There is in the executive part of the Department of the Army an Army Staff consisting of—

- (1) the chief of Staff;
- (2) the Vice Chief of Staff;
- (3) not more than three Deputy Chiefs of Staff as prescribed by the Secretary of the Army;
- (4) not more than five Assistant Chiefs of Staff, as prescribed by the Secretary;
- (5) the officers named in sections 3036, 3039, and 3040 of this title;
- (6) other members of the Army assigned or detailed to the Army Staff; and
- (7) civilians in the Department of the Army assigned or detailed to the Army Staff.

(b) Except as otherwise *specifically prescribed by law*, the Army Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe. A part of the Army Staff may be designated as the Army General Staff.

(c) Not more than 3,000 officers of the Army may be assigned or detailed to permanent duty in the executive part of the Department of the Army. Of this number not more than 1,000 may be detailed or assigned to duty on or with the Army General Staff. However, these limitations do not apply *in time of war, or of national emergency declared by Congress, or whenever the President finds that it is in the national interest* to increase the number of officers in the executive part of the Department or on or with the Army General Staff. The Secretary shall report quarterly to Congress the number of officers in the executive part of the Department of the Army and the number of commissioned officers on or with the Army General Staff, and the justification therefor.

(d) No commissioned officer who is assigned or detailed to duty in the executive part of the Department of the Army may serve for a tour of duty of more than four years. However, the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest. No officer may be assigned or detailed to duty in the executive part of the Department of the Army within two years after relief from that duty, except upon a special finding by the Secretary that the assignment or detail is necessary in the public interest. This subsection does not apply *in*

[Emphasis supplied.]

*time of war, or of national emergency declared by Congress.* (Aug. 10, 1956, ch. 1041, 70A Stat. 160.)

#### 10 U.S.C. 3034. CHIEF OF STAFF: APPOINTMENT; DUTIES

(a) The Chief of Staff shall be appointed by the President, by and with the advice and consent of the Senate, for a period of four years, from the general officers of the Army. He serves during the pleasure of the President. *In time of war or national emergency, declared by the Congress after December 31, 1968, he may be reappointed for a term of not more than four years.*

(b) The Chief of Staff, while so serving, has the grade of general without vacating his regular or reserve grade, and is counted as one of the officers authorized to serve in a grade above lieutenant general under section 3066 of this title.

(c) Except as otherwise prescribed by law and subject to section 3012 (c) and (d) of this title, the Chief of Staff performs his duties under the direction of the Secretary of the Army, and is directly responsible to the Secretary for the efficiency of the Army, its preparedness for military operations, and plans therefor.

(d) The Chief of Staff shall—

(1) preside over the Army Staff;

(2) send the plans and recommendations of the Army Staff to the Secretary, and advise him with regard thereto;

(3) after approval of the plans or recommendations of the Army Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision over such of the members and organizations of the Army as the Secretary of the Army determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders under section 124 of this title;

(5) perform the duties described for him by sections 141 and 171 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 162; Aug. 6, 1958, Pub. L. 85-599; § 4(a), 72 Stat. 516; Sept. 7, 1962, Pub. L. 87-651, title I, § 114, 76 Stat. 513; June 5, 1967, Pub. L. 90-22, title IV, § 401, 81 Stat. 53.)

#### —NOTE—

EXCERPT FROM HOUSE REPT. 270, 90TH CONG., 1ST SESS. (1967)

Existing law authorizes the appointment of the Chief of Staff of the Army, Chief of Staff of the Air Force, and Chief of Naval Operations for a term of not more than 4 years, unless reappointed by the President. Under title IV the Chief of Staff of the Army, Chief of Staff of the Air Force, and Chief of Naval Operations will be appointed for

[Emphasis supplied.]

a specific term of 4 years and they may not be reappointed unless *Congress thereafter declares a state of war or national emergency*. Of course, these officers will continue to serve at the pleasure of the President.

The Commandant of the Marine Corps, under current law, is appointed for a specific term of 4 years. Under the proposed title IV the Commandant of the Marine Corps may be reappointed under the same conditions as the Chief of Staff of the Army, Chief of Staff of the Air Force, and Chief of Naval Operations.

This title does not affect the appointment or tenure of office of the Chairman of the Joint Chiefs of Staff.

Title IV will become effective January 1, 1969.

The conferees agreed that title IV should be included in the bill but also agreed that wherever in sections 401, 402, 403, and 404 the sentence—

*In time of war or national emergency thereafter declared by the Congress he may be reappointed for a term of not more than four years.*

appears, the following language should be substituted therefor:

*In time of war or national emergency declared by the Congress after December 31, 1968 he may be reappointed for a term of not more than four years.*

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#### 10 U.S.C. 3062. POLICY; COMPOSITION; ORGANIZED PEACE ESTABLISHMENT

(a) It is the intent of Congress to provide an Army that is capable, in conjunction with the other armed forces, of—

- (1) preserving the peace and security, and providing for the defense, of the United States, the Territories, Commonwealths, and possessions, and any areas occupied by the United States;
- (2) supporting the national policies;
- (3) implementing the national objectives; and
- (4) overcoming any nations responsible for aggressive acts that imperil the peace and security of the United States.

(b) In general, the Army, within the Department of the Army, includes land combat and service forces and such aviation and water transport as may be organic therein. It shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations on land. It is responsible for the preparation of land forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Army to meet the needs of war.

(c) The Army consists of—

- (1) The Regular Army, the Army National Guard of the United States, the Army National Guard while in the service of the United States and the Army Reserve; and

[Emphasis supplied.]

(2) all persons appointed or enlisted in, or conscripted into, the Army without component.

(d) The organized peace establishment of the Army consists of all—

(1) military organizations of the Army with their installations and supporting and auxiliary elements, including combat, training, administrative, and logistic elements; and

(2) members of the Army, including those not assigned to units;

necessary to form the basis for a complete and immediate mobilization for the national defense *in the event of a national emergency*. (Aug. 10, 1956, ch. 1041, 70A Stat. 166.)

#### 10 U.S.C. 3063. BASIC BRANCHES

(a) The Secretary of the Army may assign members of the Army to its basic branches. The basic branches are—

- (1) Infantry;
- (2) Armor;
- (3) Artillery;
- (4) Corps of Engineers;
- (5) Signal Corps;
- (6) Adjutant General's Corps;
- (7) Quartermaster Corps;
- (8) Finance Corps;
- (9) Ordnance Corps;
- (10) Chemical Corps;
- (11) Transportation Corps;
- (12) Military Police Corps; and
- (13) such other basic branches as the Secretary considers necessary.

(b) The Secretary may discontinue or consolidate basic branches of the Army for the *duration of any war, or of any national emergency declared by Congress*.

(c) The Secretary may not assign to a basic branch any commissioned officer appointed in a special branch. (Aug. 10, 1956, ch. 1041, 70A Stat. 166.)

#### 10 U.S.C. 3201. ARMY: MEMBERS ON ACTIVE DUTY

(a) The authorized strength of the Army in members on active duty, exclusive of—

- (1) officer candidates;
- (2) Reserves on active duty for training;
- (3) members paid from appropriations for the Army National Guard or the Army Reserve;
- (4) Reserves ordered to active duty *in an emergency*; and
- (5) enlisted members in a reserve officers' training corps or serving as cadets at the United States Military Academy, the

[Emphasis supplied.]



United States Air Force Academy, or the United States Coast Guard Academy, or as midshipmen at the United States Naval Academy or in the Naval Reserve;  
is 837,000.

(b) The authorized daily average strength of the Army in members, on active duty during the fiscal year, exclusive of—

- (1) officer candidates;
- (2) Reserves on active duty for training purposes only;
- (3) members employed in the Selective Service System; and
- (4) enlisted members in a reserve officers' training corps or serving as cadets at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as midshipmen at the United States Naval Academy or in the Naval Reserve;

is 837,000. (Aug. 10, 1956, ch. 1041, 70A Stat. 172; Sept. 2, 1958, Pub. L. 85-861, § 1 (62), 72 Stat. 1462; Oct. 13, 1964, Pub. L. 88-647, title III, § 301 (4), 78 Stat. 1071.)

#### 10 U.S.C. 3202. ARMY: OFFICERS IN CERTAIN COMMISSIONED GRADES

(a) The authorized strength of the Army in officers on active duty in each of the following grades on the last day of each fiscal year, exclusive of officers on active duty for training only and officers serving with other departments or agencies on a reimbursable basis, is, except as provided in subsections (e) and (f), based on the total number of those officers authorized by the Secretary of the Army in all commissioned grades, as follows:

| If the total number authorized is— | The authorized strength in grade is— |              |                         |            |
|------------------------------------|--------------------------------------|--------------|-------------------------|------------|
|                                    | For general officers                 | For colonels | For lieutenant colonels | For majors |
| 50,000-----                        | 350                                  | 3,352        | 6,940                   | 9,350      |
| 60,000-----                        | 400                                  | 3,752        | 8,045                   | 10,950     |
| 70,000-----                        | 425                                  | 4,102        | 9,150                   | 12,500     |
| 80,000-----                        | 450                                  | 4,452        | 10,205                  | 14,050     |
| 90,000-----                        | 475                                  | 4,752        | 11,260                  | 15,600     |
| 100,000-----                       | 495                                  | 5,002        | 12,265                  | 17,060     |
| 110,000-----                       | 510                                  | 5,202        | 13,270                  | 18,370     |
| 120,000-----                       | 520                                  | 5,402        | 14,175                  | 19,680     |
| 130,000-----                       | 530                                  | 5,602        | 15,075                  | 20,890     |
| 140,000-----                       | 540                                  | 5,802        | 15,875                  | 22,095     |
| 150,000-----                       | 550                                  | 6,002        | 16,675                  | 23,300     |

If the total number authorized by the Secretary is determined to be between two of the figures named in the first column of the table, the corresponding authorized strengths in grade are determined by mathematical interpolation between the respective authorized strengths named in the table. If it is determined to be more than 150,000, the Secretary shall fix the corresponding authorized strengths in grade in general conformity with the table.

(b) Not more than one-half of the general officer strength may be in grades above brigadier general.

(c) A vacancy in any grade may be filled by an authorized appointment in any lower grade.

(d) *In time of war, or of national emergency declared after May 5, 1954, by Congress or the President, the President may suspend the operation of any provision of this section.*

(e) The authorized strengths of the Army in Officers in the Medical Corps and Dental Corps in grades below brigadier general shall be based on the needs of the Army, as determined by the Secretary under regulations to be prescribed by the Secretary of Defense.

(f) In determining the authorized strength of the Army under subsection (a), the strengths authorized for the Medical Corps and Dental Corps shall be excluded. (Aug. 10, 1956, ch. 1041, 70A Stat. 172; Sept. 2, 1958, Pub. L. 85-861, § 1(63), 72 Stat. 1463; Dec. 28, 1967, Pub. L. 90-228, § 1(1), (2), 81 Stat. 745.)

### —NOTE—

EXCERPT FROM SENATE REPT. 1215, 82D CONG., 2D SESS. (1954)

#### SUSPENSION OF PROVISIONS DURING TIME OF EMERGENCY

This section permits the President to suspend, *in time of war or national emergency* declared after enactment of this act, all or any part of the provisions of the act which relate to officers of the Army and Air Force, and those provisions of the Officer Personnel Act of 1947, amended by this act, which relate to distribution in grades for officers of the Navy above the grade of lieutenant and of the Marine Corps above the grade of captain. Section 426(c) of the Officer Personnel Act of 1947, as amended, permits the President to suspend, *in time of war or national emergency declared after August 7, 1947*, all or any part of the provisions of that act which relate to distribution in grades, promotion by selection, and involuntary retirement and discharge of officers of the Navy and Marine Corps. Section 403 of the bill limits the President's suspension authority with regard to provisions of the Officer Personnel Act of 1947, as amended, which relate to distribution in grades above that of lieutenant in the Navy and captain in the Marine Corps, *to time of war or national emergency* declared after enactment of proposed legislation.

#### 10 U.S.C. 3313. SUSPENSION OF LAWS FOR PROMOTION OR MANDATORY RETIREMENT OR SEPARATION DURING WAR OR EMERGENCY

*In time of war, or of emergency declared by Congress or the President, the President may suspend the operation of any provision of*

[Emphasis supplied.]

law relating to promotion, or mandatory retirement or separation, of commissioned officers of the Regular Army. (Aug. 10, 1956, ch. 1041, 70A Stat. 193.)

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#### 10 U.S.C. 3444. COMMISSIONED OFFICERS : DURING WAR OR EMERGENCY

(a) *In time of emergency declared by Congress or the President, and in time of war*, the President may appoint any qualified person, including a person who is not a Regular or Reserve, in any temporary commissioned grade.

(b) An officer appointed under subsection (a) may be ordered to active duty for such period as the President prescribes.

(c) Unless sooner vacated, an appointment under subsection (a) is effective during the war or emergency in which it is made and for six months thereafter.

(d) For the purposes of determining grade, position on a promotion list, seniority in temporary grade, and eligibility for promotion, an officer of the Medical or Dental Corps who is appointed in a temporary grade under subsection (a) shall, when he enters on active duty, be credited with the constructive service authorized by section 3294 (b) of this title. (Aug. 10, 1956, ch. 1041, 70A Stat. 196; Sept. 2, 1958, Pub. L. 85-861, § 1(81) (A), 72 Stat. 1480.)

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#### 10 U.S.C. 3445. OFFICERS : ADDITIONAL APPOINTMENTS DURING WAR OR EMERGENCY

(a) In addition to appointments authorized under section 3442 of this title, *in time of war or of national emergency declared by the President*, a regular officer or a reserve warrant officer may be appointed in a temporary grade that is higher than his regular or reserve grade, without vacating that grade.

(b) In addition to appointments authorized under subsection (a) of this section, and sections 3442 and 3444 of this title, *in time of war* a person who holds no commissioned grade in the Regular Army may be appointed in any temporary commissioned grade.

(c) Unless sooner vacated, the appointment of an officer under subsection (b), except a member of the Regular Army, is effective during the war in which it is made and for six months thereafter.

(d) Each officer appointed under subsection (b) shall, unless he is a member of the Regular Army, be relieved from active duty, at his request, within six months after the termination of the war. (Aug. 10, 1956, ch. 1041, 70A Stat. 196; Sept. 2, 1958, Pub. L. 85-861, § 1(81) (B), 72 Stat. 1480.)

#### —NOTE—

EXCERPT FROM SENATE REPT. 2484, 84TH CONG., 2D SESS. (1956)

Your committee deems it advisable, therefore, to provide that *in time of war* a Regular Army officer may receive a

[Emphasis supplied.]

higher temporary appointment, and that such Regular Army officer and all others appointed as officers, regardless of from what source they come, shall be appointed and commissioned in the Army of the United States, thereby placing all officers upon an equal basis *in time of war* and correcting one of the glaring mistakes made in the administration of officer personnel during the recent World War.

In conclusion, your committee wishes to state that the passage of this bill will eliminate the necessity for resorting to the draft in order to secure the services of the officers and enlisted men of the National Guard *in time of emergency*, which draft to these men who have previously volunteered is most obnoxious; and, in the opinion of your committee, will also be a most important step toward solidifying the three components of the Army of the United States—the Regular Army, the National Guard of the United States, and the Organized Reserves, and will provide in a definite manner for that unity of command which is so essential to the success of any military undertaking.

#### 10 U.S.C. 3500. ARMY NATIONAL GUARD IN FEDERAL SERVICE: CALL

Whenever—

(1) the United States, or any of the Territories, Commonwealths, or possessions, is invaded or is in danger of invasion by a foreign nation;

(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

(3) the *President is unable with the regular forces to execute the laws of the United States;*

the President may call into Federal service members and units of the Army National Guard of any State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States, the Territories, Puerto Rico, and the Canal Zone, and, in the District of Columbia, through the commanding general of the National Guard of the District of Columbia. (Aug. 10, 1956, ch. 1041, 70A Stat. 199.)

#### 10 U.S.C. 3741. MEDAL OF HONOR: AWARD

The President may award, and present in the name of Congress, a medal of honor of appropriate design, with ribbons and appurtenances, to a person who while a member of the Army, distinguished

[Emphasis supplied.]

himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) *while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.*

(Aug. 10, 1956, ch. 1041, 70A Stat. 215; July 25, 1963, Pub. L. 88-77, § 1(1), 77 Stat. 93.)

[See 14 U.S.C. 491, Note. *infra.*]

#### 10 U.S.C. 3742. DISTINGUISHED-SERVICE CROSS: AWARD

The President may award a distinguished-service cross of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Army, distinguishes himself by extraordinary heroism not justifying the award of a medal of honor—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) *while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.*

(Aug. 10, 1956, ch. 1041, 70A Stat. 215; July 25, 1963, Pub. L. 88-77, § 1(2), 77 Stat. 93.)

[See 14 U.S.C. 491, Note. *infra.*]

#### 10 U.S.C. 3746. SILVER STAR: AWARD

The President may award a silver star of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Army, is cited for gallantry in action that does not warrant a medal of honor or distinguished-service cross—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) *while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.*

(Aug. 10, 1956, ch. 1041, 70A Stat. 216; July 25, 1963, Pub. L. 88-77, § 1(3), 77 Stat. 93.)

[See 14 U.S.C. 491, Note. *infra.*]

[Emphasis supplied.]

## 10 U.S.C. 3750. SOLDIER'S MEDAL: AWARD; LIMITATIONS

(a) The President may award a decoration called the "Soldier's Medal", of appropriate design with accompanying ribbon, to any person who, while serving in any capacity with the Army, distinguishes himself by heroism *not involving actual conflict with an enemy*.

(b) Not more than one Soldier's Medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal, the President may award a suitable bar or other device to be worn as he directs. (Aug. 10, 1956, ch. 1041, 70A Stat. 217.)

[See 14 U.S.C. 419, Note. *infra*.]

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## 10 U.S.C. 4025. PRODUCTION OF SUPPLIES AND MUNITIONS: HOURS AND PAY OF LABORERS AND MECHANICS

During a *national emergency declared by the President*, the regular working hours of laborers and mechanics of the Department of the Army producing military supplies or munitions are 8 hours a day or 40 hours a week. However, under regulations prescribed by the Secretary of the Army these hours may be exceeded. Each laborer or mechanic who works more than 40 hours in a workweek shall be paid at a rate not less than one and one-half times the regular hourly rate for each hour in excess of 40. (Aug. 10, 1956, ch. 1041, 70A Stat. 234.)

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## 10 U.S.C. 4501. INDUSTRIAL MOBILIZATION: ORDERS; PRIORITIES; POSSESSION OF MANUFACTURING PLANTS; VIOLATIONS

(a) *In time of war or when war is imminent, the President*, through the head of any department, may order from any person or organized manufacturing industry necessary products or materials of the type usually produced or capable of being produced by that person or industry.

(b) A person or industry with whom an order is placed under subsection (a), or the responsible head thereof, shall comply with that order and give it precedence over all orders not placed under that subsection.

(c) *In time of war or when war is imminent, the President*, through the head of any department, may take immediate possession of any plant that is equipped to manufacture, or that in the opinion of the Secretary of the Army is capable of being readily transformed into a plant for manufacturing, arms or ammunition, parts thereof, or necessary supplies for the Army, if the person or industry owning or operating the plant, or the responsible head thereof, refuses—

- (1) to give precedence to the order as prescribed in subsection (b);

[Emphasis supplied.]

(2) to manufacture the kind, quantity, or quality of arms or ammunition, parts thereof, or necessary supplies, as ordered by the Secretary; or

(3) to furnish them at a reasonable price as determined by the Secretary.

(d) The President, through the Ordnance Corps, may manufacture products that are needed *in time of war or when war is imminent*, in any plant that is seized under subsection (c).

(e) Each person or industry from whom products or materials are ordered under subsection (a) is entitled to fair and just compensation. Each person or industry whose plant is seized under subsection (c) is entitled to a fair and just rental.

(f) Whoever fails to comply with this section shall be imprisoned for not more than three years and fined not more than \$50,000. (Aug. 10, 1956, ch. 1041, 70A Stat. 251.)

#### 10 U.S.C. 4502. INDUSTRIAL MOBILIZATION; PLANTS; LISTS; BOARD ON MOBILIZATION OF INDUSTRIES ESSENTIAL FOR MILITARY PREPAREDNESS

(a) The Secretary of the Army shall maintain a list of all privately owned plants in the United States, and the Territories, Commonwealths, and possessions, that are equipped to manufacture for the Army arms or ammunition, or parts thereof, and shall obtain complete information of the kinds of those products manufactured or capable of being manufactured by each of those plants, and of the equipment and capacity of each of those plants.

(b) The Secretary shall maintain a list of privately owned plants in the United States, and the Territories, Commonwealths, and possessions, that are capable of being readily transformed into factories for the manufacture of ammunition for the Army, and that have a capacity sufficient to warrant conversion into ammunition plants *in time of war or when war is imminent*, and shall obtain complete information as to the equipment of each of those plants.

(c) The Secretary shall prepare comprehensive plans for converting each plant listed pursuant to subsection (b) into a factory for the manufacture of ammunition or parts thereof.

(d) The President may appoint a nonpartisan Board on Mobilization of Industries Essential for Military Preparedness, and may provide necessary clerical assistance to organize and coordinate operations under this section and section 4501 of this title. (Aug. 10, 1956, ch. 1041, 70A Stat. 252.)

#### 10 U.S.C. 4742. CONTROL OF TRANSPORTATION SYSTEMS IN TIME OF WAR

*In time of war, the President, through the Secretary of the Army, may take possession and assume control of all or part of any system of transportation to transport troops, war material, and equipment,*

[Emphasis supplied.]

or for other purposes related to the emergency. So far as necessary, he may use the system to the exclusion of other traffic. (Aug. 10, 1956, ch. 1041, 70A Stat. 266.)

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#### 10 U.S.C. 4776. EMERGENCY CONSTRUCTION: FORTIFICATIONS

If *in an emergency the President considers* it urgent, a temporary fort or fortification may be built on private land if the owner consents in writing. (Aug. 10, 1956, ch. 1041, 70A Stat. 270; Sept. 1, 1970, Pub. L. 91-393, § 5, 84 Stat. 835.)

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#### 10 U.S.C. 4780. ACQUISITION OF BUILDINGS IN DISTRICT OF COLUMBIA

(a) *In time of war or when war is imminent, the Secretary of the Army* may acquire by lease any building, or part of a building, in the District of Columbia that may be needed for military purposes.

(b) At any time, the Secretary may, for the purposes of the Department of the Army, requisition the use and take possession of any building or space in any building, and its appurtenances, in the District of Columbia, other than—

(1) a dwelling house occupied as such;

(2) a building occupied by any other agency of the United States; or

(3) space in such a dwelling house or building.

The Secretary shall determine, and pay out of funds appropriated for the payment of rent by the Department of the Army, just compensation for that use. If the amount of the compensation is not satisfactory to the person entitled to it, the Secretary shall pay 75 percent of it to that person, and the claimant is entitled to recover by action against the United States an additional amount that, when added to the amount paid by the Secretary, is determined by the court to be just compensation for that use. (Added Pub. L. 85-861, § 1 (105) (A), Sept. 2, 1958, 72 Stat. 1489.)

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#### 10 U.S.C. 5081. CHIEF OF NAVAL OPERATIONS: APPOINTMENT; TERM OF OFFICE; POWERS; DUTIES

(a) There is a Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate, to serve at the pleasure of the President, for a term of four years, from officers on the active list in the line of the Navy, eligible to command at sea and not below the grade of rear admiral. *In time of war or national emergency declared by the Congress after December 31, 1968*, he may be reappointed for a term of not more than four years.

(b) The Chief of Naval Operations, while so serving, has the rank of admiral. He takes precedence above all other officers of the

[Emphasis supplied.]



naval service, except an officer of the naval service who is serving as Chairman of the Joint Chiefs of Staff.

(c) Under the direction of the Secretary of the Navy, the Chief of Naval Operations shall exercise supervision over such of the members and organizations of the Navy and the Marine Corps as the Secretary of the Navy determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders under section 124 of this title.

(d) The Chief of Naval Operations is the principal naval adviser to the President and to the Secretary of the Navy on the conduct of war, and the principal naval adviser and naval executive to the Secretary on the conduct of the activities of the Department of the Navy. (Aug. 10, 1956, ch. 1041, 70A Stat. 281; Aug. 6, 1958, Pub. L. 85-599, § 4(b), 72 Stat. 516; Sept. 7, 1962, Pub. L. 87-651, title I, §§ 114, 120, 76 Stat. 513; June 5, 1967, Pub. L. 90-22, title IV, § 402, 81 Stat. 53.)

[See 10 U.S.C. 3034, Note. *Supra.*]

#### 10 U.S.C. 5201. COMMANDANT: APPOINTMENT; TERM: EMOLUMENTS

(a) There is a Commandant of the Marine Corps, appointed by the President, for a term of four years, by and with the advice and consent of the Senate, to serve at the pleasure of the President, from officers on the active list of the Marine Corps, not below the rank of colonel. *In time of war or national emergency declared by the Congress after December 31, 1968*, he may be reappointed for a term of not more than four years.

(b) The Commandant of the Marine Corps, while so serving, has the rank of general.

(c) An officer who is retired while serving as Commandant of the Marine Corps, or who, after serving at least two and one-half years as Commandant, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the grade of general. The retired pay of such an officer shall be computed at the highest rates of basic pay applicable to him while he served in that office.

(d) Under the direction of the Secretary of the Navy, the Commandant of the Marine Corps shall exercise supervision over such of the members and organizations of the Marine Corps and Navy as the Secretary of the Navy determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders under section 124 of this title. (Aug. 10, 1956, ch. 1041, 70A Stat. 292; May 20, 1958, Pub. L. 85-422, § 6(3), 72 Stat. 129; Aug. 6, 1958, Pub. L. 85-599, § 4(c), 72 Stat. 517; Sept. 7, 1962, Pub. L. 87-651, title I, § 114, 76 Stat. 513; June 5, 1967, Pub. L. 90-22, title IV, § 404, 81 Stat. 53.)

[See 10 U.S.C. 3034, Note. *Supra.*]

[Emphasis supplied.]

## 10 U.S.C. 5231. NAVY POSITIONS: ADMIRALS AND VICE ADMIRALS

(a) The President may designate officers on the active list of the Navy above the grade of captain and, *in time of war or national emergency*, above the grade of commander for—

- (1) command of fleets or subdivisions of fleets;
- (2) command of naval units afloat to perform special or unusual missions; or
- (3) performance of duty of great importance and responsibility.

An officer so designated may be appointed by the President, by and with the advice and consent of the Senate, to the grade of admiral or vice admiral. Such an appointment is effective on the date the officer reports for the designated duty and terminates on the date he is detached. The Secretary of the Navy shall determine the rank of officers in the grade in which they are serving under this section.

(b) The number of officers serving in the grades of admiral and vice admiral under subsection (a) may not, at any time, exceed 15 percent of the number of officers prescribed for the grade of rear admiral in—

- (1) section 5442 of this title, if that section is operative; or
- (2) section 5447 of this title, if section 5442 is inoperative.

Of the number of officers that may serve in the grades of admiral and vice admiral, as determined under this subsection, not more than eight may have the grade of admiral.

(c) Except *in time of war or national emergency*, the number of officers serving in the grades of admiral and vice admiral may not exceed 26, including the Chief of Naval Operations, and of the number so serving only the Chief of Naval Operations and three others may have the grade of admiral.

(d) An officer while serving as Chairman of the Joint Chiefs of Staff, if serving in the grade of admiral, is in addition to the numbers authorized under subsections (b) and (c) of this section.

(e) An officer of the Navy assigned as Chief of Staff to the President shall be appointed by the President, by and with the advice and consent of the Senate, to the grade of admiral, unless he is otherwise entitled to the same or a higher grade. Such an appointment is effective while the officer is so serving, and while in that grade he is in addition to the numbers authorized under subsections (b) and (c) of this section.

(f) An appointment under this section does not create a vacancy in the grade held by the officer at the time he is appointed and does not increase the authorized strength of the Navy in officers on the active list. (Aug. 10, 1956, ch. 1041, 70A Stat. 294.)

## 10 U.S.C. 5232. MARINE CORPS POSITIONS: GENERAL AND LIEUTENANT GENERALS

(a) The President may designate officers on the active list of the Marine Corps above the grade of colonel and, *in time of war or national emergency*, above the grade of lieutenant colonel for—

[Emphasis supplied.]

- (1) appropriate higher commands; or
- (2) performance of duty of great importance and responsibility.

An officer so designated may be appointed by the President, by and with the advice and consent of the Senate, to the grade of lieutenant general. Such an appointment is effective on the date the officer reports for the designated duty and terminates on the date he is detached. The Secretary of the Navy shall determine the rank of officers in the grade in which they are serving under this section.

(b) The number of officers serving in the grade of lieutenant general may not exceed two except *in time of war or national emergency*, and may not, at any time, exceed 10 percent of the number of officers not restricted in the performance of duty prescribed for grades above colonel in—

(1) section 5443 of this title, if that section is operative; or

(2) section 5448 of this title, if section 5443 is inoperative.

(c) An officer of the Marine Corps assigned as Chief of Staff to the President shall be appointed by the President, by and with the advice and consent of the Senate, to the grade of general. Such an appointment is effective while the officer is so serving.

(d) An appointment under this section does not create a vacancy in the grade held by the officer at the time he is appointed and does not increase the authorized strength of the Marine Corps in officers on the active list. (Aug. 10, 1956, ch. 1041, 70A Stat. 295.)

#### 10 U.S.C. 5234. SUSPENSION PROVISION

*During a war or national emergency, the President may suspend any provision of section 5231 or 5232 of this title relating to distribution in grade. Such a suspension may not continue beyond June 30 of the fiscal year following that in which the war or national emergency ends. (Aug. 10, 1956, ch. 1041, 70A Stat. 295.)*

#### —NOTE—

#### EXCERPT FROM HOUSE REPT. 542, 82D CONG., 1ST SESS. (1951)

The purpose of the proposed legislation is to make certain revisions in the provisions of the Officer Personnel Act of 1947 which relate to officers of Navy and Marine Corps so as to meet the requirements of the service *during the period of a national emergency*.

The bill would give the President authority *in time of war or national emergency* to suspend the provisions of the Officer Personnel Act which relate to distribution in grade, promotion by selection, and involuntary retirement and discharge of officers, which would give the Navy and Marine Corps flexibility in the administration of the act similar to that now authorized under title V for the Army and Air Corps. The present provisions of the Officer Personnel Act require the discharge of lieutenants and lieutenants (junior grade) who twice fail of selection for promotion and restrict the employment of Reserve officers in the ranks needed because of grade limitations. It is essential that the President be authorized *during a national emergency or war* to suspend these and such other provisions of the act as the needs of the service require.

Title III of the Officer Personnel Act authorizes the appointment

[Emphasis supplied.]

of temporary officers and the employment of temporary and Reserve officers only on a temporary basis. It now appears, however, that temporary and Reserve officers will be employed on active duty for some years to come. The bill would eliminate the terminable features of title III.

Under the present provisions of title III of the Officer Personnel Act, the Secretary of the Navy may make computations to establish the allowances of officers in the various grades but once annually. This restriction makes it impossible to adjust grade allowances during periods of immediate expansion such as resulted from the Korean incident. Present world conditions will undoubtedly affect the size of the Navy in the foreseeable future and greater flexibility is required to handle efficiently officer programs during such periods of fluctuation. Authority to establish grade allowances at times when needed is therefore essential.

G. L. RUSSELL,  
Rear Admiral, United States Navy,  
Judge Advocate General of the Navy  
(For the Secretary of the Navy).

Although the *proclamation of an emergency in December 1950* now permits officers to be promoted under the wartime act of July 24, 1941, it is considered that events, similar to Korea, when an emergency is not immediately declared, might in the future necessitate the use of the temporary promotion system.

#### 10 U.S.C. 5402. REGULAR MARINE CORPS: TOTAL; ENLISTED MEMBERS

(a) *Except in time of war or national emergency declared by Congress after June 28, 1952*, the authorized strength of the Regular Marine Corps, excluding retired members, is 400,000. However, this strength may be temporarily exceeded at any time in a fiscal year if the daily average number in that year does not exceed it.

(b) *Except in time of war or national emergency declared by Congress after June 28, 1952*, the authorized strength of the Regular Marine Corps in enlisted members, excluding retired enlisted members, is 400,000 less the actual strength of the Marine Corps in permanent regular officers other than retired regular officers. However, this strength may be temporarily exceeded at any time in a fiscal year if the daily average number in that year does not exceed it. (Aug. 10, 1956, ch. 1041, 70A Stat. 297.)

#### 10 U.S.C. 5447. NAVY: LINE OFFICERS ON THE ACTIVE LIST; PERMANENT GRADE

(a) The distribution in permanent grades of officers on the active list in the line of the Navy, excluding fleet admirals and officers carried as additional numbers in grade, shall be based on the following percentages of the number of such officers:

- (1) Rear admiral— $7\frac{1}{100}$  of 1 percent.
- (2) Captain—6 percent.
- (3) Commander—12 percent.
- (4) Lieutenant commander—18 percent.
- (5) Lieutenant— $24\frac{7}{100}$  percent.

[Emphasis supplied.]

(6) Lieutenant (junior grade) and ensign combined— $38\frac{5}{100}$  percent.

(b) The Secretary of the Navy, as of January 1 of each year, shall compute the number of officers authorized under subsection (a) for each grade above lieutenant (junior grade) and for the combined grades of lieutenant (junior grade) and ensign. The number so computed is the number of line officers on the active list, excluding officers carried as additional numbers in grade, prescribed for the grade or grades concerned. However, if the number of officers prescribed for the grade of captain as computed cannot be attained because of the minimum total commissioned service required for promotion to that grade by section 5780 of this title, the Secretary shall determine an appropriate lesser number. The lesser number then becomes the prescribed number for the grade of captain and the Secretary shall make a corresponding increase in the prescribed number for one or more of the lower grades.

(c) Notwithstanding the provisions of subsection (a), the number of officers not restricted in the performance of duty who may hold permanent appointments on the active list in the line of the Navy in the grade of rear admiral may not exceed 150, *except in time of war or national emergency*.

(d) Of the numbers of officers prescribed for grades below captain, as computed or determined under subsection (b), not more than the following percentages may be officers designated for limited duty:

(1) Commander— $36\frac{1}{100}$  percent.

(2) Lieutenant commander— $86\frac{2}{100}$  percent.

(3) Lieutenant— $77\frac{2}{100}$  percent.

(4) Lieutenant (junior grade) and ensign combined— $6\frac{4}{100}$  percent.

(e) The Secretary, as of January 1 of each year, shall compute the number of officers designated for limited duty authorized under subsection (d) for each grade above lieutenant (junior grade) and for the combined grades of lieutenant (junior grade) and ensign. The Secretary shall also determine the number of such officers, not to exceed the computed number, that will be required to meet the needs of the service during the ensuing year in each grade above lieutenant (junior grade) and in the combined grades of lieutenant (junior grade) and ensign. The number so determined is the prescribed number for the grade or grades concerned.

(f) The number of officers on the active list designated for engineering duty, aeronautical engineering duty, and special duty holding permanent appointments in the grade of rear admiral may not exceed 13 percent of the number of officers prescribed for the grade of rear admiral as computed under subsection (b). The Secretary, as of January 1 of each year, shall compute the number of officers authorized by this subsection to hold permanent appointments in the grade of rear admiral. The number so computed is the number of officers on the active list, restricted in the performance of duty, prescribed for the permanent grade of rear admiral. However, *except in time of war or national emergency*, the total number of officers on

[Emphasis supplied.]

the active list, restricted in the performance of duty, holding permanent appointments in the grade of rear admiral may not exceed 19.

(g) The numbers of officers on the active list designated for engineering duty, aeronautical engineering duty, and special duty, respectively, holding permanent appointments in the combined grades of captain, commander, and lieutenant commander may not exceed the following percentages of the sum of the numbers of officers prescribed for those grades as computed or determined under subsection (b) :

- (1) Engineering duty—11 percent.
- (2) Aeronautical engineering duty—7 percent.
- (3) Special duty—12 percent.

The Secretary, as of January 1 of each year, shall compute the number of officers designated for engineering duty, aeronautical engineering duty, and special duty, respectively, authorized under this section to hold permanent appointments in these combined grades. The number so computed for each designation is the number of officers of that designation on the active list prescribed for these combined permanent grades.

(h) The prescribed numbers of officers computed or determined under this section may not be varied between computations. However, the prescribed number for a grade is temporarily increased during the period between one annual computation and the next succeeding computation by—

- (1) the number of officers originally appointed in that grade during that period; and
  - (2) the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.
- (i) For the purpose of this section—
- (1) each officer is counted in his permanent grade; and
  - (2) women officers are not counted.

(Aug. 10, 1956, ch. 1041, 70A Stat. 307; Pub. L. 90-386, § 1(4), July 5, 1968, 82 Stat. 293.)

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10 U.S.C. 5448. MARINE CORPS: OFFICERS ON THE ACTIVE LIST;  
PERMANENT GRADE

(a) The distribution in permanent grades of officers on the active list of the Marine Corps shall be based on the following percentages of the number of such officers:

- (1) Major general and brigadier general combined— $75\frac{1}{100}$  of 1 percent.
- (2) Colonel—6 percent.
- (3) Lieutenant colonel—12 percent.
- (4) Major—18 percent.
- (5) Captain— $247\frac{1}{100}$  percent.
- (6) First lieutenant and second lieutenant combined— $385\frac{1}{100}$  percent.

However, the number of officers who may have permanent appointments on the active list of the Marine Corps in the grades of

major general and brigadier general may not exceed 36, *except in time of war or national emergency.*

(b) The Secretary of the Navy, as of January 1 of each year, shall compute the number of officers authorized under subsection (a) for the grades of major general and brigadier general. At the time of making this computation, the Secretary shall also determine the number of officers required to meet the needs of the service in each of those grades. The number so determined for each grade is the number of officers on the active list prescribed for that grade. However, the prescribed number for the grade of major general may not exceed 50 percent of the sum of the prescribed numbers for that grade and the grade of brigadier general, and the sum of the prescribed numbers must equal the number authorized for general officer grades under subsection (a).

(c) The Secretary, as of January 1 of each year, shall compute the number of officers authorized under subsection (a) for each of the grades of colonel, lieutenant colonel, major, and captain and for the combined grades of first lieutenant and second lieutenant. The number so computed is the number of officers on the active list prescribed for the grade or grades concerned. However, if the number of officers prescribed for the grade of colonel as computed cannot be attained because of the minimum total commissioned service required for promotion to that grade by section 5780 of this title, the Secretary shall determine an appropriate lesser number. The lesser number then becomes the prescribed number for the grade of colonel and the Secretary shall make a corresponding increase in the prescribed number for one or more of the lower grades.

(d) Of the numbers of officers prescribed for grades below colonel, as computed or determined under subsection (c), not more than the following percentages may be officers designated for limited duty:

- (1) Lieutenant colonel— $36\frac{1}{100}$  percent.
- (2) Major— $86\frac{2}{100}$  percent.
- (3) Captain— $77\frac{2}{100}$  percent.
- (4) First lieutenant and second lieutenant combined— $6\frac{1}{100}$  percent.

(e) The Secretary, as of January 1 of each year, shall compute the number of officers designated for limited duty authorized under subsection (d) for each grade above first lieutenant and for the combined grades of first lieutenant and second lieutenant. The Secretary shall also determine the number of such officers, not to exceed the computed number, that will be required to meet the needs of the service during the ensuing year in each grade above first lieutenant and in the combined grades of first lieutenant and second lieutenant. The number so determined is the prescribed number for the grade or grades concerned.

(f) The prescribed numbers of officers computed or determined under this section may not be varied between computations. However, the prescribed number for a grade is temporarily increased during the period between one annual computation and the next succeeding computation by—

[Emphasis supplied.]

(1) the number of officers originally appointed in that grade during that period; and

(2) the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

(g) For the purpose of this section—

(1) each officer is counted in his permanent grade; and

(2) women officers are not counted.

(Aug. 10, 1956, ch. 1041, 70A Stat. 309; Aug. 3, 1961, Pub. L. 87-123, § 5(7), 75 Stat. 265.)

10 U.S.C. 5449. NAVY: STAFF CORPS OFFICERS ON THE ACTIVE LIST;  
PERMANENT GRADE

(a) The number of officers on the active list of the Navy holding permanent appointments in the grade of rear admiral in the Medical Corps, the Supply Corps, the Chaplain Corps, the Civil Engineer Corps, and the Dental Corps, respectively, excluding any rear admiral serving as a chief of bureau, may not exceed, in any of those corps,  $\frac{5}{10}$  of 1 percent of the number of officers on the active list of the Navy in the corps concerned. The Secretary of the Navy, as of January 1 of each year, shall compute the number of officers authorized under this section to hold permanent appointments in the grade of rear admiral in each corps. The number so computed for each corps is the number of officers on the active list in that corps prescribed for the permanent grade of rear admiral. However, *except in time of war or national emergency*, the numbers of officers who may hold permanent appointments on the active list of the Navy in the grade of rear admiral in these corps may not exceed—

(1) 15 in the Medical Corps;

(2) 13 in the Supply Corps;

(3) 2 in the Chaplain Corps;

(4) 4 in the Civil Engineer Corps; and

(5) 4 in the Dental Corps.

(b) Each officer who holds a permanent appointment on the active list of the Navy in the grade of rear admiral in a staff corps, and who serves as a chief of bureau, shall, upon the termination of his appointment as chief of bureau, be carried in excess of the prescribed number until the next vacancy occurs in the permanent grade of rear admiral in his corps.

(c) Repealed. Pub. L. 90-130, § 1(17)(C), Nov. 8, 1967, 81 Stat. 376.

(d) The prescribed numbers of officers computed under this section may not be varied between computations.

(e) For the purpose of this section—

(1) each officer is counted in his permanent grade; and

(2) women officers appointed under section 5590 of this title are not counted.

[Emphasis supplied.]



(Aug. 10, 1956, ch. 1041, 70A Stat. 311; Aug. 21, 1957, Pub. L. 85-155, title II, § 201 (4), 71 Stat. 381; Nov. 8, 1967, Pub. L. 90-130, § 1(17) (C), (D), 81 Stat. 376.)

#### 10 U.S.C. 5450. REGULAR NAVY: RETIRED FLAG OFFICERS ON ACTIVE DUTY

(a) Except *in time of war or national emergency*, not more than ten retired officers of the Regular Navy in the grade of rear admiral and above may be on active duty.

(b) This section does not apply to fleet admirals or to retired officers ordered to temporary active duty to serve on boards convened under chapter 543 of this title. (Aug. 10, 1956, ch. 1041, 70A Stat. 312.)

#### 10 U.S.C. 5451. SUSPENSION: PRECEDING SECTIONS

(a) Except as provided in subsection (b), *the President, during a war or national emergency, may suspend* any provision of the preceding sections of this chapter. Such a suspension may not continue beyond June 30 of the fiscal year following that in which *the war or national emergency ends*.

(b) The President may suspend provisions of sections 5442, 5443, and 5444 of this title relating to officers serving in grades above lieutenant in the Navy or captain in the Marine Corps only *during a war or national emergency declared by Congress or the President after May 5, 1954*. (Aug. 10, 1956, ch. 1041, 70A Stat. 312.)

#### 10 U.S.C. 5597. NAVY AND MARINE CORPS: TEMPORARY APPOINTMENTS IN TIME OF WAR OR NATIONAL EMERGENCY

(a) Temporary appointments may be made under this section only *in time of war or during a national emergency declared by the President*.

(b) Temporary appointments in the Regular Navy in grades not above lieutenant and in the Regular Marine Corps in grades not above captain may be made from—

(1) warrant officers of the Regular Navy and the Regular Marine Corps, respectively, including retired members on active duty;

(2) chief and first-class petty officers of the Regular Navy and master, technical, and staff sergeants of the Regular Marine Corps, respectively, including retired members on active duty; and

(3) chief and first-class petty officers of the Fleet Reserve and master, technical, and staff sergeants of the Fleet Marine Corps Reserve, respectively, on active duty.

[Emphasis supplied.]

(c) Temporary appointments in the Naval Reserve in grades not above lieutenant and in the Marine Corps Reserve in grades not above captain may be made from—

(1) warrant officers of the Naval Reserve and the Marine Corps Reserve, respectively, on active duty; and

(2) chief and first-class petty officers of the Naval Reserve and master, technical, and staff sergeants of the Marine Corps Reserve, respectively, on active duty.

(d) Temporary appointments in warrant officer grades under this section shall be made by the Secretary of the Navy under such regulations as he prescribes. Such appointments shall be made by warrant if in the grade of warrant officer, W-1, or by commission if in a higher warrant officer grade.

(e) Temporary appointments under this section in grades above chief warrant officer, W-4, shall be made under regulations prescribed by the President and in such numbers as he determines the needs of the service require. Such appointments shall be made by the President alone, except that appointments under subsections (f) and (g) in grades above lieutenant commander in the Navy shall be made by the President, by and with the advice and consent of the Senate. The grade of commodore is established for the purposes of subsections (f) and (g).

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#### 10 U.S.C. 5598. NAVAL RESERVE AND MARINE CORPS RESERVE:

##### TEMPORARY APPOINTMENTS IN TIME OF WAR OR NATIONAL EMERGENCY

(a) *In time of national emergency declared by the President or by Congress, and in time of war*, temporary appointments may be made in any commissioned grade in the Naval Reserve or the Marine Corps Reserve from qualified persons.

(b) Appointments under this section in the grades of chief warrant officer, W-2, chief warrant officer, W-3, and chief warrant officer, W-4, shall be made by the Secretary of the Navy, by commission, under such regulations as he prescribes.

(c) An officer appointed under this section may be ordered to active duty for such period as the President prescribes.

(d) An appointment under this section may be vacated by the President at any time. Unless sooner vacated, the appointment is effective during *the war or emergency in which it is made and for six months thereafter*.

(e) The appointment of a permanent warrant officer to a higher grade under this section does not vacate his permanent grade or prejudice any right, privilege, benefit, or promotion status to which he was entitled because of his permanent grade. (Aug. 10, 1956, ch. 1041, 70A Stat. 331.)

(f) Temporary appointments in a staff corps and in the line or in a different staff corps of the Regular Navy may be made from retired officers of the Regular Navy in the line and staff corps, respectively, who are on active duty. Each officer appointed under

[Emphasis supplied.]

this subsection shall be appointed in the grade in which he was serving at the time of appointment.

(g) Temporary appointments in a staff corps and in the line or in a different staff corps of the Naval Reserve may be made from retired officers of the Naval Reserve in the line and staff corps, respectively, who are on active duty. Each officer appointed under this subsection shall be appointed in the grade in which he was serving at the time of appointment.

(h) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits.

(i) Each temporary appointment under this section, unless expressly declined, is, without formal acceptance or oath of office, regarded as accepted on the date made.

(j) Temporary appointments under this section are effective for such periods as the President determines. However, no such appointment may be effective later than—

(1) *six months after the end of the war or national emergency*; or

(2) the date the appointee is released from active duty; whichever is earlier.

(k) When his temporary appointment under this section is terminated, each member of the naval service on active duty shall have the grade he would hold if he had not received any such appointment. (Aug. 10, 1956, ch. 1041, 70A Stat. 330; Sept. 7, 1962, Pub. L. 87-649, §§ 5(a), 14c(28), 76 Stat. 493, 501.) (As amended Sept. 28, 1971, Pub. L. 92-129, title VI, § 603(a), 85 Stat. 362.)

[See 10 U.S.C. 5787 (S. Rept. 483). *Infra*.]

#### 10 U.S.C. 5599. MEDICAL CORPS: ACTING APPOINTMENTS FOR TEMPORARY SERVICE

(a) Appointments for temporary service in the Medical Corps in the grade of lieutenant (junior grade) may be made by the President alone.

(b) Appointees under this section may not be placed on the lineal list, may not be assigned running mates, and are ineligible for promotion. The number of such appointees may not be more than 250 at any time, *except that in time of war or declared national emergency* the number may be increased by the President as he considers necessary to meet the needs of the naval service. (Aug. 10, 1956, ch. 1041, 70A Stat. 331).

#### 10 U.S.C. 5662. SUSPENSION: PRECEDING SECTIONS

(a) The President may suspend any provision of the preceding sections of this chapter relating to officers serving in the grades of lieutenant and lieutenant (junior grade) during any period when—

[Emphasis supplied.]

(1) the number of officers serving on active duty in the grade of ensign and above in the line of the Navy exceeds the number of officers on the active list in the line of the Navy; and

(2) he determines that the needs of the service so require.

(b) *During a war or national emergency, the President may suspend any provision of the preceding sections of this chapter. Such a suspension may not continue beyond June 30 of the fiscal year following that in which the war or national emergency ends.* (Aug. 10, 1956, ch. 1041, 70A Stat. 335.)

[See 10 U.S.C. 5234 (H. Rept. 542). *Supra.*]

#### 10 U.S.C. 5711. SUSPENSION AND EXCEPTIONS: PRECEDING SECTIONS

(a) The President may suspend any provision of the preceding sections of this chapter relating to officers serving in the grades of lieutenant and lieutenant (junior grade) in the Navy, other than women officers appointed under section 5590 of this title, or relating to male officers serving in the grades of captain and first lieutenant in the Marine Corps during any period when—

(1) the number of male officers serving on active duty in the grade of ensign and above in the line of the Navy exceeds the number of male officers on the active list in the line of the Navy; and

(2) he determines that the needs of the service so require.

(b) *During a war or national emergency, the President may suspend any provision of the preceding sections of this chapter. Such a suspension may not continue beyond June 30 of the fiscal year following that in which the war or national emergency ends.*

(c) Officers in the following categories are ineligible for consideration by a selection board under this chapter and are not counted as officers serving on active duty for the purpose of subsection (a):

(1) Repealed. Pub. L. 90-130, § 1(18) (M), Nov. 8, 1967, 81 Stat. 377.

(2) Retired officers.

(3) Officers of the Naval Reserve and the Marine Corps Reserve assigned to active duty for training.

(4) Officers of the Naval Reserve and the Marine Corps Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve or the Marine Corps Reserve.

(5) Officers of the Naval Reserve and the Marine Corps Reserve ordered to temporary active duty to prosecute special work.

(Aug. 10, 1956, ch. 1041, 70A Stat. 345; Nov. 8, 1967, Pub. 90-130, § 1(18) (M), 81 Stat. 377.)

[See 10 U.S.C. 5234 (H. Rept. 542). *Supra.*]

[Emphasis supplied.]

## 10 U.S.C. 5785. SUSPENSION: PRECEDING SECTIONS

(a) The President may suspend any provision of the preceding sections of this chapter relating to officers serving in the grades of lieutenant and lieutenant (junior grade) in the Navy, other than women officers appointed under section 5590 of this title, or relating to male officers serving in the grades of captain and first lieutenant in the Marine Corps during any period when—

(1) the number of male officers serving on active duty in the grade of ensign and above in the line of the Navy exceeds the number of male officers on the active list in the line of the Navy; and

(2) he determines that the needs of the service so require.

(b) *During a war or national emergency, the President may suspend any provision of the preceding sections of this chapter relating to officers of the Navy and the Marine Corps, other than women officers appointed under section 5590 of this title. Such a suspension may not continue beyond June 30 of the fiscal year following that in which the war or national emergency ends. (Aug. 10, 1956, ch. 1041, 70A Stat. 365; Sept. 2, 1958, Pub. L. 85-861, § 33 (a) (29), 72 Stat. 1566.)*

[See 10 U.S.C. 5234 (H. Rept. 542). *Supra*.]

## 10 U.S.C. 5787. TEMPORARY PROMOTIONS IN TIME OF WAR OR NATIONAL EMERGENCY

(a) Promotions may be made under this section only *in time of war or during a national emergency declared by the President*.

(b) The President may promote to a higher grade any member of the naval service serving on active duty in the Navy in the grade of ensign or above or serving on active duty in the Marine Corps in the grade of second lieutenant or above. Such promotions shall be made under such regulations as the President prescribes and in such numbers as he determines the needs of the service require.

(c) The Secretary of the Navy, under such regulations as he prescribes, may promote to the next higher warrant officer grade any member of the naval service serving on active duty in a warrant officer grade below chief warrant officer, W-4.

(d) The grade of commodore in the Navy is established for the purposes of this section.

(e) Promotions under this section shall be made by temporary appointments. Each such appointment to a grade above lieutenant commander in the Navy or to a grade above major in the Marine Corps shall be made by the President, by and with the advice and consent of the Senate. Each such appointment to a warrant officer grade shall be made by the Secretary, by commission. All other temporary appointments under this section shall be made by the President alone.

[Emphasis supplied.]

(f) Temporary promotions under this section to the grade of lieutenant or above in the Navy or to the grade of captain or above in the Marine Corps may be made only upon the recommendation of a board of officers convened for that purpose. In addition to recommending officers for promotion, a board so convened shall make the report required by section 6395 of this title.

(g) Each temporary appointment under this section, unless expressly declined, is without formal acceptance, regarded as accepted on the date made.

(h) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to other promotion or appointment, or abridge their rights or benefits.

(i) Temporary appointments under this section are effective for such periods as the President determines. However, no such appointment may be effective later than—

(1) *six months after the end of the war or national emergency*; or

(2) the date the appointee is released from active duty; whichever is earlier.

(j) When his temporary appointment under this section is terminated or expires, each member of the naval service on active duty shall have the grade he would hold if he had not received any such appointment. (Aug. 10, 1956, ch. 1041, 70A Stat. 366; Sept. 7, 1962, Pub. L. 87-649, §§ 5(b), 14c(30), 76 Stat. 493, 501.)

\* \* \* \* \*

(As amended Sept. 28, 1971, Pub. L. 92-129, title VI, § 630(b), 85 Stat. 362.)

### —NOTE—

EXCERPT FROM SENATE REPT. 483, 77TH CONG., 1ST SESS. (1941)

The purpose of this bill is to provide for the temporary appointment or advancement of certain personnel of the Navy, Marine Corps, and Coast Guard as commissioned or warrant officers, and thus meet the officer requirements incident to the great expansion of the Naval Establishment upon which we are now entering, and of which aviation is an important part.

Many warrant officers and enlisted men would be of greater value to the service as commissioned officers *in time of war or national emergency*. By temporarily promoting warrant officers and petty officers who are qualified for commission, by which is meant that they possess qualifications which fit them for posts of greater authority and responsibility in their specialities, and for duties of wider scope than those normally assigned them in their present positions, maximum use will be made of the abilities of individuals who are already in service.

\* \* \* \* \*

[Emphasis supplied.]

During a period of expansion, such as that upon which the Naval Establishment is now entering, it will be impracticable for an officer to complete the present legal period of service in grade before he must be given greater responsibilities, thus requiring that he fill a billet normally filled by an officer of higher rank. This bill therefore provides for temporary advancements or promotions, which like the temporary appointments, will be for *the duration of the national emergency*, and be subject to similar conditions upon the termination of active duty thereunder.

Representatives of the Navy Department have stated that there is no immediate necessity for temporary promotions in the so-called command grades, namely, commander, captain, and rear admiral pending the report of the next regularly constituted selection boards for permanent promotions. It is the intention to fill any shortage therein which might exist following such report by temporary promotions.

There have been a number of factors which tended to build up an excess in the higher grades. One of these was the Personnel Act of 1938, which provided for promotions to all grades except lieutenant and rear admiral on a fitted, as well as a best-fitted, basis. Individuals so promoted and retained on the active list are carried in excess in the various grades. For a short period after that law went into effect only so many of these so-called fitted officers as were needed to meet the immediate needs of the service were retained on the active list. During the past year, however, all such officers have been retained on the active list, and it is expected that the practice will be continued *as long as the emergency lasts, especially as the Congress has provided that no officer who has been adjudged fitted for promotion shall be involuntarily retired during the emergency.*

\* \* \* \* \*

Very briefly the bill—

(1) Authorizes the temporary advancement of officers in the Navy, the Marine Corps, and the Coast Guard to higher ranks including retired officers recalled to active duty.

(2) Authorizes the temporary appointment of enlisted men to warrant and commissioned ranks; including retired and Reserve men assigned to active duty.

(3) Provides that temporary appointments and advancements shall be in such numbers as the President may deem necessary and be made in such manner and under such regulations as he may prescribe.

(4) Provides that temporary appointments and advancements may be made by the President alone, except that promotions to the grade of rear admiral in the Navy and general officers in the Marine Corps shall be made by and with the advice and consent of the Senate.

(5) Grants enlisted men initially appointed as officers the sum of \$250 as a uniform gratuity.

[Emphasis supplied.]

(6) Provides that personnel temporarily promoted shall receive the pay of the rank to which promoted.

(7) Authorizes percentage pay increases for officers who perform active duty while on the retired list.

(8) Makes provision for retirement benefits for certain classes of individuals who, while on active duty, incur physical disability in the line of duty in time of war or national emergency.

(9) Provides that the permanent status on the active or retired list of personnel temporarily appointed or promoted will not be vacated while such personnel are holding such appointments or higher ranks or grades.

(10) Provides that temporary appointments and promotions to the different grades may be made over and above the number now authorized by law for each grade in the permanent naval establishment.

(11) Provides that the temporary appointment or advancement of personnel may be revoked at any time and that upon termination of their temporary status they revert to their permanent status.

(12) Limits to not more than *6 months after the termination of war or national emergency* the period of time during which the temporary appointments and promotions made under the authority of the bill may continue to be in force.

\* \* \* \* \*

Section 9 of the bill provides that any temporary appointment made pursuant to the authority contained in section 2 shall not be counted in any computation to determine the authorized number of officers in any grade. This means that percentage distributions in grades will not apply insofar as temporary appointments and promotions are concerned. Temporary appointments and promotions to the different grades may be made over and above the numbers now authorized by law for each grade in the permanent Naval Establishment to meet the needs of the service as they arise.

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#### 10 U.S.C. 5982. SHIPS AND SQUADRONS: DETAIL OF RETIRED OFFICERS TO COMMAND

(a) *In time of war, the President*, by and with the advice and consent of the Senate, may detail retired officers of the Navy on active duty to the command of squadrons and single ships, if he believes that the good of the service requires that they be so detailed.

(b) In making details under subsection (a), the President may select any retired officer not below the grade of commander and assign him to the command of a squadron, with the rank and title of a flag officer.

[Emphasis supplied.]



(c) If a retired officer detailed under subsection (a) receives, on the recommendation of the President, a vote of thanks of Congress for his services and gallantry in action against the enemy, the President, by and with the advice and consent of the Senate, may appoint him to the active list of the Navy. (Aug. 10, 1956, ch. 1041, 70A Stat. 373.)

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#### 10 U.S.C. 6241. MEDAL OF HONOR

The President may award, and present in the name of Congress, a medal of honor of appropriate design, with ribbons and appurtenances, to a person who, while a member of the naval service, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force;

(3) *while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.*

(Aug. 10, 1956, ch. 1041, 70A Stat. 389; July 25, 1963, Pub. L. 88-77, § 2(1), 77 Stat. 93.)

[See 14 U.S.C. 491, Note. *Infra.*]

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#### 10 U.S.C. 6242. NAVY CROSS

The President may award a Navy cross of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Navy or Marine Corps, distinguishes himself by extraordinary heroism not justifying the award of a medal of honor—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) *while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.*

(Aug. 10, 1956, ch. 1041, 70A Stat. 389; July 25, 1963, Pub. L. 88-77, § 2(2), 77 Stat. 94.)

[See 14 U.S.C. 491, Note. *Infra.*]

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#### 10 U.S.C. 6244. SILVER STAR MEDAL

The President may award a silver star medal of appropriate design, with ribbons and appurtenances, to a person who, while

[Emphasis supplied.]

serving in any capacity with the Navy or Marine Corps, is cited for gallantry in action that does not warrant a medal of honor or Navy cross—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) *while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.*

(Aug. 10, 1956, ch. 1041, 70A Stat. 389; July 25, 1963, Pub. L. 88-77, § 2(3), 77 Stat. 94.)

[See 14 U.S.C. 491, Note. *Infra.*]

#### 10 U.S.C. 6246. NAVY AND MARINE CORPS MEDAL

The President may award a medal called the "Navy and Marine Corps Medal" of appropriate design with accompanying ribbon, together with a rosette or other device to be worn in place thereof—

(1) to any person who, while serving in any capacity with the Navy or the Marine Corps, distinguishes himself by heroism *not involving actual conflict with an enemy*; or

(2) to any person to whom the Secretary of the Navy, before August 7, 1942, awarded a letter of commendation for heroism, and who applies for that medal, regardless of the date of the act of heroism.

(Aug. 10, 1956, ch. 1041, 70A Stat. 390.)

[See 14 U.S.C. 491, Note. *Infra.*]

#### 10 U.S.C. 6386. SUSPENSION: PRECEDING SECTIONS

(a) The President may suspend any provision of the preceding sections of this chapter relating to officers serving in the grades of lieutenant and lieutenant (junior grade) in the Navy, other than women officers appointed under section 5590 of this title, or relating to male officers serving in the grades of captain and first lieutenant in the Marine Corps during any period when—

(1) the number of male officers serving on active duty in the grade of ensign and above in the line of the Navy exceeds the number of male officers on the active list in the line of the Navy; and

(2) he determines that the needs of the service so require.

(b) Officers in the following categories are not counted as officers serving on active duty for the purpose of clause (1) of subsection (a):

(1) Retired officers.

(2) Officers of the Naval Reserve assigned to active duty for training.

[Emphasis supplied.]

(3) Officers of the Naval Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve.

(4) Officers of the Naval Reserve ordered to temporary active duty to prosecute special work.

(c) *During a war or national emergency, the President may suspend any provision of the preceding sections of this chapter. Such a suspension may not continue beyond June 30 of the fiscal year following that in which the war or national emergency ends.* (Aug. 10, 1956, ch. 1041, 70A Stat. 408.)

[See 10 U.S.C. 5234 (H. Rept. 542). *Supra.*]

#### 10 U.S.C. 6408. NAVY AND MARINE CORPS; WARRANT OFFICERS, W-1: LIMITATION ON DISMISSAL

(a) No officer who holds the grade of warrant officer, W-1, may be dismissed from the Navy or the Marine Corps *except in time of war*, by order of the President.

(b) The President may drop from the rolls of the Navy or the Marine Corps any officer who holds the grade of warrant officer, W-1, who—

(1) has been absent without authority for at least three months; or

(2) is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

(Aug. 10, 1956, ch. 1041, 70A Stat. 416.)

#### 10 U.S.C. 6481. RETIRED OFFICERS OF THE REGULAR NAVY AND REGULAR MARINE CORPS: AUTHORITY TO RECALL

*In time of war or national emergency declared by the President, the Secretary of the Navy may order any retired officer of the Regular Navy or the Regular Marine Corps to active duty at sea or on shore. At any other time the Secretary may order such a retired officer to active duty at sea or on shore only with his consent.* (Aug. 10, 1956, ch. 1041, 70A Stat. 416.)

#### 10 U.S.C. 6482. RETIRED ENLISTED MEMBERS OF THE REGULAR NAVY AND REGULAR MARINE CORPS: AUTHORITY TO RECALL

*In time of war or national emergency the Secretary of the Navy may order to active duty any retired enlisted member of the Regular Navy or the Regular Marine Corps.* (Aug. 10, 1956, ch. 1041, 70A Stat. 417.)

[Emphasis supplied.]

10 U.S.C. 6485. MEMBERS OF THE FLEET RESERVE AND FLEET MARINE CORPS RESERVE: AUTHORITY TO RECALL

(a) A member of the Fleet Reserve or the Fleet Marine Corps Reserve may be ordered by competent authority to active duty without his consent—

(1) *in time of war or national emergency declared by Congress, for the duration of the war or national emergency and for six months thereafter;*

(2) *in time of national emergency declared by the President;*  
or

(3) when otherwise authorized by law.

(b) In time of peace any member of the Fleet Reserve or the Fleet Marine Corps Reserve may be required to perform not more than two months' active duty for training in each four-year period and shall be physically examined at least once during each four-year period. If any member fails to report for the physical examination, the Secretary may order any pay due that member forfeited. (Aug. 10, 1956, ch. 1041, 70A Stat. 417.)

10 U.S.C. 6486. MEMBERS OF THE FLEET RESERVE AND FLEET MARINE CORPS RESERVE: RELEASE FROM ACTIVE DUTY

(a) Except as provided in subsection (b), the Secretary of the Navy may, at any time, release any member of the Fleet Reserve or the Fleet Marine Corps Reserve from active duty.

(b) *In time of war or national emergency declared by Congress or by the President after January 1, 1953,* a member of the Fleet Reserve or the Fleet Marine Corps Reserve, without his consent, may be released from active duty other than from active duty for training only if—

(1) a board of officers convened at his request by an authority designated by the Secretary recommends the release and the recommendation is approved;

(2) the member does not request that a board be convened; or

(3) his release is otherwise authorized by law.

This subsection does not apply during a period of demobilization or reduction in strength of the Navy or the Marine Corps. (Aug. 10, 1956, ch. 1041, 70A Stat. 417.)

10 U.S.C. 6487. RETIRED REAR ADMIRALS: RETIRED PAY AFTER TWO YEARS OF ACTIVE DUTY

Each officer holding a permanent appointment in the grade of rear admiral on the retired list who is entitled to the pay of the lower half of that grade, and who, *in time of war or national emergency*, serves satisfactorily on active duty for two years in that grade or in a higher grade, is thereafter entitled, when on inactive

[Emphasis supplied.]

duty, to retired pay equal to 75 percent of the basic pay of a rear admiral in the upper half of that grade. (Aug. 10, 1956, ch. 1041, 70A Stat. 418.)

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#### 10 U.S.C. 6911. AVIATION CADETS: GRADE; PROCUREMENT; TRANSFER

(a) The grade of aviation cadet is a special enlisted grade in the naval service. Under such regulations as the Secretary of the Navy prescribes, male citizens in civil life may be enlisted as, and male enlisted members of the naval service with their consent may be designated as, aviation cadets.

(b) *Except in time of war or emergency declared by Congress*, 20 percent of the aviation cadets procured in each fiscal year shall be procured from qualified enlisted members of the Regular Navy and the Regular Marine Corps.

(c) No person may be enlisted or designated as an aviation cadet unless—

(1) he agrees in writing that, upon his successful completion of the course of training as an aviation cadet, he will accept a commission as an ensign in the Naval Reserve or a second lieutenant in the Marine Corps Reserve, and will serve on active duty as such for at least three years, unless sooner released; and

(2) if under 21 years of age, he has the consent of his parent or guardian to his agreement.

(d) Under such regulations as the Secretary prescribes, an aviation cadet may be transferred to another enlisted grade or rating in the naval service, released from active duty, or discharged. (Aug. 10, 1956, ch. 1041, 70A Stat. 426; July 31, 1958, Pub. L. 85-578, 72 Stat. 456.)

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#### 10 U.S.C. 7224. TRANSPORTATION ON NAVAL VESSELS DURING WARTIME

*In time of war or during a national emergency declared by the President*, such persons as the Secretary of the Navy authorizes by regulation may be transported and subsisted on naval vessels at Government expense. (Aug. 10, 1956, ch. 1041, 70A Stat. 447.)

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#### 10 U.S.C. 7722. STAY OF SUIT

(a) Whenever *in time of war the Secretary of the Navy* certifies to a court, or to a judge of a court, in which a suit described in section 7721 of this title is pending, that the prosecution of the suit would tend to endanger the security of naval operations in the war, or would tend to interfere with those operations, all further proceedings in the suit shall be stayed. . . .

(b) A stay under this section does not suspend the issue of process to take or preserve evidence to be used in the trial or prevent the completion of action under similar process issued before the stay. (Aug. 10, 1956, ch. 1041, 70A Stat. 484.)

[Emphasis supplied.]

10 U.S.C. 7724. STAY OF PROCEEDINGS FOR TAKING EVIDENCE BEFORE  
SUIT IS FILED

(a) If *in time of war*, with respect to any claim against the United States on which a suit described in section 7721 of this title would lie, the Secretary of the Navy certifies to the court, or to a judge of the court, in which proceedings are pending for—

(1) the granting of a *dedimus potestatem* to take depositions;

(2) a direction to take depositions in *perpetuam rei memoriam*; or

(3) the taking of depositions or production of evidence pursuant to such *dedimus potestatem* or direction, or pursuant to any other proceedings for the purpose;

that the proceedings would tend to endanger the security of the United States or any of its naval or military operations in the war, or would tend to interfere with those operations, then the proceedings may not be started or, if they have been started, they shall, when the certificate is filed, be stayed.

(b) The time during which a claimant may file suit of the type described in section 7721 of this title is computed by excluding the time during which a stay under this section or any extension of such a stay is in effect. (Aug. 10, 1956, ch. 1041, 70A Stat. 484.)

10 U.S.C. 7727. DURATION OF STAY

A stay of proceedings under this chapter remains in effect for the period specified in the certificate upon which it was based unless the Secretary of the Navy issues a new certificate under section 7725 or 7726 of this title changing the termination date. However, a stay under this chapter may not remain in force longer than *six months after the cessation of hostilities*. (Aug. 10, 1956, ch. 1041, 70A Stat. 485.)

—NOTE—

EXCERPT FROM HOUSE REPT. 1681, 78TH CONGRESS, 2D SESS. (1944)

PURPOSE

The general purpose of the bill, S. 1173 is to provide that, *in time of war*, proceedings against the United States under the Public Vessels Act and proceedings to take testimony shall be stayed, when the Secretary of the Navy shall certify to the court in which such suit is pending that the prosecution of any such suit or proceeding would tend to endanger the security of naval operations in such war, or interfere with such operations, for a period *until 6 months after the cessation of hostilities* in such war or until such earlier time as may be stated in the certificate.

[Emphasis supplied.]

## EXPLANATION

The Public Vessels Act (46 U.S.C. 781, et seq.), passed in 1925, authorizes suits against the United States for damage caused by public vessels of the United States.

Section 1 of the bill S. 1173 provides that, if the Secretary of the Navy certifies to the court in which the suit is pending that the prosecution of such suit would tend to endanger the security of naval operations in such war, or interfere with such operations, all further proceedings in such suit shall forthwith be stayed until 6 months after the cessation of hostilities in such war, or until such earlier date as may be stated in such certificate. This section also provides that if, in pending suits, the Secretary files a further certificate, then any proceedings to take testimony or preserve evidence for use in the case shall be stayed in a manner similar to other proceedings in the case.

Section 2, as far as procedure is concerned, is to the same effect as section 1. This section relates to court proceedings undertaken in advance of the filing of any suit or pleadings. It particularly affects the practice under which, prior to the commencement of actual litigation, a court order previously might be obtained to take and preserve the testimony of some witness, whose testimony may become important in the event of future litigation.

Sections 1 and 2 give the Secretary of the Navy absolute authority to have litigation against the United States under the Public Vessels Act stayed in keeping with the terms of his certificate. When such certificate is filed, it will be the duty of the court to enter an order in keeping with the certificate; the situation will not be a matter for the court to determine in its discretion.

Section 3 defines the "vessels of the Navy or in the naval service," to which the bill relates.

\* \* \* \* \*

## NEED FOR LEGISLATION

The above provisions affect admiralty litigation against the United States under the Public Vessels Act only in the situation where the Secretary of the Navy files a certificate. This legislation has been urged by the Navy Department as of very considerable importance in preventing possible disclosure in litigation of information which would be of great value to the enemy. This act would preclude the development and recording through litigation of data of security importance, which is intended to be subject to the control of the Navy Department alone.

\* \* \* \* \*

The committee is informed that, by virtue of waiver agreements contained in the new charter parties under which the American merchant marine is operated by the War Shipping Administration, which were effective May 15, 1944, future collision claims of privately owned merchant vessels of the United States against naval vessels are waived. This bill, therefore, will have little application to the American merchant marine because of the waiver of claims. Security considerations ordinarily would not exist in connection with collisions with harbor craft and nonchartered American vessels. There are now pending certain other waiver agreements similar to those which the American merchant marine has entered into. In order to become a party to these waiver agreements, the Navy Department needs to have its authority to make settlements increased. The settlement authorization increase, as recommended by the committee's amendment, will facilitate the Navy Department's entering into the waiver agreements, which are under consideration at this time, and thereby eliminate prospective future litigation. The extent to which litigation is eliminated by waiver agreements and settlements makes the provisions for a stay contained in this bill unnecessary, and interference with naval operations and leakage of security information are thereby avoided. This consideration is an additional factor in the committee's recommending the increase of the authorization over the net payment of \$100,000 contained in S. 1173.

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10 U.S.C. 8031. COMPOSITION: ASSIGNMENT AND DETAIL OF MEMBERS  
OF AIR FORCE AND CIVILIANS

(a) There is in the executive part of the Department of the Air Force an Air Staff consisting of—

- (1) the Chief of Staff;
- (2) the Vice Chief of Staff;
- (3) not more than five Deputy Chiefs of Staff;
- (4) other members of the Air Force assigned or detailed to the Air Staff; and
- (5) civilians in the Department of the Air Force assigned or detailed to the Air Staff.

(b) The Air Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

(c) Not more than 2,800 officers of the Air Force may be assigned or detailed to permanent duty in the executive part of the Department of the Air Force. However, this limitation does not apply *in time of war, or of national emergency declared by Congress, or whenever the President finds that it is in the national interest to increase the number of officers in the executive part of the Depart-*

[Emphasis supplied.]



ment. The Secretary shall report annually to Congress the number of officers in the executive part of the Department of the Air Force and the justification therefor.

(d) No commissioned officer who is assigned or detailed to duty in the executive part of the Department of the Air Force may serve for a tour of duty of more than four years. However, the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest. No officer may be assigned or detailed to duty in the executive part of the Department of the Air Force within two years after relief from that duty, except upon a special finding by the Secretary that the assignment or detail is necessary in the public interest. This subsection does not apply in time of war, or of national emergency declared by Congress. (Aug. 10, 1956, ch. 1041, 70A Stat. 490; Nov. 2, 1966, Pub. L. 89-718, § 45, 80 Stat. 1121.)

#### 10 U.S.C. 8304. CHIEF OF STAFF: APPOINTMENT; DUTIES

(a) The Chief of Staff shall be appointed for a period of four years by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force. He serves during the pleasure of the President. *In time of war or national emergency declared by the Congress after December 31, 1968*, he may be reappointed for a term of not more than four years.

(b) The Chief of Staff, while so serving, has the grade of general without vacating his regular or reserve grade, and is counted as one of the officers authorized to serve in a grade above lieutenant general under section 8066 of this title.

(c) Except as otherwise prescribed by law and subject to section 8012 (c) and (d) of this title, the Chief of Staff performs his duties under the direction of the Secretary of the Air Force, and is directly responsible to the Secretary for the efficiency of the Air Force, its preparedness for military operations, and plans therefor.

(d) The Chief of Staff shall—

(1) preside over the Air Staff;

(2) send the plans and recommendations of the Air Staff to the Secretary, and advise him with regard thereto;

(3) after approval of the plans or recommendations of the Air Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision over such of the members and organizations of the Air Force as the Secretary of the Air Force determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders under section 124 of this title.

(5) perform the duties prescribed for him by sections 141 and 171 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President.

[Emphasis supplied.]

(Aug. 10, 1956, ch. 1041, 70A Stat. 492; Aug. 6, 1958, Pub. L. 85-599, § 4 (d), (e), 72 Stat. 517; Sept. 7, 1962, Pub. L. 87-651, title I, § 114, 76 Stat. 513; June 5, 1967, Pub. L. 90-22, title IV, § 403, 81 Stat. 53.)

[See 10 U.S.C. 3034, Note. *Supra.*]

#### 10 U.S.C. 8202. AIR FORCE: OFFICERS IN CERTAIN COMMISSIONED GRADES

(a) The authorized strength of the Air Force in officers on active duty in each of the following grades on the last day of each fiscal year, exclusive of officers on active duty for training only and officers serving with other departments or agencies on a reimbursable basis, is, except as provided in subsections (e) and (f), based on the actual strength of the Air Force in those officers, as follows:

| If the actual strength <sup>1</sup> is— | The authorized strength in grade is— |              |                         |            |
|---|--------------------------------------|--------------|-------------------------|------------|
|   | For general officers                 | For colonels | For lieutenant colonels | For majors |
| 50,000-----                             | 312                                  | 3, 133       | 6, 065                  | 9, 455     |
| 60,000-----                             | 324                                  | 3, 540       | 6, 822                  | 11, 298    |
| 70,000-----                             | 336                                  | 3, 857       | 7, 427                  | 13, 125    |
| 80,000-----                             | 349                                  | 4, 107       | 7, 920                  | 14, 936    |
| 90,000-----                             | 363                                  | 4, 299       | 8, 316                  | 16, 740    |
| 100,000-----                            | 380                                  | 4, 440       | 8, 620                  | 18, 530    |
| 110,000-----                            | 398                                  | 4, 750       | 9, 350                  | 20, 295    |
| 120,000-----                            | 416                                  | 5, 020       | 10, 056                 | 22, 056    |
| 130,000-----                            | 434                                  | 5, 273       | 10, 725                 | 23, 803    |
| 140,000-----                            | 452                                  | 5, 484       | 11, 368                 | 25, 536    |
| 150,000-----                            | 470                                  | 5, 665       | 12, 000                 | 27, 255    |
| 160 000-----                            | 478                                  | 5, 842       | 12, 608                 | 28, 976    |
| 170 000-----                            | 486                                  | 5, 974       | 13, 175                 | 30, 685    |
| 180,000-----                            | 495                                  | 6, 075       | 13, 716                 | 32, 328    |

<sup>1</sup> As determined by the Secretary of the Air Force.

If the actual strength is determined to be between two of the figures named in the first column of the table, the corresponding authorized strengths in grade are determined by mathematical interpolation between the respective authorized strengths named in the table. If it is determined to be more than 180,000, the Secretary shall fix the corresponding authorized strengths in grade in general conformity with the table.

(b) Not more than one-half of the general officer strength may be in grades above brigadier general.

(c) A vacancy in any grade may be filled by an authorized appointment in any lower grade.

(d) *In time of war, or of national emergency declared after May 5, 1954, by Congress or the President, the President may suspend the operation of any provision of this section.*

[Emphasis supplied.]

(e) The authorized strengths of the Air Force in officers who are designated as medical or dental officers of the Air Force in grades below brigadier general shall be based on the needs of the Air Force as determined by the Secretary under regulations to be prescribed by the Secretary of Defense.

(f) In determining the authorized strength of the Air Force under subsection (a), the strengths authorized for those who are designated as medical or dental officers of the Air Force shall be excluded. (Aug. 10, 1956, ch. 1041, 70A Stat. 498; Sept. 2, 1958, Pub. L. 85-861, § 1(158), 72 Stat. 1514; Dec. 28, 1967, Pub. L. 90-228, § 1(4), (5), 81 Stat. 745.)

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10 U.S.C. 8212. REGULAR AIR FORCE; AIR FORCE RESERVE; AIR NATIONAL GUARD OF UNITED STATES: STRENGTH IN GRADE; TEMPORARY INCREASES

The authorized strength in any regular or reserve grade, as prescribed by or under this chapter, is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 541, 1211(a), 8298, 8299, 8365 (a) and (c), 8366 (a) and (d), 8375, 8376, 8380, 8381, or 9353, of this title. An authorized strength so increased is increased for no other purpose, and while he holds that grade the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under those sections, may be made in that grade. (Aug. 10, 1956, ch. 1041, 70A Stat. 501; Aug. 21, 1957, Pub. L. 85-155, title III, § 301(3), 71 Stat. 386; Sept. 2, 1958, Pub. L. 85-861, § 1(163), 72 Stat. 1515; June 30, 1960, Pub. L. 86-559, § 1(48), 74 Stat. 275.)

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10 U.S.C. 8257. REGULAR AIR FORCE: AVIATION CADETS; QUALIFICATIONS, GRADE, LIMITATIONS

(a) The grade of aviation cadet is a special enlisted grade in the Regular Air Force.

(b) Any male citizen of the United States may be enlisted as an aviation cadet, if he is otherwise qualified.

(c) Any male enlisted member of the Regular Air Force who is otherwise qualified may be designated, with his consent, as an aviation cadet by the Secretary of the Air Force.

(d) Except in time of war or of emergency declared by Congress, at least 20 percent of the aviation cadets designated in each fiscal year shall be selected from members of the Regular Air Force or the Regular Army who are eligible and qualified. No person may be enlisted or designated as an aviation cadet unless—

(1) he agrees in writing that, upon his successful completion of the course of training as an aviation cadet, he will accept a

[Emphasis supplied.]

commission as second lieutenant in the Air Force Reserve, and will serve on active duty as such for a period of three years, unless sooner released; and

(2) if under 21 years of age, he has the consent of his parent or guardian to his agreement.

(c) While on active duty, an aviation cadet is entitled to uniforms, clothing, and equipment at the expense of the United States. (Aug. 10, 1956, ch. 1041, 70A Stat. 504; Sept. 2, 1958, Pub. L. 85-861, § 33 (a) (37), 72 Stat. 1566.)

#### 10 U.S.C. 8313. SUSPENSION OF LAWS FOR PROMOTION OR MANDATORY RETIREMENT OR SEPARATION DURING WAR OR EMERGENCY

*In time of war, or of emergency declared by Congress or the President, the President may suspend the operation of any provision of law relating to promotion, or mandatory retirement or separation, of commissioned officers of the Regular Air Force. (Aug. 10, 1956, ch. 1041, 70A Stat. 519.)*

#### 10 U.S.C. 8395. DURING WAR

In addition to appointments *in time of war under chapter 839 of this title*, appointments of reserve officers may be made in time of war. (Aug. 10, 1956, ch. 1041, 70A Stat. 521.)

#### 10 U.S.C. 8444. COMMISSIONED OFFICERS: DURING WAR OR EMERGENCY

(a) *In time of emergency declared by Congress or the President, and in time of war, the President may appoint any qualified person, including a person who is not a Regular or Reserve, in any temporary commissioned grade.*

(b) An officer appointed under subsection (a) may be ordered to active duty for such period as the President prescribes.

(c) Unless sooner vacated, an appointment under subsection (a) is effective *during the war or emergency in which it is made and for six months thereafter.*

(d) For the purposes of determining grade, position on a promotion list, seniority in temporary grade, and eligibility for promotion, each medical or dental officer of the Air Force who is appointed in a temporary grade under subsection (a) with a view to designation as a medical or dental officer shall, when he enters on active duty, be credited with the constructive service authorized by section 8294 (b) of this title. (Aug. 10, 1956, ch. 1041, 70A Stat. 522; Sept. 2, 1958, Pub. L. 85-861, § 1 (180) (A), 72 Stat. 1532.)

[Emphasis supplied.]

10 U.S.C. 8445. OFFICERS: ADDITIONAL APPOINTMENTS DURING WAR  
OR EMERGENCY

(a) In addition to appointments authorized under section 8442 of this title, *in time of war, or of national emergency declared by the President*, a regular officer or a reserve warrant officer may be appointed in a temporary grade that is higher than his regular or reserve grade, without vacating that grade.

(b) In addition to appointments authorized under subsection (a) of this section, and sections 8442 and 8444 of this title, in time of war a person who holds no commissioned grade in the Regular Air Force may be appointed in any temporary commissioned grade.

(c) Unless sooner vacated, the appointment of an officer under subsection (b), except a member of the Regular Air Force, is effective during the war in which it is made and for six months thereafter.

(d) Each officer appointed under subsection (b) shall, unless he is a member of the Regular Air Force, be relieved from active duty, at his request, within six months after the termination of the war. (Aug. 10, 1956, ch. 1041, 70A Stat. 522; Sept. 2, 1958, Pub. L. 85-861, § 1 (180) (B), 72 Stat. 1532.)

[See 10 U.S.C. 3445 (Senate Rept. 2484). *Supra.*]

10 U.S.C. 8500. AIR NATIONAL GUARD IN FEDERAL SERVICE: CALL

Whenever—

(1) the United States, or any of the Territories, Commonwealths, or possessions, is invaded or is in danger of invasion by a foreign nation;

(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

(3) the President is unable with the regular forces to execute the laws of the United States;

*the President may call into Federal service members and units of the Air National Guard of any State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States, the Territories, Puerto Rico, and the Canal Zone, and, in the District of Columbia, through the commanding general of the National Guard of the District of Columbia.* (Aug. 10, 1956, ch. 1041, 70A Stat. 525.)

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10 U.S.C. 8741. MEDAL OF HONOR: AWARD

The President may award, and present in the name of Congress, a medal of honor of appropriate design, with ribbons and appurte-

[Emphasis supplied.]

nances, to a person who, while a member of the Air Force, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) *while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.*

(Aug. 10, 1956, ch. 1041, 70A Stat. 540; July 25, 1963, Pub. L. 88-77, § 3(1), 77 Stat. 94.)

[See 14 U.S.C. 491, Note. *Infra.*]

#### 10 U.S.C. 8742. AIR FORCE CROSS: AWARD

The President may award an Air Force cross of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Air Force, distinguishes himself by extraordinary heroism not justifying the award of a medal of honor—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) *while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.*

(Aug. 10, 1956, ch. 1041, 70A Stat. 540; July 6, 1960, Pub. L. 86-593, § 1(1), 74 Stat. 331; July 25, 1963, Pub. L. 88-77, § 3(2), 77 Stat. 94.)

[See 14 U.S.C. 491, Note. *Infra.*]

#### 10 U.S.C. 8746. SILVER STAR: AWARD

The President may award a silver star of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Air Force, is cited for gallantry in action that does not warrant a medal of honor or Air Force cross—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) *while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.*

(Aug. 10, 1956, ch. 1041, 70A Stat. 541; July 25, 1963, Pub. L. 88-77, § 3(3), 77 Stat. 95.)

[See 14 U.S.C. 491, Note. *Infra.*]

[Emphasis supplied.]

## 10 U.S.C. 8750. AIRMAN'S MEDAL: AWARD; LIMITATIONS

(a) The President may award a decoration called the "Airman's Medal", of appropriate design with accompanying ribbon, to any person who, while serving in any capacity with the Air Force, distinguishes himself by heroism *not involving actual conflict with an enemy*.

(b) Not more than one Airman's Medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal, the President may award a suitable bar or other device to be worn as he directs. (Aug. 10, 1956, ch. 1041, 70A Stat. 542; July 6, 1960, Pub. L. 86-593, § 1(6), 74 Stat. 332.)

[See 14 U.S.C. 491, Note. *Infra*.]

## 10 U.S.C. 9022. CONTRACT SURGEONS

(a) *In an emergency* the Secretary of the Air Force may employ as many contract surgeons as may be necessary.

(b) When a contract surgeon is in charge of an Air Force hospital, he has the same authority as a medical officer. (Aug. 10, 1956, ch. 1041, 70A Stat. 558.)

## 10 U.S.C. 9025. PRODUCTION OF SUPPLIES AND MUNITIONS: HOURS AND PAY OF LABORERS AND MECHANICS

*During a national emergency declared by the President*, the regular working hours of laborers and mechanics of the Department of the Air Force producing military supplies or munitions are 8 hours a day or 40 hours a week. However, under regulations prescribed by the Secretary of the Air Force these hours may be exceeded. Each laborer or mechanic who works more than 40 hours in a workweek shall be paid at a rate not less than one and one-half times the regular hourly rate for each hour in excess of 40. (Aug. 10, 1956, ch. 1041, 70A Stat. 558.)

## 10 U.S.C. 9441. STATUS: SUPPORT BY AIR FORCE; EMPLOYMENT

(a) The Civil Air Patrol is a volunteer civilian auxiliary of the Air Force.

(b) To assist the Civil Air Patrol in the fulfillment of its objectives as set forth in section 202 of title 36, the Secretary of the Air Force may, under regulations prescribed by him with the approval of the Secretary of Defense—

(1) give, lend, or sell to the Civil Air Patrol without regard to the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.)—

(A) major items of equipment, including aircraft, motor vehicles, and communication equipment; and

[Emphasis supplied.]

(B) necessary related supplies and training aids; that are excess to the military departments;

(2) permit the use of such services and facilities of the Air Force as he considers to be needed by the Civil Air Patrol to carry out its mission;

(3) furnish such quantities of fuel and lubricants to the Civil Air Patrol as are needed by it to carry out any mission assigned to it by the Air Force;

(4) establish, maintain, and supply liaison offices of the Air Force at the National, State, and Territorial headquarters, and at not more than eight regional headquarters, of the Civil Air Patrol;

(5) detail or assign any member of the Air Force or any officer or employee of the Department of the Air Force to any liaison office at the National, State, or Territorial headquarters, and at not more than eight regional headquarters, of the Civil Air Patrol;

(6) detail any member of the Air Force or any officer or employee of the Department of the Air Force to any unit or installation of the Civil Air Patrol to assist in the training program of the Civil Air Patrol; and

(7) *in time of war, or of national emergency declared after May 27, 1954, by Congress or the President*, authorize the payment of travel expenses and allowances, in accordance with the Travel Expense Act of 1949 (5 U.S.C. 835 et seq.), to members of the Civil Air Patrol while carrying out any mission specifically assigned by the Air Force.

(c) The Secretary may use the services of the Civil Air Patrol in fulfilling the noncombat mission of the Department of the Air Force. (Aug. 10, 1956, ch. 1041, 70A Stat. 572.)

10 U.S.C. 9501. INDUSTRIAL MOBILIZATION: ORDERS; PRIORITIES; POSSESSION OF MANUFACTURING PLANTS; VIOLATIONS

(a) *In time of war or when war is imminent, the President*, through the head of any department, may order from any person or organized manufacturing industry necessary products or materials of the type usually produced or capable of being produced by that person or industry.

(b) A person or industry with whom an order is placed under subsection (a), or the responsible head thereof, shall comply with that order and give it precedence over all orders not placed under that subsection.

(c) *In time of war or when war is imminent, the President*, through the head of any department, may take immediate possession of any plant that is equipped to manufacture, or that in the opinion of the Secretary of the Air Force is capable of being readily transformed into a plant for manufacturing, arms or ammunition, parts

[Emphasis supplied.]



thereof, or necessary supplies for the Air Force, if the person or industry owning or operating the plant, or the responsible head thereof, refuses—

(1) to give precedence to the order as prescribed in subsection (b);

(2) to manufacture the kind, quantity, or quality of arms or ammunition, parts thereof, or necessary supplies as ordered by the Secretary; or

(3) to furnish them at a reasonable price as determined by the Secretary.

(d) The President, through the Secretary, may manufacture products that are needed in time of war or when war is imminent, in any plant that is seized under subsection (c).

(e) Each person or industry from whom products or materials are ordered under subsection (a) is entitled to a fair and just compensation. Each person or industry whose plant is seized under subsection (c) is entitled to a fair and just rental.

(f) Whoever fails to comply with this section shall be imprisoned for not more than three years and fined not more than \$50,000. (Aug. 10, 1956, ch. 1041, 70A Stat. 573.)

10 U.S.C. 9502. INDUSTRIAL MOBILIZATION: PLANTS; LISTS; BOARD ON MOBILIZATION OF INDUSTRIES ESSENTIAL FOR MILITARY PREPAREDNESS

(a) *The Secretary of the Air Force* shall maintain a list of all privately owned plants in the United States, and the Territories, Commonwealths, and possessions, that are equipped to manufacture for the Air Force arms or ammunition, or parts thereof, and shall obtain complete information of the kinds of those products manufactured or capable of being manufactured by each of those plants, and of the equipment and capacity of each of those plants.

(b) The Secretary shall maintain a list of privately owned plants in the United States, and the Territories, Commonwealths, and possessions, that are capable of being readily transformed into factories for the manufacture of ammunition for the Air Force, and that have a capacity sufficient to warrant conversion into ammunition plants *in time of war or when war is imminent*, and shall obtain complete information as to the equipment of each of those plants.

(c) The Secretary shall prepare comprehensive plans for converting each plant listed pursuant to subsection (b) into a factory for the manufacture of ammunition or parts thereof.

(d) The President may appoint a nonpartisan Board on Mobilization of Industries Essential for Military Preparedness, and may provide necessary clerical assistance to organize and coordinate operations under this section and section 9501 of this title. (Aug. 10, 1956, ch. 1041, 70A Stat. 574.)

[Emphasis supplied.]

## —NOTE—

## EXCERPT FROM HOUSE REPT. 297, 64TH CONG., 2D SESS. (1916)

The committee has also provided in this bill *for the mobilization of industries and the utilization of the commercial and industrial resources of the country for war purposes.* This subject has engaged the attention and has been undertaken in all the countries now engaged in war. The section in the bill has been worked out by the War College Division, General Staff Corps, and in the opinion of the committee is a very essential part of any plan looking to preparedness.

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## 10 U.S.C. 9591. UTILITIES: PROCEEDS FROM OVERSEAS OPERATIONS

During *actual or threatened hostilities*, proceeds from operating a public utility in connection with operations of the Air Force in the field overseas are available for that utility until the close of the fiscal year following that in which they are received. (Aug. 10, 1956, ch. 1041, 70A Stat. 578.)

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## 10 U.S.C. 9742. CONTROL OF TRANSPORTATION SYSTEMS IN TIME OF WAR

*In time of war*, the President, through the Secretary of the Air Force, may take possession and assume control of all or part of any system of transportation to transport troops, war material, and equipment, *or for other purposes related to the emergency.* So far as necessary, he may use the system to the exclusion of other traffic. (Aug. 10, 1956, ch. 1041, 70A Stat. 587.)

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## 10 U.S.C. 9773. ACQUISITION AND CONSTRUCTION: AIR BASES AND DEPOTS

(a) The *Secretary of the Air Force shall determine* the sites of such additional permanent air bases and depots in all strategic areas of the United States and the Territories, Commonwealths, possessions, and holdings as he considers necessary. He shall determine when the enlargement of existing air bases and depots is necessary for the effective peacetime training of the Air Force.

(b) In determining the sites of new air bases and depots, the Secretary shall consider the following regions for the purposes indicated—

(1) the Atlantic northeast, for training in cold weather and in fog;

(2) the Atlantic southeast and Caribbean areas, for training in long-range operations, especially those incident to reinforcing the defenses of the Panama Canal;

[Emphasis supplied.]

(3) the southeastern United States, to provide a depot necessary to maintain the Air Force;

(4) the Pacific northwest, to establish and maintain air communication with Alaska;

(5) Alaska, for training under conditions of extreme cold;

(6) the Rocky Mountain area, to provide a depot necessary to maintain the Air Force, and for training in operations from fields in high altitudes; and

(7) other regions, for the establishment of intermediate air bases to provide for transcontinental movements of the Air Force for maneuvers.

(c) In selecting sites for air bases and depots covered by this section and in determining the alteration or enlargement of existing air bases or depots, the Secretary shall consider the need—

(1) to form the nucleus for concentration of Air Force units in time of war;

(2) to permit, in time of peace, training and effective planning in each strategic area for the use and expansion of commercial, municipal, and private flying installations in time of war;

(3) to locate, in each strategic area in which it is considered necessary, adequate storage facilities for munitions and other articles necessary to facilitate the movement, concentration, maintenance, and operation of the Air Force; and

(4) to afford the maximum warning against surprise attack by enemy aircraft upon aviation of the United States and its necessary installations consistent with maintaining, in connection with existing or contemplated landing fields, the full power of the Air Force for operations necessary in the defense of the United States, and in the defense and reinforcement of the Territories, Commonwealths, possessions, and holdings.

(d) *In carrying out this section, the Secretary, on behalf of the United States, may acquire title, in fee simple and free of encumbrance, to any land that he considers necessary—*

(1) by accepting title without cost to the United States;

(2) by exchanging military reservations or parts thereof for that land, upon the written approval of the President; or

(3) by purchase or condemnation, if acquisition by gift or exchange is impracticable.

(e) The Secretary may, by purchase, gift, lease, or otherwise, acquire at desired locations bombing and machine gun ranges necessary for practice by, and the training of, tactical units.

(f) At each air base or depot established under this section, the Secretary shall remove or remodel existing structures as necessary; do necessary grading; and provide buildings, utilities, communication systems, landing fields and mats, roads, walks, aprons, docks, runways, facilities for the storage and distribution of ammunition, fuel, oil, necessary protection against bombs, and all appurtenances to the foregoing.

[Emphasis supplied.]

(g) The Secretary may direct the transportation of personnel, and the purchase, renovation, and transportation of material that he considers necessary to carry out this section. (Aug. 10, 1956, ch. 1041, 70A Stat. 588.)

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#### 10 U.S.C. 9776. EMERGENCY CONSTRUCTION: FORTIFICATIONS

*If in an emergency the President considers it urgent, a temporary air base or fortification may be built on private land if the owner consents in writing.* (Aug. 10, 1956, ch. 1041, 70A Stat. 591; Sept. 1, 1970, Pub. L. 91-393, § 5, 84 Stat. 835.)

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#### 10 U.S.C. 9780. ACQUISITION OF BUILDINGS IN DISTRICT OF COLUMBIA

(a) *In time of war or when war is imminent, the Secretary of the Air Force may acquire by lease any building, or part of a building, in the District of Columbia that may be needed for military purposes.*

(b) At any time, the Secretary may, for the purposes of the Department of the Air Force, requisition the use and take possession of any building or space in any building, and its appurtenances, in the District of Columbia, other than—

(1) a dwelling house occupied as such;

(2) a building occupied by any other agency of the United States; or

(3) space in such a dwelling house or building.

The Secretary shall determine, and pay out of funds appropriated for the payment of rent by the Department of the Air Force, just compensation for that use. If the amount of the compensation is not satisfactory to the person entitled to it, the Secretary shall pay 75 percent of it to that person, and the claimant is entitled to recover by action against the United States an additional amount that, when added to the amount paid by the Secretary, is determined by the court to be just compensation for that use. (Added Pub. L. 85-861, § 1(203) (A), Sept. 2, 1958, 72 Stat. 1542.)

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### TITLE 12—BANKS AND BANKING

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#### 12 U.S.C. 95. EMERGENCY LIMITATIONS AND RESTRICTIONS ON BUSINESS OF MEMBERS OF FEDERAL RESERVE SYSTEM

In order to provide for the safer and more effective operation of the national banking system and the Federal reserve system, to preserve for the people the full benefits of the currency provided for by the Congress through the national banking system and the Federal reserve system, and to relieve interstate commerce of the burdens and obstructions resulting from the receipt on an unsound or unsafe basis of deposits subject to withdrawal by check, *during such*

[Emphasis supplied.]

*emergency period as the President of the United States by proclamation may prescribe*, no member bank of the Federal reserve system shall transact any banking business except to such extent and subject to such regulations, limitations, and restrictions as may be prescribed by the Secretary of the Treasury, with the approval of the President. Any individual, partnership, corporation, or association, or any director, officer, or employee thereof, violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000 or, if a natural person, may, in addition to such fine, be imprisoned for a term not exceeding ten years. Each day that any such violation continues shall be deemed a separate offense. (Mar. 9, 1933, ch. 1, title I, § 4, 48 Stat. 2.)

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12 U.S.C. 95a. REGULATION OF TRANSACTIONS IN FOREIGN EXCHANGE OF GOLD AND SILVER; PROPERTY TRANSFERS; VESTED INTERESTS, ENFORCEMENT AND PENALTIES

(1) *During the time of war or during any other period of national emergency declared by the President*, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest, by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this section either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in

[Emphasis supplied.]

which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this section, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this section.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this section or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this section, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this section the term "United States" means the United States and any place subject to the jurisdiction thereof: Provided, however, That the foregoing shall not be construed as a limitation upon the power of the President, which is conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this section, for any or all of the terms used in this section. Whoever willfully violates any of the provisions of this section or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this section the term "person" means an individual, partnership, association, or corporation. (Oct. 6, 1917, ch. 106, § 5(b), 40 Stat. 415; Sept. 24, 1918, ch. 176, § 5, 40 Stat. 966; Mar. 9, 1933, ch. 1, title I, § 2, 48 Stat. 1; May 7, 1940, ch. 185, § 1, 54 Stat. 179; Dec. 18, 1941, ch. 593, title III, § 301, 55 Stat. 839; Proc. No. 2695, eff. July 4, 1946, 11 F. R. 7517, 69 Stat. 1352.)

### —NOTE—

#### TRADING WITH THE ENEMY ACT OF 1917

The Trading with the Enemy Act of 1917 has been amended frequently, and in the process its original purpose and effect have been altered significantly. The Act was originally intended to "define, regulate and punish trading with the enemy." 40 Stat. 415. Directed primarily to meeting the exigencies of World War I, its drafters intended the Act to remain on the books for future *war* situations. 55 Cong. Rec. 4908. Accordingly, when other war powers were termi-

[Emphasis supplied.]

nated in 1921 an exception was made for the Act and it remained valid law. 41 Stat. 1359 (the Knox Resolution).

On March 5, 1933, President Roosevelt relied on Sec. 5(b) of the Trading with the Enemy Act as authority for his Proclamation 2039 which closed all banks for five days. This was clearly a time of financial crisis, not of war, and hence was not within the literal terms and purposes of the Act. Congress rectified the situation five days later when it ratified the President's proclamation and amended Sec. 5(b) to give the President the broad wartime powers of that section in times of declared national emergency as well. 48 Stat. 1. The desperate economic circumstances of the time dictated the passage of this sweeping change—after only eight hours of Congressional consideration.

Roosevelt relied on Section 5(b) again in 1939 when he restricted all transfers of currency and credit between the United States and German-occupied Denmark and Norway. Executive Order 8389. This action was subsequently approved and the President's exact powers clarified by Congress, resolving whatever questions may have remained about Congressional intentions to restrict the application of 48 Stat. 1 to either the economic emergency or to actual wars. 54 Stat. 179. This set the legal stage, then, to invoke presidential powers under the Trading with the Enemy Act in wartime or pursuant to *any* declaration of national peacetime emergency.

The next time these powers were involved was during World War II (with a slight Congressional modification—see 55 Stat. 838.) A major expansion of Presidential authority was effected with the imposition of consumer credit controls (Executive Order 8843) by interpreting "banking institutions" as used in Sec. 5(b) to include any person engaged in the business of making extensions of credit. Subsequent Congressional action has reaffirmed this power, too, in times of war or national emergency. 12 U.S.C. 249.

Another declaration of national emergency was made in Proclamation 2914 of December 16, 1950 during the Korean War. Trading with the Enemy Act powers were exercised pursuant to this proclamation throughout the war. Because the state of emergency so declared has never been terminated, however, this proclamation has continued to serve as the basis for invocation of powers under the Act. Most notably, President Johnson used Sec. 5(b) as authority for Executive Order 11837 of January 1, 1968, imposing controls over transfers of private capital to foreign countries. (On the validity of this action, see *Opinion of the Attorney General*, February 3, 1968).

On August 15, 1971, President Nixon, in Proclamation 4074, declared an emergency concerning America's declining worldwide economic position. He imposed an import sur-

[Emphasis supplied.]

charge and devalued the dollar, among other things. One year later, when the Export Control Act lapsed for a month, he invoked Sec. 5(b) to regulate exports, basing his authority to do so both on his Proclamation 4074 and on President Truman's proclamation of 1950.

The current law, which has thus accreted over a period of 50 years, gives the President a wide range of powers, but only in time of war or declared national emergency. Although the Korean war has ended, these powers are being exercised solely on the basis of the 1950 emergency; or, on the basis of the President's unilaterally designating as "emergencies" situations which have only the most tenuous relationship to the serious national crises for which the Trading with the Enemy Act was originally intended. The President, with the approval of Congress, has thus used as authority for extraordinary actions laws which have no real relationship whatsoever to existing circumstances. As a consequence, a "national emergency" is now a practical necessity in order to carry out what has become the regular and normal method of governmental action. What were intended by Congress as delegations of power to be used only in the most extreme situations and for the most limited durations have become everyday powers; and a state of "emergency" has become a permanent condition.

### —NOTE—

DEPARTMENT OF JUSTICE,  
*May 21, 1973.*

#### MEMORANDUM FOR THE SPECIAL COMMITTEE ON THE TERMINATION OF THE NATIONAL EMERGENCY

RE: EMERGENCY POWER UNDER § 5(b) OF THE TRADING WITH THE  
ENEMY ACT

During the course of hearings held by the Committee frequent mention has been made of the Trading with the Enemy Act ("the Act"). Section 5(b) of the Act has been the statutory foundation for control of domestic as well as international financial transactions and is not restricted to "trading with the enemy." Its use over the years provides an interesting study in the evolution of a statute as a result of continuing interplay between the Executive and Congress. Of all the emergency statutes under study by the Committee, it has the most complex and varied history. This paper does not make any recommendations or draw any conclusions but presents a short legal chronology of § 5(b) to assist the Committee in understanding its background and present status.

#### I.

##### ORIGINAL ENACTMENT—WORLD WAR I

The Act was passed in 1917 to "define, regulate, and punish trading with the enemy." 40 Stat. 415. Section 5(b) gave the President



power to regulate transactions in foreign exchange, the export or hoarding of gold or silver coin or bullion or currency and transfers of credit in any form "between the United States and any foreign country, whether enemy, ally of enemy, or otherwise." 40 Stat. 415 (1917) as amended by 40 Stat. 966 (1918). Section 5(b), at that time, exempted "transactions to be executed wholly within the United States," thus appearing to limit its use as a basis for domestic controls. It did not include a provision permitting use of the Act during periods of national emergency nor was its use restricted by its terms to the duration of the First World War or any specified term after the end of the War. A law passed in 1921 terminating certain war powers specifically exempted the Act from termination because of the large amount of property held under the Act by the Alien Property Custodian at that time. See Ellingwood, *The Legality of the National Bank Moratorium*, 27 Nw. U.L. Rev. 923, 925-26 (1933).

## II.

### DEPRESSION BANKING EMERGENCY

Upon taking office in March 1933 President Roosevelt was pressed to deal promptly with a nationwide panic that threatened to drain the liquid resources of most of the banks in the country. *The Public Papers and Addresses of Franklin D. Roosevelt*, pp. 24-29 (1933) [hereinafter "Roosevelt Papers"]. He therefore invoked the "forgotten provisions" of § 5(b) on March 6, 1933 to declare a bank holiday and control the export of gold. Schlesinger, *The Coming of the New Deal* 4 (1959). The bank holiday proclamation noted that there had been "heavy and unwarranted withdrawals of gold and currency from our banking institutions for the purpose of hoarding," and that increasing speculation abroad in foreign exchange had resulted in severe drain on domestic gold supplies, thus creating a "national emergency." Therefore it was "in the best interests of all bank depositors that a period of respite be provided with a view to preventing further hoarding of coin, bullion or currency or speculation in foreign exchange." In order to prevent export or hoarding of bullion or currency a bank holiday was therefore proclaimed from March 6 through March 9, 1933. Executive Proclamation No. 2039. March 6, 1933, 48 Stat. (Part 2) 1698.

By invoking § 5(b) as authority, President Roosevelt was, of course, using that provision for a different purpose than the one for which it was enacted in 1917. However, as one writer noted, closing the banks was "one of the surest and quickest ways" to prevent transactions in foreign exchange and the exportation of gold and silver coin, bullion and currency. Section 5(b) had, as noted, given the President power to regulate such matters. Ellingwood, *The Legality of the National Bank Moratorium*, 27 Nw. U.L. Rev. 923, 925 (1933).

Congress was called into session within days of the Proclamation. Roosevelt Papers 17. As soon as Congress was convened on March 9, 1933, it approved the bank holiday by passing the so-called Emer-

[Emphasis supplied.]

gency Banking Act or Bank Conservation Act. 48 Stat. 1, That Act provided that the actions and proclamations "heretofore or hereafter taken . . . or issued by the President of the United States . . . since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the Act of October 6, 1917, as amended, are hereby approved and confirmed." (48 Stat. 1; 12 U.S.C. 95b (1970)). Congress thus "spread its protective approval over executive acts the legality of which was uncertain." Ellingwood, *op. cit. supra* at 27 Nw. U.L. Rev. 929 (1933). Congress also amended Section 5(b) to provide, among other things, that "[d]uring time of war or during any other period of national emergency declared by the President, the President may . . . regulate, under such rules and regulations as he may prescribe . . . transfers of credit between or payments by banking institutions as defined by the President. . . ." 48 Stat. 1. In the enactment clause Congress declared "that a serious emergency exists." 48 Stat. 1. The exclusion of domestic transactions, formerly found in the Act, was deleted from § 5(b) at this time.

The legislative history of the Emergency Banking Act is short; only eight hours elapsed from the time the bill was introduced until it was signed into law. There were no committee reports. Indeed, the bill was not even in print at the time it was passed. 77 Cong. Rec. 76, 80 (1933); Schlesinger, *The Coming of the New Deal* 8.

The abbreviated history shows Congress recognized that the powers conferred on the President by the Act were great. In the debate preceding the bill's passage those supporting it made such remarks as:

. . . in time of storm there can only be one pilot. In my judgment, the House of Representatives realize that the pilot in this case must be the President of the United States, and they will steer their course by him (Rep. Goldsborough, 77 Cong. Rec. 81).

It is a dictatorship over finance in the United States. It is complete control over the banking system in the United States. (Rep. McFadden, 77 Cong. Rec. 80).

I realize that in time of peace we have perhaps never been called upon to vest such transcendent powers in the Executive as are provided for in this bill. . . . It is an emergency which can be adequately dealt with only by the strong arm of Executive power, and therefore I expect to vote for the bill, though it contains grants of powers which I never before thought I would approve in time of peace. (Sen. Connally, 77 Cong. Rec. 65).

The courts later upheld the validity of the bank holiday under the Act, as amended. *E.g.*, *Smith v. Witherow*, 102 F. 2d 638, 641 (3d Cir., 1939); *Hardee v. Washington Loan & Trust Co.*, 91 F. 2d 314 (D.C. Cir. 1937). Because of the prompt action taken by Congress in ratifying the March 6 proclamation, no judicial decisions were rendered on the question of whether the President's action, if taken alone, would have been lawful.

[Emphasis supplied.]

Subsequently in 1933-34, acting under § 5(b), President Roosevelt issued a series of orders which prohibited the hoarding of gold and directed that all gold bullion certificates be deposited with the Federal Reserve Banks and which regulated transactions in foreign exchange:

(1) Executive Order 6073 of March 10, 1933, prohibited the export or removal of gold from the United States, except as authorized by the Secretary of the Treasury, and banks were prohibited from making transfers of foreign exchange except in connection with certain described transactions. This order did not specifically refer to a national emergency.

(2) Executive Order 6102 of April 5, 1933, generally required holders of gold coin, gold bullion, and gold certificates to surrender their holdings to Federal Reserve Banks. This Order stated "By virtue of the authority vested in me by Section 5(b) . . . as amended by Section 2 of the Act of March 9, 1933, . . . in which amendatory Act Congress declared that a serious emergency exists, I . . . do declare that said national emergency still continues to exist."

(3) Executive Order 6111 of April 20, 1933, authorized the Secretary of the Treasury to regulate transactions in foreign exchange and the export or withdrawal of currency from the United States. The emergency basis for E.O. 6111 was stated in the same language as the language of E.O. 6102, quoted immediately above.

(4) Executive Order 6260 of August 28, 1933, was issued to supplant Executive Orders 6102 and 6111. This order prohibited the holding or export of gold, except under license issued by the Secretary of the Treasury, and authorized the Secretary to regulate or prohibit transactions in foreign exchange. In E.O. 6260 the President stated "I . . . do declare that a period of national emergency exists." Executive Order 6260 was confirmed and amended by Presidents Eisenhower and Kennedy. 31 CFR Part 54. See 42 Op. A.G. No. 35, p. 9.

(5) Executive Order 6560 of January 15, 1934, authorized the Secretary of the Treasury to regulate transactions in foreign exchange, transfers of credit from American to foreign banks and export of currency or silver coin. This order is still on the books today. See 31 CFR Parts 127-128. In this Order, the President declared that "a period of national emergency continues to exist."

In January 1934 Congress ratified all acts which had been performed under the Emergency Banking Act. 48 Stat. 343 (1934); 12 U.S.C. 213 (1970).

### III.

#### WORLD WAR II ALIEN PROPERTY FREEZE

Following the invasion of Norway and Denmark by Germany in April 1940 President Roosevelt acted to protect funds of residents of these countries in the United States from withdrawal under duress

by issuing an order freezing those assets except as authorized by the Secretary of the Treasury. Executive Order No. 8389 (April 10, 1940). The order referred to authority under § 5(b) but did not specifically mention the existence of a national emergency. The President had proclaimed a national emergency only months before in September 1939; Proclamation No. 2352 noted the neutrality of the United States in the war and stated:

WHEREAS measures required at this time call for the exercise of only a limited number of the powers granted in a national emergency:

NOW, THEREFORE, I . . . do proclaim that a national emergency exists in connection with and to the extent necessary for the proper observance, safeguarding, and enforcing of the neutrality of the United States and the strengthening of our national defense within the limits of peacetime authorizations.

Subsequently on May 7, 1940, Congress passed a resolution "to remove any doubt" that § 5(b) authorized certain aspects of the freeze order. The Report of the Senate Banking Committee noted that when Congress passed the Emergency Banking Act, "it intended to grant to the President all of the powers conferred upon him by section 5(b) of the Act of October 6, 1917, and to authorize him to exercise all of such powers not only in time of war, but during any other period of national emergency." S. Rep. No. 1496, 76th Cong., 3d Sess. 1 (1949). By joint resolution, Congress thus approved and confirmed the order and amended § 5(b) to clarify the President's freeze power over alien property. 54 Stat. 179 (1940). See *United States v. Von Clemm*, 136 F. 2d 968, 970 (2d Cir. 1934), *cert. denied*, 320 U.S. 769 (1943) (upholding the retroactive validity of the 1940 joint resolution of Congress).

The original freeze order was an amendment to Executive Order No. 6560 of January 1934 regulating foreign exchange and the export of coin and currency and the controls were somewhat similar to those exercised during the First World War and during the banking crises of 1933. This order, covering Norway and Denmark, was followed by similar executive orders after other nations were invaded or subjected to Axis domination. Eventually Germany, Japan and Italy were themselves covered in June and July 1941. The purpose of the orders was to keep the Axis from using billions of dollars of assets in the United States. Roosevelt Papers (1940 vol.), p. 133-34. Regulations issued by the Secretary of the Treasury, pursuant to a general delegation of Presidential authority under § 5(b) made in 1942, continue to this date to serve as the basis for blocking trade and financial transactions with North Korea, Cuba and North Vietnam. See 31 C.F.R. part 500 *et seq.*; Executive Order 9193, sec. 3, July 6, 1942, 7 Fed. Reg. 5205, and Executive Order 9989, Aug. 20, 1948, 13 Fed. Reg. 4891.

[Emphasis supplied.]

## IV.

## CONSUMER CREDIT CONTROLS

Four months before the United States entered World War II, President Roosevelt issued Executive Order No. 8843, which directed the Federal Reserve Board to impose consumer installment credit controls as a measure to fight inflation. 6 Fed. Reg. 4035 (1941). The order was issued on August 9, 1941 under § 5(b) "in order, in the national emergency declared by me on May 27, 1941 to promote the national defense and protect the national economy. . . ." 6 Fed. Reg. 4035 (1941). On May 27, 1941, the President had issued Proclamation No. 2487 which proclaimed that "an unlimited national emergency confronts this country, which requires that its military, naval, air and civilian defense be put on the basis of readiness to repel any and all acts or threats of aggression directed toward any part of the Western Hemisphere."

In Executive Order 8843 the term "banking institution" as used in § 5(b), was defined to include any person engaged in the business of making extensions of credit whether as a vendor of consumer durable goods or otherwise. The Federal Reserve Board was authorized, in order to prevent evasion of the order, to regulate any other extension of installment credit, any credit for the purpose of purchasing or carrying any consumers' durable good or any other extension of credit in the form of a loan (other than loans to businesses or agricultural enterprises). 6 Fed. Reg. 4036.

There was some suggestion at the time that the definition of banking institution to include vendors of "consumer durable goods" was beyond the power conferred by § 5(b). One writer noted that the President had "disclosed hitherto unsuspected potentialities" in § 5(b) by using this definition of banking institution and that a clearer statutory basis would be desirable for such controls. *Note, Federal Regulation of Consumer Credit by Executive Order*, 41 Colum. L. Rev. 1287, 1289 (1941). See also *Price Control Bill, Hearings on H.R. 5479 before the House Banking and Currency Committee, 77th Cong., 1st Sess.*, pp. 116-117 (1941). Nevertheless, the controls were accepted once the order was issued and never challenged in court. In December 1941 Congress passed the First War Powers Act (55 Stat. 839) which included a provision approving and ratifying actions which had been taken under § 5(b), thus apparently approving Executive Order No. 8843.

After World War II, Congress on four occasions took legislative action concerning imposition by the Federal Reserve Board of consumer credit controls pursuant to § 5(b). The four actions by Congress are as follows:

- (1) Congress passed a joint resolution in 1947 which provided that after November 1, 1947, the Federal Reserve Board was not to exercise consumer credit controls pursuant to Executive Order No. 8843. 61 Stat. 921, 12 U.S.C. 249. The joint resolution also provided that no "such consumer credit controls" could be exer-

[Emphasis supplied.]

cised except during wartime or any national emergency thereafter declared by the President.

The legislation took this form because President Truman had decided to place the issue of the continuation of controls "in the laps of Congress" rather than rescind the controls himself by revoking the Executive order. 93 Cong. Rec. 9757. The legislative history of the 1947 resolution shows that Congress intended that the President have the power, if needed, to make such controls effective again the day after the resolution by declaring a new national emergency. See 93 Cong. Rec. 9753, 9758-59.

(2) On August 16, 1948, Congress changed its policy and authorized the Federal Reserve Board, "notwithstanding" the 1947 joint resolution, to exercise "consumer-credit controls in accordance with and to carry out the purposes of" Executive Order No. 8843. 62 Stat. 1291.

The legislative history of the 1948 act again affirms congressional intent that the President retain his authority under Executive Order No. 8843 to exercise consumer credit controls thereafter during time of war or national emergency. It also made clear that he could have reimposed them on his own without the 1948 resolution. The House report noted:

When the Congress terminated the controls over consumer credit pursuant to the provisions of [12 U.S.C. 249], it specifically provided that such termination did not affect the authority to reimpose such controls during the time of war or any national emergency declared by the President. The President has evidently not seen fit to use this authority to reinstate the regulation of consumer credit and henceforth the committee proposes in this joint resolution for congressional enactment of such powers for a temporary period with respect to consumer installment credit and at the same time reserve the authority to exercise consumer-credit controls thereafter during the time of war or declaration of any national emergency by the President. H.R. Rep. No. 2455, 80th Cong. 2d Sess. 5-6 (1948).

The 1948 authority expired June 30, 1949.

(3) In § 601 of the Defense Production Act of 1950, using language patterned closely on that of the 1948 enactment, Congress again gave the Federal Reserve Board authority to exercise consumer credit controls under Executive Order No. 8843 "notwithstanding" the 1947 joint resolution. 64 Stat. 812.

(4) In June 1952, while extending other parts of the act, including § 602, Congress repealed § 601. 66 Stat. 305. Repealing § 601 appeared to restore the provisions of the 1947 joint resolution (12 USC 249) authorizing the imposition of consumer credit controls again during a war or a period of national emergency.

## V.

## FOREIGN DIRECT INVESTMENT PROGRAM

Section 5(b) was also used as authority for the Foreign Direct Investment Program in 1968. Under E.O. 11387 of January 1, 1968, controls were imposed by President Johnson over transfers of capital to foreign countries by substantial investors in the United States. A formal opinion was issued by Attorney General Ramsey Clark upholding the program. The opinion reviews the history of § 5(b). It also discusses the continuation of the national emergency declared by President Truman in Proclamation 2914 of December 16, 1950, which referred to the hostilities in Korea and the world menace of the forces of communist aggression. 42 Op. A.G. No. 35. The order relies on the continuation of this emergency.

In March 2, 1973, a federal district court judge ruled orally that § 5(b) did not authorize an indictment charging a violation of the foreign direct investment program. The existence of a national emergency was not raised, however. An appeal is now being prepared. *United States v. Ryan*, Crim. No. 2038-78 (D.D.C. 1973). E.O. 11387 continues in effect today.

## VI.

## EXPORT CONTROLS

Most recently, § 5(b) was used for a month in 1972 when it was invoked by President Nixon as authority for the regulations of exports. E.O. 11677 of August 1, 1972. Section 5(b) was used in this situation because the existing law authorizing export controls, the Export Administration Act of 1969, 83 Stat. 841, as amended by 86 Stat. 133, had expired. When export control legislation was re-enacted, E.O. 11677 was revoked by E.O. 11683 of August 29, 1972.

The executive order imposing controls recited the continued existence of the national emergencies declared by Proclamation No. 2914 of December 16, 1950, referred to above, and by Proclamation No. 4074 of August 15, 1971, which imposed a supplemental duty on imports for balance of payments purposes.\*

JACK GOLDEKLANG.

\*The above study represents the views of the author and does not necessarily represent the official position of the Department of Justice.

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 12 U.S.C. 249. REGULATION OF CONSUMER CREDIT

After November 1, 1947, the Board of Governors of the Federal Reserve System shall not exercise consumer credit controls pursuant to Executive Order Numbered 8843, and no such consumer credit controls shall be exercised after such date except *during the time of*

*war beginning after August 8, 1947, or any national emergency declared by the President after August 8, 1947. (Aug. 8, 1947, ch. 517, 61 Stat. 921.)*

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## 12 U.S.C. 635. POWERS AND FUNCTIONS OF BANK

(a) General banking business; use of mails; use of assets and allocated or borrowed money; payment of dividends.

There is created a corporation with the name **Export-Import Bank of the United States**, which shall be an agency of the United States of America. The objects and purposes of the bank shall be to aid in financing and to facilitate exports and imports and the exchange of commodities between the United States or any of its Territories or insular possessions and any foreign country or the agencies or nationals thereof. In connection with and in furtherance of its objects and purposes, the bank is authorized and empowered to do a general banking business except that of circulation; to receive deposits; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement of guaranty, and to guarantee notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to purchase, sell, and guarantee securities but not to purchase with its funds any stock in any other corporation except that it may acquire any such stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness to it; to accept bills and drafts drawn upon it; to issue letters of credit; to purchase and sell coin, bullion and exchange; to borrow and to lend money; to perform any act herein authorized in participation with any other person, including any individual, partnership, corporation, or association; to adopt, alter, and use a corporate seal, which shall be judicially noticed; to sue and to be sued, to complain and to defend in any court of competent jurisdiction; and the enumeration of the foregoing powers shall not be deemed to exclude other powers necessary to the achievement of the objects and purposes of the bank. The bank shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Government. The bank is authorized to use all of its assets and all moneys which have been or may hereafter be allocated to or borrowed by it in the exercise of its functions. Net earnings of the bank after reasonable provision for possible losses shall be used for payment of dividends on capital stock. Any such dividends shall be deposited into the Treasury as miscellaneous receipts.

(b) Functions as supplemental to private capital; restrictions on loans.

(1) It is the policy of the Congress that the Bank in the exercise of its functions should supplement and encourage and not compete with private capital; that loans, so far as possible consistently with carrying out the purposes of subsection (a) of this section, shall

[Emphasis supplied.]



generally be for specific purposes, and, in the judgment of the Board of Directors, offer reasonable assurance of repayment; and that in authorizing such loans the Board of Directors should take into account the possible adverse effects upon the United States economy.

(2) The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in any extension of credit—

(A) in connection with the purchase or lease of any product by a Communist country (as defined in section 2370(f) of Title 22), or agency or national thereof, or

(B) in connection with the purchase or lease of any product by any other foreign country, or agency, or national thereof, if the product to be purchased or leased by such other country, agency, or national is, to the knowledge of the Bank, principally for use in, or sale or lease to, a Communist country (as so defined),

except that the prohibitions contained in this paragraph shall not apply in the case of any transaction which the President determines would be in the national interest if he reports that determination to the Senate and House of Representatives within thirty days after making the same.

(3) The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with the purchase of any product, technical data, or other information by a national or agency of any nation—

(A) *which engages in armed conflict, declared or otherwise, with armed forces of the United States; or*

(B) *which furnishes by direct governmental action (not including chartering, licensing or sales by non-wholly-owned business enterprises) goods, supplies, military assistance, or advisers to a nation described in subparagraph (A);*

nor shall the Bank guarantee, insure, or extend credit, or participate in the extension of credit in connection with the purchase by any nation (or national or agency thereof) of any product, technical data, or other information which is to be used principally by or in a nation described in subparagraph (A) or (B).

(4) The Bank shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with any credit sale of defense articles and defense services to any country designated under section 4916 of Title 26 as an economically less developed country for purposes of the tax imposed by section 4911 of Title 26. The prohibitions set forth in this paragraph shall not apply with respect to any transaction the consummation of which the President determines would be in the national interest and reports such determination (within thirty days after making the same) to the Senate and House of Representatives. In making any such determination the President shall take into account, among other considerations, the national interest in avoiding arms races among countries not directly menaced by the Soviet Union or by Communist China; in avoiding arming military dictators who are

[Emphasis supplied.]

denying social progress to their own peoples; and in avoiding expenditures by developing countries of scarce foreign exchange needed for peaceful economic progress.

(5) In no event shall the Bank have outstanding at any time in excess of  $7\frac{1}{2}$  per centum of the limitation imposed by section 635e of this title for such guarantees, insurance, credits or participation in credits with respect to exports of defense articles and services to countries which, in the judgment of the Board of Directors of the Bank, are less developed.

(c) Insurance functions; aggregate amount; reserve requirements; limitations; fees and premiums; issuance and service of contracts.

(1) The Export-Import Bank of the United States, in furtherance of its objects and purposes under this chapter, is authorized and empowered to guarantee, insure, coinsure, and reinsure United States exporters and foreign exporters doing business in the United States in an aggregate amount not in excess of \$3,500,000,000 outstanding at any one time against political and credit risks of loss arising in connection with United States exports; and to establish and maintain fractional reserves in connection therewith. The reserves maintained by the Bank for the guarantees, insurance, coinsurance or reinsurance issued pursuant to this section shall be not less than 25 per centum of the related contractual liability of the Bank. Insofar as contracts of guarantee, insurance, coinsurance, and reinsurance are concerned, only that part of the Bank's liabilities represented by reserves provided for above shall be taken into account for the purposes of applying the limitations imposed by section 635e of this title. Fees and premiums shall be charged in connection with such contracts commensurate, in the judgment of the Bank, with the risks covered.

(2) The Bank may issue such guarantees, insurance, coinsurance, and reinsurance to or with exporters, insurance companies, financial institutions, or others, or groups thereof, and where appropriate may employ any of the same to act as its agent in the issuance and servicing of such guarantees, insurance, coinsurance, and reinsurance, and the adjustment of claims arising thereunder. (July 31, 1945, ch. 341, § 2, 59 Stat. 526; Dec. 28, 1945, ch. 602, 59 Stat. 666; June 9, 1947, ch. 101, § 1, 61 Stat. 130; May 21, 1953, ch. 64, § 1, 67 Stat. 28; Sept. 26, 1961, Pub. L. 87-311, 75 Stat. 673; Aug. 20, 1963, Pub. L. 88-101, § 1(a), 77 Stat. 128; Mar. 13, 1968, Pub. L. 90-267, § 1(a)-(c), 82 Stat. 47-49.)

#### —NOTE—

EXCERPT FROM SENATE REPT. 473, 80TH CONG., 1ST SESS. (1947)

The resolution as reported authorizes the Federal Reserve Board to continue to exercise consumer credit controls *pursuant to Executive Order 8843, until December 31, 1947*. The Board would be authorized to discontinue the regulation at an earlier date, in whole or in part, if conditions warrant such action. In lieu of the present regulations as to

[Emphasis supplied.]

maximum maturity and down payment, the joint resolution provides that no such regulation shall fix a maximum maturity of less than 24 months, or require a down payment in excess of 20 percent of the purchase price. The resolution further provides that no consumer credit controls shall be exercised after December 31, 1947, *except in the event of war or national emergency commencing after such date.*

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## 12 U.S.C. 1425a. LIQUIDITY REQUIREMENTS

### (a) Congressional declaration of purpose.

The purpose of this section is to provide a means for creating meaningful and flexible liquidity in savings and loan associations and other members which can be increased when mortgage money is plentiful, maintained in easily liquidated instruments, and reduced to add to the flow of funds to the mortgage market in periods of credit stringency. More flexible liquidity will help support two main purposes of this chapter—sound mortgage credit and a more stable supply of such credit.

### (b) Required types of assets.

Any institution which is a member or which is an insured institution as defined in section 1724(a) of this title shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Board, is appropriate: (1) cash, (2) to such extent as the Board may approve for the purposes of this section, time and savings deposits in Federal Home Loan Banks and commercial banks, and (3) to such extent as the Board may so approve, such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a political subdivision, agency, or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Board may approve. The requirement prescribed by the Board pursuant to this subsection (hereinafter in this section referred to as the "liquidity requirement") may not be less than 4 per centum or more than 10 per centum of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less or, in the case of institutions which are insurance companies, such other base or bases as the Board may determine to be comparable.

### (c) Amount; classification.

The amount of any institution's liquidity requirement, and any deficiency in compliance therewith, shall be calculated as the Board shall prescribe. The Board may prescribe different liquidity requirements, within the limitations specified herein, for different classes of institutions, and for such purposes the Board is authorized to classify institutions according to type, size, location, rate of withdrawals, or, without limitation by or on the foregoing, on such other basis or bases of differentiation as the Board may deem to be reason-

[Emphasis supplied.]

ably necessary or appropriate for effectuating the purposes of this section.

(d) Penalty assessment.

For any deficiency in compliance with the liquidity requirement, the Board may, in its discretion, assess a penalty consisting of the payment by the institution of such sum as may be assessed by the Board but not in excess of a rate equal to the highest rate on advances of one year or less, plus 2 per centum per annum, on the amount of the deficiency for the period with respect to which the deficiency existed. Any penalty assessed under this subsection against a member shall be paid to the Federal Home Loan Bank of which it is a member, and any such penalty assessed against an insured institution which is not a member shall be paid to the Federal Savings and Loan Insurance Corporation. The right to assess or to recover, or to assess and recover, any such penalty is not abated or affected by an institution's ceasing to be a member or ceasing to be insured. The Board may authorize or require that, at any time before collection thereof, and whether before or after the bringing of any action or other legal proceeding, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process therefor, and with or without consideration, any such penalty or recovery be compromised, remitted, or mitigated in whole or part. The penalties authorized under this subsection are in addition to all remedies and sanctions otherwise available.

(e) Reduction; suspension of requirements in time of national emergency.

Whenever the Board deems it advisable in order to enable an institution to meet withdrawals or to pay obligations, the Board may, to such extent and subject to such conditions as it may prescribe, permit the institution to reduce its liquidity below the minimum amount. *Whenever the Board determines that conditions of national emergency or unusual economic stress exist*, the Board may suspend any part or all of the liquidity requirements hereunder for such period as the Board may prescribe. Any such suspension, unless sooner terminated by its terms or by the Board, shall terminate at the expiration of ninety days next after its commencement, but nothing in this sentence prevents the Board from again exercising, before, at, or after any such termination, the authority conferred by this subsection.

(f) Rules and regulations; investigations by Board.

The Board is authorized to issue such rules and regulations, including definitions of terms used in this section, to make such examinations, and to conduct such investigations as it deems necessary or appropriate to effectuate the purposes of this section. The reasonable cost of any such examination or investigation, as determined by the Board, shall be paid by the institution. In connection with any such examination or investigation the Board has the same functions and authority that the Federal Savings and Loan Insurance Corporation has under subsection (m) of section 1730 of this title, and for purposes of this subsection the provisions of said subsection (m), including the next to last sentence but not including

[Emphasis supplied.]

the last sentence, and the provisions of the first sentence of subsection (n) of that section are applicable in the same manner and to the same extent that they would be applicable if all references therein to the Corporation were also references to the Board and all references therein to that section or any part thereof were also references to this section. (July 22, 1932, ch. 522, § 5A, as added June 27, 1950, ch. 369, § 1, 64 Stat. 257, and amended Aug. 11, 1955, ch. 783, title I, 109(a)(3), 69 Stat. 640; Sept. 21, 1968, Pub. L. 90-505, § 4, 82 Stat. 856.)

### —NOTE—

EXCERPT FROM SENATE REPT. 1343, 90TH CONG., 2D SESS. (1958)

The aim of the amendment is not to subsidize mortgages or to completely insulate housing from monetary policy, but rather to supply liquidity to the mortgage market, and particularly to savings and loan associations during periods of extremely tight money and rapidly rising interest rates such as occurred during 1966 (and such as might very well reoccur during the last half of 1968). During 1966, the process of "disintermediation" caused substantial disruption to the mortgage market. Rapidly rising interest rates caused many savers to switch their funds from financial institutions to direct purchases of bonds and Government securities. To some extent, commercial banks were able to respond by raising their interest rates paid on time deposits and certificates of deposits, as well as the rates charged for their loans to compensate for the higher cost of obtaining deposits.

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### 12 U.S.C. 1703. INSURANCE OF FINANCIAL INSTITUTIONS

(a) *The Secretary is authorized and empowered upon such terms and conditions as he may prescribe, to insure banks, trust companies, personal finance companies, mortgage companies, building and loan associations, installment lending companies and other such financial institutions, which the Secretary finds to be qualified by experience or facilities and approves as eligible for credit insurance, against losses which they may sustain as a result of loans and advances of credit, and purchases of obligations representing loans and advances of credit, made by them on and after July 1, 1939, and prior to October 1, 1972, for the purpose of (i) financing alterations, repairs, and improvements upon or in connection with existing structures, and the building of new structures, upon urban, suburban, or rural real property (including the restoration, rehabilitation, rebuilding, and replacement of such improvements which have been damaged or destroyed by earthquake, conflagration, tornado, hurricane, cyclone, flood, or other catastrophe), by the owners thereof or by lessees of such real property under a lease expiring not less than six months after the maturity of the loan or advance of credit; and for the purpose of (ii) financing the purchase of a mobile home to be used by*

[Emphasis supplied.]

the owner as his principal residence. In no case shall the insurance granted by the Secretary under this section to any such financial institution on loans, advances of credit, and purchases made by such financial institution for such purposes on and after July 1, 1939, exceed 10 per centum of the total amount of such loans, advances of credit, and purchases: Provided, That with respect to any loan, advance of credit, or purchase made after the effective date of the Housing Act of 1954, the amount of any claim for loss on any such individual loan, advance of credit or purchase paid by the Secretary under the provisions of this section to a lending institution shall not exceed 90 per centum of such loss.

After the effective date of the Housing Act of 1954, (i) the Secretary shall not enter into contracts for insurance pursuant to this section except with lending institutions which are subject to the inspection and supervision of a governmental agency required by law to make periodic examinations of their books and accounts, and which the Secretary finds to be qualified by experience or facilities to make and service such loans, advances or purchases, and with such other lending institutions which the Secretary approves as eligible for insurance pursuant to this section on the basis of their credit and their experience or facilities to make and service such loans, advances or purchases; (ii) only such items as substantially protect or improve the basic livability or utility of properties shall be eligible for financing under this section, and therefore the Secretary shall from time to time declare ineligible for financing under this section any item, product, alteration, repair, improvement, or class thereof which he determines would not substantially protect or improve the basic livability or utility of such properties, and he may also declare ineligible for financing under this section any item which he determines is especially subject to selling abuses; and (iii) the Secretary is authorized and directed, by such regulations or procedures as he shall deem advisable, to prevent the use of any financial assistance under this section (1) with respect to new residential structures (other than mobile homes) that have not been completed and occupied for at least six months, or (2) which would, through multiple loans, result in an outstanding aggregate loan balance with respect to the same structure exceeding the dollar amount limitation prescribed in this subsection for the type of loan involved: Provided, That this clause (iii) may in the discretion of the Secretary be waived with respect to the period of occupancy or completion of any such new residential structures. The Secretary is hereby authorized and directed, with respect to mobile homes to be financed under this section, to (i) prescribe minimum property standards to assure the livability and durability of the mobile home and the suitability of the site on which the mobile home is to be located; and (ii) obtain assurances from the borrower that the mobile home will be placed on a site which complies with the standards prescribed by the Secretary and with local zoning and other applicable local requirements.

(b) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any

such loan, advance of credit, or purchase by it (1) if the amount of such loan, advance of credit, or purchase exceeds \$5,000, except that an obligation financing the purchase of a mobile home may be in an amount not exceeding \$10,000 (\$15,000 in the case of a mobile home composed of two or more modules); (2) if such obligation has a maturity in excess of three years and thirty-two days, except that the Secretary may increase such maximum limitation to seven years and thirty-two days if he determines such increase to be in the public interest after giving consideration to the general effect of such increase upon borrowers, the building industry, and the general economy, and such maturity limitation shall not apply if such loan, advance of credit, or purchase is for the purpose of financing the construction of a new structure for use in whole or in part for agricultural purposes: Provided, That an obligation financing the purchase of a mobile home may have a maturity not in excess of twelve years and thirty-two days (fifteen years and thirty-two days in the case of a mobile home composed of two or more modules); or (3) unless the obligation bears such interest, has such maturity, and contains such other terms, conditions, and restrictions as the Secretary shall prescribe, in order to make credit available for the purposes of this subchapter: Provided, That any such obligation with respect to which insurance is granted under this section on or after sixty days from August 7, 1956 shall bear interest, and insurance premium charges, not exceeding (A) an amount, with respect to so much of the net proceeds thereof as does not exceed \$2,500, equivalent to \$5.50 discount per \$100 of original face amount of a one-year note payable in equal monthly installments, plus (B) an amount, with respect to any portion of the net proceeds thereof in excess of \$2,500, equivalent to \$4.50 discount per \$100 of original face amount of such a note; Provided further, That the amounts referred to in clauses (A) and (B) of the preceding proviso, when correctly based on tables of calculations issued by the Secretary or adjusted to eliminate minor errors in computation in accordance with requirements of the Secretary, shall be deemed to comply with such proviso: Provided further, That insurance may be granted to any such financial institution with respect to any obligation not in excess of \$15,000 nor an average amount of \$2,500 per family unit and having a maturity not in excess of seven years and thirty-two days representing any such loan, advance of credit, or purchase made by it if such loan, advance of credit, or purchase is made for the purpose of financing the alteration, repair, improvement, or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families: Provided further, That any obligation with respect to which insurance is granted under this section on or after July 1, 1939, may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term in excess of the maximum provided for in this subsection.

(c) (1) Notwithstanding any other provision of law, the Secretary shall have the power, under regulations to be prescribed by him and approved by the Secretary of the Treasury, to assign or sell at

public or private sale, or otherwise dispose of, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of insurance heretofore or hereafter granted under this section, and to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of such insurance until such time as such obligations may be referred to the Attorney General for suit or collection.

(2) The Secretary is authorized and empowered (a) to deal with, complete, rent, renovate, modernize, insure, or sell for cash or credit, in his discretion, and upon such terms and conditions and for such considerations as the Secretary shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by him in connection with the payment of insurance heretofore or hereafter granted under this subchapter and (b) to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the Secretary in connection with such real or personal property by way of deficiency or otherwise: Provided, That section 5 of Title 41 shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed \$1,000. The power to convey and to execute in the name of the Secretary deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this subchapter may be exercised by an officer appointed by him without the execution of any express delegation of power or power of attorney: Provided, That nothing in this paragraph shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in his discretion, to any officer or agent he may appoint.

(d) The Secretary is authorized and empowered, under such regulations as he may prescribe, to transfer to any such approved financial institution any insurance in connection with any loans and advances of credit which may be sold to it by another approved financial institution.

(e) The Secretary is authorized to waive compliance with regulations heretofore or hereafter prescribed by him with respect to the interest and maturity of and the terms, conditions, and restrictions under which loans, advances of credit, and purchases may be insured under this section and section 1706a of this title, if in his judgment the enforcement of such regulations would impose an injustice upon an insured institution which has substantially complied with such regulations in good faith and refunded or credited any excess charge made, and where such waiver does not involve an increase of the obligation of the Secretary beyond the obligation which would have been involved if the regulations had been fully complied with.

(f) The Secretary shall fix a premium charge for the insurance hereafter granted under this section, but in the case of any obligation representing any loan, advance of credit, or purchase, such premium charge shall not exceed an amount equivalent to 1 per centum



per annum of the net proceeds of such loan, advance of credit, or purchase, for the term of such obligation, and such premium charge shall be payable in advance by the financial institution and shall be paid at such time and in such manner as may be prescribed by the Secretary.

(g) Any payment for loss made to an approved financial institution under this section shall be final and incontestable after two years from the date the claim was certified for payment by the Secretary, in the absence of fraud or misrepresentation on the part of such institution, unless a demand for repurchase of the obligation shall have been made on behalf of the United States prior to the expiration of such two-year period.

(h) The Secretary is authorized and directed to make such rules and regulations as may be necessary to carry out the provisions of this subchapter. (June 27, 1934, ch. 847, title I, § 2, 48 Stat. 1246; May 28, 1935, ch. 150, § 28(a), (b), 49 Stat. 299; Aug. 23, 1935, ch. 614, § 344(b), 49 Stat. 722; Apr. 3, 1936, ch. 165, § 1, 49 Stat. 1187; Apr. 17, 1936, ch. 234, § 4 (a), (b), 49 Stat. 1234; Apr. 22, 1937, ch. 121, § 2, 50 Stat. 71; Feb. 3, 1938, ch. 13, § 2, 52 Stat. 9; June 3, 1939, ch. 175, §§ 1, 2, 53 Stat. 804, 805; June 28, 1941, ch. 261, §§ 1-5, 55 Stat. 364, 365; May 26, 1942, ch. 319, § 13, 56 Stat. 305; Mar. 23, 1943, ch. 21, § 2, 57 Stat. 43; Oct. 15, 1943, ch. 259, §§ 3, 4, 57 Stat. 571; June 26, 1947, ch. 152, 61 Stat. 182; 1947 Reorg. Plan No. 3, § 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 10, 1948, ch. 832, title I, § 101(s), 62 Stat. 1275; July 15, 1949, ch. 338, title II, § 201(1), 63 Stat. 421; Aug. 30, 1949, ch. 524, 63 Stat. 681; Oct. 25, 1949, ch. 729, § 1(1), 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, §§ 101(a), 122, 64 Stat. 48, 59; Mar. 10, 1953, ch. 5, § 1, 67 Stat. 4; Aug. 2, 1954, ch. 649, title I, §§ 101(a), 102, 68 Stat. 590; June 30, 1955, ch. 251, § 1 (1), 69 Stat. 225; Aug. 11, 1955, ch. 783, title I, § 101, 69 Stat. 635; Feb. 10, 1956, ch. 33, 70 Stat. 11; Aug. 7, 1956, ch. 1029, title I, § 101, 70 Stat. 1091; July 12, 1957, Pub. L. 85-104, title I, § 105, 71 Stat. 297; Sept. 23, 1959, Pub. L. 86-372, title I, § 101, 73 Stat. 654; Sept. 14, 1960, Pub. L. 86-788, § 2(a), 74 Stat. 1028; June 30, 1961, Pub. L. 87-70, title VI, § 604(a), 75 Stat. 177; Sept. 2, 1964, Pub. L. 88-560, title I, § 101, 78 Stat. 769; Aug. 10, 1965, Pub. L. 89-117, title II, § 202(a), title XI, § 1108(a), 79 Stat. 465, 504; May 25, 1967, Pub. L. 90-19, § 1(a) (3), (d), 81 Stat. 17, 18; Aug. 1, 1968, Pub. L. 90-448, title III, § 308, 82 Stat. 509; Sept. 30, 1969, Pub. L. 91-78, § 2(a), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91-152, title I, §§ 101(a), 103(c), Dec. 24, 1969, 83 Stat. 379, 380; Oct. 2, 1970, Pub. L. 91-432, § 1(a), 84 Stat. 886; Oct. 21, 1970, Pub. L. 91-473, § 1(a), 84 Stat. 1064; Dec. 1, 1970, Pub. L. 91-525, § 1(a), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91-609, title I, § 101(a), 113, 84 Stat. 1770, 1773.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 2363, 84TH CONG., 2D SESS. (1956)

Recent major floods have revealed special problems in applying present laws to the rehabilitation or rebuilding of

urban areas which have been hit by major disasters. Section 402 of the bill would provide desirable modifications in the existing law to facilitate the provision of assistance under the urban renewal program in disaster areas.

A new section (sec. 111) would be added to title I of the Housing Act of 1949, as amended. This new section would be applicable only in areas which are found by the local governing body and the Housing Administrator to be in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, or similar catastrophe which the President has declared to be a major disaster. The Federal Government would be authorized to extend urban renewal assistance for such an area without regard to certain limitations imposed upon nondisaster projects.

Thus, the local community would be permitted to postpone compliance with the workable program requirement, and the urban renewal plan would not have to conform to a general plan for the locality as a whole. These modifications, along with a waiver of the public-hearing requirement, would permit a faster start in the rebuilding of the stricken area. Present requirements that an urban renewal area shall be a slum area or that it shall be predominantly residential in character would be waived where the need for rehabilitation or rebuilding arises from a major disaster. A regular urban renewal plan would be prepared for the project area, and in doing so, the locality would be required to give due regard to the removal or relocation of dwellings from project sites subjected to recurring floods or other recurring catastrophes. Since the displacement of families will in many instances have already occurred as a result of the major disaster, the relocation requirements in the present law would be modified to require only that the local public agency present a plan for the encouragement, to the maximum extent feasible, of the provision of dwellings suitable for the needs of displaced families.

Two sections of the National Housing Act provide FHA mortgage insurance authority designed to assist the carrying out of urban renewal programs. These are FHA sections 220 and 221 and provide for insurance of mortgages on liberal terms provided the community meets the workable program requirement applicable to title I urban renewal projects. In order that these mortgage insurance programs may also be utilized to help meet needs of disaster victims in urban renewal areas the bill provides in such cases that the FHA sections 220 and 221 mortgage insurance would be made available without regard to the workable program requirement.

Section 701 of the Housing Act of 1954 authorizes the Federal Government to make grants, not exceeding 50 percent of the estimated cost of the planning work, to assist community planning in small communities—less than 25,000 population—and to make similar grants to official State, met-

ropolitan, or regional agencies for similar planning in metropolitan or regional areas. The bill would amend this section of the law so that in areas stricken by major disasters, the large cities as well as the smaller communities under 25,000 population could directly avail themselves of the planning grants authorized.

## 12 U.S.C. 1705. ALLOCATION OF FUNDS

For the purposes of carrying out the provisions of this subchapter and subchapters II and III of this chapter *the President, in his discretion*, is authorized to provide such funds or any portion thereof by allotment to the Secretary from any funds that are available, or may hereafter be made available, to the President *for emergency purposes*. (June 27, 1934, ch. 847, title I, § 4, 48 Stat. 1247; June 30, 1947, ch. 166, title II, § 206 (7), 61 Stat. 208, 1947 Reorg. Plan No. 3, § 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a) (3), 81 Stat. 17.)

## 12 U.S.C. 1748b. INSURANCE OF MORTGAGES

(a) Aggregate amount of insurance; termination date.

In order to assist in relieving the acute shortage and urgent need for family housing which now exists at or in areas adjacent to military installations because of uncertainty as to the permanency of such installations and to increase the supply of necessary family housing accommodations for personnel at such installations, the Secretary is authorized, upon application of the mortgagee, to insure mortgages (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for so insuring such mortgages prior to the date of their execution or disbursement thereon: Provided, That the aggregate amount of principal obligations of all mortgages insured under this subchapter (except mortgages insured pursuant to the provisions of this subchapter in effect prior to August 11, 1955) shall not exceed \$2,300,000,000: And provided further, That the limitation in section 1715h of this title shall not apply to this subchapter: And provided further, That no more mortgages shall be insured under this section after October 1, 1962, except pursuant to a commitment to insure before such date, and not more than twenty-eight thousand family housing units shall be contracted for after June 30, 1959, pursuant to any mortgage insured under this section after such date. (June 27, 1934, ch. 847, title VIII, § 803, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 570, and amended Aug. 10, 1949, ch. 412, § 12 (a), 63 Stat. 591; Sept. 1, 1951, ch. 378, title VI, § 601 (a-c), 65 Stat. 312; June 30, 1953, ch. 170, § 10 (a)-(c), 67 Stat. 124; June 29, 1954, ch. 410, § 1 (2), 68 Stat. 320; Aug. 2, 1954, ch. 649, title I, §§ 112 (c), 128

[Emphasis supplied.]

(a), 130, 68 Stat. 593, 609; June 30, 1955, ch. 251, § 1 (2), 69 Stat. 225; Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 647; Aug. 7, 1956, ch. 1029, title V, §§ 502-506(a), 70 Stat. 1109; July 12, 1957, Pub. L. 85-104, title I, § 108 (c), title V, §§ 501, 502, 71 Stat. 297, 303; Apr. 1, 1958, Pub. L. 85-364, § 3(b), 72 Stat. 73; Aug. 10, 1959, Pub. L. 86-149, title IV, § 414(a) 73 Stat. 322; Sept. 23, 1959, Pub. L. 86-372, title VII, § 701, 73 Stat. 682; June 8, 1960, Pub. L. 86-500, title V, § 507 (a), (c), 74 Stat. 185, 186; June 27, 1961, Pub. L. 87-57, title VI, § 607(a), 75 Stat. 111; June 30, 1961, Pub. L. 87-70, title VI, § 604(d), 75 Stat. 177; Aug. 31, 1962, Pub. L. 87-623, § 1, 76 Stat. 418; Aug. 10, 1965, Pub. L. 89-117, title X, § 1108(u), 79 Stat. 560; May 25, 1967, Pub. L. 90-19, § 1(a) (3), (p), 81 Stat. 17, 19.)

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## TITLE 14—COAST GUARD

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### 14 U.S.C. 3. RELATIONSHIP TO NAVY DEPARTMENT

Upon *the declaration of war or when the President directs*, the Coast Guard shall operate as a service in the Navy, and shall so continue until the President, *by executive order*, transfers the Coast Guard back to the Treasury Department. While operating as a service in the Navy, the Coast Guard shall be subject to the orders of the Secretary of the Navy who may order changes in Coast Guard operations to render them uniform, to the extent he deems advisable, with Navy operations. (Aug. 4, 1949, ch. 393, 63 Stat. 496.)

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### 14 U.S.C. 214. ORIGINAL APPOINTMENT OF TEMPORARY OFFICERS

(a) The *President may appoint temporary* commissioned officers in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted men of the Coast Guard, and from licensed officers of the United States merchant marine.

(b) The *President may appoint temporary* commissioned warrant officers in the Regular Coast Guard, as the needs of the Coast Guard may require, from among the warrant officers and enlisted men of the Coast Guard, and from licensed officers of the United States merchant marine.

(c) The *Secretary may appoint temporary* warrant officers (W-1) in the Regular Coast Guard, as the needs of the Coast Guard require, from among the enlisted men of the Coast Guard, and from licensed officers of the United States merchant marine.

(d) Temporary appointments under this section do not change the permanent, probationary, or acting status of persons so appointed,

[Emphasis supplied.]

prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person who is appointed under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment under this section.

(e) An appointment under this section may be vacated by the appointing officer at any time. Each officer whose appointments is so vacated shall revert to his permanent status.

(f) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their appointments as officers in such grade. Appointees whose dates of appointment are the same shall take precedence with each other as the Secretary shall determine. (Added Pub. L. 88-130, § 1(10) (C), Sept. 24, 1963, 77 Stat. 178, and amended Pub. L. 89-444, 1(12)-(14), June 9, 1966, 80 Stat. 196.)

### —NOTE—

Successor to 14 U.S.C. 435 which, according to codifier's note, provided for temporary promotions in time of war or national emergency.

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#### 14 U.S.C. 275. WARTIME TEMPORARY SERVICE PROMOTIONS

(a) *In time of war, or of national emergency declared by the President or Congress, the President may suspend any section of this chapter relating to the selection, promotion, or involuntary separation of officers. Such a suspension may not continue beyond six months after the termination of the war or national emergency.*

(b) When the preceding sections of this chapter relating to selection and promotion of officers are suspended in accordance with subsection (a), and the needs of the service require, the President may, under regulations prescribed by him, promote to a higher grade any officer serving on active duty in the grade of ensign or above in the Coast Guard.

(c) *In time of war, or of national emergency declared by the President or Congress, the President may, under regulations to be prescribed by him, promote to the next higher warrant officer grade any warrant officer serving on active duty in a grade below chief warrant officer, W-4.*

(d) The grade of commodore in the Coast Guard is established for the purposes of this section.

(e) A promotion under this section to a grade above lieutenant may be made only upon the recommendation of a board of officers convened for that purpose.

(f) A promotion under this section shall be made by an appointment for temporary service. An appointment under this section to a grade above captain shall be made by the President by and with the advice and consent of the Senate. An appointment under this section to grade above lieutenant commander of an officer in the Coast

[Emphasis supplied.]

Guard Reserve shall be made by the President, by and with the advice and consent of the Senate. Any other appointments under this section shall be made by the President alone.

(g) An appointment under this section, unless expressly declined, is regarded as accepted on the date specified by the Secretary as the date of the appointment, and the officer so promoted is entitled to pay and allowances of the grade to which appointed from that date.

(h) An appointment under this section does not terminate any appointments held by an officer concerned under any other provisions of this title. The President may terminate temporary appointments made under this section at any time. An appointment under this section is effective for such period as the President determines. However, an appointment may not be effective *later than six months after the end of the war or national emergency*. When his temporary appointment under this section is terminated or expires, the officer shall revert to his former grade.

(i) *Not later than six months after the end of the war or national emergency the President shall*, under such regulations as he may prescribe, reestablish the active duty promotion list with adjustments and additions appropriate to the conditions of original appointment and wartime service of all officers to be included thereon. The President may, by and with the advice and consent of the Senate, appoint officers on the reestablished active duty promotion list to fill vacancies in the authorized active duty strength of each grade. Such appointments shall be considered to have been made under section 271 of this title. (Added Pub. L. 88-130, § 1(10) (C), Sept. 24, 1963, 77 Stat. 182.)

(As amended Pub. L. 92-129, title VI, § 605, Sept. 28, 1971, 85 Stat. 362.)

#### 14 U.S.C. 331. RECALL TO ACTIVE DUTY DURING WAR OR NATIONAL EMERGENCY

*In time of war or national emergency*, the Secretary may order any regular officer on the retired list to active duty. (Added Pub. L. 88-130, § 1(10) (C), Sept. 24, 1963, 77 Stat. 189.)

#### 14 U.S.C. 359. RECALL TO ACTIVE DUTY DURING WAR OR NATIONAL EMERGENCY

*In time of war or national emergency*, the Commandant may order any enlisted man on the retired list to active duty. (Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, § 18, 64 Stat. 407.)

#### 14 U.S.C. 367. DETENTION BEYOND TERM OF ENLISTMENT

(a) Under regulations prescribed by the Secretary, an enlisted man may be detained in the Coast Guard beyond the term of his enlistment:

[Emphasis supplied.]

(1) until the first arrival of the vessel on which he is serving at its permanent station, or at a port in a State of the United States or in the District of Columbia; or

(2) if attached to a shore station beyond the continental limits of the United States or in Alaska, until his first arrival at a port in any State of the United States or in the District of Columbia where his reenlistment or discharge may be effected, or until he can be discharged or reenlisted at his station beyond the continental limits of the United States or in Alaska, whichever is earlier, but in no event to exceed three months; or

(3) *during a period of war or national emergency as proclaimed by the President*, and, in the interest of national defense, for a period not to exceed six months after the end of the war or the termination of the emergency; or

(4) for a period of not exceeding thirty days in other cases whether or not specifically covered by this section, when essential to the public interests, and the determination that such detention is essential to the public interests, made in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

Any person detained in the Coast Guard as provided in this section shall be entitled to receive pay and allowances and benefits under the same conditions as though his enlistment period had not expired, and shall be subject in all respects to the laws and regulations for the government of the Coast Guard until his discharge therefrom. Enlisted men detained under the provisions of (1) of this subsection shall be entitled to the pay and allowances provided for enlisted personnel of the Navy detained under similar circumstances.

(b), (c). Repealed. July 24, 1956, ch. 692, § 2 (4), 70 Stat. 631.

(Aug. 4, 1949, ch. 393, 63 Stat. 523; Aug. 3, 1950, ch. 536, § 22, 64 Stat. 407; July 24, 1956, ch. 692, §§ 2 (4), 3, 70 Stat. 631.)

#### 14 U.S.C. 371. AVIATION CADETS; PROCUREMENT; TRANSFER

(a) The grade of aviation cadet is established as a special enlisted grade in the Coast Guard. Under such regulations as the Secretary prescribes, male citizens in civil life may be enlisted as, and male enlisted members of the Coast Guard with their consent may be designated as, aviation cadets.

(b) *except in time of war or national emergency declared by Congress*, not less than 20 per centum of the aviation cadets procured in each fiscal year shall be procured from qualified enlisted members of the Coast Guard.

(c) No persons may be enlisted or designated as an aviation cadet unless—

(1) he agrees in writing that, upon his successful completion of the course of training as an aviation cadet, he will accept a commission as an ensign in the Coast Guard Reserve and will serve on active duty as such for at least three years, unless sooner released; and

[Emphasis supplied.]

(2) if under twenty-one years of age, he has the consent of his parent or guardian to his agreement.

(d) Under such regulations as the Secretary prescribes, an aviation cadet may be transferred to another enlisted grade or rating in the Coast Guard, released from active duty, or discharged. (Added Pub. L. 89-444, § 1(20), June 9, 1966, 80 Stat. 196.)

#### 14 U.S.C. 491. MEDAL OF HONOR

The President may award, and present in the name of Congress, a medal of honor of appropriate design, with ribbons and appurtenances, to a person who, while a member of the Coast Guard, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force;

(3) *while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.*

(Aug. 4, 1949, ch. 393, 63 Stat. 535; July 25, 1963, Pub. L. 88-77, § 4, 77 Stat. 95.)

#### —NOTE—

EXCERPT FROM HOUSE REPT. 412, 88TH CONG., 1ST SESS. (1963)

The purpose of the proposed legislation is to expand the authority for the award of the Medal of Honor, the Distinguished Service Cross, the Navy Cross, the Air Force Cross, and the Silver Star by the various military departments, and the Coast Guard, with respect to the Medal of Honor, so the Government can give proper recognition to acts of heroism and gallantry which may occur during "cold war" conditions short of situations when our Armed Forces are at war with an enemy of the United States.

The bill also amends existing law so that personnel receiving the Medal of Honor under the qualifying provisions of this law will have their names placed on the Medal of Honor Roll and receive the certificate and pension provided by sections 561 and 562 of title 38, United States Code, beginning at age 50.

Present laws which authorize the award of combat decorations prescribe in general that these decorations may only be awarded to persons who distinguish themselves in actual conflict with, or military operations against, an armed enemy of the United States. Under present law the Navy and Marine Corps may also award the Medal of Honor to a member of the naval service who distinguishes himself con-

[Emphasis supplied.]



spicuously by gallantry, et cetera, "in the line of his profession." (10 U.S.C. 6241).

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For the most part, however, members of the Armed Forces who perform heroic and gallant acts *while serving in an advisory capacity with, or while assisting in the operation of friendly foreign forces engaged in armed conflict to which the United States is not a formal party*, may not be awarded the decorations previously mentioned.

*The President*, on April 25, 1962, by *Executive order*, authorized the award of the Purple Heart and on August 24, 1962, by *Executive order*, authorized the award of the Bronze Star Medal to cover cold war activities. The proposed legislation restates the criteria for the award of combat decorations to make them more consistent with the criteria announced in the Executive orders, namely, for acts which occur:

(1) While engaged in an act against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against opposing armed forces in which the United States is not a belligerent party.

The United States has over 11,000 men who are making an outstanding effort to assist the Republic of Vietnam in its determined war against Communist oppression. The Army has been awarding the Distinguished Flying Cross (10 U.S.C. 3749), the Air Medal (Executive Order 9158 amended by Executive Order 9242-A, September 11, 1942), the Legion of Merit, and the Bronze Star Medal, but there have been situations where higher awards would have been made had the authority existed to award them.

The present criteria for the award of these combat decorations should therefore be expanded to permit prompt and proper recognition of the services and sacrifices of personnel who may be involved in such "cold war" activities.

Enactment of the proposed legislation would cause no significant increase in the budgetary requirements for the Department of Defense.

The Committee on Armed Services unanimously recommends enactment.

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#### 14 U.S.C. 493. COAST GUARD MEDAL

The President may present, but not in the name of Congress, a medal to be known as the Coast Guard medal, of appropriate design, with accompanying ribbon, together with a rosette or other device to

[Emphasis supplied.]

be worn in lieu thereof, to any person who, while serving in any capacity with the Coast Guard, distinguishes himself by heroism *not involving actual conflict with an enemy*. (Aug. 4, 1949, ch. 393, 63 Stat. 535.)

#### 14 U.S.C. 652. REMOVING RESTRICTIONS

Any law removing *for the duration of a war or national emergency proclaimed by the President* any restriction contained in any then-existing law as applied to the Navy, including, but not limited to, restrictions relating to the manner in which purchases may be made and contracts awarded, fiscal operations, and personnel, shall, in the same manner and to the same extent, remove such restrictions as applied to the Coast Guard. (Aug. 4, 1949, ch. 393, 63 Stat. 550.)

#### [COMMISSIONED OFFICERS]

#### 14 U.S.C. 778. SUSPENSION OF THIS SUBCHAPTER IN WAR OR NATIONAL EMERGENCY

In *time of war or national emergency declared by the Congress, the President is authorized, in his discretion, to suspend the operation of all or any of the sections of this subchapter*. If any or all of such sections are suspended by the President under this section, the Secretary of Defense, prior to the sections suspended being again placed in operation, shall recommend to Congress necessary legislation designed to adjust the grades of Reserve officers and such legislation shall be, insofar as practicable, comparable to any similar legislation recommended for adjustment of the grades of officers of the Regular Coast Guard. (Added Pub. L. 85-861, § 5 (2), Sept. 2, 1958, 72 Stat. 1550.)

#### —NOTE—

#### EXCERPT FROM HOUSE REPT. 657, 81ST CONG., 1ST SESS. (1949)

This section is new and provides that any law removing *for the duration of a war or national emergency* any restriction contained in any then-existing law as applied to the Navy shall operate in the same manner to remove such restrictions as applied to the Coast Guard. Included are restrictions relating to the manner in which purchases may be made and contracts awarded, fiscal operations, and personnel. This provision is designed to enable the Coast Guard to operate as efficiently as the Navy Department in time of war or during a national emergency and would permit the Coast Guard more effectively to maintain itself in a state of military readiness during periods of emergency. Since the Coast Guard operates as part of the Navy in time of war, it is essential that its operations be as flexi-

[Emphasis supplied.]

ble and as efficient as those of the Department of which it is to be a part. This section would prevent inadvertent failures specifically to mention the Coast Guard in legislation of the type described in this section from hindering service operations.

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## TITLE 15—COMMERCE AND TRADE

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### 15 U.S.C. 76. RETALIATION AGAINST RESTRICTION OF IMPORTATIONS IN TIME OF WAR

Whenever, *during the existence of a war in which the United States is not engaged, the President shall be satisfied* that there is reasonable ground to believe that under the laws, regulations, or practices of any country, colony, or dependency contrary to the law and practice of nations, the importation into their own or any other country, dependency, or colony of any article the product of the soil or industry of the United States and not injurious to health or morals is prevented or restricted the President is authorized and empowered to prohibit or restrict during the period such prohibition or restriction is in force, the importation into the United States of similar or other articles, products of such country, dependency, or colony as in his opinion the public interest may require; and in such case he shall make proclamation stating the article or articles which are prohibited from importation into the United States; and any person or persons who shall import, or attempt or conspire to import, or be concerned in importing, such article or articles, into the United States contrary to the prohibition in such proclamation, shall be liable to a fine of not less than \$2,000 nor more than \$50,000, or to imprisonment not to exceed two years, or both, in the discretion of the court. The President may change, modify, revoke, or renew such proclamation in his discretion. (Sept. 8, 1916, ch. 463, § 805, 39 Stat. 799.)

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### 15 U.S.C. 77. DISCRIMINATION AGAINST NEUTRAL AMERICANS IN TIME OF WAR

Whenever, *during the existence of a war in which the United States is not engaged, the President shall be satisfied* that there is reasonable ground to believe that any vessel, American or foreign, is, on account of the laws, regulations, or practices of a belligerent Government, making or giving any undue or unreasonable preference or advantage in any respect whatsoever to any particular person, company, firm, or corporation, or any particular description of traffic in the United States or its possessions or to any citizens of the United States residing in neutral countries abroad, or is subject-

[Emphasis supplied.]

ing any particular person, company, firm, or corporation or any particular description of traffic in the United States or its possessions, or any citizens of the United States residing in neutral countries abroad to any undue or unreasonable prejudice, disadvantage, injury, or discrimination in regard to accepting, receiving, transporting, or delivering, or refusing to accept, receive, transfer, or deliver any cargo, freight, or passengers, or in any other respect whatsoever, he is authorized and empowered to direct the detention of such vessels by withholding clearance or by formal notice forbidding departure, and to revoke, modify, or renew any such direction.

Whenever, *during the existence of a war in which the United States is not engaged*, the President shall be satisfied that there is reasonable ground to believe that under the laws, regulations, or practices of any belligerent country or Government, American ships or American citizens are not accorded any of the facilities of commerce which the vessels or citizens of that belligerent country enjoy in the United States or its possessions, or are not accorded by such belligerent equal privileges or facilities of trade with vessels or citizens of any nationality other than that of such belligerent, the President is authorized and empowered to withhold clearance from one or more vessels of such belligerent country until such belligerent shall restore to such American vessels and American citizens reciprocal liberty of commerce and equal facilities of trade; or the President may direct that similar privileges and facilities, if any, enjoyed by vessels or citizens of such belligerent in the United States or its possessions be refused to vessels or citizens of such belligerent; and in such case he shall make proclamation of his direction, stating the facilities and privileges which shall be refused, and the belligerent to whose vessels or citizens they are to be refused, and thereafter the furnishing of such prohibited privileges and facilities to any vessel or citizen of the belligerent named in such proclamation shall be unlawful; and he may change, modify, revoke, or renew such proclamation; and any person or persons who shall furnish or attempt or conspire to furnish or be concerned in furnishing or in the concealment of furnishing facilities or privileges to ships or persons contrary to the prohibition in such proclamation shall be liable to a fine of not less than \$2,000 nor more than \$50,000 or to imprisonment not to exceed two years, or both, in the discretion of the court.

In case any vessel which is detained by virtue of sections 71 to 77 of this title shall depart or attempt to depart from the jurisdiction of the United States without clearance or other lawful authority, the owner or master or person or persons having charge or command of such vessel shall be severally liable to a fine of not less than \$2,000 nor more than \$10,000, or to imprisonment not to exceed two years, or both, and in addition such vessel shall be forfeited to the United States.

*The President of the United States is authorized and empowered to employ such part of the land or naval forces of the United States as shall be necessary to carry out the purposes of sections 71 to 77 of this title.* (Sept. 8, 1916, ch. 463, § 806, 39 Stat. 799.)

[Emphasis supplied.]

## TITLE 16—CONSERVATION

## 16 U.S.C. 440. SAME; CLOSURE IN TIMES OF NATIONAL EMERGENCY

The Secretary of the Interior may, *in case of a national emergency*, close the said Fort McHenry and it may be used for any and all military purposes during the period of the emergency and for such period of time thereafter, as the public needs may require. (May 26, 1914, ch. 100, 38 Stat. 382; Mar. 3, 1925, ch. 425, 43 Stat. 1109; Ex. Ord. No. 6166, § 2, June 10, 1933; Ex. Ord. No. 6228, § 1, July 28, 1933.)

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## 16 U.S.C. 590p. LIMITATION ON OBLIGATIONS INCURRED; GREAT PLAINS CONSERVATION SERVICE

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(h) Notwithstanding any other provision of law—

(1) For the 1964 crop and the 1965 crop of feed grains, if the Secretary determines that the total supply of feed grains will, in the absence of an acreage diversion program, likely be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices of feed grains and to meet any national emergency, he may formulate and carry out an acreage diversion program for feed grains, without regard to provisions which would be applicable to the regular agricultural conservation program, under which, subject to such terms and conditions as the Secretary determines, conservation payments in amounts determined by the Secretary to be fair and reasonable shall be made to producers who divert acreage from the production of feed grains to an approved conservation use and increase their average acreage of crop-land devoted in 1959 and 1960 to designated soil-conserving crops or practices including summer fallow and idle land by an equal amount. Payments shall not be made in amounts in excess of 50 per centum of the estimated basic county support rate, including that part of the support price made available through payments in kind, on the normal production of the acreage diverted from the commodity on the farm based on its adjusted average yield per acre. Notwithstanding the foregoing provisions, the Secretary may permit such diverted acreage to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, and flax, if he determines that such crops are not in surplus supply and will not be in surplus supply if permitted to be grown on the diverted acreage, subject to the condition that payment with respect to diverted acreage devoted to any such crop shall be at a rate determined by the Secretary to be fair and reasonable, taking into consideration the use of such acreage for the production of such crops, but in no event shall the payment exceed one-half the rate which would

[Emphasis supplied.]

otherwise be applicable if such acreage were devoted to conservation uses, and no price support shall be made available for the production of any such crop on such diverted acreage. The base period for the purpose of determining the adjusted average yield in the case of payments with respect to the 1964 crop shall be the four-year period 1959-1962, and in the case of payments with respect to the 1965 crop shall be the five-year period 1959-1963. The term "feed grains" means corn, grain sorghums, barley, and, if for any crop the producer so requests for purposes of having acreage devoted to the production of what considered as devoted to the production of feed grains, pursuant to the provisions of section 328 of the Food and Agriculture Act of 1962, the term "feed grains" shall include oats and rye: Provided, That acreages of corn, grain sorghums, and barley shall not be planted in lieu of acreages of oats and rye: Provided further, That the acreage devoted to the production of wheat shall not be considered as an acreage of feed grains for purposes of establishing the feed grain base acreage for the farm for subsequent crops. Such feed grain diversion program shall require the producer to take such measures as the Secretary may deem appropriate to keep such diverted acreage free from erosion, insects, weeds, and rodents. The acreage eligible for participation in the program shall be such acreage (not to exceed 50 per centum of the average acreage on the farm devoted to feed grains in the crop years 1959 and 1960 or twenty-five acres, whichever is greater) as the Secretary determines necessary to achieve the acreage reduction goal for the crop. Payments shall be made in kind. The average acreage of wheat produced on the farm during the crop years 1959, 1960, and 1961, pursuant to the exemption provided in section 335(f) of the Agricultural Adjustment Act of 1938, prior to its repeal by the Food and Agriculture Act of 1962, in excess of the small farm base acreage for wheat established under section 1335 of Title 7, shall be considered as an acreage of feed grains produced in the crop years of 1959 and 1960 for purposes of establishing the feed grain base acreage for the farm, and the rate of payment for diverting such wheat shall be an amount determined by the Secretary to be fair and reasonable in relation to the rates of payment for diverting feed grains. The Secretary may make such adjustments in acreage and yields as he determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography. To the extent that a producer proves the actual acreages and yields for the farm, such acreages and yields shall be used in making determinations. Notwithstanding any other provision of this subsection (1)(1),<sup>1</sup> the Secretary may, upon unanimous request of the State committee established pursuant to section 590h(b) of this title, adjust the feed grain bases for farms within any State or county to the extent he determines such adjustment to be necessary in order to establish fair and equitable feed grain bases for farms within such State or county. The Secretary may make not

<sup>1</sup> So in original. There is no subsection (1)(1); probably should be "subsection (h)(1)."

to exceed 50 per centum of any payments to producers in advance of determination of performance: Provided, That in no event shall the Secretary in the crop years 1964 or 1965 make payments to any producers under this subsection and under section 105(d) of the Agricultural Act of 1949, as amended, in excess of 20 per centum of the fair market value of any acreage involved. Notwithstanding any other provision of this subsection (h)(1), barley shall not be included in the program for a producer of malting barley exempted pursuant to section 105(d) of the Agricultural Act of 1949 who participates only with respect to corn and grain sorghums and does not knowingly devote an acreage on the farm to barley in excess of 110 per centum of the average acreage devoted on the farm to barley in 1959 and 1960.

(2) Notwithstanding any other provision of this subsection, not to exceed 1 per centum of the estimated total feed grain bases for all farms in a State for any year may be reserved from the feed grain bases established for farms in the State for apportionment to farms on which there were no acreages devoted to feed grains in the crop years 1959 and 1960 on the basis of the following factors: Suitability of the land for the production of feed grains, the past experience of the farm operator in the production of feed grains, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of feed grains on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable feed grain bases. An acreage equal to the feed grain base so established for each farm shall be deemed to have been devoted to feed grains on the farm in each of the crop years 1959 and 1960 for purposes of this subsection except that producers on such farm shall not be eligible for conservation payments for the first year for which the feed grain base is established.

(3) There are hereby authorized to be appropriated such amounts as may be necessary to enable the Secretary to carry out this subsection.

(4) The Secretary shall provide by regulations for the sharing of payments under this subsection among producers on the farm on a fair and equitable basis and in keeping with existing contracts.

(5) Payments in kind shall be made through the issuance of negotiable certificates which the Commodity Credit Corporation shall redeem for feed grains and, notwithstanding any other provision of law, the Commodity Credit Corporation shall, in accordance with regulations prescribed by the Secretary, assist the producer in the marketing of such certificates. In the case of any certificate not presented for redemption within thirty days of the date of its issuance, reasonable costs of storage and other carrying charges, as determined by the Secretary, for the period beginning thirty days after its issuance and ending with the date of its presentation for redemption shall be deducted from the value of the certificate. Feed grains with which Commodity Credit Corporation redeems certificates pursuant to this paragraph shall be valued at not less than the current support price, minus that part of the current support price made

available through payments in kind, plus reasonable carrying charges.

(6) Notwithstanding any other provision of law, the Secretary may, by mutual agreement with the producer, terminate or modify any agreement previously entered into pursuant to this subsection if he determines such action necessary because of *an emergency created by drought or other disaster* or in order to prevent or alleviate a shortage in the supply of feed grains.

(i) Notwithstanding any other provision of law—

(1) For the 1966 through 1970 crops of feed grains, if the Secretary determines that the total supply of feed grains will, in the absence of an acreage diversion program, likely be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices of feed grains and to meet any national emergency, he may formulate and carry out an acreage diversion program for feed grains, without regard to provisions which would be applicable to the regular agricultural conservation program, under which, subject to such terms and conditions as the Secretary determines, conservation payments shall be made to producers who divert acreage from the production of feed grains to an approved conservation use and increase their average acreage of cropland devoted in 1959 and 1960 to designated soil-conserving crops or practices including summer fallow and idle land by an equal amount. Payments shall be made at such rate or rates as the Secretary determines will provide producers with a fair and reasonable return for the acreage diverted, but not in excess of 50 per centum of the estimated basic county support rate, including the lowest rate of payment-in-kind, on the normal production of the acreage diverted from the commodity on the farm based on the farm projected yield per acre. Notwithstanding the foregoing provisions, the Secretary may permit all or any part of such diverted acreage to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, and flaxseed, if he determines that such production of the commodity is needed to provide an adequate supply, is not likely to increase the cost of the price support program, and will not adversely affect farm income subject to the condition that payment with respect to diverted acreage devoted to any such crop shall be at a rate determined by the Secretary to be fair and reasonable, taking into consideration the use of such acreage for the production of such crops, but in no event shall the payment exceed one-half the rate which otherwise would be applicable if such acreage were devoted to conservation uses. The term "feed grains" means corn, grain sorghums, and, if designated by the Secretary, barley, and if for any crop the producer so requests for purposes of having acreage devoted to the production of wheat considered as devoted to the production of feed grains, pursuant to the provisions of section 1839c of Title 7, the term "feed grains" shall include oats and

[Emphasis supplied.]



rye and barley if not designated by the Secretary as provided above: Provided, That acreages of corn, grain sorghums, and, if designated by the Secretary, barley, shall not be planted in lieu of acreages of oats and rye and barley if not designated by the Secretary as provided above: Provided further, That the acreage devoted to the production of wheat shall not be considered as an acreage of feed grains for purposes of establishing the feed grain base acreage for the farm for subsequent crops. Such feed grain diversion programs shall require the producer to take such measures as the Secretary may deem appropriate to keep such diverted acreage free from erosion, insects, weeds, and rodents. The acreage eligible for participation in the program shall be such acreage (not to exceed 50 per centum of the average acreage on the farm devoted to feed grains in the crop years 1959 and 1960 or twenty-five acres, whichever is greater) as the Secretary determines necessary to achieve the acreage reduction goal for the crop. Payments shall be made in kind. The acreage of wheat produced on the farm during the crop years 1959, 1960, and 1961, pursuant to the exemption provided in section 1335(f) of the Title 7, prior to its repeal by the Food and Agriculture Act of 1962, in excess of the small farm base acreage for wheat established under section 1335 of Title 7, may be taken into consideration in establishing the feed grain base acreage for the farm. The Secretary may make such adjustments in acreage as he determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography. Notwithstanding any other provision of this subsection (i) (1), the Secretary may, upon unanimous request of the State committee established pursuant to section 590h(b) of this title, adjust the feed grain bases for farms within any State or county to the extent he determines such adjustment to be necessary in order to establish fair and equitable feed grain bases for farms within such State or county. The Secretary may make not to exceed 50 per centum of any payments to producers in advance of determination of performance. Notwithstanding any other provision of this subsection, barley shall not be included in the program for a producer of malting barley exempted pursuant to section 105(e) of the Agricultural Act of 1949, who participates only with respect to corn and grain sorghums and does not knowingly devote an acreage on the farm to barley in excess of 110 per centum of the average acreage devoted on the farm to barley in 1959 and 1960.

(2) Notwithstanding any other provision of this subsection, not to exceed 1 per centum of the estimated total feed grain base for all farms in a State for any year may be reserved from the feed grain bases established for farms in the State for apportionment to farms on which there were no acreages devoted to feed grains in the crop years 1959 and 1960 on the

basis of the following factors: Suitability of the land for the production of feed grains, the past experience of the farm operator in the production of feed grains, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of feed grains on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable feed grain bases. An acreage equal to the feed grain base so established for each farm shall be deemed to have been devoted to feed grains on the farm in each of the crop years 1959 and 1960 for purposes of this subsection except that producers on such farm shall not be eligible for conservation payments for the first year for which the feed grain base is established.

(3) There are hereby authorized to be appropriated such amounts as may be necessary to enable the Secretary to carry out this subsection (i).

(4) The Secretary shall provide by regulations for the sharing of payments under this subsection among producers on the farm on a fair and equitable basis and in keeping with existing contracts.

(5) Payments in kind shall be made through the issuance of negotiable certificates which the Commodity Credit Corporation shall redeem for feed grains in accordance with regulations prescribed by the Secretary and, notwithstanding any other provision of law, the Commodity Credit Corporation shall, in accordance with regulations prescribed by the Secretary, assist the producer in the marketing of such certificates. Feed grains with which Commodity Credit Corporation redeems certificates pursuant to this paragraph shall be valued at not less than the current support price made available through loans and purchases, plus reasonable carrying charges.

(6) Notwithstanding any other provision of law, the Secretary may, by mutual agreement with the producer, terminate or modify any agreement previously entered into pursuant to this subsection if he determines such action necessary because of *an emergency created by drought or other disaster*, or in order to prevent or alleviate a shortage in the supply of feed grains.

(Apr. 27, 1935, ch. 85, § 16, as added Feb. 29, 1936, ch. 104, § 1, 49 Stat. 1151, and amended Aug. 7, 1956, ch. 1030, § 1, 70 Stat. 1115; Sept. 14, 1960, Pub. L. 86-793, § 1, 74 Stat. 1030; Mar. 22, 1961, Pub. L. 87-5, § 2, 75 Stat. 6; Aug. 8, 1961, Pub. L. 87-128, title I, § 132, title IV, § 401, 75 Stat. 302, 319; Mar. 30, 1962, Pub. L. 87-425, § 2, 76 Stat. 50; May 15, 1962, Pub. L. 87-451, § 4, 76 Stat. 70; Sept. 27, 1962, Pub. L. 87-703, title I, § 101 (4), (5), title III, § 302, 76 Stat. 606, 612; May 20, 1963, Pub. L. 88-26, § 3, 77 Stat. 45.) Nov. 3, 1965, Pub. L. 89-321, title III, § 302, title VI, § 602(g), 79 Stat. 1190, 1208; Oct. 11, 1968, Pub. L. 90-559, § 1(1), 82 Stat. 996; Nov. 18, 1969, Pub. L. 91-118, §§ 1-3, 83 Stat. 194, 195; Nov. 30, 1970, Pub. L. 91-524, title VIII, § 801, 84 Stat. 1379.)

[Emphasis supplied.]

16 U.S.C. 809. TEMPORARY USE BY GOVERNMENT OF PROJECT WORKS  
FOR NATIONAL SAFETY; COMPENSATION FOR USE

When *in the opinion of the President of the United States*, evidenced by a written order addressed to the holder of any license under this chapter, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any project or part thereof, constructed, maintained, or operated under said license, for the purpose of manufacturing nitrates, explosives, or munitions of war, or for any other purpose involving the safety of the United States, to retain possession, management, and control thereof for such length of time *as may appear to the President to be necessary* to accomplish said purposes, and then to restore possession and control to the party or parties entitled thereto; and in the event that the United States shall exercise such right it shall pay to the party or parties entitled thereto just and fair compensation for the use of said property as may be fixed by the commission upon the basis of a reasonable profit in time of peace, and the cost of restoring said property to as good condition as existed at the time of the taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the licensee. (June 10, 1920, ch. 285, § 16, 41 Stat. 1072.)

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16 U.S.C. 824a. INTERCONNECTION AND COORDINATION OF FACILITIES;  
EMERGENCIES; TRANSMISSION TO FOREIGN COUNTRIES

(a) Regional districts; establishment; notice to State commissions.

For the purpose of assuring an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources, the Commission is empowered and directed to divide the country into regional districts for the voluntary interconnection and coordination of facilities for the generation, transmission, and sale of electric energy, and it may at any time thereafter, upon its own motion or upon application, make such modifications thereof as in its judgment will promote the public interest. Each such district shall embrace an area which, in the judgment of the Commission, can economically be served by such interconnected and coordinated electric facilities. It shall be the duty of the Commission to promote and encourage such interconnection and coordination within each such district and between such districts. Before establishing any such district and fixing or modifying the boundaries thereof the Commission shall give notice to the State commission of each State situated wholly or in part within such district, and shall afford each such State commission reasonable opportunity to present its views and recommendations, and shall receive and consider such views and recommendations.

(b) Sale or exchange of energy; establishing physical connections.

Whenever the Commission, upon application of any State commission or of any person engaged in the transmission or sale of electric energy, and after notice to each State commission and public utility

[Emphasis supplied.]

affected and after opportunity for hearing, finds such action necessary or appropriate in the public interest it may by order direct a public utility (if the Commission finds that no undue burden will be placed upon such public utility thereby) to establish physical connection of its transmission facilities with the facilities of one or more other persons engaged in the transmission or sale of electric energy, to sell energy to or exchange energy with such persons: Provided, That the Commission shall have no authority to compel the enlargement of generating facilities for such purposes, nor to compel such public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers. The Commission may prescribe the terms and conditions of the arrangement to be made between the persons affected by any such order, including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them.

(c) Temporary connection and exchange of facilities during emergency.

During the continuance of any war in which the United States is engaged, or whenever the Commission determines that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes, the Commission shall have authority, either upon its own motion or upon complaint, with or without notice, hearing, or report, to require by order such temporary connections of facilities and such generation, delivery, interchange, or transmission of electric energy as in its judgment will best meet the emergency and serve the public interest. If the parties affected by such order fail to agree upon the terms of any arrangement between them in carrying out such order, the Commission, after hearing held either before or after such order takes effect, may prescribe by supplemental order such terms as it finds to be just and reasonable, including the compensation or reimbursement which should be paid to or by any such party.

(d) Temporary connection during emergency by persons without jurisdiction of Commission.

During the continuance of any emergency requiring immediate action, any person engaged in the transmission or sale of electric energy and not otherwise subject to the jurisdiction of the Commission may make such temporary connections with any public utility subject to the jurisdiction of the Commission or may construct such temporary facilities for the transmission of electric energy in interstate commerce as may be necessary or appropriate to meet such emergency, and shall not become subject to the jurisdiction of the Commission by reason of such temporary connection or temporary construction: Provided, That such temporary connection shall be discontinued or such temporary construction removed or otherwise disposed of upon the termination of such emergency: Provided further, That upon approval of the Commission permanent connections for emergency use only may be made hereunder.

(e) Transmission of electric energy to foreign country.

After six months from August 26, 1935, no person shall transmit any electric energy from the United States to a foreign country with-

out first having secured an order of the Commission authorizing it to do so. The Commission shall issue such order upon application unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission. The Commission may by its order grant such application in whole or in part, with such modifications and upon such terms and conditions as the Commission may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate.

(f) Transmission or sale at wholesale of electric energy; regulation.

The ownership or operation of facilities for the transmission or sale at wholesale of electric energy which is (a) generated within a State and transmitted from that State across an international boundary and not thereafter transmitted into any other State, or (b) generated in a foreign country and transmitted across an international boundary into a State and not thereafter transmitted into any other State, shall not make a person a public utility subject to regulation as such under other provisions of this subchapter. The State within which any such facilities are located may regulate any such transaction insofar as such State regulation does not conflict with the exercise of the Commission's powers under or relating to subsection (e) of this section. (June 10, 1920, ch. 285, § 202, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 847, and amended Aug. 7, 1953, ch. 343, 67 Stat. 461.)

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### [Chapter 12A—Tennessee Valley Authority]

#### 16 U.S.C. 831d. DIRECTORS; MAINTENANCE AND OPERATION OF PLANT FOR PRODUCTION, SALE, AND DISTRIBUTION OF FERTILIZER AND POWER

The board is authorized—

(a) To contract with commercial producers for the production of such fertilizers or fertilizer materials as may be needed in the Government's program of development and introduction in excess of that produced by Government plants. Such contracts may provide either for outright purchase of materials by the board or only for the payment of carrying charges on special materials manufactured at the board's request for its program.

(b) To arrange with farmers and farm organizations for large-scale practical use of the new forms of fertilizers under conditions permitting an accurate measure of the economic return they produce.

(c) To cooperate with National, State, district, or county experimental stations or demonstration farms, with farmers, landowners, and associations of farmers or landowners, for the use of new forms of fertilizer or fertilizer practices during the initial or experimental period of their introduction, and for promoting the prevention of soil erosion by the use of fertilizers and otherwise.

(d) The board, in order to improve and cheapen the production of fertilizer, is authorized to manufacture and sell fixed nitrogen,

fertilizer, and fertilizer ingredients at Muscle Shoals by the employment of existing facilities, by modernizing existing plants, or by any other process or processes that in its judgment shall appear wise and profitable for the fixation of atmospheric nitrogen or the cheapening of the production of fertilizer.

(e) Under the authority of this chapter the board may make donations or sales of the product of the plant or plants operated by it to be fairly and equitably distributed through the agency of county demonstration agents, agricultural colleges, or otherwise as the board may direct, for experimentation, education, and introduction of the use of such products in cooperation with practical farmers so as to obtain information as to the value, effect, and best methods of their use.

(f) The board is authorized to make alterations, modifications, or improvements in existing plants and facilities, and to construct new plants.

(g) In the event it is not used for the fixation of nitrogen for agricultural purposes or leased, then the board shall maintain in stand-by condition nitrate plant numbered 2, or its equivalent, for the fixation of atmospheric nitrogen, for the production of explosives in the event of war or a national emergency, until the Congress shall by joint resolution release the board from this obligation, and if any part thereof be used by the board for the manufacture of phosphoric acid or potash, the balance of nitrate plant numbered 2 shall be kept in stand-by condition.

(h) To establish, maintain, and operate laboratories and experimental plants, and to undertake experiments for the purpose of enabling the Corporation to furnish nitrogen products for military purposes, and nitrogen and other fertilizer products for agricultural purposes in the most economical manner and at the highest standard of efficiency.

(i) To request the assistance and advice of any officer, agent, or employee of any executive department or of any independent office of the United States, to enable the Corporation the better to carry out its powers successfully, and as far as practicable shall utilize the services of such officers, agents, and employees, and the President shall, if in his opinion the public interest, service, or economy so require, direct that such assistance, advice, and service be rendered to the Corporation, and any individual that may be by the President directed to render such assistance, advice, and service shall be thereafter subject to the orders, rules, and regulations of the board: Provided. That any invention or discovery made by virtue of and incidental to such service by an employee of the Government of the United States serving under this section, or by any employee of the Corporation, together with any patents which may be granted thereon, shall be the sole and exclusive property of the Corporation, which is authorized to grant such licenses thereunder as shall be authorized by the board: Provided further, That the board may pay to such inventor such sum from the income from sale of licenses as it may deem proper.

(j) Upon the requisition of the Secretary of the Army or the Secretary of the Navy to manufacture for and sell at cost to the United States explosives or their nitrogenous content.

(k) Upon the requisition of the Secretary of the Army, the Corporation shall allot and deliver without charge to the Department of the Army so much power as shall be necessary in the judgment of said Department for use in operation of all locks, lifts, or other facilities in aid of navigation.

(l) To produce, distribute, and sell electric power, as herein particularly specified.

(m) No products of the Corporation except ferrophosphorus shall be sold for use outside of the United States, its Territories and possessions, except to the United States Government for the use of its Army and Navy, or to its allies *in case of war or, until six months after the termination of the national emergency proclaimed by the President on December 16, 1950, or until such earlier date or dates as the Congress by concurrent resolution or the President may provide but in no event after April 1, 1953, to nations associated with the United States in defense activities.* (May 18, 1933, ch. 32, § 5, 48 Stat. 61; Aug. 31, 1935, ch. 836, § 4, 49 Stat. 1076; July 3, 1952, ch. 570, § 2 (a), 66 Stat. 334; Aug. 6, 1959, Pub. L. 86-137, § 3, 73 Stat. 285.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 48, 73D CONG., 1ST SESS. (1933)

#### NATIONAL DEFENSE

Intimately interlocked with the production in peace of nitrogenous fertilizers is preparedness for national defense in time of war. But whether large-scale production of fertilizers is carried on at Muscle Shoals, we are assured that nitrate plant no. 2 will be maintained in stand-by condition for the manufacturer of explosives, until Congress shall have by joint resolution released the Authority from that obligation. These sites should never be sold without express approval of Congress.

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#### 16 U.S.C. 831n-4. BONDS FOR FINANCING POWER PROGRAM

(a) Authorization; amount; use of proceeds; restriction on contracts for sale or delivery of power; exchange power arrangements; payment of principal and interest; bond contracts.

The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") in an amount not exceeding \$5,000,000,000 outstanding at any one time to assist in financing its power program and to refund such bonds. The Corporation may, in performing functions authorized by this chapter, use the proceeds of such bonds for the construction, acquisition, enlargement, improvement, or replacement of any plant or other facility used or to be used for the generation or transmission of electric power (including the portion of any multiple-purpose structure used or to be used for power generation) as

[Emphasis supplied.]

may be required in connection with the lease, lease-purchase, or any contract for the power output of any such plant or other facility; and for other purposes incidental thereto. Unless otherwise specifically authorized by Act of Congress the Corporation shall make no contracts for the sale or delivery of power which would have the effect of making the Corporation or its distributors, directly or indirectly, a source of power supply outside the area for which the Corporation or its distributors were the primary source of power supply on July 1, 1957, and such additional area extending not more than five miles around the periphery of such area as may be necessary to care for the growth of the Corporation and its distributors within said area: Provided, however, That such additional area shall not in any event increase by more than  $2\frac{1}{2}$  per centum (or two thousand square miles, whichever is the lesser) the area for which the Corporation and its distributors were the primary source of power supply on July 1, 1957: And provided further, That no part of such additional area may be in a State not now served by the Corporation or its distributors or in a municipality receiving electric service from another source on or after July 1, 1957, and no more than five hundred square miles of such additional area may be in any one State now served by the Corporation or its distributors.

Nothing in this subsection shall prevent the Corporation or its distributors from supplying electric power to any customer within any area in which the Corporation or its distributors had generally established electric service on July 1, 1957, and to which electric service was not being supplied from any other source on the effective date of this Act.

Nothing in this subsection shall prevent the Corporation, when economically feasible, from making exchange power arrangements with other power-generating organizations with which the Corporation had such arrangements on July 1, 1957, nor prevent the Corporation from continuing to supply power to Dyersburg, Tennessee, and Covington, Tennessee, or from entering into contracts to supply or from supplying power to the cities of Paducah, Kentucky; Princeton, Kentucky; Glasgow, Kentucky; Fulton, Kentucky; Monticello, Kentucky; Hickman, Kentucky; Chickamauga, Georgia; Ringgold, Georgia; Oak Ridge, Tennessee; and South Fulton, Tennessee; or agencies thereof; or from entering into contracts to supply or from supplying power for the Naval Auxiliary Air Station in Lauderdale and Kemper Counties, Mississippi, through the facilities of the East Mississippi Electric Power Association: Provided further, That nothing herein contained shall prevent the transmission of TVA power to the Atomic Energy Commission or the Department of Defense or any agency thereof, on certification *by the President of the United States that an emergency defense need for such power exists.* Nothing in this chapter shall affect the present rights of the parties in any existing lawsuits involving efforts of towns in the same general area where TVA power is supplied to obtain TVA power.

[Emphasis supplied.]



The principal of and interest on said bonds shall be payable solely from the Corporation's net power proceeds as hereinafter defined. Net power proceeds are defined for purposes of this section as the remainder of the Corporation's gross power revenues after deducting the costs of operating, maintaining, and administering its power properties (including costs applicable to that portion of its multiple-purpose properties allocated to power) and payments to States and counties in lieu of taxes but before deducting depreciation accruals or other charges representing the amortization of capital expenditures, plus the net proceeds of the sale or other disposition of any power facility or interest therein, and shall include reserve or other funds created from such sources. Notwithstanding the provisions of section 831y of this title or any other provision of law, the Corporation may pledge and use its net power proceeds for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable. The Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof (any such agreement being hereinafter referred to as a "bond contract") with respect to the establishment of reserve funds and other funds, adequacy of charges for supply of power, application and use of net power proceeds, stipulations concerning the subsequent issuance of bonds or the execution of leases or lease-purchase agreements relating to power properties, and such other matters, not inconsistent with this chapter, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds. The issuance and sale of bonds by the Corporation and the expenditure of bond proceeds for the purposes specified herein, including the addition of generating units to existing power-producing projects and the construction of additional power-producing projects, shall be subject to the requirements or limitations of any other law.

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#### 16 U.S.C. 831s. POSSESSION BY GOVERNMENT IN TIME OF WAR; DAMAGES TO CONTRACT HOLDERS

The Government of the United States reserves the right, *in case of war or national emergency declared by Congress*, to take possession of all or any part of the property described or referred to in this chapter for the purpose of manufacturing explosives or for other war purposes; but, if this right is exercised by the Govern-

[Emphasis supplied.]

ment, it shall pay the reasonable and fair damages that may be suffered by any party whose contract for the purchase of electric power or fixed nitrogen or fertilizer ingredients is violated, after the amount of the damages has been fixed by the United States Court of Claims in proceedings instituted and conducted for that purpose under rules prescribed by the court. (May 18, 1933, ch. 32, § 20, 48 Stat. 68.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 48, 73D CONG., 1ST SESS. (1933)

#### SALVAGE VALUE OF WAR INVESTMENT

Unlike practically every other war project and war-time enterprise, this Muscle Shoals property has a great peace-time value for both agriculture and industry, in supplying both fertilizers and power, and also has a future value for national defense. In time of war our armies and fleets will use increasing quantities of nitrate explosives. Happily, the more we know about fixing nitrogen for agricultural purposes, the more rapidly we will be able to fix nitrogen for military purposes. The Muscle Shoals property is situated far inland, where it is unlikely, if not impossible, that enemy airplanes or airships may ever destroy it by bombing from the air. Plants situated within bombing distance of enemy airplane carriers are not dependable for war-time explosive supplies.

\* \* \* \* \*

#### NATIONAL DEFENSE

Intimately interlocked with the production in peace of nitrogenous fertilizers is preparedness for national defense in time of war. But whether large-scale production of fertilizers is carried on at Muscle Shoals, we are assured that nitrate plant no. 2 will be maintained in stand-by condition for the manufacture of explosives, until Congress shall have by joint resolution released the Authority from that obligation. These sites should never be sold without express approval of Congress.

### —NOTE—

EXCERPT FROM HOUSE REPT. 130, 73D CONG., 1ST SESS. (1933)

A most important provision in the House bill was the one requiring that nitrate plant no. 2, the big nitrate plant, be kept in stand-by condition for war purposes, in the event it was not being operated for the fixation of nitrogenous fertilizer. There was no similar provision in the Senate amendment and the House provision was incorporated in the conference amendment. This safeguards national defense.

## 16 U.S.C. 832g. PURCHASE OF SUPPLIES AND SERVICES

Notwithstanding any other provision of law, all purchases and contracts made by the administrator or the Secretary of the Army for supplies or for services except for personal services, shall be made after advertising, in such manner and at such times, sufficiently in advance of opening bids, as the administrator or Secretary of the Army, as the case may be, shall determine to be adequate to insure notice and opportunity for competition. Such advertisement shall not be required, however, when (1) *an emergency requires* immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed \$500; in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among businessmen. In comparing bids and in making awards, the administrator or the Secretary of the Army, as the case may be, may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, an ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications. (Aug. 20, 1937, ch. 720, § 8, 50 Stat. 735.)

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## 16 U.S.C. 833f. PURCHASE OF SUPPLIES AND SERVICES

Notwithstanding any other provision of law, all purchases and contracts made by the Bureau or the Secretary of the Army for supplies or for services, except for personal services, shall be made after advertising, in such manner and at such times, sufficiently in advance of opening bids, as the Bureau or Secretary of the Army, as the case may be, shall determine to be adequate to insure notice and opportunity for competition. Such advertisement shall not be required, however, when (1) *an emergency requires* immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed \$500; in which cases such purchase of supplies or procurement of services may be made in the open market in the manner common among businessmen. In comparing bids and in making awards, the Bureau or the Secretary of the Army, as the case may be, may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, and ability to furnish repairs and maintenance services, the time of

[Emphasis supplied.]

delivery or performance offered, and whether the bidder has complied with the specifications. (May 18, 1938, ch. 250, § 7, 52 Stat. 406.)

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## TITLE 18—CRIMES AND CRIMINAL PROCEDURE

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### 18 U.S.C. 793. GATHERING, TRANSMITTING OR LOSING DEFENSE INFORMATION

(a) Whoever, for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation, goes upon, enters, flies over, or otherwise obtains information concerning any vessel, aircraft, work of defense, navy yard, naval station, submarine base, fueling station, fort, battery, torpedo station, dockyard, canal, railroad, arsenal, camp, factory, mine, telegraph, telephone, wireless, or signal station, building, office, research laboratory or station or other place connected with the national defense owned or constructed, or in progress of construction by the United States or under the control of the United States, or of any of its officers, departments, or agencies, or within the exclusive jurisdiction of the United States, or any place in which any vessel, aircraft, arms, munitions, or other materials or instruments for use *in time of war* are being made, prepared, repaired, stored, or are the subject of research or development, under any contract or agreement with the United States, or any department or agency thereof, or with any person on behalf of the United States, or otherwise on behalf of the United States, or any prohibited place *so designated by the President by proclamation in time of war or in case of national emergency* in which anything for the use of the Army, Navy, or Air Force is being prepared or constructed or stored, information as to which prohibited place the President has determined would be prejudicial to the national defense; or

(b) Whoever, for the purpose aforesaid, and with like intent or reason to believe, copies, takes, makes, or obtains, or attempts to copy, take, make, or obtain, any sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, document, writing, or note of anything connected with the national defense; or

(c) Whoever, for the purpose aforesaid, receives or obtains or agrees or attempts to receive or obtain from any person, or from any source whatever, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note, of anything connected with the national defense, knowing or having reason to believe, at the time he receives or obtains, or agrees or attempts to receive or obtain it, that it has been or will be obtained, taken, made, or disposed of by any person contrary to the provisions of this chapter; or

[Emphasis supplied.]

(d) Whoever, lawfully having possession of, access to, control over, or being entrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted or attempts to communicate, deliver, transmit or cause to be communicated, delivered or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it; or

(e) Whoever having unauthorized possession of, access to, or control over any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it; or

(f) Whoever, being entrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, note, or information, relating to the national defense, (1) through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed, or (2) having knowledge that the same has been illegally removed from its proper place of custody or delivered to anyone in violation of its trust, or lost, or stolen, abstracted, or destroyed, and fails to make prompt report of such loss, theft, abstraction, or destruction to his superior officer—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(g) If two or more persons conspire to violate any of the foregoing provisions of this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy. (June 25, 1948, ch. 645, 62 Stat. 736; Sept. 23, 1950, ch. 1024, title I, § 18, 64 Stat. 1003.)

#### —NOTE—

EXCERPT FROM HOUSE REPT. 30, 80TH CONG., 2D SESS. (1948)

The committee, in framing the espionage title, have endeavored to avoid making innocent acts criminal and,

therefore, in Title I, sections 1 and 2, the criminality of the act is made to depend upon the knowledge, intent, or reason to believe that the information obtained or transmitted concerning our national defense is to be used to the injury of the United States.

Section 3 of this title punishes an officer or trustee of our national defense secrets who willfully communicates such secrets to a person not lawfully entitled to receive them and punishes such person if he through gross negligence permits any document, etc., to be lost or stolen, etc.

Section 4 of Title I gives the *President the power, during national emergency resulting from a war to which the United States is a party, or from threat of such war, to proclaim the existence of such emergency*, and thereupon by proclamation to prohibit the publishing or communicating of or the attempting to publish or communicate any information relating to national defense which, in his judgment, is of such character that it is or might be useful to the enemy.

This section in the bill has been carefully and patiently considered by the committee. The committee realize that the section as recommended gives the President broad powers, but it must be admitted by all patriotic persons anxious for the success of our arms that in times like these through which we are now going it is important that the Commander in Chief shall have authority to prevent the publication of national defense secrets, which would be useful to the enemy and, therefore, harmful to the United States. We feel confident that the President will not abuse this authority but will exercise it in the spirit in which it is given, by safeguarding the public welfare by preventing our vital national defense secrets from falling into the hands of the enemy. We believe that the public and the newspaper world will heartily cooperate with the President and the Congress in attaining this worthy end. The proviso in this section is hardly necessary to be written into the bill, but for the purpose of assuring the public and the newspaper fraternity that nothing in the President's proclamation shall limit or restrict discussion, comment, or criticism of the acts or policies of the Government or of its representatives the clause is inserted.

Section 5 of Title I makes it a crime for any person to willfully convey false reports or statements with the intent to interfere with the operation or success of the military and naval forces of the United States, or to promote the success of the enemy, and for anyone *in time of war* to willfully cause, or attempt to cause, insubordination, disloyalty, or refusal of duty in the military or naval forces. The committee feels that no patriotic American will ever attempt willfully to violate the provisions of this section.

[Emphasis supplied.]

The remaining sections of the title are self-explanatory and need not be elaborated upon in this report. The committee feels that all the remaining sections of the amended bill are drawn with sufficient clearness to be self-explanatory, and the committee is confident that the House will realize the importance of the passage of each section of the amended bill, and therefore recommend that the bill as amended and reported herein be passed.

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18 U.S.C. 794. GATHERING OR DELIVERING DEFENSE INFORMATION TO AID  
FOREIGN GOVERNMENT

(a) Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employe, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by death or by imprisonment for any term of years or for life.

(b) Whoever, *in time of war*, with intent that the same shall be communicated to the enemy, collects, records, publishes, or communicates, or attempts to elicit any information with respect to the movement, numbers, description, condition, or disposition of any of the Armed Forces, ships, aircraft, or war materials of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any naval or military operations, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense, which might be useful to the enemy, shall be punished by death or by imprisonment for any term of years or for life.

(c) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy. (June 25, 1948, ch. 645, 62 Stat. 737; Sept. 3, 1954, ch. 1261, title II, § 201, 68 Stat. 1219.)

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18 U.S.C. 795. PHOTOGRAPHING AND SKETCHING DEFENSE INSTALLATIONS

(a) Whenever, *in the interests of national defense*, the President defines certain vital military and naval installations or equipment as

[Emphasis supplied.]

requiring protection against the general dissemination of information relative thereto, it shall be unlawful to make any photograph, sketch, picture, drawing, map, or graphical representation of such vital military and naval installations or equipment without first obtaining permission of the commanding officer of the military or naval post, camp, or station, or naval vessels, military and naval aircraft, and any separate military or naval command concerned, or higher authority, and promptly submitting the product obtained to such commanding officer or higher authority for censorship or such other action as he may deem necessary.

(b) Whoever violates this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 737.)

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### 18 U.S.C. 798. DISCLOSURE OF CLASSIFIED INFORMATION <sup>1</sup>

(a) Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

(1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or

(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

(3) concerning the communication intelligence activities of the United States or any foreign government; or

(4) obtained by the process of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(b) As used in subsection (a) of this section—

The term "classified information" means information which, at the time of a violation of this section, is, *for reasons of national security, specifically designated by a United States Government Agency* for limited or restricted dissemination or distribution;

The terms "code," "cipher," and "cryptographic system" include in their meanings, in addition to their usual meanings, any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications;

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<sup>1</sup> So enacted. See second section 798 enacted on Oct 31, 1951, set out below.

[Emphasis supplied.]



The term "foreign government" includes in its meaning any person or persons acting or purporting to act for or on behalf of any faction, party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States;

The term "communication intelligence" means all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients;

The term "unauthorized person" means any person who, or agency which, is not authorized to receive information of the categories set forth in subsection (a) of this section, by the President, or by the head of a department or agency of the United States Government which is expressly designated by the President to engage in communication intelligence activities for the United States.

(c) Nothing in this section shall prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives of the United States of America, or joint committee thereof. (Added Oct. 31, 1951, ch. 655, § 24 (a), 65 Stat. 719.)

#### 18 U.S.C. 798. TEMPORARY EXTENSION OF SECTION 794<sup>1</sup>

The provisions of section 794 of this title, as amended and extended by section 1 (a) (29) of the Emergency Powers Continuation Act (66 Stat. 333), as further amended by Public Law 12, Eighty-third Congress, in addition to coming into full force and effect *in time of war shall remain in full force and effect until six months after the termination of the national emergency proclaimed by the President on December 16, 1950* (Proc. 2912, 3 C.F.R., 1950 Supp., p. 71), or such earlier date as may be prescribed by concurrent resolution of the Congress, and acts which would give rise to legal consequences and penalties under section 794 when performed during a state of war shall give rise to the same legal consequences and penalties when they are performed during the period above provided for. (Added June 30, 1953, ch. 175, § 4, 67 Stat. 133.)

#### —NOTE—

EXCERPT FROM SENATE REPT. 111, 81ST CONG., 2D SESS. (1950)

#### PURPOSE OF THE BILL

The purpose of this bill, as amended, is to prevent the revelation of important information about the United States communication intelligence activities and United States

<sup>1</sup> So enacted. See first section 798 enacted on June 30, 1953, set out below.

[Emphasis supplied.]

codes and ciphers by persons who disclose such information without proper authority, and to prescribe penalties to those knowingly and willfully revealing such information. . . .

\* \* \* \* \*

At present two other acts protect this information, but only in a limited way. These are the Espionage Act of 1917 (40 Stat. 217) and the act of June 10, 1933 (48 Stat. 122). Under the first, unauthorized revelation on information of this kind can be penalized only if it can be proved that the person making the revelation did so with an intent to injure the United States. Under the second, only diplomatic codes and messages transmitted in diplomatic codes are protected. The present bill is designed to protect against knowing and willful publication or any other revelation of all important information affecting United States communication intelligence operations and all direct information about all United States codes and ciphers.

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#### 18 U.S.C. 963. DETENTION OF ARMED VESSEL

(a) *During a war in which the United States is a neutral nation, the President*, or any person authorized by him, may detain any armed vessel owned wholly or in part by citizens of the United States, or any vessel, domestic or foreign (other than one which has entered the ports of the United States as a public vessel), which is manifestly built for warlike purposes or has been converted or adapted from a private vessel to one suitable for warlike use, until the owner or master, or person having charge of such vessel, shall furnish proof satisfactory to the President, or to the person duly authorized by him, that the vessel will not be employed to cruise against or commit or attempt to commit hostilities upon the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with which the United States is at peace, and that the said vessel will not be sold or delivered to any belligerent nation, or to an agent, officer, or citizen of such nation, by them or any of them, within the jurisdiction of the United States, or upon the high seas.

(b) Whoever, in violation of this section takes, or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States. (June 25, 1948, ch. 645, 62 Stat. 746.)

#### —NOTE—

EXCERPT FROM SENATE REPT. 598, 80TH CONG., 2D SESS. (1948)

The Committee on Naval Affairs, to whom was referred the bill (S. 1398) to amend the act entitled "An act to punish acts of interference with the foreign relations, the

[Emphasis supplied.]

neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes," approved June 15, 1917, as amended, to increase the penalties for peacetime violations of such act, having considered the same, report favorably thereon without amendment, and with the recommendation that the bill do pass.

#### THE PURPOSE OF THE BILL

This measure is intended to remedy an obvious, and at the present time somewhat startling, defect in the Federal statute relating to espionage. With complaints and overt acts in this field increasing rapidly, and out of proportion to other offenses against the Federal Government, it seems clear that if our National Defense preparations are to be adequately protected, we must not only augment the Federal personnel assigned to this type of offense, but strengthen the Government's hand further by increasing the penalties for peacetime espionage.

#### JUSTIFICATION FOR THE BILL

Under present practice, the Federal Bureau of Investigation has been given the responsibility for all civilian counterespionage work in the United States and its possessions. J. Edgar Hoover, Director of this Bureau, testifying before the House Committee on Appropriations on April 27, 1939, informed the committee that as of April 1, 1939, 164 espionage cases then awaiting investigation were unassigned because of personnel deficiencies. He testified further:

In regard to espionage, I would like to point out to the committee that in the 5 years preceding 1938 there was an average of 35 espionage cases per year. In 1938 there were 634 such cases. That is an increase of 599 cases over the previous year. With our present personnel, it is not possible to give prompt attention to these cases.

We estimate that for 1939, going at the rate we are going now, we will have 772 such cases, as against 634 last year.

As you probably know, all the investigations of foreign agents engaged in espionage work within the United States and its Territories is carried on by the Federal Bureau of Investigation; the Military Intelligence Division, and the Navy Intelligence Division have requested us to handle all of that civilian work.

We have been requested by the War Department and the Navy Department to establish offices in Puerto Rico, Hawaii, and Alaska, in addition to stations in the Panama Canal Zone and in the Philippines. We have not acceded to these requests. Even if this appropriation is granted it is doubtful that we can accede to them.

It is not the function of this committee to deal with the personnel problem, and that will be ameliorated to some extent, in any event, by currently authorized increases in the appropriation for the Federal Bureau of Investigation. It is self-evident, however, that even a substantial increase in the number of Government agents assigned to espionage cases will hardly solve the major problem and protect the

national interest unless, as a corollary, the espionage law itself is strengthened. As new war vessels are built, our aircraft industry expanded, naval bases enlarged, and our military and naval outposts developed in response to the requirements of the national defense, and as our industrial machine assumes its share of the defense load, it has become apparent in many ways that other nations, some of them potential enemies of the United States, are sending increasing numbers of spies to our shores in an effort to learn our military secrets and, if possible, interfere with our defense preparations. It will be futile to run down those responsible for these activities, arrest and prosecute the offenders, and develop a comprehensive counterespionage organization of our own if these enemies are to be allowed to escape, if caught, with a fine or relatively short term in prison.

As a single illustration of the contrast between our own espionage statute and the prevailing practice in Japan, the present Federal law permits persons committing five types of serious offenses against the national defense to escape with a fine, a relatively short prison sentence being left to the discretion of the court, whereas for lesser offenses in Japan the committee is informed that the penalty is 20 years in prison.

There is widespread evidence of foreign espionage not only in Hawaii, Puerto Rico, the Canal Zone, and the Pacific Coast but on the Atlantic coast in the Gulf States as well. The number of aircraft disasters, attempts at sabotage, reports of damage done to war vessels, and the results of numerous investigations hitherto concluded not only support the statement that espionage activities are not only increasing rapidly, but that the present penalties are wholly inadequate as a check on these activities.

Judge John C. Knox, of the United States District Court in New York, reminded the several defendants convicted of espionage activities in that area recently that they were receiving the "mercy of a democracy," as contrasted with the penalties visited on spies apprehended in Germany.

Under all the circumstances, there can be no justification for permitting alien enemies engaged in attempts to undermine the national defense to escape with a fine or a prison term of a year or two. The fact that we live in a free country and are not in the habit of "liquidating" those we suspect of disloyalty or of activities in behalf of foreign governments does not relieve us of the responsibility of protecting our military secrets and making it unprofitable for those who would steal them, or damage or destroy military weapons or industrial plants engaged in their manufacture to carry on their activities in this country. In emphasis, it is only necessary to recall that for conspiracy to transmit secret information to Japanese agents, former Commander John S. Farnsworth of the Navy received a

sentence of from 4 to 12 years, which with good behavior will let him out in perhaps 3 years.

We cannot go on in this manner if we are to prepare the United States to defend itself against those who covet our territory or our wealth.

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#### 18 U.S.C. 967. DEPARTURE OF VESSEL FORBIDDEN IN AID OF NEUTRALITY

(a) *During a war in which the United States is a neutral nation, the President, or any person authorized by him, may withhold clearance from or to any vessel, domestic or foreign, or, by service of formal notice upon the owner, master, or person in command or in charge of any domestic vessel not required to secure clearances, may forbid its departure from port or from the United States, whenever there is reasonable cause to believe that such vessel is about to carry fuel, arms, ammunition, men, supplies, dispatches, or information to any warship, tender, or supply ship of a foreign belligerent nation in violation of the laws, treaties, or obligations of the United States under the law of nations. It shall thereupon be unlawful for such vessel to depart.*

(b) *Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States. (June 25, 1948, ch. 645, 62 Stat. 748.)*

[See 18 U.S.C. 963 (S. Rept. 598). *Supra.*]

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#### 18 U.S.C. 1383. RESTRICTIONS IN MILITARY AREAS AND ZONES

*Whoever, contrary to the restrictions applicable thereto, enters, remains in, leaves, or commits any act in any military area or military zone prescribed under the authority of an Executive order of the President, by the Secretary of the Army, or by any military commander designated by the Secretary of the Army, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 765.)*

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#### 18 U.S.C. 2153. DESTRUCTION OF WAR MATERIAL, WAR PREMISES, OR WAR UTILITIES

(a) *Whoever, when the United States is at war, or in times of national emergency as declared by the President or the Congress, with intent to injure, interfere with, or obstruct the United States or*

[Emphasis supplied.]

any associated nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, willfully injures, destroys, contaminates or infects, or attempts to so injure, destroy, contaminate or infect any war material, war premises, or war utilities, shall be fined not more than \$10,000 or imprisoned not more than thirty years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section. (June 25, 1948, ch. 645, 62 Stat. 799; June 30, 1953, ch. 175, § 2, 67 Stat. 133; Sept. 3, 1954, ch. 1261, title I, § 102, 68 Stat. 1217.)

#### 18 U.S.C. 2154. PRODUCTION OF DEFECTIVE WAR MATERIAL, WAR PREMISES, OR WAR UTILITIES

(a) Whoever, *when the United States is at war, or in times of national emergency as declared by the President or by the Congress*, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, willfully makes, constructs, or causes to be made or constructed in a defective manner, or attempts to make, construct, or cause to be made or constructed in a defective manner any war material, war premises or war utilities, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such war material, war premises or war utilities, shall be fined not more than \$10,000 or imprisoned not more than thirty years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section. (June 25, 1948, ch. 645, 62 Stat. 799; June 30, 1953, ch. 175, § 2, 67 Stat. 133; Sept. 3, 1954, ch. 1261, title I, § 103, 68 Stat. 1218.)

#### 18 U.S.C. 2157. TEMPORARY EXTENSION OF SECTIONS 2153 AND 2154

(a) The provisions of sections 2153 and 2154 of this title, as amended and extended by section 1 (a) (29) of the Emergency Powers Continuation Act (66 Stat. 333), as further amended by Public Law 12, Eighty-third Congress, in addition to coming into full force and effect *in time of war shall remain in full force and effect until six months after the termination of the national emer-*

[Emphasis supplied.]

gency proclaimed by the President on December 16, 1950 (Proc. 2912, 3 C. F. R., 1950 Supp., p. 71), or such earlier date as may be prescribed by concurrent resolution of the Congress, and acts which would give rise to legal consequences and penalties under any of these provisions when performed during a state of war shall give rise to the same legal consequences and penalties when they are performed during the period above provided for.

(b) Effective in each case for the period above provided for, title 18, United States Code, section 2151, is amended by inserting the words "or defense activities" immediately before the period at the end of the definition of "war material", and said sections 2153 and 2154 are amended by inserting the words "or defense activities" immediately after the words "carrying on the war" wherever they appear therein. (Added June 30, 1953, ch. 175, § 2, 67 Stat. 133.)

### —NOTE—

EXCERPT FROM SENATE REPT. 409, 83D CONG., 1ST SESS. (1953)

*The general purpose of the bill here reported is to further extend the wartime effectiveness of the provisions of the Emergency Powers Continuation Act until 6 months after the termination of the existing national emergency proclaimed December 16, 1950.*

### 18 U.S.C. 2391. TEMPORARY EXTENSION OF SECTION 2388

The provisions of section 2388 of this title, as amended and extended by section 1 (a) (29) of the Emergency Powers Continuation Act (66 Stat. 333), as further amended by Public Law 12, Eighty-third Congress, in addition to coming into full force and effect in time of war shall remain in full force and effect until six months after the termination of the national emergency proclaimed by the President on December 16, 1950 (Proc. 2912, 3 C. F. R., 1950 Supp., p. 71), or such earlier date as may be prescribed by concurrent resolution of the Congress, and acts which would give rise to legal consequences and penalties under section 2388 when performed during a state of war shall give rise to the same legal consequences and penalties when they are performed during the period above provided for. (Added June 30, 1953, ch. 175, § 6, 67 Stat. 134.)

### —NOTE—

EXCERPT FROM SENATE REPT. 409, 83D CONG., 1ST SESS. (1953)

#### THE NEED FOR THIS LEGISLATION

The committee is of the opinion that while the United States is not presently in a state of war, *the existing national emergency proclaimed by the President* and the promotion of

[Emphasis supplied.]

the program for expansion of our Military Establishment, as well as the prosecution of the Korean conflict, demand the continuation of the wartime effectiveness of the present law. Indeed, it has become increasingly apparent in recent years that the commission of acts of espionage during a period of national emergency, but when our country is not in a declared state of war, can be just as harmful to our Nation, and conceivably even more catastrophic, as when committed in wartime, when we are on guard for any attack.

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18 U.S.C. 2511. INTERCEPTION AND DISCLOSURE OF WIRE OR ORAL COMMUNICATIONS PROHIBITED

(1) Except as otherwise specifically provided in this chapter any person who—

(a) willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire or oral communication;

(b) willfully uses, endeavors to use, or procures any other person to use or endeavor to use any States Code, to intercept a wire, communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

(c) It shall not be unlawful under this chapter for a person acting under color of law to intercept a wire or oral communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(d) It shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State or for the purpose of committing any other injurious act.

(3) Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1143; 47 U.S.C. 605) shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. Nor shall anything contained in this chapter be deemed to limit the constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other unlawful means, or against any other clear and present danger to the structure or existence of the Government. The contents of any

[Emphasis supplied.]



wire or oral communication intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial hearing, or other proceeding only where such interception was reasonable, and shall not be otherwise used or disclosed except as is necessary to implement that power. (Added Pub. L. 90-351, title III, § 802, June 19, 1968, 82 Stat. 213, and amended Pub. L. 91-358, title II, § 211(a), July 29, 1970, 84 Stat. 654.)

### —NOTE—

EXCERPT FROM 114 CONG. REC. 14469 (MAY 22, 1968)

#### OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

Mr. McCLELLAN. Mr. President, before proceeding to the amendments to title III, I should like to give a brief history of this legislation and a short statement of what it intends to accomplish.

Title III is essentially a combination of S. 675, the Federal Wire Interception Act, which I introduced on January 25, 1967, and S. 2050, the Electronic Surveillance Control Act of 1967, introduced by Senator Hruska on June 29, 1967.

Subsequent to the introduction of S. 675, the U.S. Supreme Court, on June 12, 1967, handed down the decision in *Berger v. New York*, 388 U.S. 41, which declared unconstitutional the New York State statute authorizing electronic eavesdropping, bugging, by law-enforcement officers in investigating certain types of crimes. The Court held that the New York statute, on its face, failed to meet certain constitutional standards. In the course of the opinion, the Court delineated the constitutional criteria that electronic surveillance legislation should contain. Title III was drafted to meet these standards and to conform with *Katz v. United States*, 389 U.S. 347 (1967).

Title III has as its dual purpose, first, protecting the privacy of wire and oral communications; and second, delineating on a uniform basis the circumstances and conditions under which the interception of wire and oral communications may be authorized. To assure the privacy of oral and wire communications, title III prohibits all wiretapping and electronic surveillance by persons other than duly authorized law enforcement officers engaged in the investigation or prevention of specified types of serious crimes, and only after authorization of a court order obtained after a showing and finding of probable cause. The only exceptions to the above prohibition are, first, the power of the President to obtain information by such means as he may deem necessary to protect the Nation from attack or hostile acts of a foreign power, to obtain intelligence information essential to the Nation's security, and to protect the internal security of the United States from those who advocate its overthrow by force or other unlawful means; second, employees of the Federal Communications Commission may, in the normal course of employment, intercept and disclose wire communications in the discharge of the monitoring responsibilities discharged by the Commission in the enforcement of chapter 5 of title 47 of the United States Code; and third, employees of a communication common carrier may intercept and disclose wire communications in the normal course of their employment while engaged in any activity necessary to the rendition of service, or protection of the rights or property of the carrier of such communication.

Mr. President, in drafting this legislation, we have been most careful to include every possible constitutional safeguard for the rights of individual privacy while, at the same time, drafting a bill under which law-enforcement

officers could use electronic surveillance techniques to effectively combat organized crime.

Legislation containing the safeguards and meeting the constitutional standards set out in title III, which grants to law enforcement officers authority to use electronic surveillance techniques in the investigation of major crimes and upon obtaining a court order has been endorsed by the following groups and organizations:

The President's Commission on Law Enforcement and Administration of Justice.

The Judicial Conference of the United States.

National Association of Attorneys General.

National District Attorneys Association.

Association of Federal Investigators.

The National Council on Crime and Delinquency.

Mr. President, it has also been endorsed by many others. I shall not take the time to list all of them, but by way of emphasis I may say that this character of legislation has been recommended by every Attorney General since 1931, excepting the present Attorney General.

Mr. President, I simply want to add that the Federal Government, through its Department of Justice, takes the position that this character of evidence and this method of attaining evidence of crime is necessary, that it is essential, and that it is indispensable with respect to maintaining our national security. This bill grants the President the right to wiretap and to use electronic surveillances without obtaining an order of court.

Now, Mr. President, if such techniques and procedures are necessary to protect our Government from any danger that threatens from without, from another country, surely it is also justified in the protection of our country in the proper use against the crime wave that is sweeping this Nation today, which is, with all of its force and potentials, a great danger to our internal security.

The greatest danger to America today is not from without; the greatest danger to America at this hour is the lawlessness, the violence, and the organized syndicated crime that prevails within.

This title of the bill seeks to give to our law enforcement agencies a weapon that is essential, that is necessary, and the use of which against organized crime is becoming more imperative as each day passes. If we have this weapon we can wage a successful war against crime—particularly organized crime.

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## 18 U.S.C. 3287. WARTIME SUSPENSION OF LIMITATIONS

*When the United States is at war the running of any statute of limitations applicable to any offense (1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, or (2) committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States, or (3) committed in connection with the negotiation, procurement, award, performance, payment for, interim financing, cancelation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency, shall be suspended until three years after the termination of hostilities as proclaimed by the President or by a concurrent resolution of Congress.*

Definitions of terms in section 103 of title 41 shall apply to similar terms used in this section. (June 25, 1948, ch. 645, 62 Stat. 828.)

[Emphasis supplied.]

## —NOTE—

EXCERPT FROM HOUSE REPT. 304, 80TH CONG., 1ST SESS. (1947)

The phrase "*when the United States is at war*" was inserted at the beginning of this section to make it permanent instead of temporary legislation, and to obviate the necessity of reenacting such legislation in the future. This permitted the elimination of references to dates and to the provision limiting the application of the section to transactions not yet fully barred. When the provisions of the War Contract Settlements Act of 1944, upon which this section is based, are considered in connection with said section 590a which it amends, it is obvious that no purpose can be served now by the provisions omitted.

## —NOTE—

EXCERPT FROM SENATE REPT. 836, 78TH CONG., 2D SESS. (1944)

The need for protecting the Government against the waste of funds and fraud is equally clear, and S. 1718 as amended fully protects the Government in the following manner:

(1) The full responsibility for settling terminated war contracts has been placed squarely upon the shoulders of the contracting agencies and they cannot escape that responsibility. The contracting agencies who made the contracts, are familiar with the contracts, and any attempt to let them escape their responsibility of properly settling such contracts in case of termination must be avoided.

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TITLE 19—CUSTOMS DUTIES

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19 U.S.C. 1318. EMERGENCIES

Whenever the *President shall by proclamation declare an emergency to exist by reason of a state of war, or otherwise*, he may authorize the Secretary of the Treasury to extend during the continuance of such emergency the time herein prescribed for the performance of any act, and may authorize the Secretary of the Treasury to permit, under such regulations as the Secretary of the Treasury may prescribe, the importation free of duty of food, clothing, and medical, surgical, and other supplies for use in emergency relief work. The Secretary of the Treasury shall report to the Congress any action taken under the provisions of this section. (June 17, 1930, ch. 497, title III, § 318, 46 Stat. 696.)

[Emphasis supplied.]

## 19 U.S.C. 1351. FOREIGN TRADE AGREEMENTS

(a) Authority of President; modification and decrease of duties; altering import restrictions.

(1) For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, *the President*, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States and that the purpose above declared will be promoted by the means hereinafter specified, *is authorized from time to time—*

(A) To enter into foreign trade agreements with foreign governments or instrumentalities there: Provided, That the enactment of the Trade Agreements Extension Act of 1955 shall not be construed to determine or indicate the approval or disapproval by the Congress of the executive agreement known as the General Agreement on Tariffs and Trade.

(B) To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder.

(2) No proclamation pursuant to paragraph (1)(B) of this subsection shall be made—

(A) Increasing by more than 50 per centum any rate of duty existing on July 1, 1934; except that a specific rate of duty existing on July 1, 1934, may be converted to its ad valorem equivalent based on the value of imports of the article concerned during the calendar year 1934 (determined in the same manner as provided in subparagraph (D)(ii)) and the proclamation may provide an ad valorem rate of duty not in excess of 50 per centum above such ad valorem equivalent.

(B) Transferring any article between the dutiable and free lists.

(C) In order to carry out a foreign trade agreement entered into by the President before June 12, 1955, or with respect to which notice of intention to negotiate was published in the Federal Register on November 16, 1954, decreasing by more than 50 per centum any rate of duty existing on January 1, 1945.

(D) In order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955, and before July

[Emphasis supplied.]

1, 1958, decreasing (except as provided in subparagraph (C) of this paragraph) any rate of duty below the lowest of the following rates:

(i) The rate 15 per centum below the rate existing on January 1, 1955.

(ii) In the case of any article subject to an ad valorem rate of duty above 50 per centum (or a combination of ad valorem rates aggregating more than 50 per centum), the rate 50 per centum ad valorem (or a combination of ad valorem rates aggregating 50 per centum). In the case of any article subject to a specific rate of duty (or a combination of rates including a specific rate) the ad valorem equivalent of which has been determined by the President to have been above 50 per centum during a period determined by the President to be a representative period, the rate 50 per centum ad valorem or the rate (or a combination of rates), however stated, the ad valorem equivalent of which the President determines would have been 50 per centum during such period. The standards of valuation contained in section 1401a or 1402 of this title (as in effect, with respect to the article concerned, during the representative period) shall be utilized by the President, to the maximum extent he finds such utilization practicable, in making the determinations under the preceding sentence.

(E) In order to carry out a foreign trade agreement entered into by the President on or after July 1, 1958, decreasing any rate of duty below the lowest of the rates provided for in paragraph (4)(A) of this subsection.

(3)(A) Subject to the provisions of subparagraphs (B) and (C) of this paragraph and of subparagraph (B) of paragraph (4) of this subsection, the provisions of any proclamation made under paragraph (1)(B) of this subsection, and the provisions of any proclamation of suspension under paragraph (5) of this subsection, shall be in effect from and after such time as is specified in the proclamation.

(B) In the case of any decrease in duty to which paragraph (2)(D) of this subsection applies—

(i) if the total amount of the decrease under the foreign trade agreement does not exceed 15 per centum of the rate existing on January 1, 1955, the amount of decrease becoming initially effective at one time shall not exceed 5 per centum of the rate existing on January 1, 1955;

(ii) except as provided in clause (i), not more than one-third of the total amount of the decrease under the foreign trade agreement shall become initially effective at one time; and

(iii) no part of the decrease after the first part shall become initially effective until the immediately previous part shall have been in effect for a period or periods aggregating not less than one year.

(C) No part of any decrease in duty to which the alternative specified in paragraph (2)(D)(i) of this subsection applies shall become initially effective after the expiration of the three-year

period which begins on July 1, 1955. If any part of such decrease has become effective, then for purposes of this subparagraph any time thereafter during which such part of the decrease is not in effect by reason of legislation of the United States or action thereunder shall be excluded in determining when the three-year period expires.

(D) If (in order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955) the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed any limitation specified in paragraph (2) (C) or (D) or paragraph (4) (A) or (B) of this subsection or subparagraph (B) of this paragraph by not more than whichever of the following is lesser:

(i) The difference between the limitation and the next lower whole number, or

(ii) One-half of 1 per centum ad valorem.

In the case of a specific rate (or of a combination of rates which includes a specific rate), the one-half of 1 per centum specified in clause (ii) of the preceding sentence shall be determined in the same manner as the ad valorem equivalent of rates not stated wholly in ad valorem terms is determined for the purposes of paragraph (2) (D) (ii) of this subsection.

(4) (A) No proclamation pursuant to paragraph (1) (B) of this subsection shall be made, in order to carry out a foreign trade agreement entered into by the President on or after July 1, 1958, decreasing any rate of duty below the lowest of the following rates:

(i) The rate which would result from decreasing the rate existing on July 1, 1958, by 20 per centum of such rate.

(ii) Subject to paragraph (2) (B) of this subsection, the rate 2 per centum ad valorem below the rate existing on July 1, 1958.

(iii) The rate 50 per centum ad valorem or, in the case of any article subject to a specific rate of duty or to a combination of rates including a specific rate, any rate (or combination of rates), however stated, the ad valorem equivalent of which has been determined as 50 per centum ad valorem.

The provisions of clauses (ii) and (iii) of this subparagraph and of subparagraph (B) (ii) of this paragraph shall, in the case of any article, subject to a combination of ad valorem rates of duty, apply to the aggregate of such rates; and, in the case of any article, subject to a specific rate of duty or to a combination of rates including a specific rate, such provisions shall apply on the basis of the ad valorem equivalent of such rate or rates, during a representative period (whether or not such period includes July 1, 1958), determined in the same manner as the ad valorem equivalent of rates not stated wholly in ad valorem terms is determined for the purpose of paragraph (2) (D) (ii) of this subsection.

(B) (i) In the case of any decrease in duty to which clause (i) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall

exceed 10 per centum of the rate of duty existing on July 1, 1958, or, in any case in which the rate has been increased since that date, exceed such 10 per centum or one-third of the total amount of the decrease under the foreign trade agreement, whichever is the greater.

(ii) In the case of any decrease in duty to which clause (ii) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed 1 per centum ad valorem or, in any case in which the rate has been increased since July 1, 1958, exceed such 1 per centum or one-third of the total amount of the decrease under the foreign trade agreement, whichever is the greater.

(iii) In the case of any decrease in duty to which clause (iii) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed one-third of the total amount of the decrease under the foreign trade agreement.

(C) In the case of any decrease in duty to which subparagraph (A) of this paragraph applies (i) no part of a decrease after the first part shall become initially effective until the immediately previous part shall have been in effect for a period or periods aggregating not less than one year, nor after the first part shall have been in effect for a period or periods aggregating more than three years, and (ii) no part of a decrease shall become initially effective after the expiration of the four-year period which begins on July 1, 1962. If any part of a decrease has become effective, then for the purposes of clauses (i) and (ii) of the preceding sentence any time thereafter during which such part of the decrease is not in effect by reason of legislation of the United States or action thereunder shall be excluded in determining when the three-year period or the four-year period, as the case may be, expires.

(5) Repealed. Pub. L. 87-794, title II, § 257(b), Oct. 11, 1962, 76 Stat. 882.

(6) *The President may at any time terminate, in whole or in part, any proclamation made pursuant to this section.*

(b) Cuba; preferential customs treatment; decrease of rates.

Nothing in this section or the Trade Expansion Act of 1962 shall be construed to prevent the application, with respect to rates of duty established under this section or the Trade Expansion Act of 1962 pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an agreement with Cuba concluded under this section or the Trade Expansion Act of 1962, modifying the existing preferential customs treatment of any article the growth, produce, or manufacture of Cuba. Nothing in this chapter or the Trade Expansion Act of 1962 shall be construed to preclude the application to any product of Cuba (including products prefer-

[Emphasis supplied.]

entially free of duty) of a rate of duty not higher than the rate applicable to the like products of other foreign countries (except the Philippines), whether or not the application of such rate involves any preferential customs treatment. No rate of duty on products of Cuba shall be decreased—

(1) In order to carry out a foreign trade agreement entered into by the President before June 12, 1955, by more than 50 per centum of the rate of duty existing on January 1, 1945, with respect to products of Cuba.

(2) In order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955, and before July 1, 1962, below the applicable alternative specified in subsection (a) (2) (C) or (D) or (4) (A) of this section (subject to the applicable provisions of subsection (a) (3) (B), (C), and (D) and (4) (B) and (C) of this section), each such alternative to be read for the purposes of this paragraph as relating to the rate of duty applicable to products of Cuba. With respect to products of Cuba, the limitation of subsection (a) (2) (D) (ii) or (4) (A) (iii) of this section may be exceeded to such extent as may be required to maintain an absolute margin of preference to which such products are entitled.

(3) In order to carry out a foreign trade agreement entered into after June 30, 1962, and before July 1, 1967, below the lowest rate permissible by applying title II of the Trade Expansion Act of 1962 to the rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on July 1, 1962, with respect to such product.

(c) Definitions.

(1) As used in this section, the term "duties and other import restrictions" includes (A) rate and form of import duties and classification of articles, and (B) limitations, prohibitions, charges, and exactions other than duties, imposed on importation or imposed for the regulation of imports.

(2) For purposes of this section—

(A) Except as provided in subsection (d) of this section, the terms "existing on July 1, 1934", "existing on January 1, 1945", "existing on January 1, 1955", and "existing on July 1, 1958" refer to rates of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on the date specified, except rates in effect by reason of action taken pursuant to section 1362 of this title.

(B) The term "existing" without the specification of any date, when used with respect to any matter relating to the conclusion of, or proclamation to carry out, a foreign trade agreement, means existing on the day on which that trade agreement is entered into.

(d) Rate basis for additional increases or decreases; restoration of terminated treaties forbidden.

(1) When any rate of duty has been increased or decreased for the duration of war or an emergency, by agreement or otherwise,

[Emphasis supplied.]



any further increase or decrease shall be computed upon the basis of the post-war or post-emergency rate carried in such agreement or otherwise.

(2) Where under a foreign trade agreement the United States has reserved the unqualified right to withdraw or modify, *after the termination of war or an emergency*, a rate on a specific commodity, the rate on such commodity to be considered as "existing on January 1, 1945" for the purpose of this section shall be the rate which would have existed if the agreement had not been entered into.

(3) No proclamation shall be made pursuant to this section for the purpose of carrying out any foreign trade agreement the proclamation with respect to which has been terminated in whole by the President prior to July 5, 1945.

(e) Repealed. Pub. L. 87-794, title II, § 257(b), Oct. 11, 1962, 76 Stat. 882.

(f) Information and advice from industry, agriculture, and labor.

It is declared to be the sense of the Congress that the President, during the course of negotiating any foreign trade agreement under this section, should seek information and advice with respect to such agreement from representatives of industry, agriculture, and labor. (June 17, 1930, ch. 497, title III, § 350, as added June 12, 1934, ch. 474, § 1, 48 Stat. 943, and amended June 7, 1943, ch. 118, § 2, 57 Stat. 125; July 5, 1945, ch. 269, §§ 2, 3, 59 Stat. 410; Sept. 26, 1949, ch. 585, §§ 4, 6, 63 Stat. 698; June 21, 1955, ch. 169, § 3, 699 Stat. 162; Aug. 20, 1958, Pub. L. 85-686, § 3, 72 Stat. 673; Oct. 11, 1962, Pub. L. 87-794, title II, § 257(a), (b), 76 Stat. 881, 882.)

## —NOTE—

### EQUIPMENT FOR TRADE RESTORATION NEEDED

If the United States is to compete successfully with other countries to regain a fair share of foreign trade, it is necessary that the United States should create machinery whereby it can bargain successfully for such trade. As the President said in his message to the Congress:

Other governments are to an ever increasing extent winning their share of international trade by negotiated, reciprocal trade agreements. If American agricultural and industrial interests are to retain their deserved place in this trade, the American Government must be in a position to bargain for that place with other governments by rapid and decisive negotiation based upon a carefully considered program, and to grant with discernment corresponding opportunities in the American market for foreign products supplementary to our own.

If the American Government is not in a position to make fair offers for fair opportunities, its trade will be superseded. If it is not in a position at a given moment rapidly to alter the terms on which it is willing to deal with other countries, it cannot adequately protect its trade against discriminations and against bargains injurious to its interests. Furthermore, a promise to which prompt effect cannot be given is not an inducement which can pass current at par in commercial negotiations.

[Emphasis supplied.]

For this reason any smaller degree of authority in the hands of the Executive would be ineffective. The executive branches of virtually all other important trading countries already possess some such power.

In most European countries agreements can be made by the executive and put into force at once. In some countries no parliamentary ratification of any kind is necessary. In the majority of countries parliamentary ratification is necessary, but the agreements can be made operative at once and parliamentary ratification is largely a matter of form. In most important countries tariff changes can be made practically overnight. In France the Tariff Committee of the Chamber recently adopted a project of law which until the opening of their session in 1935, would give to the Government authority to modify the customs tariff by decree, modification to be subject to subsequent ratification of Parliament. The authority, if granted, will afford a high degree of flexibility useful in commercial bargaining. In Japan a bill has recently been introduced into the Diet empowering the executive to increase or reduce tariff rates and prohibit or restrict exports or imports.

\* \* \* \* \*

In order to meet the difficulties raised by existing tariff and trade barriers throughout the world, foreign countries are resorting with increasing frequency to the negotiation of commercial agreements based upon tariff bargaining. Since January 1, 1933, no fewer than 68 of these bargaining agreements have been made, covering customs concessions or most-favored-nation treatment, or both.

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## 19 U.S.C. 1862. SAFEGUARDING NATIONAL SECURITY

(a) Prohibition on decrease or elimination of duties or other import restrictions if such reduction or elimination would threaten to impair national security.

No action shall be taken pursuant to section 1821(a) of this title or pursuant to section 1351 of this title to decrease or eliminate the duty or other import restriction on any article *if the President determines* that such reduction or elimination would threaten to impair the national security.

(b) Investigations by Director of Office of Emergency Preparedness to determine effects on national security of imports of articles; adjustment of imports.

Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Director of the Office of Emergency Preparedness (hereinafter in this section referred to as the "director") shall immediately make

[Emphasis supplied.]

an appropriate investigation, in the course of which he shall seek information and advice from other appropriate departments and agencies, to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. If, as a result of such investigation, *the Director is of the opinion* that the said article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, *he shall promptly so advise the President, and, unless the President determines* that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security as set forth in this section, he shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not so threaten to impair the national security.

(c) Domestic production for national defense; impact of foreign competition on economic welfare of domestic industries.

For the purposes of this section, *the Director and the President shall*, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Director and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security.

(d) Report on investigations by Director of Office of Emergency Preparedness; regulations.

A report shall be made and published upon the disposition of each request, application, or motion under subsection (b) of this section. The Director shall publish procedural regulations to give effect to the authority conferred on him by subsection (b) of this section. (Pub. L. 87-794, title II, § 232, Oct. 11, 1962, 76 Stat. 877.)

[Emphasis supplied.]

## —NOTE—

EXCERPT FROM HOUSE REPT. 1818, 87TH CONG., 1ST SESS. (1962)

## CHAPTER 4—NATIONAL SECURITY

## Products of Communist Countries or Areas

Section 231 provides that, as an exception to the most-favored-nation principle, the President shall, as soon as practicable, refrain from applying any reduction, elimination, or continuance of any existing duty or other import restriction, or the continuance of any existing duty-free or excise treatment, proclaimed in carrying out any trade agreement under title II of the bill or under section 350 of the Tariff Act of 1930 to products of any country or area dominated or controlled by Communism, whether imported directly or indirectly. It is contemplated that, in addition to those countries and areas which have been designated pursuant to section 5 of the Trade Agreements Extension Act of 1951, upon the enactment of the bill Poland (and areas under its provisional administration), Yugoslavia, and Cuba will be designated pursuant to section 231. In addition, action under this section is to be taken if, in the future, any additional country or area becomes dominated or controlled by Communism. Action under this section with respect to any country or area may be terminated when such country or area is no longer dominated or controlled by Communism.

## Safeguarding National Security

Except for conforming changes, section 232 is identical to, and continues in effect, the provisions of section 2 of the Trade Agreements Act approved July 1, 1954, as amended by section 8 of the Trade Agreements Extension Act of 1958.

Section 232(a) provides that no action is to be taken pursuant to the bill or section 350 of the Tariff Act of 1930 to decrease or eliminate the duty or to decrease any other import restriction on any article if the President determines that the reduction or elimination would threaten to impair the national security.

Section 232(b) provides that upon request, application, or notice from specified sources the Director of the Office of Emergency Planning (OEP) must undertake an investigation to determine whether the article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security. If he so finds, he is required to so advise the President, who is required to take such action as he deems necessary to adjust imports unless he determines that the article is not being imported in such quantities or under such circumstances as to threaten to impair the national security.

Section 232(c) enumerates various factors to which the President and the Director of the OEP are to give consideration in carrying out their functions.

Section 232(d) requires a report to be made and published on each final disposition of any request for investigation under section 232(b). It also requires the Director of the OEP to publish procedural regulations governing the exercise of the authority vested in him by section 232(b).

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## TITLE 20—EDUCATION

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### 20 U.S.C. 79. BARRO COLORADO ISLAND IN GATUN LAKE TO BE SET ASIDE

The President is authorized and directed to set aside within the Canal Zone an area in Gatun Lake known as Barro Colorado Island in which the natural features shall, *except in event of declared national emergency*, be left in their natural state for scientific observation and investigation. (July 2, 1940, ch. 516, § 1, 54 Stat. 724.)

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### 20 U.S.C. 241-1. ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES IN CASES OF CERTAIN DISASTERS

(a) Eligibility requirements; terms; duration; maximum amount. In any case in which—

(1) (A) the *Director of the Office of Emergency Planning determines* with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which after August 30, 1965, and prior to July 1, 1973, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 4402(1) of Title 42, is or threatens to be of sufficient severity or magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities of such agency have been destroyed or seriously damaged as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section,

[Emphasis supplied.]

and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or similar purposes with respect to such catastrophe;

and if the Commissioner determines with respect to such agency that—

(3) such agency is utilizing or will utilize all State and other financial assistance available to it for the purpose of meeting the cost of providing free public education for the children attending the schools of such agency, but as a result of such disaster it is unable to obtain sufficient funds for such purpose and requires an amount of additional assistance equal to at least \$1,000 or one-half of 1 per centum of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, and

(4) in the case of any such major disaster to the extent that the operation of private elementary and secondary schools in the school attendance area of such local educational agency has been disrupted or impaired by such disaster, such local educational agency has made provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate. Provided, That nothing contained in this chapter shall be construed to authorize the making of any payment under this chapter for religious worship or instruction,

the Commissioner may provide to such agency the additional assistance necessary to provide free public education to the children attending the schools of such agency, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest. Such additional assistance may be provided for a period not greater than a five-fiscal-year period beginning with the fiscal year in which it is determined pursuant to clause (1) of this subsection that such agency suffered a disaster. The amount so provided for any fiscal year shall not exceed the amount which the Commissioner determines to be necessary to enable such agency, with the State, local, and other Federal funds available to it for such purpose, to provide a level of education equivalent to that maintained in the schools of such agency prior to the occurrence of such disaster, taking into account the additional costs reasonably necessary to carry out the provisions of clause (4) of this subsection. The amount, if any, so provided for the second, third, and fourth fiscal years following the fiscal year in which it is so determined that such agency has suffered a disaster shall not exceed 75 per centum, 50 per centum, and 25 per centum, respectively, of the amount so provided for the first fiscal year following such determination.

(b) Additional funds for replacing supplies and equipment, making minor repairs, and leasing temporary facilities.

In addition to and apart from the funds provided under subsection (a) of this section, the Commissioner is authorized to provide to such agency an amount which he determines to be necessary to

replace instructional and maintenance supplies, equipment, and materials (including textbooks) destroyed or seriously damaged as a result of such disaster, to make minor repairs, and to lease or otherwise provide (other than by acquisition of land or erection of facilities) school and cafeteria facilities needed to replace temporarily such facilities which have been made unavailable as a result of the disaster.

(c) Authorization of appropriations; expenditure of sums pending appropriation.

There is hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner may expend (without regard to subsections (a) and (e) of section 665 of Title 31) from any funds heretofore or hereafter appropriated for expenditure in accordance with other sections of this chapter, such sums as may be necessary for immediately providing assistance under this section, such appropriations to be reimbursed from the appropriations authorized by this subsection when made.

(d) Applications; priority of approvals.

No payment may be made to any local educational agency under this section except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications.

(e) Payments to local agencies; repayment of unexpended funds.

Amounts paid by the Commissioner to local educational agencies under this section may be paid in advance or by way of reimbursement and in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States. (Sept. 30, 1950, ch. 1124, title I, § 7, as added Nov. 1, 1965, Pub. L. 89-313, § 2, 79 Stat. 1159, and amended Jan. 2, 1968, Pub. L. 90-247, title II, § 218, 81 Stat. 811; Apr. 13, 1970, Pub. L. 91-230, title II, § 201(c), 84 Stat. 154; Dec. 31, 1970, Pub. L. 91-606, title III, § 301(e), 84 Stat. 1759.)

### — NOTE —

EXCERPT FROM HOUSE REPT. 188, 91ST CONG., 2D SESS. (1970)

It is, of course, impossible to determine the conditions which will exist *under emergencies* created by a flood, tornado, earthquake, fire, or other catastrophe. For this reason, it is the purpose of the provision to provide Federal financial assistance for those aspects of a local district's plan which are designed to assure the continued education of all children in the area served by the school district, *during the period of emergency*—irrespective of whether or not such children are enrolled in public or private schools. Where public school facilities are damaged or are otherwise inade-

[Emphasis supplied.]

quate to accommodate all the children, the local school district could provide for the rental or lease of public or other undamaged facilities to accommodate teachers and pupils from public and private schools during the period of adjustment from the disaster.

In this respect Federal funds are authorized to supplement all other funds available to provide a level of education equivalent to that maintained in the schools of such local public school agency during the last full fiscal year prior to the occurrence of the major disaster, taking into account the additional cost reasonably necessary for the local public school district to provide teachers, equipment, and materials in an expanded school program to accommodate private school students whose school operations were impaired or entirely disrupted as a result of the disaster.

#### 20 U.S.C. 646. ASSISTANCE IN CASES OF CERTAIN DISASTERS

(a) Eligibility requirements; maximum amount; form, terms and conditions.

In any case in which—

(1) (A) the *Director of the Office of Emergency Planning* determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which, after August 30, 1965, and prior to July 1, 1973, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 4402(1) of Title 42, is or threatens to be of sufficient severity or magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) of such agency have been destroyed or seriously damaged as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or similar purposes with respect to such catastrophe;

[Emphasis supplied.]



and if the Commissioner determines with respect to such agency that—

(3) as a result of such major disaster, (A) public elementary or secondary school facilities of such agency (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) have been destroyed or seriously damaged, or (B) private elementary or secondary school facilities serving children who reside in the area served by such agency have been destroyed and will not be replaced, thereby increasing the need of such agency for school facilities;

(4) such agency is utilizing or will utilize all State and other financial assistance available for the replacement or restoration of such school facilities;

(5) such agency does not have sufficient funds available to it from State, local, and other Federal sources (including funds available under other provisions of this chapter), and from the proceeds of insurance on such school facilities, and requires an amount of additional assistance equal to at least \$1,000 or one-half of 1 per centum of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, to provide the minimum school facilities needed (A) for the restoration or replacement of the school facilities of such agency so destroyed or seriously damaged or (B) to serve, in facilities of such agency, children who but for the destruction of the private facilities referred to in clause (3)(B) would be served by such private facilities; and

(6) in the case of any such major disaster, to the extent that the operation of private elementary and secondary schools in the school attendance area of the local educational agency has been disrupted or impaired by such disaster, such local educational agency has complied with the provisions of section 241-1(a)(4) of this title, with respect to provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate,

the Commissioner may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance, plus the amount which he determines to be available from State, local, and other Federal sources (including funds available under other provisions of this chapter), and from the proceeds of insurance, may not exceed the cost of construction incident to the restoration or replacement of the school facilities destroyed or damaged as a result of the disaster. In all cases, determined pursuant to clause (1)(B) of this subsection, and in any other case deemed appropriate by the Commissioner, such assistance shall be in the form of a repayable advance subject to such terms and conditions as he considers to be in the public interest.

(b) Authorization of appropriations; expenditure of sums pending appropriation.

There are hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner may expend (without regard to subsections (a) and (e) of section 665 of Title 31) from any funds heretofore or hereafter appropriated for expenditure in accordance with other sections of this chapter such sums as may be necessary for immediately providing assistance under this section, such appropriations to be reimbursed from the appropriations authorized by this subsection when made.

(c) Applications; priority of approvals; conditions precedent; consultation with agencies.

No payment may be made to any local educational agency under subsection (a) of this section except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 636(b)(1) of this title. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications. No payment may be made under subsection (a) of this section unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency.

(d) Payments to local agencies; repayment of unexpended funds.

Amounts paid by the Commissioner to local educational agencies under subsection (a) of this section may be paid in advance or by way of reimbursement and in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(e) Applicability of sections 631 to 640 of this title.

None of the provisions of 631 to 640 of this title, both inclusive, other than section 636(b)(1) of this title, shall apply with respect to this section. (Sept. 23, 1950, ch. 995, § 16, as added Nov. 1, 1965, Pub. L. 89-313, § 1, 79 Stat. 1158, and amended Jan. 2, 1968, Pub. L. 90-247, title II, § 217, 81 Stat. 810; Apr. 13, 1970, Pub. L. 91-230, title II, § 201(c), 84 Stat. 154; Dec. 31, 1970, Pub. L. 91-606, title III, § 301(f), 84 Stat. 1759.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 587, 89TH CONG., 1ST SESS. (1965)

#### SCHOOL CONSTRUCTION IN DISASTER AREAS

The bill adds a new section to Public Law 815 which would authorize the Commissioner of the Office of Educa-

tion to provide additional financial assistance to a local public school district to enable such agency to construct new facilities to replace school facilities destroyed or to restore facilities damaged as a result of a major disaster.

Appropriations are authorized for the purpose of meeting the cost of administering the new section. Pending appropriations the Commissioner could use funds appropriated for the other provision of Public Law 874 to immediately provide the disaster assistance, such appropriations to be reimbursed from appropriations authorized by this subsection when they become available to the Commissioner.

The following conditions prerequisite to the furnishing of such assistance are required by the legislation:

- (1) A determination by the Director of the Office of Emergency Planning that the school facilities were in the *area declared by the President* to be a major disaster area under the provision of 42 U.S.C. 1855 warranting disaster assistance by the Federal Government;

\* \* \* \* \*

#### OPERATION OF SCHOOLS IN DISASTER AREAS

The bill adds a new section to Public Law 874 which authorizes the Commissioner of the Office of Education to provide financial assistance to any local public school agency to assist in the financing of the operation of elementary and secondary school programs which have been affected by a major disaster. Limitations imposed on the provision of such assistance are:

- (1) A determination by the Director of the Office of Emergency Planning that the local public school district was in an *area declared by the President* to be a major disaster area under the provisions of 42 U.S.C. 1855 warranting disaster assistance by the Federal Government;

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### TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

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#### 22 U.S.C. 401. ILLEGAL EXPORTATION OF WAR MATERIALS

- (a) Seizure and forfeiture of materials and carriers.

Whenever an attempt is made to export or ship from or take out of the United States any arms or munitions *of war or other articles in violation of law*, or whenever it is known or there shall be probable cause to believe that any arms or munitions of war or other arti-

[Emphasis supplied.]

cles are intended to be or are being or have been exported or removed from the United States in violation of law, *the Secretary of the Treasury, or any person duly authorized for the purpose by the President*, may seize and detain such arms or munitions of war or other articles and may seize and detain any vessel, vehicle, or aircraft containing the same or which has been or is being used in exporting or attempting to export such arms or munitions of war or other articles. All arms or munitions of war and other articles, vessels, vehicles, and aircraft seized pursuant to this subsection shall be forfeited.

(b) Applicability of laws relating to seizure, forfeiture, and condemnation.

All provisions of law relating to seizure, summary and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. Awards of compensation to informers under this section may be paid only out of funds specifically appropriated therefor.

(c) Disposition of forfeited materials.

Arms and munitions of war forfeited under subsection (b) of this section shall be delivered to the Secretary of Defense for such use or disposition as he may deem in the public interest, or, in the event that the Secretary of Defense refuses to accept such arms and munitions of war, they shall be sold or otherwise disposed of as prescribed under existing law in the case of forfeitures for violation of the customs laws. (June 15, 1917, ch. 30, title VI, § 1, 40 Stat. 223; June 17, 1930, ch. 497, title IV, § 523, 46 Stat. 740; Aug. 13, 1953, ch. 434, § 1, 67 Stat. 577.)

## 22 U.S.C. 441. PROCLAMATION OF STATE OF WAR BETWEEN FOREIGN STATES

(a) Whenever *the President, or the Congress by concurrent resolution, shall find that there exists a state of war between foreign states*, and that it is necessary to promote the security or preserve the peace of the United States or to protect the lives of citizens of the United States, the President shall issue a proclamation naming the states involved; and he shall, from time to time, by proclamation, name other states as and when they may become involved in the war.

(b) Whenever the state of war which shall have caused the President to issue any proclamation under the authority of this section shall have ceased to exist with respect to any state named in such proclamation, he shall revoke such proclamation with respect to such state. (Nov. 4, 1939, ch. 2, § 1, 54 Stat. 4.)

[Emphasis supplied.]

## 22 U.S.C. 447. FINANCIAL TRANSACTIONS

(a) Whenever *the President shall have issued a proclamation* under the authority of section 441(a) of this title, it shall thereafter be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the government of any state named in such proclamation, or of any political subdivision of any such state, or of any person acting for or on behalf of the government of any such state, or political subdivision thereof, issued after the date of such proclamation, or to make any loan or extend any credit (other than necessary credits accruing in connection with the transmission of telegraph, cable, wireless and telephone services) to any such government, political subdivision, or person. The provisions of this subsection shall also apply to the sale by any person within the United States to any person in a state named in any such proclamation of any articles or materials listed in a proclamation referred to in or issued under the authority of section 452(i) of this title.

(b) The provisions of this section shall not apply to a renewal or adjustment of such indebtedness as may exist on the date of such proclamation.

(c) Whoever shall knowingly violate any of the provisions of this section or of any regulations issued thereunder shall, upon conviction thereof, be fined not more than \$50,000 or imprisoned for not more than five years, or both. Should the violation be by a corporation, organization, or association, each officer or director thereof participating in the violation shall be liable to the penalty herein prescribed.

(d) Whenever any proclamation issued under the authority of section 441 (a) of this title shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

(e) *This section shall not be operative when the United States is at war.* (Nov. 4, 1939, ch. 2, § 7, 54 Stat. 8; Feb. 21, 1942, ch. 104, 56 Stat. 95.)

## —NOTE—

EXCERPT FROM HOUSE REPT. 1776, 77TH CONG., 2D SESS. (1942)

The Committee on Foreign Affairs, to whom was referred the joint resolution (S.J. Res. 133), amending section 7 of the Neutrality Act of 1939, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

This amendment to section 7 was requested in the following communication from the President:

THE WHITE HOUSE,  
February 9, 1942.

To the Congress of the United States:

I recommend that the Neutrality Act of 1939 be amended to provide that section 7 shall not be operative when the United States is at war.

. [Emphasis supplied.]

Section 7, now in effect, prevents essential financial transactions between persons within the United States and our cobelligerents. In my opinion there was never any intention that this section should operate during our belligerency. I hope that the Congress will act promptly in this matter to legalize transactions essential in the effective prosecution of the war.

There is attached a draft resolution designed to accomplish the purpose of this recommendation.

FRANKLIN D. ROOSEVELT.

*A series of neutrality proclamations, under the act of 1939, applying to many of the countries with whom we are now associated in the United Nations war effort are still in effect; and section 7 of the Neutrality Act therefore is in effective operation as regards these countries.*

This is deemed to be having consequences harmful to the war effort of both the United States and the other United Nations.

These harmful consequences arise from the fact that section 7 prohibits many operations as between persons in the United States and the governments and nationals of the United Nations which would be useful in the war effort. The following types of transactions may be cited particularly:

(a) Section 7 interdicts the extension of credit by any person within the United States in connection with purchases of war materials in this country by governments affected by this act or by their subdivisions and agents. This means, for instance, that American firms or banks cannot extend even short-term credit accommodation to such enterprises as the Canadian National Railways in connection with their important purchases here, or American aircraft engine manufacturers extend short term credit facilities to representatives of Canada and the Netherlands East Indies in connection with aircraft production for the account of the military forces of that Government. Such short-term credit combination would in frequent instances make it easier to effect promptly the purchasing and transport of needed war goods.

(b) It stands in the way of certain commercial transactions that are directly a part of the military effort. For example, it makes impossible the sale on credit by persons within the United States to British, Dutch, and Norwegian ships of oil urgently required for the completion of voyages connected with the war effort.

In these and similar ways the continued effectiveness of section 7 during this war period is a distinct disadvantage in the war effort.

This amendment does not affect the operation of the Johnson Act.

Furthermore, it is believed that the war situation now confronting the United States is fundamentally different from that which the Congress visualized when enacting section 7.

[Emphasis supplied.]

## 22 U.S.C. 450. RESTRICTIONS ON USE OF AMERICAN PORTS

(a) Whenever, *during any war in which the United States is neutral, the President, or any person thereunto authorized by him* shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port or from the jurisdiction of the United States, fuel, men, arms, ammunition, implements of war, supplies, dispatches, or information to any warship, tender, or supply ship of a state named in a proclamation issued under the authority of section 441(a) of this title, but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided for by section 31 of Title 18, and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security or neutrality of the United States, he shall have the power, and it shall be his duty to require the owner, master, or person in command thereof, before departing from a port or from the jurisdiction of the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, or any fuel, supplies, dispatches, information, or any part of the cargo, to any warship, tender, or supply ship of a state named in a proclamation issued under the authority of section 441(a) of this title.

(b) If the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, has previously departed from a port or from the jurisdiction of the United States during such war and delivered men, fuel, supplies, dispatches, information, or any part of its cargo to a warship, tender, or supply ship of a state named in a proclamation issued under the authority of section 441(a) of this title, he may prohibit the departure of such vessel during the duration of the war.

(c) Whenever the President shall have issued a proclamation under section 441(a) of this title he may, while such proclamation is in effect, require the owner, master, or person in command of any vessel, foreign or domestic, before departing from the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that no alien seaman who arrived on such vessel shall remain in the United States for a longer period than that permitted under the regulations, as amended from time to time, issued pursuant to section 168 of Title 8. Notwithstanding the provisions of said section 168 of Title 8, the President may issue such regulations with respect to the landing of such seamen as he deems necessary to insure their departure either on such vessel or another vessel at the expense of such owner, master, or person in command. (Nov. 4, 1939, ch. 2, § 10, 54 Stat. 9.)

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22 U.S.C. 451. SUBMARINES AND ARMED MERCHANT VESSELS

*Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of*

[Emphasis supplied.]

the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply, except as to offenses committed prior to such revocation. (Nov. 4, 1939, ch. 2, § 11, 54 Stat. 9.)

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22 U.S.C. 461. ENFORCEMENT BY COURTS; EMPLOYMENT OF LAND OR NAVAL FORCES

The district courts shall take cognizance of all complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coasts or shores thereof. In every case in which a vessel is fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser, or other armed vessel is increased or augmented, or in which any military expedition or enterprise is begun or set on foot, contrary to the provisions and prohibitions of sections 461 to 464 of this title and sections 21 to 25, and 30 of Title 18; and in every case of the capture of a vessel within the jurisdiction or protection of the United States as before defined; and in every case in which any process issuing out of any court of the United States is disobeyed or resisted by any person having the custody of any vessel of war, cruiser, or other armed vessel of any foreign prince or state, or of any colony, district, or people, or of any subjects or citizens of any foreign prince or state, or of any colony, district, or people, *it shall be lawful for the President or such other person as he shall have empowered for that purpose*, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of taking possession of and detaining any such vessel, with her prizes, if any, in order to enforce the execution of the prohibitions and penalties of sections 461 to 464 of this title and sections 21 to 25, and 30 of Title 18, and the restoring of such prizes in the cases in which restoration shall be adjudged; and also for the purpose of preventing the carrying on of any such expedition or enterprise from the territory or jurisdiction of the United States against the territory or dominion of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace. (Mar. 4, 1909, ch. 321, § 14, 35 Stat. 1090.)

[Emphasis supplied.]



## 22 U.S.C. 464. DETENTION BY COLLECTORS OF CUSTOMS

The several collectors of the customs shall detain any vessel manifestly built for warlike purposes, and about to depart the United States, or any place subject to the jurisdiction thereof, the cargo of which principally consists of arms and munitions of war, when the number of men shipped on board, or other circumstances, render it probable that such vessel is intended to be employed by the owners to cruise or commit hostilities upon the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, *until the decision of the President is had thereon*, or until the owner gives such bond and security as is required of the owners of armed vessels by section 463 of this title. (Mar. 4, 1909, ch. 321, § 17, 35 Stat. 1091.)

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22 U.S.C. 1611. CONGRESSIONAL DECLARATION OF POLICY; EMBARGO ON WAR MATERIALS; DENIAL OF ASSISTANCE TO NATIONS FAILING TO EMBARGO SHIPMENTS; ADMINISTRATION OF CHAPTER

The Congress of the United States, recognizing that in a world threatened by aggression the United States can best preserve and maintain peace by developing maximum national strength and by utilizing all of its resources in cooperation with other free nations, declares it to be the policy of the United States to apply an embargo on the shipment of arms, ammunition, and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, and items of primary strategic significance used in the production of arms, ammunition, and implements of war to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination, in order to (1) increase the national strength of the United States and of the cooperating nations; (2) impede the ability of nations threatening the security of the United States to conduct military operations; and (3) to assist the people of the nations under the domination of foreign aggressors to reestablish their freedom.

It is further declared to be the policy of the United States that no military, economic, or financial assistance shall be supplied to any nation unless it applies an embargo on such shipments to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination.

This chapter shall be administered in such a way as to bring about the fullest support for any resolution of the General Assembly of the United Nations, supported by the United States, to prevent the shipment of certain commodities to areas under the control of governments *engaged in hostilities in defiance of the United Nations*. (Oct. 26, 1951, ch. 575, title I, § 101, 65 Stat. 645.)

[Emphasis supplied.]

## 22 U.S.C. 1611a. RESPONSIBILITY FOR ADMINISTRATION

Responsibility for giving effect to the purposes of this chapter shall be vested in the person occupying the senior position authorized by subsection (e) of section 1577 of this title, or in any person who may hereafter be charged with principal responsibility for the administration of the provisions of the Mutual Defense Assistance Act of 1949. Such person is hereinafter referred to as the "Administrator." (Oct. 26, 1951, ch. 575, title I, § 102, 65 Stat. 645.)

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## 22 U.S.C. 1611b. DETERMINATION OF ITEMS TO BE EMBARGOED

(a) Adjustments; information to nations receiving assistance.

The Administrator is authorized and directed to determine within thirty days after October 26, 1951, after full and complete consideration of the views of the Departments of State, Defense, and Commerce; the Economic Cooperation Administration; and any other appropriate agencies, and notwithstanding the provisions of any other law, which items are, for the purpose of this chapter, arms, ammunition, and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, and those items of primary strategic significance used in the production of arms, ammunition, and implements of war which should be embargoed to effectuate the purposes of this chapter: Provided, That such determinations shall be continuously adjusted to current conditions on the basis of investigation and consultation, and that all nations receiving United States military, economic, or financial assistance shall be kept informed of such determinations.

(b) Termination of assistance; continuation of assistance by Presidential directive; reports to Congress.

All military, economic, or financial assistance to any nation shall, upon the recommendation of the Administrator, be terminated forthwith if such nation after sixty days from the date of a determination under subsection (a) of this section knowingly permits the shipment to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination, of any item which he has determined under subsection (a) of this section after a full and complete investigation to be included in any of the following categories: Arms, ammunition, and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, and items of primary strategic significance used in the production of arms, ammunition, and implements of war: Provided, *That the President*, after receiving the advice of the Administrator and after taking into account the contribution of such country to the mutual security of the free world, the importance of such assistance to the security of the United States, the strategic importance of imports received from countries of the Soviet bloc, and the adequacy of such country's controls over the export to the Soviet bloc of items

[Emphasis supplied.]

of strategic importance, may direct the continuance of such assistance to a country which permits shipments of items other than arms, ammunition, implements of war, and atomic energy materials when unusual circumstances indicate that the cessation of aid would clearly be detrimental to the security of the United States: Provided further, *That the President* shall immediately report any determination made pursuant to the first proviso of this section with reasons therefor to the Appropriations and Armed Services Committees of the Senate and of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives, and the President shall at least once each quarter review all determinations made previously and shall report his conclusions to the foregoing committees of the House and Senate, which reports shall contain an analysis of the trade with the Soviet bloc of countries for which determinations have been made. (Oct. 26, 1951, ch. 575, title I, § 103, 65 Stat. 645.)

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#### 22 U.S.C. 1611c. RESUMPTION OF ASSISTANCE

Whenever military, economic, or financial assistance has been terminated as provided in this chapter, such assistance can be resumed *only upon determination by the President* that adequate measures have been taken by the nation concerned to assure full compliance with the provisions of this chapter. (Oct. 26, 1951 ch. 575, title I, § 104, 65 Stat. 646.)

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#### 22 U.S.C. 1611d. DEFINITIONS

For the purposes of this chapter the term "assistance" does not include activities carried on for the purpose of facilitating the procurement of materials in which the United States is deficient. (Oct. 26, 1951, ch. 575, title I, § 105, 65 Stat. 646.)

#### —NOTE—

##### EXCERPT FROM SENATE REPT. 698, 82D CONG., 1ST SESS. (1951)

The committee believes that the security interests of the United States with respect to trade between nations receiving American military, economic, and financial assistance can best be protected if responsibility is clearly fixed in the executive branch to take action to prevent aid going to countries which export war materials to the Soviet and satellite states. H.R. 4550 has that effect.

The committee believes that some discretion is necessary with respect to the shipment of materials other than arms, ammunition, implements of war, and atomic energy materials to Soviet states since there are undoubtedly a number of instances in which such trade might, on balance, be

[Emphasis supplied.]

essential to the security interests of the United States and to the free world generally.

The committee believes that responsibility for exercising this discretion must be clearly fixed. H.R. 4550 *makes this determination the responsibility of the President.*

The committee recommends the early approval of this bill.

## 22 U.S.C. 1962. MILITARY ASSISTANCE; USE OF ARMED FORCES

The *President is authorized* to undertake, in the general area of the Middle East, military assistance programs with any nation or group of nations of that area desiring such assistance. Furthermore, the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use armed forces to assist any such nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism: Provided, That such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States. (Pub. L. 85-7, § 2, Mar. 9, 1957, 71 Stat. 5.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 2, 85TH CONG., 1ST SESS. (1957)

The broad purpose and policy of the resolution is set forth in the preamble. The resolution does not set forth a detailed plan or program for dealing with all the major problems in the Middle East. It deals with *courses of action relating to immediate military and economic threats*. Other basic problems, causing tension in the area, are not dealt with in the resolution. The solution of the Arab-Israel controversy, the resettlement of refugees, the reopening of the Suez Canal with the establishment of adequate safeguards for the interests of its users, and other problems, are of grave importance and should be given continued attention by the Executive.

Positive and comprehensive measures for dealing with the fundamental problems of the Middle East should be prepared and presented by the Executive to the United Nations and to the Congress. Sufficient legislative authority already exists for the settlement of many phases of these problems. Our country should lead in boldly pursuing and implementing policies and programs to bring peace, security, and economic stability to the Middle East.

House Joint Resolution 117 as reported accomplishes three primary objectives:

First, it puts the Soviet Union on notice that the United States intends to use its Armed Forces if necessary to

[Emphasis supplied.]

secure and protect any nation or group of nations of the Middle East requesting such aid against overt armed aggression from any nation controlled by international communism, thus minimizing the possibility of war by miscalculation.

Second, the resolution is intended to make clear to the governments and the people of the Middle East the attitude and the policy of the United States toward them. The United States makes clear its vital interest in the status of that area. The United States also makes clear, however, that it believes that its interests can best be protected if the nations of the Middle East are able to maintain their independence and integrity, and that the United States policy toward the area and its readiness to provide assistance contemplates no infringement of the sovereignty of any nation.

Third, *the resolution removes certain restrictions on the use of mutual security funds by the President which are contained in existing law.* No new money is authorized. The events of the last few months in the Middle East have not only increased the need for assistance to certain nations in that area, but have also made necessary a revision of other programs. The resolution gives the President greater discretion as to the use of funds already appropriated.

## 22 U.S.C. 1963. UNITED NATIONS EMERGENCY FORCE

*The President should continue to furnish facilities and military assistance, within the provisions of applicable law and established policies, to the United Nations Emergency Force in the Middle East, with a view to maintaining the truce in that region.* (Pub. L. 85-7, § 4, Mar. 9, 1957, 71 Stat. 6.)

[See 22 U.S.C. 1962 (H. Rept. 2). *Supra.*]

## 22 U.S.C. 1965. EXPIRATION

This chapter shall expire when the *President shall determine* that the peace and security of the nations in the general area of the Middle East are reasonably assured by international conditions created by action of the United Nations or otherwise *except that it may be terminated earlier by a concurrent resolution of the two Houses of Congress.* (Pub. L. 85-7, § 6, Mar. 9, 1957, 71 Stat. 6.)

## 22 U.S.C. 2370. PROHIBITIONS AGAINST FURNISHING ASSISTANCE

(a) Cuba; embargo on all trade.

(1) No assistance shall be furnished under this chapter to the present government of Cuba; nor shall any such assistance be fur-

[Emphasis supplied.]

nished to any country which furnishes assistance to the present government of Cuba *unless the President determines* that such assistance is in the national interest of the United States. As an additional means of implementing and carry into effect the policy of the preceding sentence, the President is authorized to establish and maintain a total embargo upon all trade between the United States and Cuba.

(2) Except as may be deemed necessary by the President in the interest of the United States, no assistance shall be furnished under this chapter to any government of Cuba, nor shall Cuba be entitled to receive any quota authorizing the importation of Cuban sugar into the United States or to receive any other benefit under any law of the United States, until the President determines that such government has taken appropriate steps according to international law standards to return to United States citizens, and to entities not less than 50 per centum beneficially owned by United States citizens or to provide equitable compensation to such citizens and entities for property taken from such citizens and entities on or after January 1, 1959, by the Government of Cuba.

(3) No funds authorized to be made available under this chapter (except under section 2174 of this title) shall be used to furnish assistance to any country which has failed to take appropriate steps, not later than 60 days after December 16, 1963—

(A) to prevent ships or aircraft under its registry from transporting to Cuba (other than to United States installations in Cuba)—

(i) any items of economic assistance,

(ii) any items which are, for the purposes of title I of the Mutual Defense Assistance Control Act of 1951, as amended, arms, ammunition and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, or items of primary strategic significance used in the production of arms, ammunition, and implements of war, or

(iii) any other equipment, materials, or commodities, so long as Cuba is governed by the Castro regime; and

(B) to prevent ships or aircraft under its registry from transporting any equipment, materials, or commodities from Cuba (other than from United States installations in Cuba) so long as Cuba is governed by the Castro regime.

(b) Presidential determination of domination or control by international Communist movement.

No assistance shall be furnished under this chapter to the government of any country unless the President determines that such country is not dominated or controlled by the international Communist movement.

(c) Indebtedness of foreign country to United States citizen or person.

No assistance shall be provided under this chapter to the government of any country which is indebted to any United States citizen or person for goods or services furnished or ordered where (i) such

[Emphasis supplied.]

citizen or person has exhausted available legal remedies, which shall include arbitration, or (ii) the debt is not denied or contested by such government, or (iii) such indebtedness arises under an unconditional guaranty of payment given by such government, or any predecessor government, directly or indirectly, through any controlled entity: Provided, That the President does not find such action contrary to the national security.

(d) Productive enterprises competing with United States enterprise; conditions on assistance; import controls; waiver of restriction by President.

No assistance shall be furnished under section 2161 of this title for construction or operation of any productive enterprise in any country where such enterprise will compete with United States enterprise unless such country has agreed that it will establish appropriate procedures to prevent the exportation for use or consumption in the United States of more than twenty per centum of the annual production of such facility during the life of the loan. In case of failure to implement such agreement by the other contracting party, the President is authorized to establish necessary import controls to effectuate the agreement. The restrictions imposed by or pursuant to this subsection may be waived by the President where he determines that such waiver is in the national security interest.

(e) Nationalization, expropriation or seizure of property of United States citizens, or taxation or other exaction having same effect; failure to compensate or to provide relief from taxes, exactions, or conditions; report on full value of property by Foreign Claims Settlement Commission; act of state doctrine.

(1) The President shall suspend assistance to the government of any country to which assistance is provided under this chapter or any other Act when the government of such country or any government agency or subdivision within such country on or after January 1, 1962—

(A) has nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(B) has taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(C) has imposed or enforced discriminatory taxes or other exactions or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned,

and such country, government agency, or government subdivision fails within a reasonable time (not more than six months after such action, or, in the event of a referral to the Foreign Claims Settlement Commission of the United States within such period as provided herein, not more than twenty days after the report of the Commission is received) to take appropriate steps, which may include arbitration, to discharge its obligations under international law toward such citizen or entity,

including speedy compensation for such property in convertible foreign exchange, equivalent to the full value thereof, as required by international law, or fails to take steps designed to provide relief from such taxes, exactions, or conditions, as the case may be; and such suspension shall continue until the President is satisfied that appropriate steps are being taken, and no other provision of this chapter shall be construed to authorize the President to waive the provisions of this subsection.

Upon request of the President (within seventy days after such action referred to in subparagraphs (A), (B), or (C) of this paragraph, the Foreign Claims Settlement Commission of the United States (established pursuant to Reorganization Plan No. 1 of 1954, 68 Stat. 1279) is hereby authorized to evaluate expropriated property, determining the full value of any property nationalized, expropriated, or seized, or subjected to discriminatory or other actions as aforesaid, for purposes of this subsection and to render an advisory report to the President within ninety days after such request. Unless authorized by the President, the Commission shall not publish its advisory report except to the citizen or entity owning such property. There is hereby authorized to be appropriated such amount, to remain available until expended, as may be necessary from time to time to enable the Commission to carry out expeditiously its functions under this subsection.

(2) Notwithstanding any other provision of law, no court in the United States shall decline on the ground of the federal act of state doctrine to make a determination on the merits giving effect to the principles of international law in a case in which a claim of title or other rights to property is asserted by any party including a foreign state (or a party claiming through such state) based upon (or traced through) a confiscation or other taking after January 1, 1959, by an act of that state in violation of the principles of international law, including the principles of compensation and the other standards set out in this subsection: Provided, That this subparagraph shall not be applicable (1) in any case in which an act of a foreign state is not contrary to international law or with respect to a claim of title or other right to property acquired pursuant to an irrevocable letter of credit of not more than 180 days duration issued in good faith prior to the time of the confiscation or other taking, or (2) in any case with respect to which the President determines that application of the act of state doctrine is required in that particular case by the foreign policy interests of the United States and a suggestion to this effect is filed on his behalf in that case with the court.

(f) Prohibition against assistance to Communist countries; conditions for waiver of restriction by President; enumeration of Communist countries.

No assistance shall be furnished under this chapter (except section 2174(b) of this title) to any Communist country. This restriction may not be waived pursuant to any authority contained in this chapter unless the President finds and promptly reports to Congress that: (1) such assistance is vital to the security of the United States; (2) the recipient country is not controlled by the



international Communist conspiracy; and (3) such assistance will further promote the independence of the recipient country from international communism. For the purposes of this subsection, the phrase "Communist country" shall include specifically, but not be limited to, the following countries:

Peoples Republic of Albania,  
 Peoples Republic of Bulgaria,  
 Peoples Republic of China,  
 Czechoslovak Socialist Republic,  
 German Democratic Republic (East Germany)  
 Estonia,  
 Hungarian Peoples Republic,  
 Latvia,  
 Lithuania,  
 North Korean Peoples Republic,  
 North Vietnam,  
 Outer Mongolia-Mongolian Peoples Republic,  
 Polish Peoples Republic,  
 Rumanian Peoples Republic,  
 Tibet,  
 Federal Peoples Republic of Yugoslavia,  
 Cuba, and  
 Union of Soviet Socialist Republics (including its captive constituent republics).

(g) Use of assistance funds to compensate owners for expropriated or nationalized property.

Notwithstanding any other provision of law, no monetary assistance shall be made available under this chapter to any government or political subdivision or agency of such government which will be used to compensate owners for expropriated or nationalized property and, upon finding by the President that such assistance has been used by any government for such purpose, no further assistance under this chapter shall be furnished to such government until appropriate reimbursement is made to the United States for sums so diverted.

(h) Regulations and procedures to insure aid is not used contrary to the best interest of the United States.

The President shall adopt regulations and establish procedures to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of the Communist-bloc countries.

(i) Denial of assistance to countries preparing for aggressive military efforts.

No assistance shall be provided under this chapter or any other Act, and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, to any country which the President determines is engaging in or preparing for aggressive military efforts, or which hereafter is officially represented at any international conference when that representation includes the planning of

activities involving insurrection or subversion, which military efforts, insurrection, or subversion, are directed against—

- (1) the United States,
  - (2) any country receiving assistance under this chapter or any other Act, or
  - (3) any country to which sales are made under the Agricultural Trade Development and Assistance Act of 1954,
- until the President determines* that such military efforts or preparations have ceased, or such representation has ceased, and he reports to the Congress that he has received assurances satisfactory to him that such military efforts or preparations will not be renewed, or that such representation will not be renewed or repeated. This restriction may not be waived pursuant to any authority contained in this chapter.

(j) Damage or destruction by mob action of United States property; termination of assistance.

The President shall consider terminating assistance under this chapter or any other Act to any country which permits, or fails to take adequate measures to prevent, the damage or destruction by mob action of United States property within such country, and fails to take appropriate measures to prevent a recurrence thereof and to provide adequate compensation for such damage or destruction.

(k) Maximum amount of assistance, including military assistance to individual countries without approval of or presentation to Congress.

Without the express approval of Congress, no assistance shall be furnished under this chapter to any country for construction of any productive enterprise with respect to which the aggregate value of assistance to be furnished by the United States will exceed \$100,000,000. Except as otherwise provided in section 2318 of this title, no military assistance shall be furnished to any country under this chapter for carrying out any program, with respect to which the aggregate value of assistance to be furnished beginning July 1, 1966, by the United States will exceed \$100,000,000 unless such program has been included in the presentation to the Congress during its consideration of authorizations for appropriations under this chapter or of appropriations pursuant to authorizations contained in this chapter. No provision of this chapter or any other Act shall be construed to authorize the President to waive the provisions of this subsection.

(l) Institution of investment guaranty program.

The President shall consider denying assistance under this chapter to the government of any less developed country which, after December 31, 1966, has failed to enter into an agreement with the President to institute the investment guaranty program under section 2181(b)(1) of this title, providing protection against the specific risks of inconvertibility under subparagraph (A), and expropriation or confiscation under subparagraph (b), of such section 2181(b)(1).

(m) Grants to nations able to sustain burden of defense and economic growth.

[Emphasis supplied.]

No assistance shall be furnished on a grant basis under this chapter to any economically developed nation capable of sustaining its own defense burden and economic growth, except (1) to fulfill firm commitments made prior to July 1, 1963, or (2) additional orientation and training expenses under subchapter II hereof during each fiscal year in an amount not to exceed \$500,000.

(n) Prohibition of assistance to countries engaged in North Vietnam trade.

No loans, credits, guaranties, or grants or other assistance shall be furnished under this chapter or any other Act, and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, to any country which sells or furnishes to North Vietnam, or which permits ships or aircraft under its registry to transport to or from North Vietnam, any equipment, materials, or commodities, so long as the regime in North Vietnam gives support to hostilities in South Vietnam.

(o) Exclusion from assistance of countries seizing or imposing penalties or sanctions against United States fishing vessels.

In determining whether or not to furnish assistance under this chapter, consideration shall be given to excluding from such assistance any country which hereafter seizes, or imposes any penalty or sanction against, any United States fishing vessel on account of its fishing activities in international waters. The provisions of this subsection shall not be applicable in any case governed by international agreement to which the United States is a party.

(p) United Arab Republic to receive assistance if essential to national interest of United States and of no aid to aggressive actions; reports to Congressional committees.

No assistance shall be furnished under this chapter to the United Arab Republic unless the President finds and reports within thirty days of such finding to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives that such assistance is essential to the national interest of the United States, and further that such assistance will neither directly nor indirectly assist aggressive actions by the United Arab Republic.

(q) Defaults in principal or interest payments on loans; meeting obligations under loans; notice to Congressional committees.

No assistance shall be furnished under this chapter to any country which is in default, during a period in excess of six calendar months, in payment to the United States of principal or interest on any loan made to such country under this chapter, unless such country meets its obligations under the loan or unless the President determines that assistance to such country is in the national interest and notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination.

(r) Liability for repayment of principal or interest on loans outstanding after September 19, 1966.

No recipient of a loan made under the authority of this chapter, any part of which is outstanding on or after September 19, 1966, shall be relieved of liability for the repayment of any part of the principal or interest on such loan.

(s) Restraint of arms races and proliferation of sophisticated weapons.

(1) In order to restrain arms races and proliferation of sophisticated weapons, and to ensure that resources intended for economic development are not diverted to military purposes, the President shall take into account before furnishing development loans, Alliance loans or supporting assistance to any country under this chapter, and before making sales under the Agricultural Trade Development and Assistance Act of 1954, as amended:

(A) the percentage of the recipient or purchasing country's budget which is devoted to military purposes;

(B) the degree to which the recipient or purchasing country in using its foreign exchange resources to acquire military equipment; and

(C) the amount spent by the recipient or purchasing country for the purchase of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, from any country.

(2) *The President shall report annually to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate his actions in carrying out this provision.*

(t) Diplomatic relations; severance, resumption, and negotiation of agreements.

No assistance shall be furnished under this chapter or any other Act, and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, in or to any country which has severed or hereafter severs diplomatic relations with the United States or with which the United States has severed or hereafter severs diplomatic relations unless (1) diplomatic relations have been resumed with such country and (2) agreements for the furnishing of such assistance or the making of such sales, as the case may be, have been negotiated and entered into after the resumption of diplomatic relations with such country.

(u) Status of country with respect to obligations to the United Nations; report to Congress.

In any decision to provide or continue to provide any program of assistance to any country under the Foreign Assistance Act of 1961, as amended, there shall be taken into account the status of the country with respect to its dues, assessments, and other obligations to the United Nations; and where such country is delinquent with respect to any such obligations for the purposes of the first sentence of Article 19 of the United Nations Charter, the President shall furnish the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report setting forth the assurance given by the government of the country concerned of paying all of its arrearages and of placing its payments of such obligations on a current basis, or a full explanation of the unusual or exceptional circumstances which render it economically incapable of giving such assurance. (Pub. L. 87-195, pt. III, § 620, Sept. 4, 1961, 75 Stat. 444; Pub. L. 87-565, pt. III, § 301(d), Aug. 1, 1962, 76 Stat. 260; Pub. L. 88-205, pt. III, § 301(e), Dec. 16, 1963, 77 Stat. 386; Pub.

[Emphasis supplied.]

L. 88-633, pt. III, § 301(d)-(g), Oct. 7, 1964, 78 Stat. 1013; Pub. L. 89-171, pt. III, § 301(d), Sept. 6, 1965, 79 Stat. 659; Pub. L. 89-583, pt. III, § 301(h), Sept. 19, 1966, 80 Stat. 805, 806; Pub. L. 90-137, pt. III, § 301(f), Nov. 14, 1967, 81 Stat. 459; Pub. L. 90-554, pt. III, § 301(c), Oct. 8, 1968, 82 Stat. 963; Pub. L. 91-175, pt. III, § 303, Dec. 30, 1969, 83 Stat. 820.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 1818, 87TH CONG., 1ST SESS. (1961)

The managers on the part of the House accepted the Senate provision which does not enumerate specific countries. The language agreed to clearly expresses the requirement that no assistance shall be furnished to the government of any country *unless the President determines* that such country is not dominated or controlled by the international Communist movement. It is believed that the Executive should be given full responsibility for determining whether or not any country is dominated or controlled by the international Communist movement and should be required to maintain continuous vigilance with respect to this matter and make adjustments in its policy whenever necessary. Consideration was given to the possibility that the enumeration of specific countries might relieve the Executive of a certain amount of responsibility and might make the Executive less zealous in including additional governments in the list when changes occurred altering their relationship to the Soviet Union.

The managers on the part of the House accepted the provision of section 642 of the Senate bill which continues in effect section 143 of the existing Mutual Security Act requiring specified assurances as a condition of assistance to Yugoslavia.

#### ASSISTANCE TO AND TRADE WITH CUBA (SEC. 620(a))

Section 618 of the House amendment provided that no assistance would be furnished to the present Government of Cuba; *the President is authorized to establish and maintain a total embargo on trade by the United States and Cuba; and the furnishing of assistance to any country which furnished assistance to the present Government of Cuba was prohibited, unless the President determined such assistance was in the national and hemispheric interests of the United States.*

The Senate bill retained section 552 of the Mutual Security Act of 1954, as amended, which provided simply that no assistance should be furnished to Cuba under this Act after the date of enactment of the Mutual Security Act of 1960 unless the President determined that the assistance was

[Emphasis supplied.]

in the national and hemispheric interests of the United States.

The managers on the part of the House receded from the requirement that no assistance should be furnished any country which furnished assistance to the present Government of Cuba, recognizing that a finding based upon national interest and hemispheric interests could be conflicting. It might well be that to continue assistance to a country outside the Western Hemisphere would be in the national interest but would not involve the hemispheric interest. Therefore, the Senate position regarding the elimination of this requirement was accepted.

## 22 U.S.C. 2410. SALE OF SUPERSONIC PLANES TO ISRAEL

It is the sense of the Congress that *the President should take such steps* as may be necessary, as soon as practicable after October 8, 1968, to negotiate an agreement with the Government of Israel providing for the sale by the United States of such number of supersonic planes as may be necessary to provide Israel with an adequate deterrent force capable of preventing future Arab aggression by offsetting sophisticated weapons received by the Arab States and to replace losses suffered by Israel in the 1967 conflict. (Pub. L. 87-195, pt. III, § 651, as added Pub. L. 90-554, pt. III, § 303, Oct. 8, 1968, 82 Stat. 966.)

### —NOTE—

EXCERPT FROM SENATE REPT. 1479, 90TH CONG., 2D SESS. (1968)

#### SALE OF SUPERSONIC PLANES TO ISRAEL

The bill adds a new section 651 to the act expressing the sense of Congress that the United States should sell to Israel such number of supersonic planes as may be necessary "to provide Israel with an adequate deterrent force capable of preventing future Arab aggression by offsetting sophisticated weapons received by the Arab States and to replace losses suffered by Israel in the 1967 conflict."

The section is a statement of policy. The committee has in mind a cash sale for dollars, but the precise terms, as well as the number and type of aircraft, are left to the discretion of the President.

## TITLE 25—INDIANS

### 25 U.S.C. 72. ABROGATION OF TREATIES

Whenever the tribal organization of any Indian tribe is in actual hostility to the United States, the *President is authorized, by proclamation*, to declare all treaties with such tribe abrogated by such

[Emphasis supplied.]

tribe if in his opinion the same can be done consistently with good faith and legal and national obligations. (R.S. § 2080.)

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## TITLE 26—INTERNAL REVENUE CODE

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### 26 U.S.C. 168. AMORTIZATION OF EMERGENCY FACILITIES

#### (a) General rule.

Every person, at his election, shall be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of any emergency facility (as defined in subsection (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the adjusted basis of the facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction above provided with respect to any month shall, except to the extent provided in subsection (f), be in lieu of the depreciation deduction with respect to such facility for such month provided by section 167. The 60-month period shall begin as to any emergency facility, at the election of the taxpayer, with the month following the month in which the facility was completed or acquired, or with the succeeding taxable year.

#### (b) Election of amortization.

The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility was completed or acquired, or with the taxable year succeeding the taxable year in which such facility was completed or acquired, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election.

#### (c) Termination of amortization deduction.

A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply and the taxpayer shall not be entitled to any further amortization deduction with respect to such emergency facility.

#### (d) Definitions.

##### (1) Emergency facility.

For purposes of this section, the term "emergency facility" means any facility, land, building, machinery, or equipment, or any part thereof, the construction, reconstruction, erection, installation, or acquisition of which was completed after December 31, 1949, and with respect to which a certificate under subsection (e) has been made. In no event shall an amortization deduction be allowed in respect of any emergency facility for any taxable year unless a certificate in respect thereof under this paragraph shall have been made before the filing of the taxpayer's return for such taxable year.

(2) Emergency period.

For purposes of this section, the term "emergency period" means the period beginning January 1, 1950, and ending on the date on which the President proclaims that the utilization of a substantial portion of the emergency facilities with respect to which certifications under subsection (e) have been made is no longer required in the interest of national defense.

(e) Determination of adjusted basis of emergency facility.

In determining, for purposes of subsection (a) or (g), the adjusted basis of an emergency facility—

(1) Certification on or before August 22, 1957.

In the case of a certificate made on or before August 22, 1957, there shall be included only so much of the amount of the adjusted basis of such facility (computed without regard to this section) as is properly attributable to such construction, reconstruction, erection, installation, or acquisition after December 31, 1949, as the certifying authority, designated by the President by Executive Order, has certified as necessary in the interest of national defense during the emergency period, and only such portion of such amount as such authority has certified as attributable to defense purposes. Such certification shall be under such regulations as may be prescribed from time to time by such certifying authority with the approval of the President. An application for a certificate must be filed at such time and in such manner as may be prescribed by such certifying authority under such regulations, but in no event shall such certificate have any effect unless an application therefor is filed before March 24, 1951, or before the expiration of 6 months after the beginning of such construction, reconstruction, erection, or installation or the date of such acquisition, whichever is later.

(2) Certifications after August 22, 1957.

In the case of a certificate made after August 22, 1957, there shall be included only so much of the amount of the adjusted basis of such facility (computed without regard to this section) as is properly attributable to such construction, reconstruction, erection, installation, or acquisition after December 31, 1949, as the certifying authority designated by the President by Executive order, has certified is to be used—

(A) to produce new or specialized defense items or components of new or specialized defense items (as defined in paragraph (4) during the emergency period,



(B) to provide research, developmental, or experimental services during the emergency period for the Department of Defense (or one of the component departments of such Department), or for the Atomic Energy Commission, as a part of the national defense program, or

(C) to provide primary processing for uranium ore or uranium concentrate under a program of the Atomic Energy Commission for the development of new sources of uranium ore or uranium concentrate,

and only such portion of such amount as such authority has certified is attributable to the national defense program. Such certification shall be under such regulations as may be prescribed from time to time by such certifying authority with the approval of the President. An application for a certificate must be filed at such time and in such manner as may be prescribed by such certifying authority under such regulations but in no event shall such certificate have any effect unless an application therefor is filed before the expiration of 6 months after the beginning of such construction, reconstruction, erection, or installation or the date of such acquisition. For purposes of the preceding sentence, an application which was timely filed under this subsection on or before August 22, 1957, and which was pending on such date, shall be considered to be an application timely filed under this paragraph.

(3) Separate facilities; special rule.

After the completion or acquisition of any emergency facility with respect to which a certificate under paragraph (1) or (2) has been made, any expenditure (attributable to such facility and to the period after such completion or acquisition) which does not represent construction, reconstruction, erection, installation, or acquisition included in such certificate, but with respect to which a separate certificate is made under paragraph (1) or (2), shall not be applied in adjustment of the basis of such facility, but a separate basis shall be computed therefor pursuant to paragraph (1) or (2), as the case may be, as if it were a new and separate emergency facility.

(4) Definitions.

For purposes of paragraph (2)—

(A) New or specialized defense item.

The term "new or specialized defense item" means only an item (excluding services)—

(i) which is produced, or will be produced, for sale to the Department of Defense (or one of the component departments of such Department), or to the Atomic Energy Commission, for use in the national defense program, and

(ii) for the production of which existing productive facilities are unsuitable because of its newness or of its specialized defense features.

(B) Component of new or specialized defense item.

The term component of a new or specialized defense item means only an item—

- (i) which is, or will become, a physical part of a new or specialized defense item, and
- (ii) for the production of which existing productive facilities are unsuitable because of its newness or of its specialized defense features.

(5) Limitation with respect to uranium ore or uranium concentrate processing facilities.

No certificate shall be made under paragraph (2) (C) with respect to any facility unless existing facilities for processing the uranium ore or uranium concentrate which will be processed by such facility are unsuitable because of their location.

(f) Depreciation deduction.

If the adjusted basis of the emergency facility (computed without regard to this section) is in excess of the adjusted basis computed under subsection (e), the depreciation deduction provided by section 167 shall, despite the provisions of subsection (a) of this section, be allowed with respect to such emergency facility as if its adjusted basis for the purpose of such deduction were an amount equal to the amount of such excess.

(g) Payment by United States of unamortized cost of facility.

If an amount is properly includible in the gross income of the taxpayer on account of a payment with respect to an emergency facility and such payment is certified as provided in paragraph (1), then, at the election of the taxpayer in its return for the taxable year in which such amount is so includible—

(1) The amortization deduction for the month in which such amount is so includible shall (in lieu of the amount of the deduction for such month computed under subsection (a)) be equal to the amount so includible but not in excess of the adjusted basis of the emergency facility as of the end of such month (computed without regard to any amortization deduction for such month). Payments referred to in this subsection shall be payments the amounts of which are certified, under such regulations as the President may prescribe, by the certifying authority designated by the President as compensation to the taxpayer for the unamortized cost of the emergency facility made because—

(A) a contract with the United States involving the use of the facility has been terminated by its terms or by cancellation, or

(B) the taxpayer had reasonable ground (either from provisions of a contract with the United States involving the use of the facility, or from written or oral representations made under authority of the United States) for anticipating future contracts involving the use of the facility, which future contracts have not been made.

(2) In case the taxpayer is not entitled to any amortization deduction with respect to the emergency facility, the depreciation deduction allowable under section 167 on account of the month in which such amount is so includible shall be increased by such amount, but such deduction on account of such month shall not be in excess of the adjusted basis of the emergency

facility as of the end of such month (computed without regard to any amount allowable, on account of such month, under section 167 or this paragraph).

(h) Life tenant and remainderman.

In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(i) Termination.

No certificate under subsection (e) shall be made with respect to any emergency facility after December 31, 1959.

(j) Cross reference.

For special rule with respect to gain derived from the sale or exchange of property the adjusted basis of which is determined with regard to this section, see section 1238.

(Aug. 16, 1954, ch. 736, 68A Stat. 52; Aug. 26, 1957, Pub. L. 85-165, § 4, 71 Stat. 414; Sept. 2, 1958, Pub. L. 85-866, title I, § 9 (a), (b), 72 Stat. 1608, 1609.)

### —NOTE—

EXCERPT FROM SENATE REPT. 836 (MINORITY), 85TH CONG.,  
1ST SESS. (1957)

#### SECTION 4—LIMITATION ON EMERGENCY AMORTIZATION

Section 4 of the bill amends section 168 of the Internal Revenue Code of 1954, which relates to the *rapid amortization of emergency facilities*. Subsection (a) amends subsection (e) (1) of section 168, which contains the authorization for the certifying *authority designated by the President* to certify for emergency amortization such facilities as are "necessary in the interest of national defense during the emergency period." The amendment limits this broad authorization to certifications made on or before August 22, 1957. This termination will have no effect on the status of certificates issued prior to that date. If a taxpayer who was granted a certificate prior to August 22, 1957, then acquires a facility so different from the facility described in the original certificate as to require, under regulations of the Office of Defense Mobilization a new application for an amended certificate then the new application, if acted upon after August 22, 1957, will be subject to paragraph (2). Similarly, renewal, after August 22, 1957, of a certificate which has expired prior to its renewal will be subject to paragraph (2).

Subsection (b) inserts a new paragraph (2) in section 168 (e) to provide the conditions upon which certifications for rapid amortization may be made after August 22, 1957. In general, the new subsection (2) follows the concepts of the present subsection (1) except that more specific conditions

[Emphasis supplied.]

for certifiability are inserted in lieu of the present concept "necessary in the interest of national defense." For certification after August 22, the facilities must be planned to produce new or specialized defense items (as defined in par. 4), or components thereof, during the emergency period, or to provide research, developmental or experimental services for the Department of Defense or one of its components or for the Atomic Energy Commission in connection with their national defense programs. The certifications for facilities to perform research, developmental or experimental services may not be made for facilities connected with the civil functions of the Defense Department or in connection with work on peacetime usage of atomic energy that might be undertaken by the Atomic Energy Commission.

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26 U.S.C. 7508. TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY  
REASON OF WAR

(a) Time to be disregarded.

In the case of an individual serving in the Armed Forces of the United States, or serving in support of such Armed Forces, in an area designated by the President of the United States by Executive order as a "combat zone" for purposes of section 112, at any time during the period designated by the President by Executive order as the period of combatant activities in such zone for purposes of such section, or hospitalized outside the States of the Union and the District of Columbia as a result of injury received while serving in such an area during such time, the period of service in such area, plus the period of continuous hospitalization outside the States of the Union and the District of Columbia attributable to such injury, and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

(1) Whether any of the following acts was performed within the time prescribed therefor:

(A) Filing any return of income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby);

(B) Payment of any income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby) or any installment thereof or of any other liability to the United States in respect thereof;

(C) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;

(D) Allowance of a credit or refund of any tax;

(E) Filing a claim for credit or refund of any tax;

[Emphasis supplied.]

(F) Bringing suit upon any such claim for credit or refund;

(G) Assessment of any tax;

(H) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

(I) Collection, by the Secretary or his delegate, by levy or otherwise, of the amount of any liability in respect of any tax;

(J) Bringing suit by the United States, or any officer on its behalf, in respect of any liability in respect of any tax; and

(K) Any other act required or permitted under the internal revenue laws specified in regulations prescribed under this section by the Secretary or his delegate;

(2) The amount of any credit or refund (including interest).

(b) Exceptions.

(1) Tax in jeopardy; bankruptcy and receiverships; and transferred assets.

Notwithstanding the provisions of subsection (a), any action or proceeding authorized by section 6851 (regardless of the taxable year for which the tax arose), chapter 70, or 71, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun, or prosecuted. In any other case in which the Secretary or his delegate determines that collection of the amount of any assessment would be jeopardized by delay, the provisions of subsection (a) shall not operate to stay collection of such amount by levy or otherwise as authorized by law. There shall be excluded from any amount assessed or collected pursuant to this paragraph the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under subsection (a). In any case to which this paragraph relates, if the Secretary or his delegate is required to give any notice to or make any demand upon any person, such requirement shall be deemed to be satisfied if the notice or demand is prepared and signed, in any case in which the address of such person last known to the Secretary or his delegate is in an area for which United States post offices under instructions of the Postmaster General are not, by reason of the combatant activities, accepting mail for delivery at the time the notice or demand is signed. In such case the notice or demand shall be deemed to have been given or made upon the date it is signed.

(2) Action taken before ascertainment of right to benefits.

The assessment or collection of any internal revenue tax or of any liability to the United States in respect of any internal revenue tax, or any action or proceeding by or on behalf of the United States in connection therewith, may be made, taken, begun, or prosecuted in accordance with law, without regard to the provisions of subsection (a), unless prior to such assessment, collection, action, or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 898.)

## TITLE 29—LABOR

## 29 U.S.C. 176. NATIONAL EMERGENCIES; APPOINTMENT OF BOARD OF INQUIRY BY PRESIDENT; REPORT; CONTENTS; FILING WITH SERVICE

Whenever in the opinion of the President of the United States, a threatened or actual strike or lockout affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health or safety, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its position but shall not contain any recommendations. The President shall file a copy of such report with the Service and shall make its contents available to the public. (June 23, 1947, ch. 120, title II, § 206, 61 Stat. 155.)

## —NOTE—

## EXCERPT FROM HOUSE REPT. 245, 80TH CONG., 1ST SESS. (1947)

Section 206 of the Senate amendment authorized the Attorney General, whenever he deemed that a threatened or actual strike or lock-out affecting an entire industry *would imperil the national health or safety*, to appoint a board of inquiry to inquire into the issues involved in the dispute. The board of inquiry was directed to investigate the matter and make a report to the Attorney General. The report was to include a statement of facts and a statement of the respective positions of the parties, but was not to contain any recommendations. Under section 206 of the conference agreement the authority is lodged in the President rather than in the Attorney General, and the report which the board of inquiry is to make is to include each party's statement of his own position. Like the provisions of the Senate amendment, the report of the board of inquiry cannot contain any recommendations. Furthermore, under the conference agreement the authority of this section may be invoked not alone when an entire industry is involved but where a substantial part of an entire industry is involved.

## NECESSITY FOR LEGISLATION

During the last few years, the effects of industrial strife have at times brought our country to the brink of general economic paralysis. Employees have suffered, employers have suffered—and above all *the public has suffered*.

[Emphasis supplied.]

The enactment of comprehensive legislation to define clearly the legitimate rights of employers and employees in their industrial relations, in keeping with the protection of the paramount public interest, is imperative.

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29 U.S.C. 178. SAME; STRIKES SUBJECT TO INJUNCTION; INAPPLICABILITY OF SECTIONS 101 TO 115 OF THIS TITLE; REVIEW

(a) Upon receiving a report from a board of inquiry *the President may direct* the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lock-out or the continuing thereof, and if the court finds that such threatened or actual strike or lock-out—

(i) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce; and

(ii) if permitted to occur or to continue, *will imperil the national health or safety*, it shall have jurisdiction to enjoin any such strike or lockout, or the continuing thereof, and to make such other orders as may be appropriate.

(b) In any case, the provisions of sections 101 to 115 of this title, shall not be applicable.

(c) The order or orders of the court shall be subject to review by the appropriate United States court of appeals and by the Supreme Court upon writ of certiorari or certification as provided in sections 346 and 347 of Title 28. (June 23, 1947, ch. 120, title II, § 208, 61 Stat. 155; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

—NOTE—

EXCERPT FROM HOUSE REPT. 245, 80TH CONG., 1ST SESS. (1947)

NATIONAL EMERGENCIES

Sections 203 to 206, inclusive, of the House bill gave the President, through the district courts of the United States, power to deal with strikes that resulted in or imminently threatened to result in the cessation or substantial curtailment of interstate or foreign commerce in essential public services. Provision was made for mediation of the dispute after the injunction had issued, and for a secret ballot of the employees on their employer's last offer of settlement if mediation did not result in an agreement. If the employer's last offer was rejected by the employees, provision was made for the convening by the chief justice of the United States Court of Appeals for the District of Columbia of a special advisory settlement board to investigate the dispute

[Emphasis supplied.]

and to make recommendations for its settlement. Another secret ballot by the employees was provided on the question whether they desired to accept the recommended settlement. At the conclusion of the proceedings provided for, the Attorney General was directed to move the court to discharge the injunction and the injunction was to be discharged. These provisions were not to apply to any person or dispute subject to the Railway Labor Act.

\* \* \* \* \*

Section 208 of the Senate amendment authorized the Attorney General, upon receiving the report of the board of inquiry, to apply to the appropriate district court for an injunction enjoining the strike or lock-out, and the court was authorized to issue the injunction if it found that the strike or lock-out affected the entire industry and would imperil the national health or safety. The Norris-LaGuardia Act was made inapplicable. Section 208 of the conference agreement follows the provisions of the Senate amendment except that, as heretofore stated, *the authority is lodged in the President rather than in the Attorney General*, and the injunction can issue if the strike or lock-out affects an entire industry or a substantial part thereof.

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## TITLE 31—MONEY AND FINANCE

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### 31 U.S.C. 80a. SAME; EXTENSION OF TIME DURING WAR OR EMERGENCY

The time for examination of monthly accounts covering expenditures by disbursing officers of the Army after the date of actual receipt by bureaus and offices of the Department of the Army and before transmitting the same to the General Accounting Office, as limited by sections 44, 78, 80, and 496 of this title, and notwithstanding the provisions of section 80 of this title, is extended, *in time of war or during any emergency declared by Congress or determined by the President* and for a period of eighteen months after such war or emergency shall have ceased to exist, from sixty to ninety days. (Nov. 21, 1941, ch. 499, 55 Stat. 781.)

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### 31 U.S.C. 80b. ADMINISTRATIVE EXAMINATION OF ACCOUNTS OF UNITED STATES MARINE CORP'S EXPENDITURES

The time for examination of monthly accounts covering expenditures by disbursing officers and special disbursing agents of the United States Navy, United States Marine Corps, and United States Coast Guard after the date of actual receipt at the administrative office or offices designated to make the examination, and before

[Emphasis supplied.]



transmitting the same to the General Accounting Office, as limited by sections 78 and 496 of this title, is extended from twenty to sixty days. *In time of war or national emergency* and for a period of eighteen months after such war or emergency shall have ceased to exist, the time for examination of such monthly accounts is extended from sixty to ninety days. (Dec. 26, 1941, ch. 629, 55 Stat. 862; Dec. 23, 1944, ch. 720, 58 Stat. 923.)

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31 U.S.C. 80c. ADMINISTRATIVE EXAMINATION OF ACCOUNTS OF NAVY  
EXPENDITURES; EXTENSION OF TIME DURING WAR OR EMERGENCY

The time for examination of quarterly accounts covering expenditures by disbursing officers of the United States Navy after the date of actual receipt in the Bureau of Supplies and Accounts, Navy Department, and before transmitting the same to the General Accounting Office, as limited by sections 78 and 496 of this title, is extended from sixty to ninety days *in time of war or during any emergency declared by Congress* and for a period of eighteen months after such war or emergency shall have ceased to exist. (Feb. 20, 1942, ch. 95, 56 Stat. 94.)

—NOTE—

EXCERPT FROM HOUSE REPT. 1242, 77TH CONG., 1ST SESS. (1941)

The purpose of the proposed legislation is to extend from 60 to 90 days, *in time of war or national emergency*, and for 18 months thereafter, the time during which the accounts of disbursing officers of the Army may be retained in the War Department for administrative action prior to transmission to the General Accounting Office.

Under present law a disbursing officer's accounts must be transmitted to the General Accounting Office within 60 days after receipt by the War Department except that in time of war the Secretary of the Treasury is authorized to extend this period to 90 days. If the transmission of such an account is delayed beyond the authorized period the General Accounting Office is required to disapprove any requisition for an advance of money to the disbursing officer whose account is delayed. In such event the disbursing officer is precluded by the terms of section 12 of the act of July 31, 1894, as amended, from continuing his disbursing duties pending an order of the President, or, in the event of the absence from the seat of government or sickness of the President, an order of the Secretary of the Treasury, in the particular case, authorizing the advance of money requested. Act of July 31, 1894 (28 Stat. 209), as amended by act of March 2, 1895 (28 Stat. 807), and act of June 10, 1921 (42 Stat. 24); act of March 2, 1901 (31 Stat. 910), as amended by act of June 10, 1921 (42 Stat. 24); and act of

July 9, 1918 (40 Stat. 892), as amended by act of June 10, 1921 (42 Stat. 24).

Normally 60 days is ample time for administrative examination of accounts prior to transmission to the General Accounting Office, but due to the increased activities and expanded operations arising out of the present emergency, some accounts are so large that more than 60 days is required for their proper examination.

It is not intended that advantage will be taken of the additional time allowed by the proposed measure except in the few, but nevertheless recurring, instances, where an unusually large or complicated account requires additional time for proper examination.

The enactment of this proposed legislation would result in no additional cost to the Government.

The Bureau of the Budget advises that there is no objection to the submission of this proposed legislation for the consideration of the Congress.

Sincerely yours,

HENRY L. STIMSON,  
*Secretary of War.*

### 31 U.S.C. 203. ASSIGNMENTS OF CLAIMS; SET-OFF AGAINST ASSIGNEE

All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, except as hereinafter provided, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. Such transfers, assignments, and powers of attorney, must recite the warrant for payment, and must be acknowledged by the person making them, before an officer having authority to take acknowledgments of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgement, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same. The provisions of this section shall not apply to payments for rent of postoffice quarters made by postmasters to duly authorized agents of the lessors.

The provisions of the preceding paragraph shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating \$1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency: *Provided,*

[Emphasis supplied.]

- 1. That in the case of any contract entered into prior to October 9, 1940, no claim shall be assigned without the consent of the head of the department or agency concerned;
- 2. That in the case of any contract entered into after October 9, 1940, no claim shall be assigned if it arises under a contract which forbids such assignment;
- 3. That unless otherwise expressly permitted by such contract any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing;
- 4. That in the event of any such assignment, the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of assignment with (a) the contracting officer or the head of his department or agency; (b) the surety or sureties upon the bond or bonds, if any, in connection with such contract; and (c) the disbursing officer, if any, designated in such contract to make payment.

Notwithstanding any law to the contrary governing the validity of assignments, any assignment pursuant to this section, shall constitute a valid assignment for all purposes.

In any case in which moneys due or to become due under any contract are or have been assigned pursuant to this section, no liability of any nature of the assignor to the United States or any department or agency thereof, whether arising from or independently of such contract, shall create or impose any liability on the part of the assignee to make restitution, refund, or repayment to the United States of any amount heretofore since July 1, 1950, or hereafter received under the assignment.

*Any contract of the Department of Defense, the General Services Administration, the Atomic Energy Commission, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, in time of war or national emergency proclaimed by the President (including the national emergency proclaimed December 16, 1950) or by Act or joint resolution of the Congress and until such war or national emergency has been terminated in such manner, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or set-off, and if such provision or one to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract, whether during or after such war or emergency, shall not be subject to reduction or set-off for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of (1) renegotiation under any renegotiation statute or*

[Emphasis supplied.]

under any statutory renegotiation article in the contract, (2) fines, (3) penalties (which term does not include amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract), or (4) taxes, social security contributions, or the withholding or nonwithholding of taxes or social security contributions, whether arising from or independently of such contract.

Except as herein otherwise provided, nothing in this section shall be deemed to affect or impair rights or obligations heretofore accrued. (R.S. § 3477; May 27, 1908, ch. 206, 35 Stat. 411; Oct. 9, 1940, ch. 779, § 1, 54 Stat. 1029; May 15, 1951, ch. 75, 65 Stat. 41.)

### —NOTE—

EXCERPT FROM SENATE REPT. 217, 82D CONG., 1ST SESS. (1951)

The purpose of this enactment was to encourage the participation of banks in the financing of Government contractors under the defense program of that time. It permitted contractors to assign to financing institutions moneys due or to become due under their Government contracts, and it assured the assignee banks that, when payments were made to them by the Government pursuant to such assignments, such payments would not be subject to reduction or set-off on account of any claims the Government might have against the contractor arising independently of the assigned contract.

\* \* \* \* \*

Enactment of S. 998, with committee amendments, would make it clear that a bank or other financing institution taking an assignment of claims pursuant to the act would not be subject to later recovery by the Government of amounts previously paid to the bank as assignee, except, of course, that it would not prevent the Government from obtaining restitution of amounts which may have been paid as the result of fraud.

Second, the amendment would continue the provision of the present law that, if an assigned contract contains a "no set-off" clause, payments made by the Government to the assignee bank will not be subject to reduction or set-off because of any claims of the Government against the contractor which arise independently of the contract, but it would also be made clear that the assignee would be protected against set-off on account of claims of the Government against the contractor arising from renegotiation, fines, and penalties—claims which are ordinarily regarded as arising outside of the assigned contract. In any event, however, where the Government has claims against the contractor, the Government would be allowed to withhold, out of payments due to an assignee bank, any amounts in excess of the bank's interest in loans secured by such assignments.

Finally, the authority for including the "no set-off" clause in Government contracts, which is now restricted to the Departments of the Army, Navy, and Air Force, would be extended to contracts entered into by the General Services Administration, the Atomic Energy Commission, and such other agencies of the Government as the President may designate. However, authority for the inclusion of the clause would not be mandatory—it would be permissive in all cases at the discretion of the Government agencies concerned.

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### 31 U.S.C. 241. SAME; PAYMENTS

(a) Authority of heads of military departments and Secretary of the Treasury; claims by members of uniformed services; limitation; replacement of property in kind; authority of Department of Defense over claims of civilian employees; payments to survivors.

(1) Under such regulations as the Secretary of a military department, or the Secretary of the Treasury with respect to the Coast Guard when it is not operating as a part of the Navy, may prescribe, he or his designee may settle and pay a claim arising after August 31, 1964, against the United States for not more than \$10,000 made by a member of the uniformed services under the jurisdiction of that department or the Coast Guard or by a civilian officer or employee of that department or the Coast Guard, for damage to, or loss of, personal property incident to his service. If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind. This subsection does not apply to claims settled before August 31, 1964.

(2) Under such regulations as the Secretary of Defense may prescribe, he or any officer designated by him has the same authority as the Secretary of a military department with respect to a claim by a civilian employee of the Department of Defense not otherwise covered by this subsection for damage to, or loss of personal property incident to, his service.

(3) If a person named in this subsection is dead, the Secretary of the military department concerned or his designee, or the Secretary of the Treasury or his designee, or the Secretary of Defense or his designee, as the case may be, may settle and pay any claim made by the decedent's surviving (1) spouse, (2) children, (3) father or mother, or both, or (4) brothers or sisters, or both, that arose before, concurrently with, or after the decedent's death and is otherwise covered by this subsection. Claims of survivors shall be settled and paid in the order named.

(b) Members of non-military departments; limitation; replacement of property in kind; payments to survivors.

(1) Subject to any policies the President may prescribe to effectuate the purposes of this subsection and under such regulations as the head of an agency, other than a military department, the Secre-

tary of the Treasury with respect to the Coast Guard, or the Department of Defense, may prescribe, he or his designee may settle and pay a claim arising after the effective date of this Act against the United States for not more than \$6,500 made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency for damage to, or loss of, personal property incident to his service. If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind. This subsection does not apply to claims settled before its enactment.

(2) If a person named in this subsection is dead, the head of the agency concerned, or his designee, may settle and pay any claim made by the decedent's surviving (1) spouse, (2) children, (3) father or mother, or both, or (4) brothers or sisters, or both, that arose before, concurrently with, or after the decedent's death and is otherwise covered by this subsection. Claims of survivors shall be settled and paid in the order named.

(c) Time limitation for presentation of claims.

A claim may be allowed under this section for damage to, or loss of, property only if—

(1) *It is presented in writing within two years after it accrues, except that if the claim accrues in time of war or in time of armed conflict in which any armed force of the United States is engaged or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after that cause ceases to exist, or two years after the war or armed conflict is terminated, whichever is earlier;*

(2) it did not occur at quarters occupied by the claimant within the fifty States or the District of Columbia that were not assigned to him or otherwise provided in kind by the United States; or

(3) it was not caused wholly or partly by the negligent or wrongful act of the claimant, his agent, or his employee.

(d) Dates of beginning and ending of an armed conflict.

For the purposes of subsection (c) (1) of this section, the dates of beginning and ending of an armed conflict are the dates established by concurrent resolution of Congress or by a determination of the President.

(e) Repealed. Pub. L. 91-311, July 8, 1970, 84 Stat. 412.

(f) District of Columbia employees; personal property claims.

The provisions of sections 240 to 243 of this title apply in respect to the damage to, or loss of, personal property incident to service of any officer or employee of the government of the District of Columbia, irrespective of whether the damage or loss occurs within or outside the District of Columbia, except that in applying such provisions in connection with the damage or loss of personal property of an officer or employee of the government of the District of Columbia, the terms "agency" and "United States" shall be held to mean the government of the District of Columbia, and the term "head of

[Emphasis supplied.]

agency" shall be held to mean the Commissioner of the District of Columbia. (Pub. L. 88-558, § 3, Aug. 31, 1964, 78 Stat. 767; Pub. L. 89-185, § 3(b), Sept. 15, 1965, 79 Stat. 789; Pub. L. 90-561, Oct. 12, 1968, 82 Stat. 998; Pub. L. 91-311, July 8, 1970, 84 Stat. 412.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 460, 88TH CONG., 2D SESS. (1948)

The purpose of the proposed legislation is to *extend to other agencies of Government the authority* now possessed by the military departments with respect to settlement of claims for loss or damage of personal property of members of the Armed Forces or civilian employees of those departments when the loss or damage is incident to their Government service.

The proposed legislation has a history that goes back to September 1952, when over 100 employees of the Civil Aeronautics Administration, our predecessor agency, suffered loss of personal property in a typhoon at Wake Island because the quarters provided by the Government proved to be inadequate protection.

While the Department of Commerce was considering the submission of private bills to pay for these losses, it received a suggestion from Congressman Chauncey W. Reed, then chairman of the House Committee on the Judiciary, that it prepare, instead, a draft of general legislation to permit administrative payment of claims of this type by heads of executive agencies without, in each case, presenting them to the Congress for adjustment through private bills. A widespread need for such legislation existed apart from the Wake Island disaster, and the Department complied with this request.

The House of Representatives recognizing the need for the authority sought, passed H.R. 10357 in the 87th Congress. However, Congress adjourned without the Senate's taking action on the bill. The draft proposal submitted herewith is identical to H.R. 10357 as passed by the House.

\* \* \* \* \*

This Agency's continuing experience with the hardship suffered by Government employees who suffer losses incident to their employment through no fault of their own serves to strengthen our conviction that an imperative need continues to exist for passage of this legislation. To particularize, several employees suffered loss of personal belongings when they were forced to evacuate from an aircraft in which they were traveling in the course of their duties. Others sustained losses through theft of personally owned hand tools stored at the place of their employment provided by the Government. Employees have borne personal prop-

[Emphasis supplied.]

erty losses where their belongings were stored in Government buildings which were consumed by fire.

The recent Typhoon Karen incident on Guam demonstrates the costly and inconvenient circumstances into which Government employees are from time to time thrust. That typhoon caused 84 FAA employees to suffer personal property losses, averaging roughly \$1,500 for married employees and \$450 for single. Some expeditious means of reinstating those suffering the loss to their normal circumstances is needed.

The only recourse these employees now have is to seek compensation for the loss by a private relief bill. This is a very costly process for the Government, and an unnecessarily burdensome route for the employee, the employing agency, and the Congress. In many instances the expenses incurred by the Government in processing such bills exceeds the amount of the claim.

It seems apparent that it is in the best interests of the Government to permit settlement of these claims administratively. Enactment of this legislation would be a financial saving to the Government. It would provide to the Government agencies a means of restoring the unfortunate and unforeseen losses sustained by their employees under circumstances in which it is fair that the Government should make up the loss.

The Bureau of the Budget has advised that there is no objection from the standpoint of the administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

N. E. HALABY, *Administrator.*

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## TITLE 32—NATIONAL GUARD

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### 32 U.S.C. 104. UNITS: LOCATION; ORGANIZATION; COMMAND

(a) Each State and Territory, Puerto Rico, and the Canal Zone may fix the location of the units and headquarters of its National Guard.

(b) Except as otherwise specifically provided in this title, the organization of the Army National Guard and the composition of its units shall be the same as those prescribed for the Army, subject, in time of peace, to such general exceptions as the Secretary of the Army may authorize; and the organization of the Air National Guard and the composition of its units shall be the same as those prescribed for the Air Force, subject, in time of peace, to such general exceptions as the Secretary of the Air Force may authorize.

(c) To secure a force the units of which when combined will form complete higher tactical units, the President may designate the units



of the National Guard, by branch of the Army or organization of the Air Force, to be maintained in each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia. However, no change in the branch, organization, or allotment of a unit located entirely within a State may be made without the approval of its governor.

(d) To maintain appropriate organization and to assist in training and instruction, the President may assign the National Guard to divisions, wings, and other tactical units, and may detail commissioned officers of the National Guard or of the Regular Army or the Regular Air Force, as the case may be, to command those units. However, the commanding officer of a unit organized wholly within a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia may not be displaced under this subsection.

(e) To insure prompt mobilization of the National Guard *in time of war or other emergency, the President may*, in time of peace, detail a commissioned officer of the Regular Army to perform the duties of chief of staff for each fully organized division of the Army National Guard, and a commissioned officer of the Regular Air Force to perform the duties of the corresponding position for each fully organized wing of the Air National Guard.

(f) Unless the President consents—

(1) an organization of the National Guard whose members have received compensation from the United States as members of the National Guard may not be disbanded; and

(2) the actual strength of such an organization in commissioned officers or enlisted members may not be reduced below the minimum strength prescribed by the President.

Aug. 10, 1956, ch. 1041, § 2, 70A Stat. 598.)

### 32 U.S.C. 111. SUSPENSION OF CERTAIN PROVISIONS OF THIS TITLE

*In time of war, or of emergency declared by Congress, the President may suspend the operation of any provision of sections 307(e), 309, 310, and 323 (d) and (e) of this title with respect to the Army National Guard or the Air National Guard. (Added Pub. L. 85-861, § 2(3), Sept. 2, 1958, 72 Stat. 1543.)*

Sections 307(c), 309, 310, and 323 refer to the conditions under which National Guard officers may be federally recognized.

### —NOTE—

EXCERPT FROM SENATE REPT. 2010, 85TH CONG., 2D SESS. (1958)

#### SUSPENSION OF THIS ACT DURING TIME OF WAR OR NATIONAL EMERGENCY

This section provides for the suspension of all or any part of the act *in time of war or national emergency declared by the Congress* and requires that in case of the

[Emphasis supplied.]

suspension of promotion laws, the Secretary of Defense will recommend legislation for the readjustment of the grades of Reserve officers, if necessary.

### 32 U.S.C. 302. ENLISTMENTS, REENLISTMENTS, AND EXTENSIONS

(a) Under regulations to be prescribed by the Secretary concerned, original enlistments in the National Guard may be accepted for—

(1) any specified term, not less than three years, for persons who have not served in an armed force; or

(2) any specified term, not less than one year, for persons who have served in any armed force.

(b) Under regulations to be prescribed by the Secretary concerned, reenlistment in the National Guard may be accepted for any specified period, or, if the person last served in one of the highest five enlisted grades, for an unspecified period.

(c) Enlistments or reenlistments in the National Guard may be extended—

(1) under regulations to be prescribed by the Secretary concerned, at the request of the member, for any period not less than six months; or

(2) *by proclamation of the President, if Congress declares an emergency*, until six months after termination of that emergency.

(Aug. 10, 1956, ch. 1041, § 2, 70A Stat. 601; Oct. 4, 1961, Pub. L. 87-378, § 5(1), 75 Stat. 808.)

### —NOTE—

EXCERPT FROM SENATE REPT. 492, 87TH CONG., 1ST SESS. (1961)

Persons who are members of the Standby Reserve can be recalled to active duty only *in time of war or national emergency declared by the Congress* and then only if the Director of Selective Service has determined that the member is available for active duty. A person who is a member of the Ready Reserve may be recalled to active duty involuntarily in a national emergency proclaimed by the President alone after August 9, 1955. For members of the Army Reserve and the National Guard the effect of the committee action is to release those persons who enlisted in the 6-month training program before reaching the age of 18½ from 2 years of membership in the Standby Reserve. Since Standby reservists can be recalled to active duty only in a congressional declaration of war or national emergency and only after the Director of Selective Service has determined that the member is available for active duty, it is apparent that the change will not substantially affect the availability of reservists in these components. In the Marine

[Emphasis supplied.]

Corps Reserve there will be a loss of some persons who now are liable for recall as members of the Ready Reserve, although they are not actively participating in training.

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32 U.S.C. 715. PROPERTY LOSS; PERSONAL INJURY OR DEATH: ACTIVITIES UNDER CERTAIN SECTIONS OF THIS TITLE

(a) Under such regulations as the Secretary of the Army or Secretary of the Air Force may prescribe, he or, subject to appeal to him, the Judge Advocate General of the armed force under his jurisdiction, if designated by him, may settle, and pay in an amount not more than \$15,000 a claim against the United States for—

(1) damage to, or loss of, real property, including damage or loss incident to use and occupancy;

(2) damage to, or loss of, personal property, including property bailed to the United States or the National Guard and including registered or insured mail damaged, lost, or destroyed by a criminal act while in the possession of the National Guard; or

(3) personal injury or death; either caused by a member of the Army National Guard or the Air National Guard, as the case may be, while engaged in training or duty under section 316, 502, 503, 504, or 505 of this title or any other provision of law for which he is entitled to pay under section 206 of title 37, or for which he has waived that pay, and acting within the scope of his employment; or otherwise incident to noncombat activities of the Army National Guard or the Air National Guard, as the case maybe, under one of those sections.

(b) A claim may be allowed under subsection (a) only if—

(1) it is presented in writing within two years after it accrues, except that *if the claim accrues in time of war or armed conflict or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after the war or armed conflict is terminated;*

(2) it is not covered by section 2734 of title 10 or section 2672 of title 28;

(3) it is not for personal injury or death of such a member or a person employed under section 709 of this title, whose injury or death is incident to his service;

(4) the damage to, or loss of, property, or the personal injury or death, was not caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee; and

(5) it is substantiated as prescribed in regulations of the Secretary concerned.

For the purposes of clause (1), the dates of the beginning and end of an armed conflict are the dates established by concurrent resolution of Congress or by a determination of the President.

[Emphasis supplied.]

(c) Payment may not be made under this section for reimbursement for medical, hospital, or burial services furnished at the expense of the United States or of any State or the District of Columbia or Puerto Rico.

(d) If the Secretary of the military department concerned considers that a claim in excess of \$15,000 is meritorious and would otherwise be covered by this section, he may pay the claimant \$15,000 and report the excess to Congress for its consideration.

(e) Except as provided in subsection (d), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(f) In any case where the amount to be paid is not more than \$2,500, the authority contained in subsection (a) may be delegated to any officer of the Army or the Air Force, as the case may be, who has been delegated authority under section 2733(g) of title 10, to settle similar claims, subject to appeal to the Secretary concerned, or his designee for that purpose.

(g) Notwithstanding any other provision of law, the settlement of a claim under this section is final and conclusive.

(h) In this section, "settle" means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or disallowance. (Added Pub. L. 86-740, § 1(1), Sept. 13, 1960, 74 Stat. 878, and amended Pub. L. 87-649, § 8(b), Sept. 7, 1962, 76 Stat. 495; Pub. L. 90-486, § 2(3), Aug. 13, 1968, 82 Stat. 756; Pub. L. 90-525, § 6, Sept. 26, 1968, 82 Stat. 878; Pub. L. 91-312, § 3, July 8, 1970, 84 Stat. 412.)

### —NOTE—

EXCERPT FROM SENATE REPT. 1502, 86TH CONG., 2D SESS. (1960)

#### PURPOSE

The purpose of the proposed legislation, as amended, is to authorize the Secretary of the Army or Secretary of the Air Force to pay claims against the United States for damage to, or loss of, real property, including damage or loss incident to use and occupancy; for damage to, or loss of, personal property, including property bailed to the United States or the National Guard, and for personal injury or death caused by a member of the Army National Guard or the Air National Guard while such member is engaged in training or duty under sections 316, 502, 503, 504, or 505 of title 32, United States Code, or under any other provision of law for which such member is entitled to pay under section 301 of title 37, and while acting within the scope of his employment. The bill also provides for the time in which such claims may be filed, and contains other limiting circumstances. The payment authorized under the bill, as amended, is limited to \$5,000, with a proviso that any amount over and above \$5,000 may be referred to the Congress for its consideration.

## TITLE 33—NAVIGATION AND NAVIGABLE WATERS

## [Chapter 17—Coast and Geodetic Survey]

33 U.S.C. 853. APPOINTMENTS AND PROMOTIONS MADE BY  
PRESIDENT; SUSPENSION DURING WAR OR EMERGENCY

(a) Appointments in and promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate.

(b) *In time of emergency declared by the President or by the Congress, and in time of war*, the President is authorized, in his discretion, to suspend the operation of all or any part or parts of the several provisions of law pertaining to promotion. (June 3, 1948, ch. 390, § 10, 62 Stat. 299; June 21, 1955, ch. 172, § 4(b), 69 Stat. 170.)

33 U.S.C. 854a-1. TEMPORARY APPOINTMENT OR ADVANCEMENT OF  
COMMISSIONED OFFICERS IN TIME OF WAR OR NATIONAL EMERGENCY

Personnel of the National Oceanic and Atmospheric Administration shall be subject in like manner and to the same extent as personnel of the Navy to all laws authorizing temporary appointment or advancement of commissioned officers *in time of war or national emergency* subject to the following limitations:

(1) Commissioned officers in the service of a military department, under the provisions of sections 854, 855, 856, 857, and 858 of this title may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to higher ranks or grades.

(2) Commissioned officers in the service of the National Oceanic and Atmospheric Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under the provisions of sections 854, 855, 856, 857, and 858 of this title.

(3) Temporary appointments may be made in all grades to which original appointments in the National Oceanic and Atmospheric Administration are authorized: Provided, That the number of officers holding temporary appointments shall not exceed the number of officers transferred to a military department under the provisions of sections 854, 855, 856, 857, and 858 of this title.

(Dec. 3, 1942, ch. 670, § 1, 56 Stat. 1038; Oct. 14, 1966, Pub. L. 89-657, § 3, 80 Stat. 907; 1970 Reorg. Plan No. 4, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat.)

[Emphasis supplied.]

## —NOTE—

EXCERPT FROM SENATE REPT. 1656, 77TH CONG., 2D SESS. (1942)

The Committee on Commerce, to whom was referred the bill (H.R. 7556) authorizing the temporary appointment or advancement of commissioned officers of the Coast and Geodetic Survey *in time of war or national emergency*, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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33 U.S.C. 855. COOPERATION WITH AND TRANSFER TO MILITARY DEPARTMENTS

*The President is authorized, whenever in his judgment a sufficient national emergency exists, to transfer to the service and jurisdiction of a military department such vessels, equipment, stations, and commissioned officers of the National Oceanic and Atmospheric Administration as he may deem to the best interest of the country. and after such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which transfer is made: Provided, That such vessels, equipment, stations, and commissioned officers shall be returned to the National Oceanic and Atmospheric Administration when such national emergency ceases, in the opinion of the President, and nothing in this section shall be construed as transferring the National Oceanic and Atmospheric Administration or any of its functions from the Department of Commerce except in time of national emergency and to the extent herein provided: Provided further, That any of the commissioned officers of the National Oceanic and Atmospheric Administration who may be transferred as provided in this section, shall while under the jurisdiction of a military department, have proper military status and shall be subject to the laws, regulations, and orders for the government of the Army, Navy, or Air Force, as the case may be, insofar as the same may be applicable to persons whose retention permanently in the military service of the United States is not contemplated by law. (May 22, 1917, ch. 20, § 16, 40 Stat. 87; Oct. 14, 1966, Pub. L. 89-657, § 1(1), 80 Stat. 907; 1970 Reorg. Plan No. 4, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat.)*

## —NOTE—

EXCERPT FROM SENATE REPT. 36, 65TH CONG., 1ST SESS. (1917)

Section 16 of this bill provides for transferring of the Coast and Geodetic Survey to the Army and Navy *during the war, at the discretion of the President*. This is recommended by the Secretary of the Navy, the Secretary of War, and the Secretary of Commerce. This service will be

[Emphasis supplied.]

valuable for use in the present war, and in addition it was desirable to give the members of this service a legal war status.

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TITLE 35—PATENTS

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35 U.S.C. 181. SECRECY OF CERTAIN INVENTIONS AND WITHHOLDING OF PATENT

Whenever publication or disclosure by the grant of a patent on an invention in which the Government has a property interest might, in the opinion of the head of the interested Government agency, be detrimental to the national security, the Commissioner upon being so notified shall order that the invention be kept secret and shall withhold the grant of a patent therefor under the conditions set forth hereinafter.

Whenever the publication or disclosure of an invention by the granting of a patent, in which the Government does not have a property interest, might, in the *opinion of the Commissioner*, be detrimental to the national security, he shall make the application for patent in which such invention is disclosed available for inspection to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

Each individual to whom the application is disclosed shall sign a dated acknowledgment thereof, which acknowledgment shall be entered in the file of the application. If, in the opinion of the Atomic Energy Commission, the Secretary of a Defense Department, or the chief officer of another department or agency so designated, the publication or disclosure of the invention by the granting of a patent therefor would be detrimental to the national security, the Atomic Energy Commission, the Secretary of a Defense Department, or such other chief officer shall notify the Commissioner and the Commissioner shall order that the invention be kept secret and shall withhold the grant of a patent for such period as the national interest requires, and notify the applicant thereof. Upon proper showing by the head of the department or agency who caused the secrecy order to be issued that the examination of the application might jeopardize the national interest, the Commissioner shall thereupon maintain the application in a sealed condition and notify the applicant thereof. The owner of an application which has been placed under a secrecy order shall have a right to appeal from the order to the Secretary of Commerce under rules prescribed by him.

An invention shall not be ordered kept secret and the grant of a patent withheld for a period of more than one year. The Commissioner shall renew the order at the end thereof, or at the end of any renewal period, for additional periods of one year upon notification by the head of the department or the chief officer of the agency who

[Emphasis supplied.]

caused the order to be issued that an affirmative determination has been made that the national interest continues so to require. An order in effect, or issued, during a time when the United States is at war, shall remain in effect for the duration of hostilities and one year following cessation of hostilities. An order in effect, or issued, during a national emergency declared by the President shall remain in effect for the duration of the national emergency and six months thereafter. The Commissioner may rescind any order upon notification by the heads of the departments and the chief officers of the agencies who caused the order to be issued that the publication or disclosure of the invention is no longer deemed detrimental to the national security. (July 19, 1952, ch. 950, 66 Stat. 805.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 1028, 82D CONG., 2D SESS. (1952)

This bill changes the temporary act of Congress now in force into permanent law, with several changes recognized as desirable as a result of experience under the temporary law and problems anticipated under a permanent law.

The act of October 6, 1917 (40 Stat. 394, ch. 95; 35 U.S.C. 12) authorized the Commissioner of Patents to withhold from issue patents or inventions important to the *national defense during wartime*. On July 1, 1940, Public Law 700 was enacted to make the provisions of the act of October 6, 1917, effective for 2 years *despite the fact that the United States was not at war*. This action was decided upon by the Congress because it was apparent that the national interest was endangered by the publication of certain patents. In 1942, Public Law 609 was enacted to keep Public Law 700 in effect during World War II. In 1941, the act was further amended by Public Law 239 to prohibit the filing of foreign patent applications without the license of the Commissioner of Patents and to provide penalties for the violation of the act.

The temporary act, as amended, remains in force during the time when the United States is at war and *will cease to be in effect upon the official termination of the war*. The purpose of the proposed bill is to grant the Secretary of Commerce, under certain conditions, the authority to keep inventions secret and to withhold issue of patents when necessary for the national security. According to the Defense Department, it is important to the national defense that the issuance of patents resulting from research and development sponsored by the armed services and others relating to classified matters be withheld for a period in which the publication of such matters may jeopardize the national interest. The applications in the Patent Office which are presently being withheld from issuance under Public Law 700 will be issued as patents after the official termination of the war unless legislation to prevent this is enacted. Accordingly, the imminence of the declaration by the Congress of the end of the war with Germany and the signing of the Japanese Peace Treaty places this bill in the class of urgent legislation.

[Emphasis supplied.]



## TITLE 37—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

## 37 U.S.C. 202. PAY GRADES: ASSIGNMENT TO; REAR ADMIRALS OF UPPER HALF; OFFICERS HOLDING CERTAIN POSITIONS IN THE NAVY

\*            \*            \*            \*            \*            \*

(e) An officer of the Navy or the Coast Guard holding a permanent appointment in the grade of rear admiral on the retired list who is entitled to the basic pay of a rear admiral of the lower half and who, *in time of war or national emergency*, has served satisfactorily on active duty for two years in that grade or in a higher grade is entitled when on active duty to the basic pay of a rear admiral of the upper half.

\*            \*            \*            \*            \*            \*

## 37 U.S.C. 310. SPECIAL PAY: DUTY SUBJECT TO HOSTILE FIRE

(a) Except *in time of war declared by Congress*, and under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay at the rate of \$65 a month for any month in which he was entitled to basic pay and in which he—

(1) was subject to hostile fire or explosion of hostile mines;

(2) was on duty in an area in which he was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period he was on duty in that area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines; or

(3) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

A member covered by clause (3) who is hospitalized for the treatment of his injury or wound may be paid special pay under this section for not more than three additional months during which he is so hospitalized.

(b) A member may not be paid more than one special pay under this section for any month. A member may be paid special pay under this section in addition to any other pay and allowances to which he may be entitled.

(c) Any determination of fact that is made in administering this section is conclusive. Such a determination may not be reviewed by any other officer or agency of the United States unless there has been fraud or gross negligence. However, the determination may be changed on the basis of new evidence or for other good cause.

(d) The Secretary of Defense shall report to Congress by March 1 of each year on the administration of this section during the preceding calendar year. (Added Pub. L. 88-132, § 9(a)(1), Oct. 2, 1963, 77 Stat. 216 and amended Pub. L. 89-132, § 4, Aug. 21, 1965, 79 Stat. 547.)

[Emphasis supplied.]

**37 U.S.C. 407. TRAVEL AND TRANSPORTATION ALLOWANCES:  
DISLOCATION ALLOWANCE**

(a) Except as provided by subsections (b) and (c) of this section, under regulations prescribed by the Secretary concerned, a member of a uniformed service—

(1) whose dependents make an authorized move in connection with his change of permanent station;

(2) whose dependents are covered by section 405(a) of this title; or

(3) without dependents, who is transferred to a permanent station where he is not assigned to quarters of the United States; is entitled to a dislocation allowance equal to his basic allowance for quarters for one month as provided for a member of his pay grade and dependency status in section 403 of this title. For the purposes of this subsection, a member whose dependents may not make an authorized move in connection with a change of permanent station is considered a member without dependents.

(b) A member is not entitled to more than one dislocation allowance during a fiscal year unless—

(1) The Secretary concerned finds that the exigencies of the service require the member to make more than one such change of station during that fiscal year;

(2) the member is ordered to a service school as a change of permanent station; or

(3) the member's dependents are covered by section 405a(a) of this title.

This subsection does not apply in time of national emergency declared after April 1, 1955, or in time of war.

(c) A member is not entitled to payment of a dislocation allowance when ordered from his home to his first duty station or from his last duty station to his home. (Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 474; Pub. L. 89-26, § 1 (3), (4), May 22, 1965, 79 Stat. 117; Pub. L. 89-718, § 60, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-207, § 1(4), Dec. 16, 1967, 81 Stat. 651.)

**37 U.S.C. 427. FAMILY SEPARATION ALLOWANCE**

(a) In addition to any allowance or per diem to which he otherwise may be entitled under this title, a member of a uniformed service with dependents who is on permanent duty outside of the United States, or in Alaska, is entitled to a monthly allowance equal to the basic allowance for quarters payable to a member without dependents in the same pay grade if—

(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station; and

(2) quarters of the United States or a housing facility under the jurisdiction of a uniformed service are not available for assignment to him.

(b) *Except in time of war or of national emergency hereafter declared by Congress*, and in addition to any allowance or per diem to which he otherwise may be entitled under this title, including subsection (a) of this section a member of a uniformed service with dependents (other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years' or less service)) is entitled to a monthly allowance equal to \$30 if—

(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station;

(2) he is on duty on board a ship away from the home port of the ship for a continuous period of more than 30 days; or

(3) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

A member who becomes entitled to an allowance under this subsection by virtue of duty described in clause (2) or (3) for a continuous period of more than 30 days is entitled to the allowance effective as of the first day of that period. An allowance is payable under this subsection even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management and control, which he is likely to share with them as a common household when his duty assignment permits. (Added Pub. L. 88-132, § 11(1), Oct. 2, 1963, 77 Stat. 217, and amended Pub. L. 91-529, § 1, Dec. 7, 1970, 84 Stat. 1389; Pub. L. 91-533, § 1, Dec. 7, 1970, 84 Stat. 1392.)

### 37 U.S.C. 901. WARTIME PAY OF OFFICER OF ARMED FORCE EXERCISING COMMAND HIGHER THAN HIS GRADE

*In time of war*, an officer of an armed force who is serving with troops operating against an enemy and who exercises, under assignment in orders issued by competent authority, a command above that pertaining to his grade, is entitled to the pay and allowances (not above that of pay grade O-7) appropriate to the command so exercised. (Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486.)

## TITLE 38—VETERANS' BENEFITS

### 38 U.S.C. 101. DEFINITIONS

For the purposes of this title—

(1) The term "Administrator" means the Administrator of Veterans' Affairs.

(2) The term "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

[Emphasis supplied.]

(3) The term "widow" means (except for purposes of chapter 19 of this title) a woman who was the wife of a veteran at the time of his death, and who lived with him continuously from the date of marriage to the date of his death (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife) and who has not remarried or (in cases not involving remarriage) has not since the death of the veteran, and after September 19, 1962, lived with another man and held herself out openly to the public to be the wife of such other man.

(4) The term "child" means (except for purposes of chapter 19 of this title and section 5202(b) of this title) a person who is unmarried and—

(A) who is under the age of eighteen years;

(B) who, is before attaining the age of eighteen years, became permanently incapable of self-support; or

(C) who, after attaining the age of eighteen years and until completion of education or training (but not after attaining the age of twenty-three years), is pursuing a course of instruction at an approved educational institution;

and who is a legitimate child, a legally adopted child, a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death, or an illegitimate child but, as to the alleged father, only if acknowledged in writing signed by him, or if he has been judicially ordered to contribute to the child's support or has been, before his death, judicially decreed to be the father of such child, or if he is otherwise shown by evidence satisfactory to the Administrator to be the father of such child. A person shall be deemed, as of the date of death of a veteran, to be the legally adopted child of such veteran if such person was at the time of the veteran's death living in the veteran's household and was legally adopted by the veteran's surviving spouse within two years after the veteran's death or the date of enactment of this sentence; however, this sentence shall not apply if at the time of the veteran's death, such person was receiving regular contributions toward his support from some individual other than the veteran or his spouse, or from any public or private welfare organization which furnishes services or assistance for children. A person with respect to whom an interlocutory decree of adoption has been issued by an appropriate adoption authority shall be recognized thereafter as a legally adopted child, unless and until that decree is rescinded: Provided, That the child remains in the custody of the adopting parent or parents during the interlocutory period.

(5) The term "parent" means (except for purposes of chapter 19 of this title) a father, a mother, a father through adoption, a mother through adoption, or an individual who for a period of not less than one year stood in the relationship of a parent to a veteran at any time before his entry into active military, naval, or air service or if two persons stood in the relationship of a father or a mother for one year or more, the person who last stood in the relationship of father or mother before the veteran's last entry into active military, naval, or air service.

(6) The term "Spanish-American War" (A) means the *period beginning on April 21, 1898, and ending on July 4, 1902*, (B) includes the Philippine Insurrection and the Boxer Rebellion, and (C) in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the *period beginning on April 21, 1898, and ending on July 15, 1903*.

(7) The term "World War I" (A) means the *period beginning on April 6, 1917, and ending on November 11, 1918*, and (B) in the case of a veteran who served with the United States military forces in Russia, means the period beginning on *April 6, 1917, and ending on April 1, 1920*.

(8) The term "World War II" means (except for purposes of chapters 31 and 37 of this title) the *period beginning on December 7, 1941, and ending on December 31, 1946*.

(9) The term "Korean conflict" means the *period beginning on June 27, 1950, and ending on January 31, 1955*.

(10) The term "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof.

(11) The term "period of war" means the Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the *period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress*.

(12) The term "veteran of any war" means any veteran who served in the active military, naval, or air service during a period of war.

(13) The term "compensation" means a monthly payment made by the Administrator to a veteran because of service-connected disability, or to a widow, child, or parent of a veteran because of the service-connected death of the veteran occurring before January 1, 1957.

(14) The term "dependency and indemnity compensation" means a monthly payment made by the Administrator to a widow, child, or parent (A) because of a service-connected death occurring after December 31, 1956, or (B) pursuant to the election of a widow, child, or parent, in the case of such a death occurring before January 1, 1957.

(15) The term "pension" means a monthly payment made by the Administrator to a veteran because of service, age, or non-service-connected disability, or to a widow or child of a veteran because of the non-service-connected death of the veteran.

(16) The term "service-connected" means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

(17) The term "non-service-connected" means, with respect to disability or death, that such disability was not incurred or aggravated, or that the death did not result from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

[Emphasis supplied.]

(18) The term "discharge or release" includes retirement from the active military, naval, or air service.

(19) The term "State home" means a home established by a State (other than a possession) for veterans of any war (including the Indian Wars) disabled by age, disease, or otherwise who by reason of such disability are incapable of earning a living. Such term also includes such a home which furnishes nursing home care for veterans of any war.

(20) The term "State" means each of the several States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. For the purpose of section 903 and chapters 34 and 35 of this title, such term also includes the Canal Zone.

(21) The term "active duty" means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits" or (iii) at any time, for the purposes of chapter 13 of this title;

(C) full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (a) while on transfer to one of the Armed Forces, or (b) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (c) in the Phillippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;

(D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

(E) authorized travel to or from such duty or service.

(22) The term "active duty for training" means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits," or (iii) at any time, for the purposes of chapter 13 of this title;

(C) in the case of members of the National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504 or 505 of title 32, or the prior corresponding provisions of law; and

(D) authorized travel to or from such duty. The term does not include duty performed as a temporary member of the Coast Guard Reserve.

(23) The term "inactive duty training" means—

(A) duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under section 206 of title 37 or any other provision of law; and

(B) special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

In the case of a member of the National Guard or Air National Guard of any State, such term means duty (other than full-time duty) under sections 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law. Such term does not include (i) work or study performed in connection with correspondence courses, (ii) attendance at an educational institution in an inactive status, or (iii) duty performed as a temporary member of the Coast Guard Reserve.

(24) The term "Active military, naval, or air service" includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty.

(25) The term "Secretary concerned" means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy or the Marine Corps;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force;

(D) the Secretary of Transportation, with respect to matters concerning the Coast Guard;

(E) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service; and

(F) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey.

(26) The term "Reserve" means a member of a reserve component of one of the Armed Forces.

(27) The term "reserve component" means, with respect to the Armed Forces—

(A) the Army Reserve;

(B) the Naval Reserve;

(C) the Marine Corps Reserve;

(D) the Air Force Reserve;

(E) the Coast Guard Reserve;

(F) the National Guard of the United States; and

(G) the Air National Guard of the United States.

(28) The term "nursing home care" means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require skilled nursing care and

related medical services, if such nursing care and medical services are prescribed by, or are performed under the general direction of, persons duly licensed to provide such care. The term includes intensive care where the nursing service is under the supervision of a registered professional nurse.

(29) The term "Vietnam era" means the *period beginning August 5, 1964, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress.*

(30) The term "Mexican border period" means the period beginning on May 9, 1916, and ending on April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the water adjacent thereto (Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1106; Pub. L. 86-195, Aug. 25, 1959, 73 Stat. 424; Pub. L. 87-674, § 1, Sept. 19, 1962, 76 Stat. 558; Pub. L. 87-815, § 3, Oct. 15, 1962, 76 Stat. 927; Pub. L. 88-450, § 4(c), (d), Aug. 19, 1964, 78 Stat. 504; Pub. L. 89-311, § 2(c) (1), Oct. 31, 1965, 79 Stat. 1155; Pub. L. 89-358, § 4(d), Mar. 3, 1966, 80 Stat. 24; Pub. L. 90-77, title II, § 201, Aug. 31, 1967, 81 Stat. 181; Pub. L. 91-24, §§ 1(a), (b), 16, June 11, 1969, 83 Stat. 33, 35; Pub. L. 91-262, § 1, May 21, 1970, 84 Stat. 256; Pub. L. 91-588, § 9(a), (b), Dec. 24, 1970, 84 Stat. 1584; Pub. L. 91-621, § 6(a) (1), (2), Dec. 31, 1970, 84 Stat. 1864.) (As amended Pub. L. 92-198, § 5(a), Dec. 15, 1971, 85 Stat. 664.)

38 U.S.C. 521. VETERANS OF THE MEXICAN BORDER PERIOD, WORLD WAR I, WORLD WAR II, THE KOREAN CONFLICT, OR THE VIETNAM ERA

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(g) A veteran meets the service requirements of this section if he served in the active military, naval, or air service—

(1) for ninety days or more during either the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era;

(2) during the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, and was discharged or released from such service for a service-connected disability;

(3) for a period of ninety consecutive days or more and such period ended during the Mexican border period or World War I, or began or ended during World War II, the Korean conflict, or the Vietnam era; or

(4) for an *aggregate of ninety days or more in two or more separate periods of service during more than one period of war.*

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1136; Pub. L. 86-211, § 3(a), Aug. 29, 1959, 73 Stat. 433; Pub. L. 87-101, § 1, July 21, 1961, 75 Stat. 218; Pub. L. 88-664, §§ 3(a), (b), 5, 6(a), 7, Oct. 13, 1964, 78 Stat. 1094, 1095; Pub. L. 90-77, title I, § 104, title II, § 202(a)-(c), Aug. 31, 1967, 81 Stat. 179, 182; Pub. L. 90-275, § 1(a), (b), Mar. 28, 1968, 82 Stat. 64, 65; Pub. L. 91-588, §§ 1(a), (b), 9(c), Dec. 24, 1970, 84 Stat. 1580, 1583, 1584.)

[Emphasis supplied.]



(As amended Pub. L. 92-198, §§ 1(a), (b), 5(b), Dec. 15, 1971, 85 Stat. 663, 664.)

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TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

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40 U.S.C. 71d. PROPOSED FEDERAL AND DISTRICT DEVELOPMENTS AND PROJECTS

(a) Consultations between agencies and Commission; procedure.

In order to insure the comprehensive planning and orderly development of the National Capital, each Federal and District of Columbia agency prior to the preparation of construction plans originated by such agency for proposed developments and projects or to commitments for the acquisition of land, to be paid for in whole or in part from Federal or District funds, shall advise and consult with the Commission in the preparation by the agency of plans and programs in preliminary and successive stages which affect the plan and developments of the National Capital: Provided, however, That the Commission shall determine in advance the type or kinds of plans, developments, projects improvements, or acquisitions which do not need to be submitted for review by the Commission as to conformity with its plans. After receipt of such plans, maps, and data, it shall be the duty of the Commission to make promptly a preliminary report and recommendations to the agency or agencies concerned. If, after having received and considered the report and recommendations of the Commission the agency does not concur, it shall advise the Commission with its reasons therefor, and the Commission shall submit a final report. After such consultation and suitable consideration of the views of the Commission the agency may proceed to take action in accordance with its legal responsibilities and authority.

(b) Exceptions to consultation procedure.

The procedure prescribed in subsection (a) of this section shall not apply to projects within the Capitol grounds or to structures erected by the Department of Defense during wartime or national emergency within existing military, naval, or Air Force reservations, except that the appropriate defense agency shall consult with the Commission as to any developments which materially affect traffic or require coordinated planning of the surrounding area.

(c) Approval of District Government buildings within central area.

The provisions of section 16 of the Act approved June 20, 1938 (52 Stat. 802), are extended to include public buildings erected by any agency of the Government of the District of Columbia within the boundaries of the central area of the District as said central area may be defined and from time to time redefined by concurrent action of the Commission and the District of Columbia Council.

(d) Additional procedure for consultation on developments and projects within environs.

Within the environs, general plans showing the location, character, extent and intensity of use for proposed Federal and District

developments and projects involving the acquisition of land, shall be submitted to the Commission for report and recommendations before final commitment to said acquisition, unless such matters shall have been specifically approved by an Act of Congress. Before acting on any general plan, the Commission shall advise and consult with the National Capital Regional Planning Council and the appropriate planning agency having jurisdiction over the affected part of the environs. When, in the judgment of the Commission, proposed developments or projects submitted to the Commission under subsection (a) of this section involve a major change in the character or intensity of an existing use in the environs, the Commission shall likewise advise and consult with the National Capital Regional Planning Council and the aforesaid planning agency. The report and recommendations required under this subsection shall be submitted within sixty days and shall be accompanied by any reports or recommendations that may have been prepared by the National Capital Regional Planning Council or the aforesaid planning agency.

(c) Intent of section; interchange of plans, data, etc.

It is the intent of the foregoing provisions of this section to obtain cooperation and correlation of effort between the various agencies of the Federal and District Governments which are responsible for public developments and projects, including the acquisition of land. These agencies, therefore, shall look to the Commission and utilize it as the central planning agency for the Federal and District Governments in the National Capital region. To aid the Commission in carrying out this function, plans, data, and records, or copies thereof, necessary to the Commission shall be furnished upon its request by such Federal and District governmental agencies; and the Commission shall likewise furnish related plans, data, and records, or copies thereof, to Federal and District of Columbia governmental agencies upon request (June 6, 1924, ch. 270, § 5, as added July 19, 1952, ch. 949, § 1, 66 Stat. 787.)

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#### 40 U.S.C. 276a-5. SUSPENSION OF SECTIONS 276a TO 276a-5 DURING EMERGENCY

*In the event of a national emergency the President is authorized to suspend the provisions of sections 276a to 276a-5 of this title.* (Mar. 3, 1931, ch. 411, § 6, as added Aug. 30, 1935, ch. 825, 49 Stat. 1011.)

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#### 40 U.S.C. 278b. SAME; EXCEPTION OF CERTAIN VITAL LEASES DURING WAR OR EMERGENCY

The provisions of section 278a of this title shall not apply *during war or a national emergency declared by Congress or by the President* to such leases or renewals of existing leases of privately or publicly owned property as are certified by the Secretary of the Army or the Secretary of the Navy, or by such person or persons as he

[Emphasis supplied.]

may designate, as covering premises for military, naval, or civilian purposes necessary for the prosecution of the war or vital in the national emergency. (Apr. 28, 1942, ch. 249, 56 Stat. 247.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 2029, 77TH CONG., 2D SESS. (1942)

The Committee on Expenditures in the Executive Departments, to whom was referred the bill (S. 2212) to suspend during a national emergency declared by Congress or by the President the provisions of section 322 of the act of June 30, 1932, as amended, having considered the same, report favorably thereon with recommendation that it do pass with amendments.

The purpose of the proposed legislation is to render inapplicable to leases entered into by the Government for national defense purposes the present restrictions of section 322 of the act of June 30, 1932, as amended (40 U.S.C. 278A), that the annual rental of properties leased may not exceed 15 percent of the market value of the premises on that date of the lease, and the further restriction that alterations, improvements, and repairs may not be made in an amount in excess of 25 percent of the amount of the rent for the first year of the rental term, or for the entire rental term if the lease runs for less than 1 year.

Testimony given by witnesses from the War Department indicates that these restrictions are impracticable in connection with leases of premises for the establishment of information and filter centers as part of aircraft warning service installations, and also in many other types of national defense leases, as, for example, the leasing of properties for use as offices and warehouses, for storage or manufacturing purposes. Navy Department expressed concurrence in these observations.

The committee concurs in the view that all leases which are to be exempted from the provisions of section 322 of the act of June 30, 1932, as amended, should be certified by the Secretary of War or the Secretary of the Navy, or their authorized representatives, as covering premises for military, naval, or civilian purposes necessary for the prosecution of the war or vital in the national emergency. The bill, as introduced, was amended by the Senate by insertion of appropriate language to this effect. This language will require executive departments or establishments other than the War and Navy Departments to obtain a certificate from an authorized representative of the Secretary of War or the Secretary of the Navy to the effect that the lease in question is necessary for the *prosecution of the war or vital in the national emergency*. If no such certificate is obtained the

[Emphasis supplied.]

existing restrictions which, in the judgment of the committee, are desirable where prosecution of the war effort is not involved, will be applicable.

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#### 40 U.S.C. 314. SALE OF WAR SUPPLIES, LANDS, AND BUILDINGS

*The President is authorized*, through the head of any executive department, to sell, upon such terms as the head of such department shall deem expedient, to any person, partnership, association, corporation, or any other department of the Government, or to any foreign State or Government, engaged in war against any Government with which the United States is at war, any war supplies, material and equipment, and any by-products thereof, and any building, plant or factory, acquired since April sixth, nineteen hundred and seventeen, including the lands upon which the plant or factory may be situated, for the production of such war supplies, materials, and equipment which, *during the emergency existing July 9, 1918*, may have been purchased, acquired, or manufactured by the United States: Provided further, That sales of guns and ammunition made under the authority contained in this section or any other Act shall be limited to sales to other departments of the Government and to foreign States or Governments engaged in war against any Government with which the United States is at war, and to members of the National Rifle Association and of other recognized associations organized in the United States for the encouragement of small-arms target practice. (July 9, 1918, ch. 143, 40 Stat. 850; Feb. 25, 1919, ch. 39, § 3, 40 Stat. 1173; May 29, 1928, ch. 901, 45 Stat. 986; Aug. 7, 1946, ch. 770, § 1 (55), 60 Stat. 870.)

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#### 40 U.S.C. 484. DISPOSAL OF SURPLUS PROPERTY

##### (a) Supervision and direction.

Except as otherwise provided in this section, the *Administrator shall have supervision and direction over the disposition of surplus property*. Such property shall be disposed of to such extent, at such time, in such areas, by such agencies, at such terms and conditions, and in such manner, as may be prescribed in or pursuant to this Act.

##### (b) Care and handling.

The care and handling of surplus property, pending its disposition, and the disposal of surplus property, may be performed by the General Services Administration or, when so determined by the Administrator, by the executive agency in possession thereof or by any other executive agency consenting thereto.

##### (c) Method of disposition.

Any executive agency designated or authorized by the Administrator to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the

[Emphasis supplied.]

Administrator deems proper, and it may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this subchapter.

(d) Validity of deed, bill of sale, lease, etc.

A deed, bill of sale, lease, or other instrument executed by or on behalf of any executive agency purporting to transfer title or any other interest in surplus property under this subchapter shall be conclusive evidence of compliance with the provisions of this subchapter insofar as concerns title or other interest of any bona fide grantee or transferee for value and without notice of lack of such compliance.

(e) Bids for disposal; advertising; procedure; disposal by negotiation; explanatory statement.

(1) Disposals or contracts for disposal of surplus property (other than by abandonment, destruction, donation, or through contract brokers) made or authorized by the Administrator shall be made after publicly advertising for bids, under regulations prescribed by the Administrator, except as provided in paragraphs (3) and (5) of this subsection.

(2) Whenever public advertising for bids is required under paragraph (1) of this subsection—

(A) the advertisement for bids shall be made at such time previous to the disposal or contract, through such methods, and on such terms and conditions as shall permit that full and free competition which is consistent with the value and nature of the property involved;

(B) all bids shall be publicly disclosed at the time and place stated in the advertisement;

(C) award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered: Provided, That all bids may be rejected when it is in the public interest to do so.

(3) Disposals and contracts for disposal may be negotiated, under regulations prescribed by the Administrator, without regard to paragraphs (1) and (2) of this subsection but subject to obtaining such competition as is feasible under the circumstances, if—

(A) necessary in the public interest *during the period of a national emergency declared by the President or the Congress*, with respect to a particular lot or lots of personal property or, for a period not exceeding three months, with respect to a specifically described category or categories of personal property as determined by the Administrator;

(B) the public health, safety, or national security will thereby be promoted by a particular disposal of personal property;

(C) public exigency will not admit of the delay incident to advertising certain personal property;

(D) the personal property involved is of a nature and quantity which, if disposed of under paragraphs (1) and (2) of this subsection, would cause such an impact on an industry or indus-

[Emphasis supplied.]

tries as adversely to affect the national economy, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation;

(E) the estimated fair market value of the property involved does not exceed \$1,000;

(F) bid prices after advertising therefor are not reasonable (either as to all or some part of the property) or have not been independently arrived at in open competition;

(G) with respect to real property only, the character or condition of the property or unusual circumstances make it impractical to advertise publicly for competitive bids and the fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(H) the disposal will be to States, Territories, possessions, political subdivisions thereof, or tax-supported agencies therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or

(I) otherwise authorized by this Act.

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#### —NOTE—

EXCERPT FROM SENATE REPT. 1284, 81ST CONG., 1ST SESS. (1949)

Subparagraph (A) of paragraph (3), like its counterpart in title III, will facilitate Government operations *during a national emergency*. Use of this authority is restricted to particular lots of property and, for short periods of time, to categories or general classes of property, and its objective is to avoid undue delay and publicity and to expedite the transfer of particular property to a particular contractor for defense purposes. *Declaration of a national emergency* without other pertinent circumstances would not constitute a justification for use of this authority.

#### —NOTE—

EXCERPT FROM HOUSE REPT. 1763, 81ST CONG., 1ST SESS. (1949)

This committee amendment, therefore, keeps intact the present procedure regarding explanatory statements, which has proved very satisfactory. The fact that property may need to be disposed of by negotiation *in emergency situations* does not reduce the interest of Congress in such disposals. The disposal agency might in a particular emergency situation obtain the informal concurrence of the committees to eliminate delay in a disposal, but the submission of an explanatory statement of the circumstances to the committee would nevertheless be required. The Administrator of General Services was agreeable to this amendment.

[Emphasis supplied.]

40 U.S.C. 534. WAIVER OF PROCEDURES FOR DISPOSAL OF URBAN LANDS,  
ACQUISITION OR CHANGE OF USE OF REAL PROPERTY

The procedures prescribed in sections 532 and 533 of this title may be waived *during any period of national emergency proclaimed by the President*. (June 30, 1949, ch. 288, title VIII, § 805, as added Oct. 16, 1968, Pub. L. 90-577, title V, § 501, 82 Stat. 1105.)

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TITLE 41.—PUBLIC CONTRACTS

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41 U.S.C. 11. NO CONTRACTS OR PURCHASES UNLESS AUTHORIZED OR  
UNDER ADEQUATE APPROPRIATION; REPORT TO THE CONGRESS

(a) No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law or is under an appropriation adequate to its fulfillment, except in the Departments of the Army, Navy, and Air Force, for clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies, which, however, shall not exceed the necessities of the current year.

(b) The Secretary of Defense shall immediately advise the Congress of the exercise of the authority granted in subsection (a) of this section, and shall report quarterly on the estimated obligations incurred pursuant to the authority granted in subsection (a) of this section. (R.S. § 3732; June 12, 1906, ch. 3078, 34 Stat. 255; Oct. 15, 1966, Pub. L. 89-687, title VI, § 612(e), 80 Stat. 993.)

DERIVATION

Act Mar. 2, 1861, ch. 84, § 10, 12 Stat. 320.

CODIFICATION

The Department of the Air Force was inserted under the authority of section 207 (a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, and Secretary of Defense Transfer Orders No. 6, eff. Jan. 15, 1948; No. 12 [§ 1 (13)], May 14, 1948; No. 39, May 18, 1949, and No. 40 [App. B(115)], July 22, 1949. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of such act July 26, 1947. Sections 205 (a) and 207 (a), (f) of act July 26, 1947, were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3011-3013 and 8011-8013 continued the military Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

[Emphasis supplied.]

## AMENDMENTS

1966—Pub. L. 89-687 designated existing provisions as subsec. (a) and added subsec.(b).

1906—Act June 12, 1906, inserted "medical and hospital supplies."

## CROSS REFERENCES

Contracts for Indian supplies in advance of appropriations, see section 99 of Title 25, Indians.

Expenditure by any department in excess of appropriations prohibited. see section 665 of Title 31, Money and Finance.

Printing appropriations not to be exceeded, see section 1102 of Title 44, Public Printing and Documents.

Projects under Mexican treaties, authority to enter into contracts beyond amount appropriated, notwithstanding this section, see section 277d-3 of Title 22, Foreign Relations and Intercourse.

Public lands, fire protection: contract authority of Secretary of Interior for use of aircraft, and for supplies and services, in advance of appropriation; accrual of obligation; contingent obligation, see section 1362a of Title 43, Public Lands.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in Title 22, section 277d-3; Title 50 App., section 2094.

## —NOTE—

## THE "FEED AND FORAGE" ACT OF 1861

In 1972, the then Defense Secretary, Melvin Laird, said that this statute could be used to assure the expenditure of funds in Southeast Asia, for use by U.S. forces, despite congressional prohibitions. When questioned by Senator William Proxmire during hearings on the foreign assistance appropriation act for fiscal 1973, Secretary Laird replied:

If there is not any action by the Senate at all on even a continuing resolution, then the only legislation which would permit us to operate would be the deficiency authorization legislation—which was passed at the time of the Civil War—which gives to the Department of Defense and to the Commander in Chief, the President of the United States, the authority to obligate on a deficiency basis for the subsistence of our military personnel and for other requirements needed to support those military people.

Enacted in 1861 at the time of the Civil War, it is known as the "feed and forage" law. The provisions of the law provide that purchases by the military can be made "for clothing, subsistence, forage, fuel, quarters, transportation or medical and hospital supplies" without the approval of Congress that is customarily required.

Former Secretary of Defense Melvin Laird asserted that the statute would permit the President to ignore Congress' prohibition of funds for the war in Indochina; and to continue spending, on a deficiency



basis, for the continued use of U.S. forces. Secretary Laird went on to assert that only additional positive action by Congress—in this case, the repeal of this specific deficiency authorization—would be required to halt expenditures for the involvement of U.S. forces in hostilities in Asia.

A study of the legislative history of this act affirms that use of the “feed and forage” authority as legal justification—for continuing the use of U.S. forces against the will of Congress—was unwarranted. In fact, as the legislative history of the law demonstrates, the “feed and forage” provision was part of a long congressional campaign to tighten congressional control over unauthorized executive branch expenditures. However, in 1861, one exception to strict controls over contracting authority was allowed to the War Department for this particular class of military supplies. The reason for this exception involved certain administrative shortcomings which, during the Civil War period, made legislative approval for item-by-item military purchases impractical, untimely or even impossible.

To illustrate: Congress, during this period, met in “short” sessions with lengthy periods of adjournment during which unforeseen and necessary appropriations could not be authorized. And, even when the Congress was in session, normal delays in the legislative process itself occasionally hampered the War Department in procuring necessary supplies. With troops posted throughout the West—many days ride from Washington—it was evident that delays resulting from congressional delays could have resulted in the collapse of security on the frontier. In order to protect American troops from supply shortages caused by unavoidable delays, Congress extended to the President discretionary “feed and forage” authority. It was clearly intended as a stop-gap funding device.

Subsequently, Congress has enacted a host of stop-gap funding devices to deal with similar military purchasing problems. An example is the use of continuing resolutions which now cover Defense Department appropriations in the event a military appropriation bill is delayed. Moreover, Congress is no longer a “part-time” legislative body, and the “short session” has disappeared. The Congress is, for all practical purposes, always available to grant necessary military funding authority. Also, there exists a transfer authority which allows the Defense Department \$600 million to supplement its programs as needed—unless specifically prohibited.

It is quite evident that the original conditions giving rise to the “feed and forage” authority have long since disappeared. But 41 U.S.C. 11 with its broad statutory language remains. Its recent history is somewhat similar to that of section 5(b) of Trading with the Enemy Act in which the original intention of the legislation has been twisted to justify purposes other than those for which they were enacted.

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41 U.S.C. 15. TRANSFERS OF CONTRACTS; ASSIGNMENT OF CLAIMS; SET-OFF AGAINST ASSIGNEE

No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the con-

tract or order transferred, so far as the United States are concerned. All rights of action, however, for any breach of such contract by the contracting parties, are reserved to the United States.

The provisions of the preceding paragraph shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating \$1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency: Provided, 1. That in the case of any contract entered into prior to October 9, 1940, no claim shall be assigned without the consent of the head of the department or agency concerned; 2. That in the case of any contract entered into after October 9, 1940, no claim shall be assigned if it arises under a contract which forbids such assignment; 3. That unless otherwise expressly permitted by such contract any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing; 4. That in the event of any such assignment, the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of assignment with (a) the contracting officer or the head of his department or agency; (b) the surety or sureties upon the bond or bonds, if any, in connection with such contract; and (c) the disbursing officer, if any, designated in such contract to make payment.

Notwithstanding any law to the contrary governing the validity of assignments, any assignment pursuant to this section, shall constitute a valid assignment for all purposes.

In any case in which moneys due or to become due under any contract are or have been assigned pursuant to this section, no liability of any nature of the assignor to the United States or any department or agency thereof, whether arising from or independently of such contract, shall create or impose any liability on the part of the assignee to make restitution, refund, or repayment to the United States of any amount heretofore since July 1, 1950, or hereafter received under the assignment.

Any contract of the Department of Defense, the General Services Administration, the Atomic Energy Commission, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, *in time of war or national emergency proclaimed by the President (including the national emergency proclaimed December 16, 1950) or by Act or joint resolution of the Congress and until such war or national emergency has been terminated in such manner*, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or set-off, and if such provision or one to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any

[Emphasis supplied.]

moneys due or to become due under such contract, whether during or after such war or emergency, shall not be subject to reduction or set-off for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of (1) renegotiation under any renegotiation statute or under any statutory renegotiation article in the contract, (2) fines, (3) penalties (which term does not include amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract), or (4) taxes, social security contributions, or the withholding or nonwithholding of taxes or social security contributions, whether arising from or independently of such contract.

Except as herein otherwise provided, nothing in this section, shall be deemed to affect or impair rights or obligations heretofore accrued. (R. S. § 3737; Oct. 9, 1940, ch. 779, § 1, 54 Stat. 1029; May 15, 1951, ch. 75, 65 Stat. 41.)

### —NOTE—

EXCERPT FROM SENATE REPT. 217, 82D CONG., 1ST SESS. (1951)

The Committee on Banking and Currency, to whom was referred the bill (S. 998) to facilitate the financing of defense contracts by banks and other financing institutions, to amend the Assignment of Claims Act of 1940, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

\* \* \* \* \*

Enactment of S. 998, with committee amendments, would make it clear that a bank or other financing institution taking an assignment of claims pursuant to the act would not be subject to later recovery by the Government of amounts previously paid to the bank as assignee, except, of course, that it would not prevent the Government from obtaining restitution of amounts which may have been paid as the result of fraud.

Secondly, the amendment would continue the provision of the present law that, if an assigned contract contains a "no set-off" clause, payments made by the Government to the assignee bank will not be subject to reduction or set-off because of any claims of the Government against the contractor which arise independently of the contract, but it would also be made clear that the assignee would be protected against set-off on account of claims of the Government against the contractor arising from renegotiation, fines, and penalties—claims which are ordinarily regarded as arising outside of the assigned contract. In any event, however, where the Government has claims against the contractor, the Government would be allowed to withhold, out of payments due to an assignee bank, any amounts in excess

of the bank's interest in loans secured by such assignments.

Finally, the authority for including the "no set-off" clause in Government contracts, which is now restricted to the Departments of the Army, Navy, and Air Force, would be extended to contracts entered into by the General Services Administration, the Atomic Energy Commission, and such other agencies of the Government as the President may designate. However, authority for the inclusion of the clause would not be mandatory—it would be permissive in all cases at the discretion of the Government agencies concerned.

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#### 41 U.S.C. 252. PURCHASES AND CONTRACTS FOR PROPERTY

##### (a) Applicability of chapter; delegation of authority.

Executive agencies shall make purchases and contracts for property and services in accordance with the provisions of this chapter and implementing regulations of the Administrator; but this chapter does not apply—

(1) to the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration; or

(2) when this chapter is made inapplicable pursuant to section 474 of Title 40 or any other law, but when this chapter is made inapplicable by any such provision of law, sections 5 and 8 of this title shall be applicable in the absence of authority conferred by statute to procure without advertising or without regard to said section 5 of this title.

(b) Small business concerns; share of business; advance publicity on negotiated purchases and contracts for property.

It is the declared policy of the Congress that a fair proportion of the total purchases and contracts for property and services for the Government shall be placed with small business concerns. Whenever it is proposed to make a contract or purchase in excess of \$10,000 by negotiation and without advertising, pursuant to the authority of paragraph (7) or (8) of subsection (c) of this section, suitable advance publicity, as determined by the agency head with due regard to the type of property involved and other relevant considerations, shall be given for a period of at least fifteen days, wherever practicable, as determined by the agency head.

(c) Negotiated purchases and contracts for property; conditions.

All purchases and contracts for property and services shall be made by advertising, as provided in section 253 of this title, except that such purchases and contracts may be negotiated by the agency head without advertising if—

(1) determined to be necessary in the public interest *during the period of a national emergency declared by the President or by the Congress;*

(2) the public exigency will not admit of the delay incident to advertising;

(3) the aggregate amount involved does not exceed \$2,500;

(4) for personal or professional services;

[Emphasis supplied.]

(5) for any service to be rendered by any university, college, or other educational institution;

(6) the property or services are to be procured and used outside the limits of the United States and its possessions;

(7) for medicines or medical property;

(8) for property purchased for authorized resale;

(9) for perishable or nonperishable subsistence supplies;

(10) for property or services for which it is impracticable to secure competition;

(11) the agency head determines that the purchase or contract is for experimental, developmental or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test;

(12) for property or services as to which the agency head determines that the character, ingredients, or components thereof are such that the purchase or contract should not be publicly disclosed;

(13) for equipment which the agency head determines to be technical equipment, and as to which he determines that the procurement thereof without advertising is necessary in special situations or in particular localities in order to assure standardization of equipment and interchangeability of parts and that such standardization and interchangeability is necessary in the public interest;

(14) for property or services as to which the agency head determines that bid prices after advertising therefor are not reasonable (either as to all or as to some part of the requirements) or have not been independently arrived at in open competition: Provided, That no negotiated purchase or contract may be entered into under this paragraph after the rejection of all or some of the bids received unless (A) notification of the intention to negotiate and reasonable opportunity to negotiate shall have been given by the agency head to each responsible bidder and (B) the negotiated price is the lowest negotiated price offered by any responsible supplier; or

(15) otherwise authorized by law, except that section 254 of this title shall apply to purchases and contracts made without advertising under this paragraph.

(d) Bids in violation of antitrust laws.

If in the opinion of the agency head bids received after advertising evidence any violation of the antitrust laws he shall refer such bids to the Attorney General for appropriate action.

(e) Exceptions to section.

This section shall not be construed to (A) authorize the erection, repair, or furnishing of any public building or public improvement, but such authorization shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items to be negotiated without advertising as required by section 253 of this title, unless such contract is to be performed outside the continental United States or unless negotiation of such contract is authorized by

the provisions of paragraphs (1)—(3), (10)—(12), or (14) of subsection (c) of this section.

(f) Carriage of cargo; specification of container size.

No contract for the carriage of Government property in other than Government-owned cargo containers shall require carriage of such property in cargo containers of any stated length, height, or width. (June 30, 1949, ch. 288, title II, § 302, 63 Stat. 393; July 12, 1952, ch. 703, § 1 (m), 66 Stat. 594; Aug. 28, 1958, Pub. L. 85-800, §§ 1-3, 72 Stat. 966; Nov. 8, 1965, Pub. L. 89-343, §§ 1, 2, 79 Stat. 1303; Nov. 8, 1965, Pub. L. 89-348, § 1(2), 79 Stat. 1310; Mar. 16, 1968, Pub. L. 90-268, § 4, 82 Stat. 50.)

## —NOTE—

EXCERPT FROM HOUSE REPT. 670, 81ST CONG., 1ST SESS. (1949)

### TITLE III. PROCUREMENT PROCEDURE

This title follows in structure, and is identical in language with, the Armed Services Procurement Act, with a few appropriate changes and omissions.

#### Section 301. Declaration of purpose

This section states that the purpose of title III is to facilitate the procurement of supplies and services.

#### Section 302. Application and procurement methods

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(c) Initially, this subsection reaffirms the basic principle that purchases and contracts shall be made by advertising. Negotiation is made permissible in certain excepted cases, however, to provide flexibility in Government procurement.

(1) This paragraph would permit automatic and immediate transition from more rigid peacetime advertising procedures to a completely flexible system if the President or the Congress declares the existence of a national emergency.

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### TITLE 42—THE PUBLIC HEALTH AND WELFARE

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#### 42 U.S.C. 204. COMPOSITION OF COMMISSIONED CORPS; APPOINTMENT OF COMMISSIONED OFFICERS OF REGULAR AND RESERVE CORPS

There shall be in the Service a commissioned Regular Corps and, for the purpose of securing a reserve for duty in the Service *in time of national emergency*, a Reserve Corps. All commissioned officers shall be citizens and shall be appointed without regard to the civil-service laws and compensated without regard to chapter 51 and sub-

[Emphasis supplied.]

chapter III of chapter 53 of Title 5. Commissioned officers of the Reserve Corps shall be appointed by the President and commissioned officers of the Regular Corps shall be appointed by him by and with the advice and consent of the Senate. Commissioned officers of the Reserve Corps shall at all times be subject to call to active duty by the Surgeon General, including active duty for the purpose of training and active duty for the purpose of determining their fitness for appointment in the Regular Corps. (July 1, 1944, ch. 373, title II, § 203, 58 Stat. 683; Feb. 28, 1948, ch. 83, § 2, 62 Stat. 39; Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972.)

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#### 42 U.S.C. 210-1. ANNUAL AND SICK LEAVE

(a) In accordance with regulations of the President, commissioned officers of the Regular Corps and officers of the Reserve Corps on active duty may be granted annual leave and sick leave without any deductions from their pay and allowances: *Provided*, That such regulations shall not authorize annual leave to be accumulated in excess of sixty days.

(b) Repealed. Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 499.

(c) *Except in cases of emergency*, no annual leave shall be granted to an officer described in subsection (a) of this section between the date upon which such officer applies for, or the Service directs, his retirement, separation, or release from active duty, whichever date is the earlier, and the effective date of such retirement, separation or release from active duty.

(d) For purposes of this section the term "accumulated annual leave" means unused accrued annual leave carried forward from one leave year into a succeeding leave year, and the term "accrued annual leave" means the annual leave accruing to an officer during one leave year. (July 1, 1944, ch. 373, title II, § 219, as added Aug. 9, 1950, ch. 654, § 2, 64 Stat. 426, and amended Sept. 7, 1962, Pub. L. 87-649, § 14b, 76 Stat. 499.)

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#### 42 U.S.C. 211. PROMOTION OF COMMISSIONED OFFICERS

(a) Permanent or temporary promotions; examination.

Promotions of officers of the Regular Corps to any grade up to and including the director grade shall be either permanent promotions based on length of service, other permanent promotions to fill vacancies, or temporary promotions. Permanent promotions shall be made by the President, by and with the advice and consent of the Senate, and temporary promotions shall be made by the President. Each permanent promotion shall be to the next higher grade, and shall be made only after examination given in accordance with regulations of the President.

(b) Promotion to certain grades only to fill vacancies; regulations; definition of "restricted grade".

[Emphasis supplied.]

The President may by regulation provide that in a specified professional category permanent promotions to the senior grade, or to both the full grade and the senior grade, shall be made only if there are vacancies in such grade. A grade in any category with respect to which such regulations have been issued is referred to in this section as a "restricted grade."

(c) Examinations.

Examinations to determine qualification for permanent promotions may be either noncompetitive or competitive, as the Surgeon General shall in each case determine; except that examinations for promotions to the assistant or senior assistant grade shall in all cases be noncompetitive. The officers to be examined shall be selected by the Surgeon General from the professional category, and in the order of seniority in the grade, from which promotion is to be recommended. In the case of a competitive examination the Surgeon General shall determine in advance of the examination the number (which may be one or more) of officers who, after passing the examination, will be recommended to the President for promotion; but if the examination is one for promotions based on length of service, or is one for promotions to fill vacancies other than vacancies in the director grade or in a restricted grade, such number shall not be less than 80 per centum of the number of officers to be examined.

(d) Permanent promotions of qualified officers on length of service. Officers of the Regular Corps, found pursuant to subsection (c) of this section to be qualified, shall be given permanent promotions based on length of service, as follows:

(1) Officers in the junior assistant grade shall be promoted at such times as may be prescribed in regulations of the President.

(2) Officers with permanent rank in the assistant grade, the senior assistant grade, and the full grade shall (except as provided in regulations under subsection (b) of this section) be promoted after completion of three, ten, and seventeen years, respectively, of service in grades above the junior assistant grade; and such promotions, when made, shall be effective, for purposes of pay and seniority in grade, as of the day following the completion of such years of service. An officer with permanent rank in the assistant, senior assistant, or full grade who has not completed such years of service shall be promoted at the same time, and his promotion shall be effective as of the same day, as any officer junior to him in the same grade in the same professional category who is promoted under this paragraph.

(e) Promotion of professional category officers to fill certain vacancies.

Officers in a professional category of the Regular Corps, found pursuant to subsection (c) of this section to be qualified, may be given permanent promotions to fill any or all vacancies in such category in the senior assistant grade, the full grade, the senior grade, or the director grade; but no officer who has not had one year of service with permanent or temporary rank in the next lower grade shall be promoted to any restricted grade or to the director grade.

(f) Reexamination upon failure of promotion; effective date of promotion.



If an officer who has completed the years of service required for promotion to a grade under paragraph (2) of subsection (d) of this section fails to receive such promotion, he shall (unless he has already been twice examined for promotion to such grade) be once reexamined for promotion to such grade. If he is thereupon promoted (otherwise than under subsection (e) of this section), the effective date of such promotion shall be one year later than it would have been but for such failure. Upon the effective date of any permanent promotion of such officer to such grade, he shall be considered as having had only the length of service required for such promotion which he previously failed to receive.

(g) Separation from service upon failure of promotion.

If, for reasons other than physical disability, an officer of the Regular Corps in the junior assistant grade is found pursuant to subsection (c) of this section not to be qualified for promotion he shall be separated from the Service. If, for reasons other than physical disability, an officer of the Regular Corps in the assistant, senior assistant, or full grade, after having been twice examined for promotion (other than promotion to a restricted grade), fails to be promoted—

(1) if in the assistant grade he shall be separated from the Service and paid six months' basic pay and allowances;

(2) if in the senior assistant grade he shall be separated from the Service and paid one year's basic pay and allowances;

(3) if in the full grade he shall be considered as not in line for promotion and shall, at such time thereafter as the Surgeon General may determine, be retired from the Service with retired pay (unless he is entitled to a greater amount by reason of another provision of law) at the rate of  $2\frac{1}{2}$  per centum of the basic pay of the permanent grade held by him at the time of retirement for each year, not in excess of thirty, of his active commissioned service in the Service.

(h) Separation from service upon refusal to stand examination.

If an officer of the Regular Corps, eligible to take an examination for promotion, refuses to take such examination, he may be separated from the Service in accordance with regulations of the President.

(i) Review of record; separation from service.

At the end of his first three years of service, the record of each officer of the Regular Corps originally appointed to the senior assistant grade or above, shall be reviewed in accordance with regulations of the President and, if found not qualified for further service, he shall be separated from the Service and paid six months' pay and allowances.

(j) Determination of order of seniority.

(1) The order of seniority of officers in a grade in the Regular Corps shall be determined, subject to the provisions of paragraph (2) of this subsection, by the relative length of time spent in active service after the effective date of each such officer's original appointment or permanent promotion to that grade. When permanent promotions of two or more officers to the same grade are effective on the same day, their relative seniority shall be the same as it was in the grade from which promoted. In all other cases of original appoint-

ments or permanent promotions (or both) to the same grade effective on the same day, relative seniority shall be determined in accordance with regulations of the President.

(2) In the case of an officer originally appointed in the Regular Corps to the grade of assistant or above, his seniority in the grade to which appointed shall be determined after inclusion, as service in such grade, of any active service in such grade or in any higher grade in the Reserve Corps, but (if the appointment is to the grade of senior assistant or above) only to the extent of whichever of the following is greater: (A) His active service in such grade or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he had the training and experience necessary for such appointment, or (B) the excess of his total active service in the Reserve Corps (above the grade of junior assistant) over three years if his appointment in the Regular Corps is to the senior assistant grade, over ten years if the appointment is to the full grade, or over seventeen years if the appointment is to the senior grade.

(k) Temporary promotions; fill vacancy in higher grade; war or national emergency; selection of officers; termination of appointment.

Any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for temporary promotion to fill a vacancy in any higher grade in such category, up to and including the director grade. *In time of war, or of national emergency proclaimed by the President*, any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for promotion to any higher grade in such category, up to and including the director grade, whether or not a vacancy exists in such grade. The selection of officers to be recommended for temporary promotions shall be made in accordance with regulations of the President. Promotion of an officer recommended pursuant to this subsection may be made without regard to length of service, without examination, and without vacating his permanent appointment, and shall carry with it the pay and allowances of the grade to which promoted. Such promotions may be terminated at any time, as may be directed by the President.

(l) Determination of requirements of Service by Secretary; assignment of Reserve Officers to professional categories; temporary promotions; termination of temporary promotions.

Whenever the number of officers of the Regular Corps on active duty, plus the number of officers of the Reserve Corps who have been on active duty for thirty days or more, exceeds the authorized strength of the Regular Corps, the Secretary shall determine the requirements of the Service in each grade in each category, based upon the total number of officers so serving on active duty and the tasks being performed by the Service; and the Surgeon General shall thereupon assign each officer of the Reserve Corps on active duty to a professional category. If the Secretary finds that the number of officers fixed under subsection (c) of this section for any grade and category (or the number of officers, including officers of

[Emphasis supplied.]

the Reserve Corps, on active duty in such grade in such category, if such number is greater than the number fixed under subsection (c) of this section) is insufficient to meet such requirements of the Service, officers of either the Regular Corps or the Reserve Corps may be recommended for temporary promotion to such grade in such category. Any such promotion may be terminated at any time, as may be directed by the President.

(m) Acceptance of promotion; oath and affidavit.

Any officer of the Regular Corps, or any officer of the Reserve Corps on active duty, who is promoted to a higher grade shall, unless he expressly declines such promotion, be deemed for all purposes to have accepted such promotion; and shall not be required to renew his oath of office, or to execute a new affidavit as required by section 21a of Title 5. (July 1, 1944, ch. 373, title II, § 210, 58 Stat. 687; Feb. 28, 1948, ch. 83, § 6 (a), 62 Stat. 42; Oct. 12, 1949, ch. 681, title V, § 521 (c), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Apr. 27, 1956, ch. 211, § 4 (a), 70 Stat. 117; Apr. 8, 1960, Pub. L. 86-415, § 5 (c), 74 Stat. 34; Sept. 7, 1962, Pub. L. 87-649, § 11(2), 76 Stat. 497.)

#### 42 U.S.C. 211b. PROMOTION OF COMMISSIONED OFFICERS

(a) Temporary promotions prior to July 1, 1948.

Except as provided in the third and fourth paragraphs of this section, no promotion shall be made under section 211 of this title, prior to July 1, 1948. Until that date officers of the Regular Corps may receive temporary promotions to higher grades with the pay and allowances thereof pursuant to section 211 (a) (1) of this title, in force prior to February 28, 1948, notwithstanding the termination, prior to such date, *of the war and of the national emergencies proclaimed by the President*. Any officer holding, on June 30, 1948, an appointment pursuant to such section to a higher temporary grade shall continue in such grade until such appointment is terminated, as the President may direct.

(b) Service credit.

Effective as of February 28, 1948, each officer of the Regular Corps on such date, in addition to the credit he has under preexisting legislation for purposes of promotion, shall be credited with three years of service.

(c) Promotion based on years of service; effective date; examination; service credit.

Officers of the Regular Corps who have, or who on or before July 1, 1948, will have, the years of service prescribed in paragraph (2) of section 211 (d) of this title, for promotion to the senior assistant, full, or senior grade, shall be recommended to the President for such promotion, to be effective as of July 1, 1948, whether or not vacancies exist in such grade. Such promotions shall be made without examination, except that no promotions shall be made to the senior grade or any grade immediately below a restricted grade until the officer is found qualified for promotion pursuant to subsection (c) of

section 211 of this title. No promotion shall be made pursuant to this paragraph to any grade in any professional category if such grade has been made a restricted grade pursuant to subsection (b) of section 211 of this title. For purposes of seniority an officer promoted under this paragraph shall be credited with the years of service in the grade to which promoted equal to the excess of his years of service on the date of promotion over the years of service required for promotion to such grade under paragraph (2) of section 211 (d) of this title.

Officers in the junior assistant grade in the Regular Corps who have, or who on or before July 1, 1948, will have four or more years of service in the junior assistant grade, shall be recommended to the President for promotion to the assistant grade, to be effective as of July 1, 1948, without examination and whether or not vacancies exist in such grade. For purposes of promotion and seniority in grade, an officer promoted under this paragraph shall be credited with the years of service equal to the excess of his years of service on the date of promotion over four years.

(d) Service for purpose of seniority.

For purposes of seniority, any officer of the Regular Corps of the Public Health Service on February 28, 1948, shall be considered as having had service in the grade which he holds on such date equal to the excess of the service credited to him for promotion purposes over the length of service required under section 211 (d) (2) of this title, for promotion to such grade.

(e) Term or tenure of office unaffected prior to July 1, 1948.

Except as provided in the third and fourth paragraphs of this section, the provisions of this section shall not, prior to July 1, 1948, affect the term or tenure of office (including any office held under temporary promotion) of any commissioned officer of the Service in office upon February 28, 1948. (Feb. 28, 1948, ch. 83, § 6 (b—f), 62 Stat. 45.)

#### 42 U.S.C. 217. USE OF SERVICE IN TIME OF WAR OR EMERGENCY

*In time of war, or of emergency proclaimed by the President, he may utilize the Service to such extent and in such manner as shall in his judgment promote the public interest. In time of war, or of emergency involving the national defense proclaimed by the President, he may by Executive order declare the commissioned corps of the Service to be a military service. Upon such declaration, and during the period of such war or such emergency or such part thereof as the President shall prescribe, the commissioned corps (a) shall constitute a branch of the land and naval forces of the United States, (b) shall, to the extent prescribed by regulations of the President, be subject to the Uniform Code of Military Justice, and (c) shall continue to operate as part of the Service except to the extent that the President may direct as Commander in Chief. (July 1, 1944, ch. 373, title II, § 216, 58 Stat. 690; Apr. 27, 1956, ch. 211, § 1, 70 Stat. 116.)*

[Emphasis supplied.]

## 42 U.S.C. 266. SPECIAL QUARANTINE POWERS IN TIME OF WAR

To protect the military and naval forces and war workers of the United States, *in time of war*, against any communicable disease specified in Executive orders as provided in subsection (b) of section 264 of this title, the Surgeon General, on recommendation of the National Advisory Health Council, is authorized to provide by regulations for the apprehension and examination, in time of war, of any individual reasonably believed (1) to be infected with such disease in a communicable stage and (2) to be a probable source of infection to members of the armed forces of the United States or to individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the armed forces. Such regulations may provide that if upon examination any such individual is found to be so infected, he may be detained for such time and in such manner as may be reasonably necessary. (July 1, 1941, ch. 373, title III, 363, 58 Stat. 704.)

43 U.S.C. 315q. WITHDRAWAL OF LANDS FOR WAR OR NATIONAL DEFENSE PURPOSES; PAYMENT FOR CANCELLATION OF PERMITS OR LICENSES<sup>1</sup>

Whenever *use for war or national defense* purposes of the public domain or other property owned by or under the control of the United States prevents its use for grazing, persons holding grazing permits or licenses and persons whose grazing permits or licenses have been or will be canceled because of such use shall be paid out of the funds appropriated or allocated for such project such amounts as the head of the department or agency so using the lands shall determine to be fair and reasonable for the losses suffered by such persons as a result of the use of such lands for war or national defense purposes. Such payments shall be deemed payment in full for such losses. Nothing contained in this section shall be construed to create any liability not now existing against the United States. (July 9, 1942, ch. 500, 56 Stat. 654; May 28, 1948, ch. 353, § 1, 62 Stat. 277.)

<sup>1</sup> 43 U.S.C. 315q. This should have been located under Title 43 starting on page 348.

## 42 U.S.C. 1313. ASSISTANCE FOR UNITED STATES CITIZENS RETURNED FROM FOREIGN COUNTRIES

(a) Authorization; reimbursement; utilization of facilities of public or private agencies and organizations.

(1) The Secretary is authorized to provide temporary assistance to citizens of the United States and to dependents of citizens of the United States, if they (A) are identified by the Department of State as having returned, or been brought, from a foreign country to the United States because of the destitution of the citizen of the United States or the illness of such citizen or any of his dependents or *because of war, threat of war, invasion, or similar crisis*, and (B) are without available resources.

[Emphasis supplied.]

(2) Except in such cases or classes of cases as are set forth in regulations of the Secretary, provision shall be made for reimbursement to the United States by the recipients of the temporary assistance to cover the cost thereof.

(3) The Secretary may provide assistance under paragraph (1) directly or through utilization of the services and facilities of appropriate public or private agencies and organizations, in accordance with agreements providing for payment, in advance or by way of reimbursement, as may be determined by the Secretary, of the cost thereof. Such cost shall be determined by such statistical, sampling, or other method as may be provided in the agreement.

(b) Plans and arrangements for assistance; consultations.

The Secretary is authorized to develop plans and make arrangements for provision of temporary assistance within the United States to individuals specified in subsection (a)(1) of this section. Such plans shall be developed and such arrangements shall be made after consultation with the Secretary of State, the Attorney General, and the Secretary of Defense. To the extent feasible, assistance provided under subsection (a) of this section shall be provided in accordance with the plans developed pursuant to this subsection, as modified from time to time by the Secretary.

(c) Definition of temporary assistance.

For purposes of this section, the term "temporary assistance" means money payments, medical care, temporary billeting, transportation, and other goods and services necessary for the health or welfare of individuals (including guidance, counseling, and other welfare services) furnished to them within the United States upon their arrival in the United States and for such period after their arrival as may be provided in regulations of the Secretary.

(d) Termination date.

No temporary assistance may be provided under this section after June 30, 1971. (Aug. 14, 1935, ch. 531, title XI, § 1113, as added June 30, 1961, Pub. L. 87-64, title III, § 302, 75 Stat. 142, and amended July 25, 1962, Pub. L. 87-543, title I, § 133, 76 Stat. 196; June 30, 1964, Pub. L. 88-347, 78 Stat. 236; June 29, 1967, Pub. L. 90-36, § 2, 81 Stat. 94; Jan. 2, 1968, Pub. L. 90-248, title V, § 503, 81 Stat. 934; July 9, 1969, Pub. L. 91-41, § 4, 83 Stat. 45.)

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#### 42 U.S.C. 1477. PREFERENCES FOR VETERANS AND FAMILIES OF DECEASED SERVICEMEN

As between eligible applicants seeking assistance under sections 1471 to 1474, inclusive, of this title, the Secretary shall give preference to veterans and the families of deceased servicemen. As used herein, a "veteran" shall mean a person who served in the military forces of the United States *during any war between the United States and any other nation or during the period beginning June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of Congress* and who was discharged or released therefrom on conditions other than dishonora-

[Emphasis supplied.]

ble. "Deceased servicemen" shall mean persons who served in the military forces of the United States during any war between the United States and any other nation or during the period beginning June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of Congress and who died in service before the termination of such war or such period. (July 15, 1949, ch. 338, title V, § 507, 63 Stat. 435; June 30, 1953, ch. 174, § 3, 67 Stat. 132; June 30, 1961, Pub. L. 87-70, title VIII, § 804(b)(2), 75 Stat. 188.)

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#### 42 U.S.C. 1541. TERMINATION OF SUBCHAPTERS II—VII; SAVING CLAUSE

When the President shall have declared that the *emergency declared by him on September 8, 1939, has ceased to exist* (a) the authority contained in sections 1521, 1532, 1561, and 1562 of this title shall terminate except with respect to contracts on projects previously entered into or undertaken and court proceedings then pending, and (b) property acquired or constructed under subchapters II—VII of this chapter (including schools and hospitals) shall be disposed of as promptly as may be advantageous under the circumstances and in the public interest. (Oct. 14, 1940, ch. 862, title III, § 301, formerly § 4, 54 Stat. 1127, renumbered and amended June 28, 1941, ch. 260, § 4 (a), 55 Stat. 363; Apr. 10, 1942, ch. 239, § 1, 56 Stat. 212.)

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#### 42 U.S.C. 1592. AUTHORITY OF ADMINISTRATOR

Subject to the provisions and limitations of sections 1591 to 1591c of this title, and this subchapter, the Housing and Home Finance Administrator (hereinafter referred to as the "Administrator") is authorized to provide housing in any areas (subject to the provisions of section 1591 of this title) needed for defense workers or military personnel or to extend assistance for the provision of, or to provide, community facilities or services *required in connection with national defense activities in any area which the President, pursuant to the authority contained in said section, has determined to be a critical defense housing area.* (Sept. 1, 1951, ch. 378, title III, § 301, 65 Stat. 303.)

#### —NOTE—

EXCERPT FROM HOUSE REPT. 795, 82D CONG., 1ST SESS. (1951)

Since the proposed new title IX is contemplated at this time as limited legislation to be utilized only in areas where Presidential determinations of defense impact have been made and since there is no sure way of estimating the extent to which that title may have to be employed, the bill (in sec. 607) makes provision for a maximum increase in authorization for all insured mortgage programs of 1.5 billion. Authority to release the 1.5 billion of authorization is

[Emphasis supplied.]

vested in the President who would have authority under the bill to release such amounts at such times as in his judgment are necessary for the continuation of any of the insured mortgage programs of the FHA (except for title VI), including title VIII which provides mortgage insurance for rental housing for military personnel at military posts and bases and, as proposed to be amended, for personnel at atomic energy installations. Thus, if it proves unnecessary to use title IX to any considerable extent, new FHA-insured housing could be provided under section 8 of title I and the several programs under title II upon release of authorization for that purpose by the President. If, on the other hand, an acceleration in defense impact makes necessary any substantial use of title IX, the available authorization could be released by the President for this purpose. Your committee believes that this presents a much more flexible arrangement for handling the necessary authorization for FHA programs than would be the case if Congress were to try to provide specific authorizations large enough to meet all possible contingencies in each of such programs separately. It is unnecessary to provide an amount equal to the total which otherwise would be required for each of the several FHA titles since the use of the new title IX program will reduce insurance activity under other titles of the National Housing Act.

Subject to the provisions of title I, the Administrator of the Housing and Home Finance Agency would be authorized to take necessary action to acquire land, to have plans drawn, to let contracts, and to take other steps required for the provision of such housing. Specific authority would be given (as is customary in defense legislation of this type) to permit the exercise of such powers without compliance with certain Federal laws requiring, among other things, approval of land titles by the Attorney General before the expenditure of Federal funds, placing conditions on payments for rentals and alterations of rented property, and prescribing methods of contracting and procurement. In addition, *the President would not be required to observe Federal laws, rules, or regulations concerning plans and specifications, forms of contract, the approval thereof, or the submission of estimates therefor. These exemptions would make possible expeditious action in emergency situations.*

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#### 42 U.S.C. 1711. DEFINITIONS

When used is this chapter—

- (a) The term "Secretary" means the Secretary of Labor.
- (b) The term "war-risk hazard" means any hazard arising during a war in which the United States is engaged; during an armed

[Emphasis supplied.]



*conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring within any country in which a person covered by this chapter is serving; from—*

(1) the discharge of any missile (including liquids and gas) or the use of any weapon, explosive, or other noxious thing by a hostile force or person or in combating an attack or an imagined attack by a hostile force or person; or

(2) action of a hostile force or person, including rebellion or insurrection against the United States or any of its Allies; or

(3) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or person as defined herein (except with respect to employees of a manufacturer, processor, or transporter of munitions during the manufacture, processing, or transporting thereof, or while stored on the premises of the manufacturer, processor, or transporter); or

(4) the collision of vessels in convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation; or

(5) the operation of vessels or aircraft in a zone of hostilities or engaged in war activities.

(c) The term "hostile force or person" means any nation, any subject of a foreign nation, or any other person serving a foreign nation (1) *engaged in a war against the United States or any of its allies*, (2) *engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies*, or (3) *engaged in a war or armed conflict between military forces of any origin in any country in which a person covered by this chapter is serving*.

(d) The term "allies" means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance.

(e) The term "war activities" includes activities directly relating to military operations.

(f) the term "continental United States" means the States and the District of Columbia. (Dec. 2, 1942, ch. 688, title II, § 201, 56 Stat. 1033; 1946 Reorg. Plan No. 2, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; June 30, 1953, ch. 176 § 1, 67 Stat. 134; June 30, 1954, ch. 431, § 1, 68 Stat. 336; June 30, 1955, ch. 257, § 1, 69 Stat. 241; July 9, 1956, ch. 537, § 1, 70 Stat. 519; June 29, 1957, Pub. L. 85-70, 71 Stat. 242; Aug. 8, 1958, Pub. L. 85-608, title I, §§ 103, 104, 72 Stat. 537; June 25, 1959, Pub. L. 86-70, § 42(c), 73 Stat. 151.)

### —NOTE—

EXCERPT FROM SENATE REPT. 1448, 77TH CONG., 2D SESS. (1942)

#### GENERAL PRINCIPLES OF THE BILL

No one knows today the size of character of the problem which the civilians of this country may face in the future.

[Emphasis supplied.]

It is hoped that the civilian population may be spared the horrors of war, but many American civilians in outlying areas have already been affected by enemy action and the committee recognizes that no one can say when other areas may be affected or in what ways or with what results.

*As a result of the war* civilian distress may arise through death, personal injury or damage to real or personal property. Not only direct enemy action but action taken in defense or in anticipation of enemy attack may cause various types of damage to civilians. Evacuation of certain areas may become necessary with accompanying disorders of civilian life and possible damage. The dependents of civilians taken prisoner by the enemy may be left in need as a result of such action. Enemy attacks can cause civilian injuries which even if not totally disabling to the individual would require prompt and frequent medical attention.

The committee is convinced that the tremendous demands which enemy attack may make on normal community facilities for medical and welfare services require careful planning on the part of the Federal, State, and local public agencies and private agencies responsible for this work. After careful study the committee is of the firm conviction that there must be a flexible system of civilian protection which will deal with a variety of contingencies and large-scale emergencies which may arise as a result of enemy attack. If any enemy attack should occur we must be prepared to deal with the situation.

The bill provides for a great deal of flexibility which is based upon the experience of Great Britain. Title I and title II of the bill have been drawn in a broad and comprehensive way so that the President and the Federal Security Administrator may adjust the program in terms of the scope and character of future events. The committee was impressed with the recommendation made by the Federal Security Administrator "that the legislation and administration be kept adjustable to the needs of individuals so as not only to protect the individual but to *make certain that the Government in a time of crisis can act quickly and effectively* and with due regard to all factors involved."

The committee held hearings and heard testimony from representatives of the War and Navy Departments, the United States Employees' Compensation Commission, the Federal Security Agency, and the Bureau of the Budget, all of whom favored the enactment of the bill.

In addition, the committee heard testimony from representatives of the stock insurance companies, the mutual casualty insurance companies, and the New York State Workmen's Compensation Fund. The purpose and objective of the bill was endorsed by these representatives who also offered their facilities to assist in the administration of the programs.

[Emphasis supplied.]

The committee has received a recent resolution adopted by the legislature of the State of New York relating to the bill. The resolution of the New York State Legislature "urges the Congress of the United States to foster and support legislation providing benefits to civilians who may be injured or the dependents of civilians who may be killed by reason of enemy action, which benefits shall be a charge upon the whole people of the United States, equitably and proportionately distributed."

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#### 42 U.S.C. 1712. DISQUALIFICATION FROM BENEFITS

No person convicted in a court of competent jurisdiction of any subversive act against the United States or any of its Allies, committed *after the declaration by the President on May 27, 1941, of the national emergency*, shall be entitled to compensation or other benefits under subchapter I of this chapter, nor shall any compensation be payable with respect to his death or detention under said subchapter, and upon indictment or the filing of an information charging the commission of any such subversive act, all such compensation or other benefits shall be suspended and remain suspended until acquittal or withdrawal of such charge, but upon conviction thereof or upon death occurring prior to a final disposition thereof, all such payments and all benefits under said subchapter shall be forfeited and terminated. If the charge is withdrawn, or there is an acquittal, all such compensation withheld shall be paid to the person or persons entitled thereto. (Dec. 2, 1942, ch. 668, title II, § 202, 56 Stat. 1034.)

[See, 42 U.S.C. 1711 (Senate Rept. 1448). *Supra.*]

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#### 42 U.S.C. 2138. SUSPENSION OF LICENSES DURING WAR OR NATIONAL EMERGENCY

Whenever the *Congress declares that a state of war or national emergency exists*, the Commission is authorized to suspend any licenses granted under this chapter if in its judgment such action is necessary to the common defense and security. The Commission is authorized during such period, if the Commission finds it necessary to the common defense and security, to order the recapture of any special nuclear material or to order the operation of any facility licensed under section 2133 or 2134 of this title, and is authorized to order the entry into any plant or facility in order to recapture such material, or to operate such facility. Just compensation shall be paid for any damages caused by the recapture of any special nuclear material or by the operation of any such facility. (Aug. 1, 1946, ch. 724, § 108, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939, and amended Sept. 23, 1959, Pub L. 86-373, § 2, 73 Stat. 691.)

[Emphasis supplied.]

## 42 U.S.C. 2165. SECURITY RESTRICTIONS

## (a) On contractors and licensees.

No arrangement shall be made under section 2051 of this title, no contract shall be made or continued in effect under section 2061 of this title, and no license shall be issued under section 2133 or 2134 of this title, unless the person with whom such arrangement is made, the contractor or prospective contractor, or the prospective licensee agrees in writing not to permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

## (b) Employment of personnel; access to Restricted Data.

Except as authorized by the Commission or the General Manager upon a determination by the Commission or General Manager that such action is clearly consistent with the national interest, no individual shall be employed by the Commission nor shall the Commission permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

## (c) Acceptance of investigation and clearance granted by other Government agencies.

In lieu of the investigation and report to be made by the Civil Service Commission pursuant to subsection (b) of this section, the Commission may accept an investigation and report on the character, associations, and loyalty of an individual made by another Government agency which conducts personnel security investigations, provided that a security clearance has been granted to such individual by another Government agency based on such investigation and report.

## (d) Investigations by FBI.

In the event an investigation made pursuant to subsections (a) and (b) of this section develops any data reflecting that the individual who is the subject of the investigation is of questionable loyalty, the Civil Service Commission shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Civil Service Commission for its information and appropriate action.

## (e) Presidential investigation.

If the President deems it to be in the national interest he may from time to time determine that investigations of any group or class which are required by subsections (a), (b), and (c) of this section be made by the Federal Bureau of Investigation.

## (f) Certification of specific positions for investigation by FBI.

Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a majority of the members of the Commission shall certify those specific positions which are of a high degree of impor-

tance or sensitivity, and upon such certification, the investigation and reports required by such provisions shall be made by the Federal Bureau of Investigation.

(g) Investigation standards.

The Commission shall establish standards and specifications in writing as to the scope and extent of investigations, the reports of which will be utilized by the Commission in making the determination, pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security. Such standards and specifications shall be based on the location and class or kind of work to be done, and shall, among other considerations, take into account the degree of importance to the common defense and security of the restricted data to which access will be permitted.

(h) War time clearance.

*Whenever the Congress declares that a state of war exists, or in the event of a national disaster due to enemy attack*, the Commission is authorized during the state of war or period of national disaster due to enemy attack to employ individuals and to permit individuals access to Restricted Data pending the investigation report, and determination required by subsection (b) of this section, to the extent that and so long as the Commission finds that such action is required to prevent impairment of its activities in furtherance of the common defense and security. (Aug. 1, 1946, ch. 724, § 145, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 942, and amended Aug. 19, 1958, Pub. L. 85-681, § 5, 72 Stat. 633; Sept. 6, 1961, Pub. L. 87-206, § 6, 75 Stat. 476; Aug. 29, 1962, Pub. L. 87-615, § 10, 76 Stat. 411.)

—NOTE—

EXCERPT FROM HOUSE REPT. 2272, 85TH CONG., 1ST SESS. (1957)

Section 5 of the bill amends section 145 of the Atomic Energy Act by adding a new subsection g concerning security clearances for access to restricted data prior to completion of investigation *during a state of war declared by Congress, or in the event of a national disaster due to enemy attack*. It is the intent of the Joint Committee that the Commission shall interpret new subsection 145g strictly and not authorize such emergency clearances except under the conditions provided by the bill, namely, a state of war declared by Congress, or a national disaster due to enemy attack. It is further understood that such access to restricted data will be granted only pending the investigation report and determination required by section 145b to the extent that and so long as the Commission finds that such action is required to prevent the impairment of its activities in furtherance of the common defense and security.

[Emphasis supplied.]

## 42 U.S.C. 2201. GENERAL DUTIES OF COMMISSION. [AEC]

In the performance of its functions the Commission is authorized to—

(a) Establishment of advisory boards. Establish advisory boards to advise with and make recommendations to the Commission on legislation, policies, administration, research, and other matters, provided that the Commission issues regulations setting forth the scope, procedure, and limitations of the authority of each such board.

(b) Standards governing use and possession of material. Establish by rule, regulation, or order, such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property.

(c) Studies and investigations. Make such studies and investigations, obtain such information, and hold such meetings or hearings as the Commission may deem necessary or proper to assist it in exercising any authority provided in this chapter, or in the administration or enforcement of this chapter, or any regulations or orders issued thereunder. For such purposes the Commission is authorized to administer oaths and affirmations, and by subpoena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place. Witnesses subpoenaed under this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(d) Employment of personnel. Appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of Title 5, except that, to the extent the Commission deems such action necessary to the discharge of its responsibilities, personnel may be employed and their compensation fixed without regard to such laws: Provided, however, That no officer or employee (except such officers and employees whose compensation is fixed by law, and scientific and technical personnel up to a limit of the highest rate of grade 18 of the General Schedule whose position would be subject to chapter 51 and subchapter III of chapter 53 of Title 5, if such provisions were applicable to such position, shall be paid a salary at a rate in excess of the rate payable under such provisions for positions of equivalent difficulty or responsibility. Such rates of compensation may be adopted by the Commission as may be authorized by chapter 51 and subchapter III of chapter 53 of Title 5, as of the same date such rates are authorized for positions subject to such provisions. The Commission shall make adequate provisions for administrative review of any determination to dismiss any employee.

(e) Acquisition of material, property, etc.; negotiation of commercial leases. Acquire such material, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilities from time to time, as it may deem necessary, and construct, acquire, provide, or arrange for such

facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary, subject to the provisions of section 2224 of this title: Provided, however, That in the communities owned by the Commission, the Commission is authorized to grant privileges, leases and permits upon adjusted terms which (at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant) are fair and reasonable to responsible persons to operate commercial businesses without advertising and without advertising<sup>1</sup> and without securing competitive bids, but taking into consideration, in addition to the price, and among other things (1) the quality and type of services required by the residents of the community, (2) the experience of each concession applicant in the community and its surrounding area, (3) the ability of the concession applicant to meet the needs of the community, and (4) the contribution the concession applicant has made or will make to the other activities and general welfare of the community.

(f) Utilization of other Federal agencies. With the consent of the agency concerned, utilize or employ the services or personnel of any Government agency or any State or local government, or voluntary or uncompensated personnel, to perform such functions on its behalf as may appear desirable.

(g) Acquisition of real and personal property. Acquire, purchase, lease, and hold real and personal property, including patents, as agent of and on behalf of the United States, subject to the provisions of section 2224 of this title, and to sell, lease, grant, and dispose of such real and personal property as provided in this chapter.

(h) Consideration of license applications. Consider in a single application one or more of the activities for which a license is required by this chapter, combine in a single license one or more of such activities, and permit the applicant or licensee to incorporate by reference pertinent information already filed with the Commission.

(i) Regulations governing Restricted Data. Prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this chapter, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to section 2073 of this title or produced by any person in connection with any activity authorized pursuant to this chapter, and to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, and (3) to govern any activity authorized pursuant to this chapter, including standards and restrictions governing the design, location, and operation of facilities used in the conduct of such activity, in order to protect health and to minimize danger to life or property.

(j) Disposition of surplus materials. Without regard to the provisions of the Federal Property and Administrative Services Act of

<sup>1</sup> So in original.

1949, as amended, except section 488 of Title 40, or any other law, make such disposition as it may deem desirable of (1) radioactive materials, and (2) any other property, the special disposition of which is, in the opinion of the Commission, in the interest of the national security: Provided, however, That the property furnished to licensees in accordance with the provisions of subsection (m) of this section shall not be deemed to be property disposed of by the Commission pursuant to this subsection.

(k) Carrying of firearms. Authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize such of those employees of its contractors engaged in the protection of property owned by the United States and located at facilities owned by or contracted to the United States as it deems necessary in the interests of the common defense and security to carry firearms while in the discharge of their official duties.

(l) Repealed. Pub. L. 87-456, title III, § 303(c), May 24, 1962, 76 Stat. 78.

(m) Agreements regarding production. Enter into agreements with persons licensed under section 2133, 2134, 2073(a)(4), or 2093(a)(4) of this title for such periods of time as the Commission may deem necessary or desirable (1) to provide for the processing, fabricating, separating, or refining in facilities owned by the Commission of source, byproduct, or other material or special nuclear material owned by or made available to such licensees and which is utilized or produced in the conduct of the licensed activity, and (2) to sell, lease, or otherwise make available to such licensees such quantities of source or byproducts material, and other material not defined as special nuclear material pursuant to this chapter, as may be necessary for the conduct of the licensed activity: Provided, however, That any such agreement may be canceled by the licensee at any time upon payment of such reasonable cancellation charges as may be agreed upon by the licensee and the Commission: And provided further, That the Commission shall establish prices to be paid by licensees for material or services to be furnished by the Commission pursuant to this subsection, which prices shall be established on such a nondiscriminatory basis as, in the opinion of the Commission, will provide reasonable compensation to the Government for such material or services and will not discourage the development of sources of supply independent of the Commission.

(n) Delegation of functions. Delegate to the General Manager or other officers of the Commission any of those functions assigned to it under this chapter except those specified in sections 2071, 2077(b), 2091, 2133, 2153, 2165(b) of this title (with respect to the determination of those persons to whom the Commission may reveal Restricted Data in the national interest), 2165(f) of this title and subsection (a) of this section.

(o) Reports. Required by rule, regulation, or order, such reports, and the keeping of such records with respect to, and to provide for such inspections of, activities and studies of types specified in section 2051 of this title and of activities under licenses issued pursuant



to sections 2073, 2093, 2111, 2133, and 2134 of this title, as may be necessary to effectuate the purposes of this chapter, including section 2135 of this title.

(p) Rules and regulations. Make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this chapter.

(q) Easements for rights-of-way. The Commission is authorized and empowered, under such terms and conditions as are deemed advisable by it, to grant easements for rights-of-way over, across, in, and upon acquired lands under its jurisdiction and control, and public lands permanently withdrawn or reserved for the use of the Commission, to any State, political subdivision thereof, or municipality, or to any individual, partnership, or corporation of any State, Territory, or possession of the United States, for (a) railroad tracks; (b) oil pipe lines; (c) substations for electric power transmission lines, telephone lines, and telegraph lines, and pumping stations for gas, water, sewer, and oil pipe lines; (d) canals; (e) ditches; (f) flumes; (g) tunnels; (h) dams and reservoirs in connection with fish and wildlife programs, fish hatcheries, and other fish-cultural improvements; (i) roads and streets; and (j) for any other purpose or purposes deemed advisable by the Commission: Provided, That such rights-of-way shall be granted only upon a finding by the Commission that the same will not be incompatible with the public interest: Provided further, That such rights-of-way shall not include any more land than is reasonably necessary for the purpose for which granted: And provided further, That all or any part of such rights-of-way may be annulled and forfeited by the Commission for failure to comply with the terms and conditions of any grant hereunder or for nonuse for a period of two consecutive years or abandonment of rights granted under authority hereof. Copies of all instruments granting easements over public lands pursuant to this section shall be furnished to the Secretary of the Interior.

(r) Sale of utilities and related services. Under such regulations and for such periods and at such prices the Commission may prescribe, the Commission may sell or contract to sell to purchasers within Commission-owned communities or in the immediate vicinity of the Commission community, as the case may be, any of the following utilities and related services, if it is determined that they are not available from another local source and that the sale is in the interest of the national defense or in the public interest:

- (1) Electric power.
- (2) Steam.
- (3) Compressed air.
- (4) Water.
- (5) Sewage and garbage disposal.
- (6) Natural, manufactured, or mixed gas.
- (7) Ice.
- (8) Mechanical refrigeration.
- (9) Telephone service.

Proceeds of sales under this subsection shall be credited to the appropriation currently available for the supply of that utility or service. To meet local needs the Commission may make minor expan-

sions and extensions of any distributing system or facility within or in the immediate vicinity of a Commission-owned community through which a utility or service is furnished under this subsection.

(s) Succession of authority. Establish a plan for a succession of authority which will assure the continuity of direction of the Commission's operations in the event of a national disaster due to enemy activity. Notwithstanding any other provision of this chapter, the person or persons succeeding to command in the event of disaster in accordance with the plan established pursuant to this subsection shall be vested with all of the authority of the Commission: Provided, That any such succession to authority, and vesting of authority shall be effective only in the event and as long as a quorum of three or more members of the Commission is unable to convene and exercise direction during the disaster period: Provided further, That the disaster period includes the period when attack on the United States is imminent and the post-attack period necessary to reestablish normal lines of command.

(t) Contracts. Enter into contracts for the processing, fabricating, separating, or refining in facilities owned by the Commission of source, byproduct or other material, or special nuclear material, in accordance with and within the period of an agreement for cooperation while comparable services are available to persons licensed under section 2133 or 2134 of this title: Provided, That the prices for services under such contracts shall be no less than the prices currently charged by the Commission pursuant to subsection (m) of this section.

(u) Additional contracts; guiding principles; appropriations.

(1) enter into contracts for such periods of time as the Commission may deem necessary or desirable, but not to exceed five years from the date of execution of the contract, for the purchase or acquisition of reactor services or services related to or required by the operation of reactors;

(2) (A) enter into contracts for such periods of time as the Commission may deem necessary or desirable for the purchase or acquisition of any supplies, equipment, materials, or services required by the Commission whenever the Commission determines that: (i) it is advantageous to the Government to make such purchase or acquisition from commercial sources; (ii) the furnishing of such supplies, equipment, materials, or services will require the construction or acquisition of special facilities by the vendors or suppliers thereof; (iii) the amortization chargeable to the Commission constitutes an appreciable portion of the cost of contract performance, excluding cost of materials; and (iv) the contract for such period is more advantageous to the Government than a similar contract not executed under the authority of this subsection. Such contracts shall be entered into for periods not to exceed five years each from the date of initial delivery of such supplies, equipment, materials, or services or ten years from the date of execution of the contracts excluding periods of renewal under option.

(B) In entering into such contracts the Commission shall be guided by the following principles: (i) the percentage of

the total cost of special facilities devoted to contract performance and chargeable to the Commission should not exceed the ratio between the period of contract deliveries and the anticipated useful life of such special facilities; (ii) the desirability of obtaining options to renew the contract for reasonable periods at prices not to include charges for special facilities already amortized; and (iii) the desirability of reserving in the Commission the right to take title to the special facilities under appropriate circumstances; and

(3) include in contracts made under this subsection provisions which limit the obligation of funds to estimated annual deliveries and services and the unamortized balance of such amounts due for special facilities as the parties shall agree is chargeable to the performance of the contract. Any appropriation available at the time of termination or thereafter made available to the Commission for operating expenses shall be available for payment of such costs which may arise from termination as the contract may provide. The term "special facilities" as used in this subsection means any land and any depreciable buildings, structures, utilities, machinery, equipment, and fixtures necessary for the production or furnishing of such supplies, equipment, materials, or services and not available to the vendors or suppliers for the performance of the contract.

(v) Contracts for production or enrichment of special nuclear material; domestic licensees; other nations; prices; materials of foreign origin; criteria for availability of services under this subsection; Congressional review.

(A) enter into contracts with persons licensed under sections 2073, 2093, 2133 or 2134 of this title for such periods of time as the Commission may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission; and

(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission in accordance with and within the period of an agreement for cooperation arranged pursuant to section 2153 of this title while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; and (iii) any prices established under this subsection shall be on a basis of recovery of the Government's costs over a reasonable period of time: And provided further, That the Commission, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Commission shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be

made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: Provided, That before the Commission establishes such criteria, the proposed criteria shall be submitted to the Joint Committee, and a period of forty-five days shall elapse while Congress is in session (in computing the forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days) unless the Joint Committee by resolution in writing waives the conditions of, or all or any portion of, such forty-five-day period. (Aug. 1, 1946, ch. 724, § 161, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 948, and amended July 14, 1956, ch. 608, 70 Stat. 553; Aug. 6, 1956, ch. 1015, § 4, 70 Stat. 1069; Aug. 21, 1957, Pub. L. 85-162, title II, §§ 201, 204, 71 Stat. 410; Sept. 4, 1957, Pub. L. 85-287, § 4, 71 Stat. 613; July 7, 1958, Pub. L. 85-507, § 21(b)(1), 72 Stat. 337; Aug. 19, 1958, Pub. L. 85-681, §§ 6, 7, 72 Stat. 633; Sept. 21, 1959, Pub. L. 86-300, § 1, 73 Stat. 574; Sept. 6, 1961, Pub. L. 87-206, § 13, 75 Stat. 478; May 24, 1962, Pub. L. 87-456, title III, § 303(c), 77 Stat. 78; Aug. 29, 1962, Pub. L. 87-615, § 12, 76 Stat. 411; Oct. 11, 1962, Pub. L. 87-793, § 1001(g), 76 Stat. 864; Aug. 26, 1964, Pub. L. 88-489, § 16, 78 Stat. 606; Dec. 14, 1967, Pub. L. 90-190, § 11, 81 Stat. 578; Oct. 15, 1970, Pub. L. 91-452, title II, § 237, 84 Stat. 930; Dec. 19, 1970, Pub. L. 91-560, §§ 7, 8, 84 Stat. 1474.)

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#### TITLE 43—PUBLIC LANDS

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#### 43 U.S.C. 155. WITHDRAWAL, RESERVATION, OR RESTRICTION OF PUBLIC LANDS FOR DEFENSE PURPOSES; DEFINITION; EXCEPTION

Notwithstanding any other provisions of law, *except in time of war or national emergency hereafter declared by the President or the Congress, on and after February 28, 1958* the provisions hereof shall apply to the withdrawal and reservation for, restriction of, and utilization by, the Department of Defense for defense purposes of the public lands of the United States, including public lands in the Territories of Alaska and Hawaii: *Provided, That—*

(1) for the purposes of this Act, the term "public lands" shall be deemed to include, without limiting the meaning thereof, Federal lands and waters of the Outer Continental Shelf, as defined in section 1331 of this title, and Federal lands and waters off the coast of the Territories of Alaska and Hawaii;

(2) nothing in this Act shall be deemed to be applicable to the withdrawal or reservation of public lands specifically as naval petroleum, naval oil shale, or naval coal reserves;

(3) nothing in this Act shall be deemed to be applicable to the warning areas over the Federal lands and waters of the Outer Continental Shelf and Federal lands and waters off the

[Emphasis supplied.]

coast of the Territory of Alaska reserved for use of the military departments prior to the enactment of the Outer Continental Shelf Lands Act; and

(4) nothing in this section, section 156, or section 157 of this title shall be deemed to be applicable either to those reservations or withdrawals which expired due to the ending of the unlimited national emergency of May 27, 1941, and which subsequent to such expiration have been and are now used by the military departments with the concurrence of the Department of the Interior, or to the withdrawal of public domain lands of the Marine Corps Training Center, Twentynine Palms, California, and the naval gunnery ranges in the State of Nevada designated as Basic Black Rock and Basic Sahwave Mountain.  
(Pub. L. 85-337, § 1, Feb. 28, 1958, 72 Stat. 27.)

#### 43 U.S.C. 6167. RESTRICTION ON DELIVERY OF WATER FOR PRODUCTION OF EXCESSIVE BASIC COMMODITIES

For a period of ten years from September 2, 1964, no water from the projects authorized by this Act shall be delivered to any water user for the production of newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301(b)(10) of Title 7, unless the Secretary of Agriculture calls for an increase in production of such commodity *in the interest of national security*. (Pub. L. 88-568, § 5, Sept. 2, 1964, 78 Stat. 853.)

#### 43 U.S.C. 1314. RIGHTS AND POWERS RETAINED BY THE UNITED STATES; PURCHASE OF NATURAL RESOURCES; CONDEMNATION OF LANDS

(a) The United States retains all its navigational servitude and rights in and powers of regulation and control of said lands and navigable waters for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically recognized, confirmed, established, and vested in and assigned to the respective States and others by section 1311 of this title.

(b) *In time of war or when necessary for national defense, and the Congress or the President shall so prescribe*, the United States shall have the right of first refusal to purchase at the prevailing market price, all or any portion of the said natural resources, or to acquire and use any portion of said lands by proceeding in accordance with due process of law and paying just compensation therefor. (May 22, 1953, ch. 65, title II, § 6, 67 Stat. 32.)

[Emphasis supplied.]

## 43 U.S.C. 1341. RESERVATION OF LANDS AND RIGHTS

(a) Withdrawal of unleased lands by President.

The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

(b) First refusal of mineral purchases.

*In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of any mineral produced from the outer Continental Shelf.*

(c) National security clause.

All leases issued under this subchapter, and leases, the maintenance and operation of which are authorized under this subchapter, shall contain or be construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, *during a state of war or national emergency declared by the Congress or the President of the United States after August 7, 1953*, to suspend operations under any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended.

(d) National defense areas; suspension of operations; extension of leases.

The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from exploration and operation that part of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

(e) Source materials essential to production of fissionable materials.

All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the subsoil or seabed of the outer Continental Shelf are reserved for the use of the United States.

(f) Helium ownership; rules and regulations governing extraction.

The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall

[Emphasis supplied.]

be prescribed by the Secretary contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this subchapter, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas. (Aug. 7, 1953, ch. 345, § 12, 67 Stat. 469.)

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#### TITLE 44—PUBLIC PRINTING AND DOCUMENTS

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#### 44 U.S.C. 1505. DOCUMENTS TO BE PUBLISHED IN FEDERAL REGISTER

(a) Proclamations and Executive Orders; documents having general applicability and legal effect; documents required to be published by Congress.

There shall be published in the Federal Register—

(1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;

(2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and

(3) documents or classes of documents that may be required so to be published by Act of Congress.

For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.

(b) Documents authorized to be published by regulations; comments and news items excluded.

In addition to the foregoing there shall also be published in the Federal Register other documents or classes of documents authorized to be published by regulations prescribed under this chapter with the approval of the President, but comments or news items of any character may not be published in the Federal Register.

(c) Suspension of requirements for filing of documents; alternate systems for promulgating, filing, or publishing documents; preservation of originals.

*In the event of an attack or threatened attack upon the continental United States and a determination by the President that as a result of an attack or threatened attack—*

(1) publication of the Federal Register or filing of documents with the Office of the Federal Register is impracticable, or

(2) under existing conditions publication in the Federal Register would not serve to give appropriate notice to the public of the contents of documents, the President may, without regard to any other provision of law, suspend all or part of the requirements of law or regulation for filing with the Office or publication in the Federal Register of documents or classes of documents.

[Emphasis supplied.]

*The suspensions shall remain in effect until revoked by the President, or by concurrent resolution of the Congress. The President shall establish alternate systems for promulgating, filing, or publishing documents or classes of documents affected by such suspensions, including requirements relating to their effectiveness or validity, that may be considered under the then existing circumstances practicable to provide public notice of the issuance and of the contents of the documents. The alternate systems may, without limitation, provide for the use of regional or specialized publications or depositories for documents, or of the press, the radio, or similar mediums of general communication. Compliance with alternate systems of filing or publication shall have the same effect as filing with the Office or publication in the Federal Register under this chapter or other law or regulation. With respect to documents promulgated under alternate systems, each agency shall preserve the original and two duplicate originals or two certified copies for filing with the Office when the President determines that it is practicable. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1274.)*

### —NOTE—

EXCERPT FROM HOUSE REPT. 2143, 90TH CONG., 2D SESS. (1968)

#### NEED FOR LEGISLATION

The need for this legislation arises out of the fact that none of these statutes contain any provisions permitting the suspension of these requirements in an emergency situation in which compliance would be either impossible or impracticable.

In his explanatory statement accompanying the draft bill, the Attorney General points out that—

Conceivably a situation might exist in the United States as a result of an atomic or other attack, by air or otherwise, under which the Archives Building, the Federal Register, and the Government Printing Office would be destroyed and the Government dispersed. Similarly, in a period of threatened attack it might be necessary to disperse the Government, means of communications might be limited, shortages of paper might exist, and the opportunity to continue Government periodicals might be substantially impaired. In such situations two competing considerations would have to be given weight. On the one hand, it would be impracticable to delay the effectiveness or validity of vital Presidential and other executive and administrative action until filing with the Federal Register Division and publication in the Federal Register could be accomplished. Indeed, such filing and publication might be impossible, or even if possible, means of access to various filed documents, and circulation of the Federal Register, might be so limited as not to constitute an appropriate method of giving notice to the public of the contents of such documents. On the other hand, the public is entitled to reasonable notice of executive and administrative action which, especially in such an emergency, vitally affects it.

The Attorney General observes further that, under a long-standing decision of the Supreme Court of the United States, some form of publication or proclamation is necessary in order for a Presidential proclamation, Executive

[Emphasis supplied.]



order or agency rule or regulation to be effective (*Lapeyre v. United States*, 17 Wall. 191, 198-99 (1973)).

Finally, the Attorney General states that, although reliance might be placed on the contention that the Federal Register Act and the Administrative Procedure Act were not intended to be applicable to an emergency situation, and that any reasonable method of publication or promulgation would be effective under such circumstances—

the validity of that contention would be uncertain until finally determined by a competent court. It would be preferable to place the matter beyond doubt by appropriate legislation making it possible to provide alternate systems for publication, promulgation and public availability of official documents.

#### 44 U.S.C. 3311. DESTRUCTION OF RECORDS OUTSIDE CONTINENTAL UNITED STATES IN TIME OF WAR OR WHEN HOSTILE ACTION SEEMS IMMINENT; WRITTEN REPORT TO THE ADMINISTRATOR OF GENERAL SERVICES

*During a state of war between the United States and another nation, or when hostile action by a foreign power appears imminent, the head of an agency of the United States Government may authorize the destruction of records in his legal custody situated in a military or naval establishment, ship, or other depository outside the territorial limits of continental United States—*

(1) the retention of which would be prejudicial to the interests of the United States or

(2) which occupy space urgently needed for military purposes and are, in his opinion, without sufficient administrative, legal, research, or other value to warrant their continued preservation.

Within six months after their disposal, the official who directed the disposal shall submit a written report to the Administrator of General Services in which he shall describe the character of the records and state when and where he disposed of them. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1301.)

#### TITLE 45—RAILROADS

#### 45 U.S.C. 228c-1. MILITARY SERVICE

(a) For the purposes of determining eligibility for an annuity and computing an annuity, including a minimum annuity, there shall also be included in an individual's years of service, within the limitations hereinafter provided in this section, voluntary or involuntary military service of an individual within or without the United States during any war service period, including such military service prior to April 8, 1942: Provided, however, That such military service shall be included only subject to and in accordance with the provisions of subsection (b) of section 228c of this title, in the same manner as

[Emphasis supplied.]

though military service were service rendered as an employee: Provided further, That an individual who entered military service prior to a war service period shall not be regarded as having been in military service in a war service period with respect to any part of the period for which he entered such military service.

(b) For the purpose of this section and section 202 of the Act of June 24, 1937, chapter 382, as amended, an individual shall be deemed to have been in "military service" when commissioned or enrolled in the active service of the land or naval forces of the United States and until resignation or discharge therefrom; and the service of any individual in any reserve component of the land or naval forces of the United States, while serving in the land or naval forces of the United States for any period, even though less than thirty days, shall be deemed to have been active service in such force during such period.

(c) For the purpose of this section and section 202 of the Act of June 24, 1937, chapter 382, as amended, a "war service period" shall mean (1) any war period, or (2) with respect to any particular individual, any period during which such individual (i) having been in military service at the end of a war period, was required to continue in military service, or (ii) was required by *call of the President, or by any Act of Congress or regulation, order, or proclamation pursuant thereto*, to enter and continue in military service, or (3) any period after September 7, 1939, with respect to which a state of national emergency was duly declared to exist which requires a strengthening of the national defense.

(d) For the purpose of this section, a "war period" shall be deemed to have begun on whichever of the following dates is the earliest: (1) the date on which the Congress of the United States declared war; or (2) the date as of which the Congress of the United States declared that a state of war has existed; or (3) the date on which war was declared by one or more foreign states against the United States; or (4) the date on which any part of the United States or any territory under its jurisdiction was invaded or attacked by any armed force of one or more foreign states; or (5) the date on which the United States engaged in armed hostilities for the purpose of preserving the Union or of maintaining in any State of the Union a republican form of government.

(e) For the purpose of this section, a "war period" shall be deemed to have ended on the date on which hostilities ceased.

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#### TITLE 46—SHIPPING

#### 46 U.S.C. 133. HOSPITAL SHIPS IN TIME OF WAR

Hospital ships, concerning which the conditions set forth in articles 1, 2, and 3 of the convention concluded at The Hague on July

[Emphasis supplied.]

29, 1899, for the adaptation to maritime warfare of the principles of the Geneva convention of August 22, 1864, are fulfilled, shall, in the ports of the United States and the possessions thereof, be exempted, *in time of war*, from all dues and taxes imposed on vessels by the laws of the United States, and from all pilotage charges. (Mar. 24, 1908, ch. 96, § 1, 35 Stat. 46.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 134 of this title.

46 U.S.C. 134. DESIGNATION BY PRESIDENT OF HOSPITAL SHIPS EXEMPTED

The *President of the United States* shall by proclamation name the hospital ships to which section 133 of this title shall apply, and shall indicate the time when the exemptions provided for shall begin and end. (Mar. 24, 1908, ch. 96, § 2, 35 Stat. 46.)

\* \* \* \* \*

46 U.S.C. 249a. DISTINCTIVE SERVICE RIBBON BAR; ISSUANCE;  
COST; REPLACEMENTS

The Secretary of Commerce is authorized to provide and issue, under such rules and regulations as he may from time to time prescribe, a distinctive service ribbon bar to each master, officer, or member of the crew of any United States ship who serves or has served after June 30, 1950, *in any time of war, or national emergency proclaimed by the President or by Congress*, or during an operation by Armed Forces of the United States outside the continental United States, for such period of time and in such area or under such conditions of danger to life as the Secretary may set forth in regulations issued hereunder. Such bars shall be provided at cost by the Secretary or at reasonable prices by private persons when authorized for manufacture and sale by the Secretary. Whenever any bar presented under the provisions of this section is lost, destroyed, or rendered unfit for use, without fault or neglect of the owner, such bar may be replaced at cost by the Secretary or at reasonable prices by private persons authorized by him. (July 24, 1956, ch. 671, § 2, 70 Stat. 605.)

[See 14 U.S.C. 491, Note. *Supra.*]

—NOTE—

EXCERPT FROM SENATE REPT. 1473, 84TH CONG., 2D SESS. (1956)

PURPOSE OF THE BILL

The purpose of the bill is to authorize the Secretary of Commerce to give official recognition to acts of heroic conduct or extraordinary skill or service on the part of mem-

[Emphasis supplied.]

bers of the United States merchant marine, or for service on merchant marine vessels *in time of war or national emergency* under certain conditions of danger to life; and to issue citations as public evidence of deserved honor and distinction to United States or foreign ships which participate in gallant or outstanding action in marine disasters, etc.

The bill would also repeal, effective July 1, 1954, three laws which provided somewhat similar authority in years past, but which are now inoperative, inasmuch as the periods in which rights could accrue under these statutes have expired.

It is basic in human nature to desire recognition and approval for acts or duties well performed, and this is particularly so where the conduct is outstanding, or heroic above and beyond the call of duty. The Nation has always, and very properly, given official recognition to gallantry and heroism of men in its fighting forces. This bill would afford similar official recognition to conduct and actions of outstanding merit performed by members of the American merchant marine, supplementing existing statutes in this field.

Instances of exceptionally skillful or heroic performances by officers and crewmen of American merchant ships, while in the conduct of their peacetime pursuits, are not uncommon. Such acts add luster to the high traditions of our country's seafaring men throughout the years. Formal recognition of such outstanding acts by the Federal Government serves the double useful purpose of rewarding the men immediately involved and of inspiring all others engaged in shipping operations under the American flag to live up to the highest traditions of their calling.

#### 46 U.S.C. 835. RESTRICTIONS ON TRANSFER OF SHIPPING FACILITIES DURING WAR OR NATIONAL EMERGENCY

*When the United States is at war or during any national emergency, the existence of which is declared by proclamation of the President, it shall be unlawful, without first obtaining the approval of the Secretary of Commerce:*

(a) To transfer to or place under any foreign registry or flag any vessel owned in whole or in part by any person a citizen of the United States or by a corporation organized under the laws of the United States, or of any State, Territory, District, or possession thereof; or

(b) To sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to any person not a citizen of the United States, (1) any such vessel or any interest therein, or (2) any vessel documented under the laws of the United States, or any interest therein,

[Emphasis supplied.]

or (3) any shipyard, drydock, shipbuilding or ship-repairing plant or facilities, or any interest therein; or

(c) To issue, transfer, or assign a bond, note, or other evidence of indebtedness which is secured by a mortgage of a vessel to a trustee or by an assignment to a trustee of the owner's right, title, or interest in a vessel under construction, or by a mortgage to a trustee on a shipyard, drydock, or shipbuilding or ship-repairing plant or facilities, to a person not a citizen of the United States, unless the trustee or a substitute trustee of such mortgage or assignment is approved by the Secretary of Commerce: Provided, however, That the Secretary of Commerce shall grant his approval if such trustee or a substitute trustee is a bank or trust company which (1) is organized as a corporation, and is doing business, under the laws of the United States or any State thereof, (2) is authorized under such laws to exercise corporate trust powers, (3) is a citizen of the United States, (4) is subject to supervision or examination by Federal or State authority, and (5) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least \$3,000,000; or for the trustee or substitute trustee approved by the Secretary of Commerce to operate said vessel under the mortgage or assignment: Provided further, That if such trustee or a substitute trustee at any time ceases to meet the foregoing qualifications, the Secretary of Commerce shall disapprove such trustee or substitute trustee, and after such disapproval the transfer or assignment of such bond, note, or other evidence of indebtedness to a person not a citizen of the United States, without the approval of the Secretary of Commerce, shall be unlawful; or

(d) To enter into any contract agreement, or understanding to construct a vessel within the United States for or to be delivered to any person not a citizen of the United States, without expressly stipulating that such construction shall not begin until after the war or emergency proclaimed by the President has ended; or

(e) To make any agreement or effect any understanding whereby there is vested in or for the benefit of any person not a citizen of the United States, the controlling interest or a majority of the voting power in a corporation which is organized under the laws of the United States, or of any State, Territory, District, or possession thereof, and which owns any vessel, shipyard, drydock, or shipbuilding, or ship-repairing plant or facilities; or

(f) To cause or procure any vessel constructed in whole or in part within the United States, which has never cleared for any foreign port, to depart from a port of the United States before it has been documented under the laws of the United States.

Whoever violates, or attempts or conspires to violate, any of the provisions of this section shall be guilty of a misdemeanor, punishable by a fine of not more than \$5,000 or by imprisonment for not more than five years, or both.

If a bond, note, or other evidence of indebtedness which is secured by a mortgage of a vessel to a trustee or by an assignment to a trustee of the owner's right, title, or interest in a vessel under construction, or by a mortgage to a trustee on a shipyard, drydock or shipbuilding or ship-repairing plant or facilities, is issued, trans-

ferred, or assigned to a person not a citizen of the United States in violation of subsection (c) of this section, the issuance, transfer or assignment shall be void.

Any vessel, shipyard, drydock, shipbuilding or ship-repairing plant or facilities, or interest therein, sold, mortgaged, leased, chartered, delivered, transferred, or documented, or agreed to be sold, mortgaged, leased, chartered, delivered, transferred, or documented, in violation of any of the provisions of this section, and any stocks, bonds, or other securities sold or transferred, or agreed to be sold or transferred, in violation of any of such provisions, or any vessel departing in violation of the provisions of subdivision (e) of this section, shall be forfeited to the United States.

Any such sale, mortgage, lease, charter, delivery, transfer, documentation, or agreement therefor shall be void, whether made within or without the United States, and any consideration paid therefor or deposited in connection therewith shall be recoverable at the suit of the person who has paid or deposited the same, or of his successors or assigns, after the tender of such vessel, shipyard, drydock, shipbuilding or ship-repairing plant or facilities, or interest therein, or of such stocks, bonds, or other securities, to the person entitled thereto, or after forfeiture thereof to the United States, unless the person to whom the consideration was paid, or in whose interest it was deposited, entered into the transaction in the honest belief that the person who paid or deposited such consideration was a citizen of the United States. (Sept. 7, 1916, ch. 451, § 37, as added July 15, 1918, ch. 152, § 4, 40 Stat. 901, and amended Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; Nov. 8, 1965, Pub. L. 89-346, § 2, 79 Stat. 1306.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 568, 65TH CONG., 2D SESS. (1918)

Section 9 of the shipping act of September 7, 1916, makes it unlawful, *during a period of war or emergency*, without the approval of the Shipping Board, to sell to a foreigner or transfer to a foreign flag any vessel registered or licensed and enrolled under the laws of the United States. The present bill is designed to perfect and extend this provision, by amendment and by the addition of further sections, to supply defects and to meet practical difficulties of administration which over a year's experience under the shipping act has revealed. The new legislation is rendered necessary by the dearth of tonnage created by the unrestricted submarine warfare of the Imperial German Government. As a consequence of this shortage there has been during the past two years a systematic, determined, and resourceful effort on the part of foreign financial interests to buy up and take from under the American flag the vessels of the American merchant marine. Prices have been tendered which before

[Emphasis supplied.]

the war would have seemed beyond the dreams of avarice. Every type of vessel, from schooner to ocean liner, has been coveted. Most American shipowners, to their great credit, have resisted these tempting offers. Others have found their efforts frustrated by the Shipping Board. A small minority of shipowners, however, have attempted by every device which legal ingenuity could suggest to evade the provisions of the President's proclamation. It is to meet the efforts of this small minority that the present bill has been drafted. It is also designed to give to the Shipping Board a more complete control over construction of vessels for foreign account and purchase of American shipyards by foreigners.

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#### 46 U.S.C. 861. PURPOSE AND POLICY OF UNITED STATES

It is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary *in time of war or national emergency*, ultimately to be owned and operated privately by citizens of the United States; and it is declared to be the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine, and, insofar as may not be inconsistent with the express provisions of this act, the Federal Maritime Commission and the Secretary of Commerce shall in the disposition of vessels and shipping property as hereinafter provided, in the making of rules and regulations, and in the administration of the shipping laws keep always in view this purpose and object as the primary end to be attained. (June 5, 1920, ch. 250, § 1, 41 Stat. 988; Ex. Ord. No. 6166, § 12, June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan. No. 21, §§ 104, 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1276, 1277; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

#### —NOTE—

EXCERPT FROM HOUSE REPT. 443, 66TH CONG., 2D SESS. (1920)

The committee found that in order to establish regularity in the future conduct of the numerous different shipping activities, operated either by order of the President through emergency legislation or by the original shipping act, it would be necessary to concentrate all of these operations under one authority, repealing such legislation rendered unnecessary by the ending of the war and providing new legislation for the operation and handling of the property acquired. With this in view the bill (H.R. 10378) has for effect, first, the repealing of the various bills containing legislation in connection with the upbuilding of the merchant

[Emphasis supplied.]

marine, together with the bills containing the unusual powers granted to the President, and which were essential for successful operation during the war; and it transfers all the powers necessary for its liquidation, construction, or operation to the Shipping Board, fixing the scope of the Shipping Board's powers so that they can absorb all of these activities.

—NOTE—

EXCERPT FROM SENATE REPT. 573, 66TH CONG., 2D SESS. (1920)

The Commerce Committee takes it for granted that every patriotic citizen now wishes to see a merchant marine under the American flag large enough to carry the major part of our own foreign trade and such part of the world's carrying trade as may be commensurate with our wealth, power, and standing among the nations of the world and that whatever is necessary to bring that about they want done. We need such a fleet, not only for our commercial growth but for the Nation's defense in time of war and the stability of domestic industry in time of peace.

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46 U.S.C. 1132. CITIZENSHIP OF OFFICERS AND CREW

(a) Vessels documented under laws of United States.

All licensed officers of vessels documented under the laws of the United States, as now required by law, shall be citizens of the United States, native-born or completely naturalized; and upon each departure from the United States of a cargo vessel in respect of which a construction or operating subsidy has been granted all of the crew (crew including all employees of the ship) shall be citizens of the United States, native-born or completely naturalized.

(b) Passenger vessels granted subsidies.

For a period of one year after the effective date of this chapter upon each departure from the United States of a passenger vessel in respect of which a construction or operation subsidy has been granted, all licensed officers shall be citizens of the United States as defined above, and no less than 80 per centum of the crew (crew including all employees of the ship other than officers) shall be citizens of the United States, native-born or completely naturalized, and thereafter the percentage of citizens, as above defined, shall be increased 5 per centum per annum until 90 per centum of the entire crew, including all licensed officers of any such vessel, shall be citizens of the United States, native-born or completely naturalized.

(c) Aliens; conditions of employment.

Any member of the crew, not required by this section to be a citizen of the United States, may be an alien only if he is in possession of a valid declaration of intention to become a citizen of the United States, or other evidence of legal admission to the United States for permanent residence. Such alien, as above defined, may be employed only in the steward's department on passenger vessels.



(d) Filling vacancies while on foreign voyage.

If any such vessel (as above defined) while on a foreign voyage is for any reason deprived of the services of any employee below the grade of master, his place or a vacancy caused by the promotion of another to his place may be supplied by a person other than defined in subsections (a) and (b) of this section, until the first return of such vessel to a port in the United States.

(e) Penalty for violations.

The owner, agent, or officer of any such vessel who knowingly employs any person in violation of the provisions of this chapter shall, upon conviction thereof, be fined \$50 for each person so employed.

(f) Enforcement; effective date; repeal of other laws.

This section shall be enforced by the Commandant of the Coast Guard, for the purpose of carrying out the provisions of this section, and shall take effect ninety days after June 29, 1936.

(g) Membership of officers in United States Naval Reserve.

All of the deck and engineer officers employed on vessels on which an operating-differential subsidy is paid under authority of subchapter VI of this chapter, or employed on the vessels of the Department of Commerce, after one year after June 29, 1936, shall, if eligible, be members of the United States Naval Reserve.

(h) Suspension of section during emergency.

*During a national emergency as proclaimed by the President he may, in his discretion, suspend any or all of the provisions of this section.* (June 29, 1936, ch. 858, §§ 302, 905(e), 49 Stat. 1992; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; 1950 Reorg. Plan No. 21, §§ 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

#### 46 U.S.C. 1151. SUBSIDY AUTHORIZED FOR VESSELS TO BE OPERATED IN FOREIGN TRADE

(a) Application for subsidy for construction; conditions precedent to granting.

Any proposed ship purchaser who is a citizen of the United States or any shipyard of the United States may make application to the Secretary of Commerce for a construction-differential subsidy to aid in the construction of a new vessel to be used in the foreign commerce of the United States. No such application shall be approved by the Secretary of Commerce unless he determines that (1) the plans and specifications call for a new vessel which will meet the requirements of the foreign commerce of the United States, will aid in the promotion and development of such commerce, and be suitable for use by the United States for national defense or military purposes *in time of war or national emergency*; (2) if the applicant is the proposed ship purchaser, the applicant possesses the ability, experience, financial resources, and other qualifications necessary for the operation and maintenance of the proposed new vessel, and (3)

[Emphasis supplied.]

the granting of the aid applied for is reasonably calculated to carry out effectively the purposes and policy of this chapter. The contract of sale, and the mortgage given to secure the payment of the unpaid balance of the purchase price shall not restrict the lawful or proper use or operation of the vessel except to the extent expressly required by law. The Secretary of Commerce may give preferred consideration to applications that will tend to reduce construction-differential subsidies and that propose the construction of ships of higher transport capability and productivity.

(b) Submission of plans to Navy Department; certification of approval.

The Secretary of Commerce shall submit the plans and specifications for the proposed vessel to the Navy Department for examination thereof and suggestions for such changes therein as may be deemed necessary or proper in order that such vessel shall be suitable for economical and speedy conversion into a naval or military auxiliary, or otherwise suitable for the use of the United States Government *in time of war or national emergency*. If the Secretary of the Navy approves such plans and specifications as submitted, or as modified, in accordance with the provisions of this subsection, he shall certify such approval to the Secretary of Commerce.

(c) Application for subsidy for reconstruction or reconditioning; conditions precedent to granting; contracts.

Any citizen of the United States or any shipyard of the United States may make application to the Secretary of Commerce for a construction-differential subsidy to aid in reconstructing or reconditioning any vessel that is to be used in the foreign commerce of the United States. If the Secretary of Commerce in the exercise of his discretion, shall determine that the granting of the financial aid applied for is reasonably calculated to carry out effectively the purposes and policy of this chapter, the Secretary of Commerce may approve such application and enter into a contract or contracts with the applicant therefor providing for the payment by the United States of a construction-differential subsidy that is to be ascertained, determined, controlled, granted, and paid, subject to all the applicable conditions and limitations of this subchapter and under such further conditions and limitations as may be prescribed in the rules and regulations the Secretary of Commerce has adopted as provided in section 1114(b) of this title; but the financial aid authorized by this subsection shall be extended to reconstruction or reconditioning only in exceptional cases and after a thorough study and a formal determination by the Secretary of Commerce that the proposed reconstruction or reconditioning is consistent with the purposes and policy of this chapter. (June 29, 1936, ch. 858, §§ 501, 905(e), 49 Stat. 1995; June 23, 1938, ch. 600, § 8, 52 Stat. 955; 1950 Reorg. Plan No. 21, §§ 105(1), 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1274, 1275, 1277; July 17, 1952, ch. 939, §§ 1, 2, 21, 66 Stat. 760, 765; 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840; Dec. 21, 1970, Pub. L. 91-469, §§ 6, 35(a), (c), (d), 84 Stat. 1019, 1035; Oct. 31, 1970, Pub. L. 91-603, § 4(a), 84 Stat. 1675.)

[Emphasis supplied.]

## —NOTE—

EXCERPT FROM HOUSE REPT. 2221, 82D CONG., 2D SESS. (1952)

## PURPOSE OF THE BILL

The purpose of this bill is to implement the Merchant Marine Act of 1936, and, thereby, to strengthen its effectiveness to carry out the purposes and policies expressed therein for the needs of the national defense and the promotion of the foreign and domestic commerce of the United States.

The Merchant Marine Act of 1936 provided the basis for the development of an American merchant marine, privately owned and operated by the citizens of the United States, to promote the commerce of the United States and which would be available as auxiliary to the Armed Forces *in time of war or national emergency*. The establishment of such a merchant marine permits the maintenance and advancement of the know-how necessary for the construction of modern ships and their operation so that there might be always available a force in being in the event of a tragic need such as has arisen twice in the past generation in World Wars I and II.

Under the American system of free enterprise, constant effort is made to avoid Government aid to specific industries. The need for an adequate and well-balanced merchant marine being well recognized, however, in these troubled times it has been essential to foster and bolster such a merchant marine with Government aid where necessary. Due to existing economic conditions in the other maritime nations it is essential to provide some form of Government assistance which will aid in offsetting the unequal advantage held by competitor nations with their lower standards.

\* \* \* \* \*

The first principal point of this bill provides for amendment to the Merchant Marine Act of 1936 so as to allow operators to receive the advantage of construction-differential subsidy irrespective of whether they also receive an operating subsidy. Your committee believes that by enactment of this provision, a significant stride will be made in achieving the balanced merchant marine contemplated under the basic act.

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46 U.S.C. 1161. RESERVE FUNDS FOR CONSTRUCTION OR ACQUISITION  
OF VESSELS; TAXATION

(a) "New vessel" defined.

When used in this section the term "new vessel" means any vessel  
(1) documented or agreed with the Secretary of Commerce to be

[Emphasis supplied.]

documented under the laws of the United States; (2) construction in the United States after December 31, 1939, or the construction of which has been financed under subchapters V or VII of this chapter, or the construction of which has been aided by a mortgage insured under subchapter XI of this chapter; and (3) either (A) of such type, size, and speed as the Secretary shall determine to be suitable for use on the high seas or Great Lakes in carrying out the purposes of this chapter, but not of less than two thousand gross tons or of less speed than twelve knots, unless the Secretary shall determine and certify in each case that a vessel of a specified lesser tonnage or speed is desirable for use by the United States *in case of war or national emergency*, or (B) constructed to replace a vessel or vessels requisitioned or purchased by the United States.

(b) Establishment of construction reserve funds.

For the purposes of promoting the construction, reconstruction, reconditioning, or acquisition of vessels, or for other purposes authorized in this section, necessary to carrying out the policy set forth in section 1101 of this title, any citizen of the United States who is operating a vessel or vessels in the foreign or domestic commerce of the United States or in the fisheries or owns in whole or in part a vessel or vessels being so operated, or who, at the time of purchase or requisition of the vessel by the Government, was operating a vessel or vessels so engaged or owned in whole or in part a vessel or vessels being so operated or had acquired or was having constructed a vessel or vessels for the purpose of operation in such commerce or in the fisheries, may establish a construction reserve fund, for the construction, reconstruction, reconditioning, or acquisition of new vessels, or for other purposes authorized in this section, to be composed of deposits of proceeds from sales of vessels, indemnities on account of losses of vessels, earnings from the operation of vessels documented under the laws of the United States and from services incident thereto, and receipts, in the form of interest or otherwise, with respect to amounts previously deposited. Such construction reserve fund shall be established, maintained, expended, and used in accordance with the provisions of this section and rules or regulations to be prescribed jointly by the Secretary of Commerce and the Secretary of the Treasury.

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#### 46 U.S.C. 1202. INSURANCE REQUIREMENTS; REPAIRS; INSPECTION BY SECRETARY; TERMINATION OF CHARTER IN NATIONAL EMERGENCY

Every charter shall provide—

(a) That the charterer shall carry on the chartered vessels, at his own expense, policies of insurance covering all marine and port risks, protection and indemnity risks, and all other hazards and liabilities, in such amounts, in such form, and in such insurance companies as the Secretary of Commerce shall require and approve, ade-

[Emphasis supplied.]

quate to cover all damages claimed against and losses sustained by the chartered vessels arising during the life of the charter: Provided, That in accordance with existing law, some or all of such insurance risks may be underwritten by the Secretary himself as in his discretion he may determine.

(b) That the charterer shall at its own expense keep the chartered vessel in good state of repair and in efficient operating condition and shall at its own expense make any and all repairs as may be required by the Secretary of Commerce.

(c) That the Secretary of Commerce shall have the right to inspect the vessel at any and all times to ascertain its condition.

(d) That *whenever the President shall proclaim that the security of the national defense makes it advisable, or during any national emergency declared by proclamation of the President*, the Secretary of Commerce may terminate the charter without cost to the United States, upon such notice to the charterers as the President shall determine. (June 29, 1936, ch. 858, § 712, 905(e), 49 Stat. 2010; Aug. 7, 1939, ch. 555, § 1, 53 Stat. 1254; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765.)

#### 46 U.S.C. 1241. TRANSPORTATION IN AMERICAN VESSELS OF GOVERNMENT PERSONNEL AND CERTAIN CARGOES

(a) Requirement that officers and employees travel on American ships.

Any officer or employee of the United States traveling on official business overseas or to or from any of the possessions of the United States shall travel and transport his personal effects on ships registered under the laws of the United States where such ships are available unless the necessity of his mission requires the use of a ship under a foreign flag: Provided, That the Comptroller General of the United States shall not credit any allowance for travel or shipping expenses incurred on a foreign ship in the absence of satisfactory proof of the necessity therefor.

(b) Cargoes procured, furnished or financed by United States; waiver in emergencies; exceptions; definition.

(1) Whenever the United States shall procure, contract for, or otherwise obtain for its own account, or shall furnish to or for the account of any foreign nation without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or shall advance funds or credits or guarantee the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities, the appropriate agency or agencies shall take such steps as may be necessary and practicable to assure that at least 50 per centum of the gross tonnage of such equipment, materials or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers), which may be

[Emphasis supplied.]

transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels, in such manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographic areas: Provided, That the provisions of this subsection may be waived *whenever the Congress by concurrent resolution or otherwise, or the President of the United States or the Secretary of Defense declares that an emergency exists* justifying a temporary waiver of the provisions of this paragraph and so notifies the appropriate agency or agencies: And provided further, That the provisions of this subsection shall not apply to cargoes carried in the vessels of the Panama Canal Company. Nothing herein shall repeal or otherwise modify the provisions of section 616a of Title 15. For purposes of this section, the term "privately owned United States-flag commercial vessels" shall not be deemed to include any vessel which, subsequent to September 21, 1961, shall have been either (a) built outside the United States, (b) rebuilt outside the United States, or (c) documented under any foreign registry, until such vessel shall have been documented under the laws of the United States for a period of three years: Provided, however, That the provisions of this amendment shall not apply where, (1) prior to September 21, 1961, the owner of a vessel, or contractor for the purchase of a vessel, originally constructed in the United States and rebuilt abroad or contracted to be rebuilt abroad, has notified the Maritime Administration in writing of its intent to document such vessel under United States registry, and such vessel is so documented on its first arrival at a United States port not later than one year subsequent to September 21, 1961, or (2) where prior to September 21, 1961, the owner of a vessel under United States registry has made a contract for the rebuilding abroad of such vessel and has notified the Maritime Administration of such contract, and such rebuilding is completed and such vessel is thereafter documented under United States registry on its first arrival at a United States port not later than one year subsequent to September 21, 1961.

(2) Every department or agency having responsibility under this subsection shall administer its programs with respect to this subsection under regulations issued by the Secretary of Commerce. The Secretary of Commerce shall review such administration and shall annually report to the Congress with respect thereto.

(c) Motor vehicle owned by Government personnel.

Notwithstanding any other provision of law, privately owned American shipping services may be utilized for the transportation of motor vehicles owned by Government personnel whenever transportation of such vehicles at Government expense is otherwise authorized by law. (June 29, 1936, ch. 858, § 901, 49 Stat. 2015; Aug. 26, 1954, ch. 936, 68 Stat. 832; May 28, 1956, ch. 325, 70 Stat. 187; Sept. 21, 1961, Pub. L. 87-266, 75 Stat. 565; Oct. 21, 1970, Pub. L. 91-469, § 27, 84 Stat. 1034.)

[Emphasis supplied.]

## 46 U.S.C. 1242. REQUISITION OR PURCHASE OF VESSELS IN TIME OF EMERGENCY

(a) Compensation; restoration; consequential damages.

*Whenever the President shall proclaim that the security of the national defense makes it advisable or during any national emergency declared by proclamation of the President, it shall be lawful for the Secretary of Commerce to requisition or purchase any vessel or other watercraft owned by citizens of the United States, or under construction within the United States, or for any period during such emergency, to requisition or charter the use of any such property. The termination of any emergency so declared shall be announced by a further proclamation by the President. When any such property or the use thereof is so requisitioned, the owner thereof shall be paid just compensation for the property taken or for the use of such property, but in no case shall the value of the property taken or used be deemed enhanced by the causes necessitating the taking or use. If any property is taken and used under authority of this section, but the ownership thereof is not required by the United States, such property shall be restored to the owner in a condition at least as good as when taken, less ordinary wear and tear, or the owner shall be paid an amount for reconditioning sufficient to place the property in such condition. The owner shall not be paid for any consequential damages arising from a taking or use of property under authority of this section.*

(b) Determination of value of vessel.

When any vessel is taken or used under authority of this section, upon which vessel a construction-differential subsidy has been allowed and paid, the value of the vessel at the time of its taking shall be determined as provided in section 1212 of this title, and in determining the value of any vessel taken or used, on which a construction-differential subsidy has not been paid, the value of any national defense features previously paid for by the United States shall be excluded.

(c) Charter of vessels; compensation; reimbursement for loss or damage.

If any property is taken and used under authority of this section, but the ownership thereof is not required by the United States, the Secretary of Commerce, at the time of the taking or as soon thereafter as the exigencies of the situation may permit, shall transmit to the person entitled to the possession of such property a charter setting forth the terms which, in the Secretary's judgment, should govern the relationships between the United States and such person and a statement of the rate of hire which, in the Secretary's judgment, will be just compensation for the use of such property and for the services required under the terms of such charter. If such person does not execute and deliver such charter and accept such rate of hire, the Secretary shall pay to such person as a tentative advance only, on account of such just compensation a sum equal to 75 per centum of such rate of hire as the same may from time to time be

[Emphasis supplied.]

due under the terms of the charter so tendered, and such person shall be entitled to sue the United States in a court having jurisdiction of such claims to recover such amounts as would be equal to just compensation for the use of the property and for the services required in connection with such use: Provided, however, That in the event of an election by such person to reject the rate of hire fixed by the Secretary and to sue in the courts, the excess of any amounts advanced on account of just compensation over the amount of the court judgment will be required to be refunded. In the event of loss or damage to such property, due to operation of a risk assumed by the United States under the terms of a charter prescribed in this subsection, but no valuation of such vessel or other property or mode of compensation has been agreed to, the United States shall pay just compensation for such loss or damage, to the extent the person entitled thereto is not reimbursed therefor through policies of insurance against such loss or damage.

(d) Determination of amount of compensation.

In all cases, the just compensation authorized by this section shall be determined and paid by the Secretary of Commerce as soon as practicable, but if the amount of just compensation determined by the Secretary is unsatisfactory to the person entitled thereto; such person shall be paid, as a tentative advance only, 75 per centum of the amount so determined and shall be entitled to sue the United States to recover such amount as would equal just compensation therefor, in the manner provided for by sections 41(20) and 250 of Title 28: Provided, however, That in that event of an election to reject the amount determined by the Secretary and to sue in the courts, the excess of any amounts advanced on account of just compensation over the amount of the court judgment will be required to be refunded.

The existence of any valid claim by way of mortgage or maritime claim or attachment lien upon such vessel shall not prevent the taking thereof pursuant to this section: Provided, however, That in the event any such claim exists the Secretary of Commerce may in his discretion deposit such portion of the compensation hereunder, or advances on account thereof, as may equal but not exceed the amount of such claims in respect of the vessel, with the Treasurer of the United States, and the fund so deposited shall be available for the payment of such compensation, and shall be subject to be applied to the payment of the amount of any valid claim by way of mortgage or maritime lien or attachment lien upon such vessel, or of any stipulation therefor in a court of the United States, or of any State, subsisting at the time of such requisition or taking of title or possession; the holder of any such claim may commence prior to June 30, 1943, or within six months after the first such deposit with the Treasurer and publication of notice thereof in the Federal Register, whichever date is later, and maintain in the United States district court from whose custody such vessel has been or may be taken or in whose territorial jurisdiction the vessel was lying at the time of requisitioning or taking of title or possession, a suit in admiralty according to the principles of libels in rem against the fund, which shall proceed and be heard and determined according to the principles of law and to the rules of practice obtaining in like cases



between private parties, and any decree in said suit shall be paid out of the first and all subsequent deposits of compensation; and such suit shall be commenced in the manner provided by section 742 of this title and service of process shall be made in the manner therein provided by service upon the United States attorney and by mailing by registered mail to the Attorney General and the Secretary of Commerce and due notice shall under order of the court be given to all interested persons, and any decree shall be subject to appeal and revision as now provided in other cases of admiralty and maritime jurisdiction.

(e) Use of vessels by Secretary; transfer to other departments or agencies; reimbursement of Secretary.

The Secretary of Commerce is authorized to repair, recondition, reconstruct, and operate, or charter for operation, any property acquired under authority of this section. The Secretary is further authorized to transfer the possession or control of any such property to any department or agency of the Government of the United States upon such terms and conditions as may be approved by the President. In case of any such transfer the department or agency to which the transfer is made shall promptly reimburse the Secretary for expenditures of the Department of Commerce on account of just compensation, purchase price, repairs, reconditioning, reconstruction, or charter hire for the property transferred. Such reimbursements shall be deposited in the construction fund established by section 1116 of this title. (June 29, 1936, ch. 858, §§ 902, 905(e), 49 Stat. 2015; Aug. 7, 1939, ch. 555, § 3, 53 Stat. 1255; Mar. 24, 1943, ch. 26, § 3(d), 57 Stat. 49; 1950 Reorg. Plan No. 21, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; July 17, 1952, ch. 939, § 21, 66 Stat. 765; Aug. 3, 1956, ch. 929, §§ 2, 3, 70 Stat. 985.)

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#### 46 U.S.C. 1294. EXPIRATION OF AUTHORITY TO PROVIDE INSURANCE

The authority of the Secretary to provide insurance and reinsurance under this subchapter shall expire September 7, 1975. (June 29, 1936, ch. 858, § 1214, as added Sept. 7, 1950, ch. 906, 64 Stat. 777, and amended Aug. 3, 1955, ch. 492, 69 Stat. 440; July 31, 1959, Pub. L. 86-20, 73 Stat. 266; July 27, 1965, Pub. L. 89-89, 79 Stat. 264; Oct. 21, 1970, Pub. L. 91-469, § 34, 84 Stat. 1035.)

#### —NOTE—

EXCERPT FROM SENATE REPT. 1828, 81ST CONG., 2D SESS. (1950)

This is standby legislation to authorize the Secretary of Commerce only with the approval of the President to provide war risk and certain marine and liability insurance.

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#### 46 U.S.C. 1402. APPLICATION FOR SUBSIDY; CONDITIONS

Any citizen of the United States may apply to the Secretary for a construction subsidy to aid in construction of a new fishing vessel in accordance with this chapter. Any citizen of the United States may

apply to the Secretary for a construction subsidy to aid in the remodeling of any vessel in accordance with this chapter. No such application shall be approved by the Secretary unless he determined that (1) the plans and specifications for the fishing vessel are suitable for use in the fishery in which that vessel will operate and suitable in the case of a new fishing vessel and, when appropriate, a remodeled vessel, for use by the United States for National Defense or military purposes *in time of war or National emergency*, (2) that the applicant possesses the ability, experience, resources, and other qualifications necessary to enable him to operate and maintain the proposed fishing vessel, (3) will aid in the development of the United States fisheries under conditions that the Secretary considers to be in the public interests, (4) that the vessel, except under force majeure will deliver its full catch to a port of the United States, (5) that the applicant will employ on the vessel only citizens of the United States or aliens legally domiciled in the United States, (6) the vessel will be documented under the laws of the United States, (7) the vessel will be modern in design and equipment, be capable, when appropriate, to operate in expanded areas, and will not operate in a fishery if such operation would cause economic hardship to operators of efficient vessels already operating in that fishery unless such vessel will replace a vessel of the applicant operating in the same fishery during the twenty-four-month period immediately preceding the date an application is filed by the applicant, and having a comparable fishing capacity of the replacement vessel, and (8) such other conditions as the Secretary may consider to be in the public interest. (Pub. L. 86-516, § 2, June 12, 1960, 74 Stat. 212; Pub. L. 88-498, § 2(2), Aug. 30, 1964, 78 Stat. 614; Pub. L. 91-279, § 1, June 12, 1970, 84 Stat. 307.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 770, 86TH CONG., 2D SESS. (1960)

#### SUMMARY OF DEPARTMENTAL RECOMMENDATIONS

The Department of the Interior in reporting on the original bill pointed out that there was a reluctance on the part of operators to purchase new vessels, largely because of the high construction costs. In the course of the testimony by officials of the Department of the Interior, the depressed condition of the New England fishery was emphasized and the need for new fishing vessels was clearly set forth. However, the Department in its report suggested that in lieu of a subsidy the vessel owners be authorized to construct their vessels abroad. The committee is firmly of the opinion that this is worse than no remedy at all in that it proposes to cure the ills of an industry beset by foreign competition by authorizing unlimited foreign competition with another domestic industry—the shipyards. The necessity for maintaining shipyards in operating condition and good financial health in the United States has been amply demonstrated in

[Emphasis supplied.]

both World War I and World War II. In both of these, the small boatyards capable of constructing fishing vessels did yeoman service in the construction of minesweepers and other auxiliary vessels for defense, and it is inconceivable that they be condemned to extinction for the benefit of one segment of the fishing industry.

It is submitted that the bill herein reported accomplishes the purpose of protecting the shipbuilding industry and at the same time offers a measure of relief to the victims of our national tariff policy. However, in view of the fact that subsidization of fishing vessels represents a complete departure from prior practices in the field, the committee was of the opinion that the operation of the bill should be limited to 3 years so that a further examination of its effectiveness could be made in the future.

This bill will make no changes in existing law.

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#### 46 U.S.C. 1406. SUPERVISION OF CONSTRUCTION; SUBMISSION OF PLANS TO SECRETARY OF DEFENSE

Any fishing vessel for which a construction subsidy is paid under this chapter shall be constructed under the supervision of the Maritime Administrator. The Maritime Administrator shall submit the plans and specifications for the proposed vessel to the Department of Defense for examination thereof and suggestions for such changes therein as may be deemed necessary or proper in order that such vessel shall be suitable for economical and speedy conversion into a naval or military auxiliary or otherwise suitable for the use of the United States Government *in time of war or national emergency*. If the Secretary of Defense approves such plans and specifications as submitted, or as modified, in accordance with the provisions of this subsection, he shall certify such approval to the Administrator. No construction subsidy shall be paid by the Secretary under this chapter unless all contracts between the applicant for such subsidy and the shipbuilder who is to construct such vessel contain such provisions with respect to the construction of the vessel as the Maritime Administrator determines necessary to protect the interests of the United States. (Pub. L. 86-516, § 6, June 12, 1960, 74 Stat. 213.)

[See 46 U.S.C. 1402 (House Rept. 770). *Supra*.]

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#### TITLE 47—TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS

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#### 47 U.S.C. 308. SAME; APPLICATION; CONDITIONS AND RESTRICTIONS IN LICENSE FOR FOREIGN COMMUNICATION

(a) The Commission may grant construction permits and station licenses, or modifications or renewals thereof, only upon written application therefor received by it: Provided, That (1) in cases of

[Emphasis supplied.]

emergency found by the Commission involving danger to life or property or due to damage to equipment, or (2) *during a national emergency proclaimed by the President or declared by the Congress and during the continuance of any war* in which the United States is engaged and when such action is necessary for the national defense or security, or otherwise in furtherance of the war effort, or (3) in cases of emergency where the Commission finds, in the non-broadcast services, that it would not be feasible to secure renewal applications from existing licensees or otherwise to follow normal licensing procedure, the Commission may grant construction permits and station licenses, or modifications or renewals thereof, *during the emergency so found by the Commission or during the continuance of any such national emergency or war*, in such manner and upon such terms and conditions as the Commission shall by regulation prescribe, and without the filing of a formal application, but no authorization so granted shall continue in effect beyond the period of the emergency or war requiring it: Provided further, That the Commission may issue by cable, telegraph, or radio a permit for the operation of a station on a vessel of the United States at sea, effective in lieu of a license until said vessel shall return to a port of the continental United States.

(b) All applications for station licenses, or modifications or renewals thereof, shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station; the ownership and location of the proposed station and of the stations, if any, with which it is proposed to communicate; the frequencies and the power desired to be used; the hours of the day or other periods of time during which it is proposed to operate the station; the purposes for which the station is to be used; and such other information as it may require. The Commission, at any time after the filing of such original application and during the term of any such license, may require from an applicant or licensee further written statements of fact to enable it to determine whether such original application should be granted or denied or such license revoked. Such application and/or such statement of fact shall be signed by the applicant and/or licensee.

(c) The Commission in granting any license for a station intended or used for commercial communication between the United States or any Territory or possession, continental or insular, subject to the jurisdiction of the United States, and any foreign country, may impose any terms, conditions, or restrictions authorized to be imposed with respect to submarine-cable licenses by section 35 of this title. (June 19, 1934, ch. 652, § 308, 48 Stat. 1084; July 16, 1952, ch. 879, § 6, 66 Stat. 714; Apr. 27, 1962, Pub. L. 87-444, § 3, 76 Stat. 63.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 1850, 73D CONG., 2D SESS. (1934)

Section 308 is copied from section 10 of the Radio Act as modified by H.R. 7716, which adds the requirement that

[Emphasis supplied.]

modifications and renewals of licenses may be granted only upon written application. This is the present practice of the Radio Commission. The two provisos permit the Commission to issue temporary licenses in cases of emergency.

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Section 310 (a) (5) seeks to insure the American character of holding companies whose subsidiaries operate under radio licenses granted by the Commission. The provision has been made effective after June 1, 1935, in order to give the companies affected an opportunity to bring their organizations into harmony with the provisions of the paragraph. Whatever apparent objection there might be to one fourth foreign ownership from the standpoint of *war or emergency leading to war*, becomes less important when it is remembered that the President has full power to seize all radio stations in the United States in case of war or threat of war.

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#### 47 U.S.C. 606. WAR POWERS OF PRESIDENT

(a) *During the continuance of a war in which the United States is engaged, the President is authorized*, if he finds it necessary for the national defense and security, to direct that such communications as in his judgment may be essential to the national defense and security shall have preference or priority with any carrier subject to this chapter. He may give these directions at and for such times as he may determine, and may modify, change, suspend, or annul them and for any such purpose he is authorized to issue orders directly, or through such person or persons as he designates for the purpose, or through the Commission. Any carrier complying with any such order or direction for preference or priority herein authorized shall be exempt from any and all provisions in existing law imposing civil or criminal penalties, obligations, or liabilities upon carriers by reason of giving preference or priority in compliance with such order or direction.

(b) It shall be unlawful for any person during any war in which the United States is engaged to knowingly or willfully, by physical force or intimidation by threats of physical force, obstruct or retard or aid in obstructing or retarding interstate or foreign communication by radio or wire. The President is authorized, whenever in his judgment the public interest requires, to employ the armed forces of the United States to prevent any such obstruction or retardation of communication: Provided, That nothing in this section shall be construed to repeal, modify, or affect either section 17 of Title 15 or section 52 of Title 29.

(c) *Upon proclamation by the President that there exists war or a threat of war, or a state of public peril or disaster or other national emergency, or in order to preserve the neutrality of the United States, the President*, if he deems it necessary in the interest of national security or defense, may suspend or amend, for such time as

[Emphasis supplied.]

he may see fit, the rules and regulations applicable to any or all stations or devices capable of emitting electromagnetic radiations within the jurisdiction of the United States as prescribed by the Commission, and may cause the closing of any station for radio communication, or any device capable of emitting electromagnetic radiations between 10 kilocycles and 100,000 megacycles, which is suitable for use as a navigational aid beyond five miles, and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station or device and/or its apparatus and equipment, by any department of the Government under such regulations as he may prescribe upon just compensation to the owners. The authority granted to the President, under this subsection, to cause the closing of any station or device and the removal therefrom of its apparatus and equipment, or to authorize the use or control of any station or device and/or its apparatus and equipment, may be exercised in the Canal Zone.

(d) *Upon proclamation by the President that there exists a state or threat of war involving the United States, the President, if he deems it necessary in the interest of the national security and defense, may, during a period ending not later than six months after the termination of such state or threat of war and not later than such earlier date as the Congress by concurrent resolution may designate, (1) suspend or amend the rules and regulations applicable to any or all facilities or stations for wire communication within the jurisdiction of the United States as prescribed by the Commission, (2) cause the closing of any facility or station for wire communication and the removal therefrom of its apparatus and equipment, or (3) authorize the use or control of any such facility or station and its apparatus and equipment by any department of the Government under such regulations as he may prescribe, upon just compensation to the owners.*

(e) The President shall ascertain the just compensation for such use or control and certify the amount ascertained to Congress for appropriation and payment to the person entitled thereto. If the amount so certified is unsatisfactory to the person entitled thereto, such person shall be paid only 75 per centum of the amount and shall be entitled to sue the United States to recover such further sum as added to such payment of 75 per centum will make such amount as will be just compensation for the use and control. Such suit shall be brought in the manner provided by paragraph 20 of section 41 of Title 28, or by section 250 of Title 28.

(f) Nothing in subsection (c) or (d) of this section shall be construed to amend, repeal, impair, or affect existing laws or powers of the States in relation to taxation or the lawful police regulations of the several States, except wherein such laws, powers, or regulations may affect the transmission of Government communications or the issue of stocks and bonds by any communication system or systems.

(g) Nothing in subsection (c) or (d) of this section shall be construed to authorize the President to make any amendment to the rules and regulations of the Commission which the Commission would not be authorized by law to make; and nothing in subsection

[Emphasis supplied.]

(d) of this section shall be construed to authorize the President to take any action the force and effect of which shall continue beyond the date after which taking of such action would not have been authorized.

(h) Any person who willfully does or causes or suffers to be done any act prohibited pursuant to the exercise of the President's authority under this section, or who willfully fails to do any act which he is required to do pursuant to the exercise of the President's authority under this section, or who willfully causes or suffers such failure, shall, upon conviction thereof, be punished for such offense by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both, and, if a firm, partnership, association, or corporation, by fine of not more than \$5,000, except that any person who commits such an offense with intent to injure the United States, or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than \$20,000 or by imprisonment for not more than 20 years, or both. (June 19, 1934, ch. 652, § 606, 48 Stat. 1104; Jan. 26, 1942, ch. 18, §§ 1, 2, 56 Stat. 18; Dec. 29, 1942, ch. 836, 56 Stat. 1096; July 25, 1947, ch. 327, § 1, 61 Stat. 449; Oct. 24, 1951, ch. 553, §§ 1, 2, 65 Stat. 611.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 1886, 73D CONG., 2D SESS. (1934)

Section 606 gives the President power over wire and radio communications *in time of war*, and provides for the payment of just compensation for facilities taken over by him. The section also makes it unlawful in time of war to obstruct or retard interstate or foreign radio communication. It is adapted from sections 6 and 7 of the Radio Act, and the war powers granted by act of Congress of August 10, 1917 (40 Stat. 272).

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### TITLE 49—TRANSPORTATION

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#### 49 U.S.C. 1. REGULATION IN GENERAL; CAR SERVICE; ALTERATION OF LINE

(1) Carriers subject to regulation.

The provisions of this chapter shall apply to common carriers engaged in—

(a) The transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment; or

(b) The transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line, or partly by pipe line and partly by railroad or by water—

[Emphasis supplied.]

(c) Repealed. June 19, 1934, ch. 652, Title VI, § 602 (b), 48 Stat. 1102.

From one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country, but only insofar as such transportation or transmission takes place within the United States.

(2) Transportation subject to regulation.

The provisions of this chapter shall also apply to such transportation of passengers and property, but only insofar as such transportation takes place within the United States, but shall not apply—

(a) To the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State and not shipped to or from a foreign country from or to any place in the United States as aforesaid, except as otherwise provided in this chapter;

(b) Repealed. June 19, 1934, ch. 652, Title VI, § 602 (b), 48 Stat. 1102.

(c) To the transportation of passengers or property by a carrier by water where such transportation would not be subject to the provisions of this chapter except for the fact that such carrier absorbs, out of its port-to-port water rates or out of its proportional through rates, any switching, terminal, lighterage, car rental, trackage, handling, or other charges by a rail carrier for services within the switching, drayage, lighterage, or corporate limits of a port terminal or district.

(3) Definitions.

(a) The term "common carrier" as used in this chapter shall include all pipe-line companies; express companies; sleeping-car companies; and all persons, natural or artificial, engaged in such transportation as aforesaid as common carriers for hire. Wherever the word "carrier" is used in this chapter it shall be held to mean "common carrier." The term "railroad" as used in this chapter shall include all bridges, car floats, lighters, and ferries used by or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease, and also all switches, spurs, tracks, terminals, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards, and grounds, used or necessary in the transportation or delivery of any such property. The term "transportation" as used in this chapter shall include locomotives, cars, and other vehicles, vessels, and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported. The term "person" as used in this chapter includes an individual, firm, copartnership, corporation, company,



association, or joint-stock association; and includes a trustee, receiver, assignee, or personal representative thereof.

(b) For the purposes of sections 5, 12 (1), 20, 304 (a) (7), 310, 320, 904 (b), 910, and 913 of this title, where reference is made to control (in referring to a relationship between any person or persons and another person or persons), such reference shall be construed to include actual as well as legal control, whether maintained or exercised through or by reason of the method of or circumstances surrounding organization or operation, through or by common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or through or by any other direct or indirect means; and to include the power to exercise control.

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(7) Free transportation for passengers prohibited; exceptions; penalty.

No common carrier subject to the provisions of this chapter, shall, directly or indirectly, issue or give any interstate free ticket, free pass, or free transportation for passengers, except to its employees, its officers, time inspectors, surgeons, physicians, and attorneys at law, and the families of any of the foregoing; to the executive officers, general chairmen, and counsel of employees' organizations when such organizations are authorized and designated to represent employees in accordance with the provisions of the Railway Labor Act; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Homes, including those about to enter and those returning home after discharge; to necessary caretakers of livestock, poultry, milk, and fruit; to employees on sleeping cars, express cars, and to line-men of telegraph and telephone companies; to railway mail-service employees and persons in charge of the mails when on duty and traveling to and from duty, and all duly accredited agents and officers of the Post Office Department and the Railway Mail Service and post-office inspectors while traveling on official business, upon the exhibition of their credentials; to customs inspectors, and immigration officers; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured in wrecks and physicians and nurses attending such persons: Provided, That this provision shall not be construed to prohibit the interchange of passes for the officers, agents, and employees of common carriers, and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation: And provided further, That this provision shall not be construed to prohibit the privilege of passes or franks, or the exchange thereof with each other, for the officers,

agents, employees, and their families of such telegraph, telephone, and cable lines, and the officers, agents, employees and their families of other common carriers subject to the provisions of this chapter: Provided further, That the term "employees" as used in this paragraph shall include furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed in the employment of a carrier and exemployees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this paragraph shall include the families of those persons named in this proviso, also the families of persons killed, and the widows during widowhood and minor children during minority of persons who died, while in the service of any such common carrier. Any common carrier violating this provision shall be deemed guilty of a misdemeanor and for each offense, on conviction, shall pay to the United States a penalty of not less than \$100 nor more than \$2,000, and any person, other than the persons excepted in this provision, who uses any such interstate free ticket, free pass, or free transportation shall be subject to a like penalty. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in sections 41 to 43 of this title.

\* \* \* \* \*

(15) Powers of Commission in case of emergency.

Whenever the Commission is of opinion that shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in any section of the country, the Commission shall have, and it is given, authority, either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleading by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine: (a) to suspend the operation of any or all rules, regulations, or practices then established with respect to car service for such time as may be determined by the Commission; (b) to make such just and reasonable directions with respect to car service without regard to the ownership as between carriers of locomotives, cars, and other vehicles, during such emergency as in its opinion will best promote the service in the interest of the public and the commerce of the people, upon such terms of compensation as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable: (c) to require such joint or common use of terminals, including main-line track or tracks for a reasonable distance outside of such terminals, as in its opinion will best meet the emergency and serve the public interest, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable; and (d) to give directions for preference or priority in transportation, embargoes, or movement of traffic under permits, at such time and for such periods as it may determine, and to modify, change, suspend, or annul them. *In time of war or threatened war*

[Emphasis supplied]

the President may certify to the Commission that it is essential to the national defense and security that certain traffic shall have preference or priority in transportation, and the Commission shall, under the power herein conferred, direct that such preference or priority be afforded.

\* \* \* \* \*

(Feb. 4, 1887, ch. 104, pt. I, § 1, 24 Stat. 379; June 29, 1906, ch. 3591, § 1, 34 Stat. 584; Apr. 13, 1908, ch. 143, 35 Stat. 60; June 13, 1910, ch. 309, § 7, 36 Stat. 544; May 29, 1917, ch. 23, 40 Stat. 101; Feb. 28, 1920, ch. 91, §§ 400-403, 41 Stat. 474-479; June 19, 1934, ch. 652, § 602, (b), 48 Stat. 1102; Aug. 9, 1935, ch. 498, § 1, 49 Stat. 543; Sept. 18, 1940, ch. 722, title I, §§ 2, 3 (a), (b), 4, 54 Stat. 899-901; June 24, 1948, ch. 622, 62 Stat. 602; Aug. 2, 1949, ch. 379, § 1, 63 Stat. 485; June 27, 1952, ch. 477, title IV, § 402 (g), 66 Stat. 277; Aug. 12, 1958, Pub. L. 85-625, § 3, 72 Stat. 570; May 26, 1966, Pub. L. 89-430, § 1, 80 Stat. 168.)

### —NOTE—

EXCERPT FROM HOUSE REPT. 1183, 89TH CONG., 2D SESS. (1966)

#### PURPOSE OF THE BILL

The purpose of the bill is to secure alleviation of the recurring national shortages of railroad freight cars.

This purpose is to be accomplished by authorizing the Interstate Commerce Commission in its setting of the rates of compensation to be paid for the use of any type of freight car to include such elements as in the Commission's judgment will provide just and reasonable compensation to freight car owners, contribute to sound car service practices (including efficient utilization and distribution of cars), and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense.

#### BACKGROUND AND NEED FOR LEGISLATION

Over the years the shippers of this Nation from time to time have faced shortages of certain types of cars available for meeting their needs. To meet these shortages in past years there was enacted into law provisions dealing with car service and the distribution of car supply authorizing the Interstate Commerce Commission to supplement and at times to override the various directives through which the railroads themselves undertake to ameliorate these conditions in their own cooperative car service rules.

Traditionally these shortages arose during the harvest season, but since World War II they have become chronic. They are not limited to the fall harvest season (although that continues to be a critical period) nor to the particular types of cars involved in the movement of agricultural products. They can occur in any month of the year with respect to any type of freight car. There is no need to set forth statistics regarding the amount or the nature of the shortages or to resolve the conflicting interpretations of those statistics that are given by those concerned with the movement of cars.

49 U.S.C. 6. SCHEDULES AND STATEMENTS OF RATES, ETC., JOINT RAIL AND  
WATER TRANSPORTATION

\* \* \* \* \*

(8) Preference to shipments for United States.

*In time of war or threatened war* preference and precedence shall, upon demand of the President of the United States, be given, over all other traffic, for the transportation of troops and material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic. And in time of peace shipments consigned to agents of the United States for its use shall be delivered by the carriers as promptly as possible and without regard to any embargo that may have been declared, and no such embargo shall apply to shipments so consigned.

(9) Schedule lacking notice of effective date.

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—NOTE—

EXCERPT FROM HOUSE REPT. 705, 83D CONG., 1ST SESS. (1953)

NEED FOR THE LEGISLATION

The instant bill, continuing this grant of authority to the President, has been sponsored by the Department of Defense, and has the endorsement of the Interstate Commerce Commission and of the Defense Transport Administration.

The Department of Defense urges the extension of this authority on the grounds that it is necessary to assure the movement of men and materials of war. It points out that the extension of authority under H. R. 2347 (Public Law 89, 83d Cong.) relates only to property, and only to movement by rail or by freight forwarder, under sections 1(15) and 420 of the Interstate Commerce Act, while the authority under this bill contained in section 6 (8) encompasses both troops and materials, by all classes of carriers subject to the act, rail, motor, water, and freight forwarders.

Without in any way gainsaying the desirability of the basic authority over priorities for military traffic in time of war or threatened war, your committee in hearings on June 24, examined into several questions as to whether such authority did not lie in the basic statute itself, without the need for the additional grant contained in the bill here reported.

Counsel for the Defense Department urged the passage of the bill on the grounds that the basic authority under the Interstate Commerce Act lodged with the President only in time of war or threatened war, and that this bill would provide such authority during the period of the emergency declared December 16, 1950, without the President's being required to make a determination that a state of war or

[Emphasis supplied.]

threatened war might exist, or being embarrassed or compelled to commit himself on that question. The same argument previously had been advanced as to H. R. 2347, extending the authority of section 1 (15), but in that case it appears that the Interstate Commerce Commission exercises priority power only upon a certification to it by the President that a state of war or threatened war exists.

Inasmuch as the continuation of the authority granted by the bill is dedicated *upon the national emergency declared by the President December 15, 1950*, additional discussion was had of whether such declaration was not *prima facie* determination of a condition of threatened war. Counsel for the Defense Department indicated that a declaration of an emergency could not per se be so construed.

Further consideration was given to whether or not the authority here involved was needed in view of the powers granted to the President under the Defense Production Act, now in process of being extended. This act gives broad powers to the President, similar to those granted to him by the War Powers Acts, to allocate facilities to promote the national defense. It was stated by counsel for the Defense Transport Administration, however, that while it readily was true that under the original act of 1950, and as hitherto amended, such power was much broader than that of section 6 (8) of the Interstate Commerce Act, it appeared that the modification or definition of national defense as proposed in the extension now being considered by both Houses, might be interpreted to restrict such broad power over transportation priorities.

It should be noted that the hearings developed that the authority over priorities which section 6 (8) gives to the President, has not been exercised at any time since the Korean outbreak. Indeed, it has not even been delegated by the President to any executive agency to exercise on his behalf, either to the Defense Transport Administration, or otherwise. The continued grant is urged solely on the basis of its "standby" usefulness.

It is true that the Office of Defense Transportation exercised the delegation to it by the President during the war of the authority of section 6 (8), and of section 1 (15) as well. But during the war the absolute authority over transportation priorities lodged with the Chairman of the War Production Board by delegation of the President under the War Powers Act. It was not delegated to the Office of Defense Transportation until 1946, which Office expired in 1949. Since Korea, the Defense Transport Administrator, by virtue of the *ex officio* position resulting from his being the Interstate Commerce Commissioner in charge of the Bureau of Service, to which is assigned the administration of the Commission's car service rules, has handled priorities only through the Commission's jurisdic-

[Emphasis supplied.]

tion. It is not apparent that the Commission, or the Administrator, has exercised at any time since June 1950, any of the powers flowing from a Presidential certification under section 1 (15).

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#### 49 U.S.C. 1020. SPECIAL POWERS DURING TIME OF WAR OR OTHER EMERGENCY

The provision of section 1 (15)—(17) of this title shall be applicable, in the case of service subject to this chapter, with respect to freight forwarders and other persons, and the service, equipment, and facilities of freight forwarders, with like force and effect as in the case of the carriers and other persons, and the service, equipment, and facilities, to which such provisions are specifically applicable. (Feb. 4, 1887, ch. 104, pt. IV, § 420, as added May 16, 1942, ch. 318, § 1, 56 Stat. 298.)

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#### 49 U.S.C. 1343. GENERAL POWERS AND DUTIES OF ADMINISTRATOR

(a) Military participation; detail of members of Armed Forces; report to the Congress.

(1) In order to insure that the *interests of national defense* are properly safeguarded and that the Administrator is properly advised as to the needs and special problems of the armed services, the Administrator shall provide for participation of military personnel in carrying out his functions relating to regulation and protection of air traffic, including provision of air navigation facilities, and research and development with respect thereto, and the allocation of airspace. Members of the Army, the Navy, the Air Force, the Marine Corps, or the Coast Guard may be detailed by the appropriate Secretary, pursuant to cooperative agreements with the Administrator, including such agreement on reimbursement as may be deemed advisable by the Administrator and the Secretary concerned, for service in the Administration to effect such participation.

\* \* \* \* \*

(c) Development of plans for discharge of responsibilities in event of war; legislative proposal; transfer of functions.

The Administrator shall develop, in consultation with the Department of Defense and other affected Government agencies, plans for the effective discharge of the responsibilities of the Administration *in the event of war*, and shall propose to Congress on or before January 1, 1960, legislation for such purpose: Provided, That in the event of war the President by Executive order may transfer to the Department of Defense any functions (including powers, duties, activities, facilities, and parts of functions) of the Administration prior to enactment of such proposed legislation. In connection with any such transfer, the President may provide for appropriate transfers of records, property, and personnel.

\* \* \* \* \*

[Emphasis supplied.]

(Pub. L. 85-726, title III, § 302(c)-(k), Aug. 23, 1958, 72 Stat. 745; Pub. L. 87-367, title I, § 103(2), title II, § 205, Oct. 4, 1961, 75 Stat. 787, 791; Pub. L. 87-793, § 1001(h), Oct. 11, 1962, 76 Stat. 864.)

#### 49 U.S.C. 1348. AIRSPACE CONTROL AND FACILITIES

##### (a) Use of airspace.

The Administrator is authorized and directed to develop plans for and formulate policy with respect to the use of the navigable airspace; and assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions, and limitations as he may deem necessary in order to insure the safety of aircraft and the efficient utilization of such airspace. He may modify or revoke such assignment when required in the public interest.

##### (b) Air navigation facilities.

The Administrator is authorized, within the limits of available appropriations made by the Congress, (1) to acquire, establish, and improve air-navigation facilities wherever necessary; (2) to operate and maintain such air-navigation facilities; (3) to arrange for publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation utilizing the facilities and assistance of existing agencies of the Government so far as practicable; and (4) to provide necessary facilities and personnel for the regulation and protection of air traffic.

##### (c) Air traffic rules.

The Administrator is further authorized and directed to prescribe air traffic rules and regulations governing the flight of aircraft, for the navigation, protection, and identification of aircraft, for the protection of persons and property on the ground, and for the efficient utilization of the navigable airspace, including rules as to safe altitudes of flight and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

##### (d) Applicability of Administrative Procedure Act.

In the exercise of the rulemaking authority under subsections (a) and (c) of this section, the Administrator shall be subject to the provisions of the Administrative Procedure Act, notwithstanding any exception relating to military or naval functions in section 1003 of Title 5.

##### (e) Exemptions.

The Administrator from time to time may grant exemptions from the requirements of any rule or regulation prescribed under this subchapter if he finds that such action would be in the public interest.

##### (f) Exception for military emergencies.

When it is essential to the defense of the United States because of a military emergency or urgent military necessity, and when appropriate military authority so determines, and when prior notice thereof is given to the Administrator, such military authority may authorize deviation by military aircraft of the national defense forces of the United States from air traffic rules issued pursuant to this subchapter. Such prior notice shall be given to the Administra-

tor at the earliest time practicable and, to the extent time and circumstances permit, every reasonable effort shall be made to consult fully with the Administrator and to arrange in advance for the required deviation from the rules on a mutually acceptable basis. (Pub. L. 85-726, title III, § 307, Aug. 23, 1958, 72 Stat. 749.)

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## TITLE 50—WAR AND NATIONAL DEFENSE

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### 50 U.S.C. 21. RESTRAINT, REGULATION AND REMOVAL

Whenever there is a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion is perpetrated, attempted or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen years and upward, who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies. *The President is authorized in any such event, by his proclamation thereof, or other public act, to direct the conduct to be observed on the part of the United States, toward the aliens who become so liable; the manner and degree of the restraint to which they shall be subject and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, refuse or neglect to depart therefrom; and to establish any other regulations which are found necessary in the premises and for the public safety.* (R. S. § 4067; Apr. 16, 1918, ch. 55, 40 Stat. 531.)

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### 50 U.S.C. 82. PROCUREMENT OF SHIPS AND MATERIAL DURING WAR; CHANGES IN CONTRACTS; COMMANDEERING FACTORIES, ETC.

(a) The word "person" as used in subsections (b) and (c) of this section shall include any individual, trustee, firm, association, company, or corporation. The word "ship" shall include any boat, vessel, submarine, or any form of aircraft, and the parts thereof. The words "war material" shall include arms, armament, ammunition, stores, supplies, and equipment for ships and airplanes, and everything required for or in connection with the production thereof. The word "factory" shall include any factory, workshop, engine works, building used for manufacture, assembling, construction, or any process, and any shipyard or dockyard. The words "United States" shall include the Canal Zone and all territory and waters, continental and insular, subject to the jurisdiction of the United States.

(b) *In time of war the President is authorized and empowered, in addition to all other existing provisions of law:*

[Emphasis supplied.]



First. Within the limits of the amounts appropriated therefor, to place an order with any person for such ships or war material as the necessities of the Government, to be determined by the President, may require and which are of the nature, kind, and quantity usually produced or capable of being produced by such person. Compliance with all such orders shall be obligatory on any person to whom such order is given, and such order shall take precedence over all other orders and contracts theretofore placed with such person. If any person owning, leasing, or operating any factory equipped for the building or production of ships or war material for the Navy shall refuse or fail to give to the United States such preference in the execution of such an order, or shall refuse to build, supply, furnish, or manufacture the kind, quantity, or quality of ships or war material so ordered at such reasonable price as shall be determined by the President, the President may take immediate possession of any factory of such person, or of any part thereof without taking possession of the entire factory, and may use the same at such times and in such manner as he may consider necessary or expedient.

Second. Within the limit of the amounts appropriated therefor, to modify or cancel any existing contract for the building, production, or purchase of ships or war material; and if any contractor shall refuse or fail to comply with the contract as so modified the President may take immediate possession of any factory of such contractor, or any part thereof without taking possession of the entire factory, and may use the same at such times and in such manner as he may consider necessary or expedient.

#### 50 U.S.C. 98d. RELEASE OF STOCK PILE MATERIALS

The stock piles shall consist of all such materials prior to July 23, 1946 purchased or transferred to be held pursuant to sections 98 to 98h of this title, or after July 23, 1946, transferred pursuant to section 98e of this title, or after July 23, 1946, purchased pursuant to section 98b of this title, and not disposed of pursuant to sections 98 to 98h of this title. Except for the rotation to prevent deterioration and except for the disposal of any material pursuant to section 98b of this title, materials acquired under sections 98 to 98h of this title shall be released for use, sale, or other disposition only (a) *on order of the President at any time* when in his judgment such release is required for purposes of the common defense, or (b) *in time of war or during a national emergency with respect to common defense proclaimed by the President*, on order of such agency as may be designated by the President. (June 7, 1939, ch. 190 § 5, 53 Stat. 812; July 23, 1946, ch. 590, 60 Stat. 598.)

#### 50 U.S.C. 167c. LICENSING

(a) Rules and regulations. *Whenever the President determines that the defense, security, and general welfare of the United States*

[Emphasis supplied.]

requires such action, the Secretary shall issue such regulations as he deems necessary for the licensing of sales and transportation of helium in interstate commerce after extraction from helium-bearing natural gas or helium-gas mixtures. Thereafter it shall be unlawful for any person to sell or transfer helium in interstate commerce except in accordance with such regulations or pursuant to the terms of a license issued by the Secretary, or in accordance with the terms of a contract or agreement with the Secretary entered into pursuant to this chapter. For the purpose of this section, the term "helium" shall mean helium, after extraction from helium-bearing natural gas or helium-gas mixtures, in a refined or semirefined state suitable for use.

(b) Terms; assignments; revocations. Each license shall be issued for a specified period to be determined by the Secretary, but not exceeding five years, and may be renewed by the Secretary upon the expiration of such period. No such license shall be issued to a person if in the opinion of the Secretary the issuance of a license to such person would be inimical to the defense and security of the United States. No such license shall be assigned or otherwise transferred directly or indirectly except with the consent or approval of the Secretary in writing. Any such license may be revoked for any material false statement in the application for license, or for violation or a failure to comply with the terms and provisions of this chapter, the regulations issued by the Secretary pursuant thereto or the terms of the license.

(c) Purpose. In issuing licenses under this section, the Secretary shall impose such regulations and terms of licenses as will permit him effectively to promote the common defense and security as well as the general welfare of the United States. The licensing authority herein granted, shall be used solely for the purpose of preventing the transportation or sale of helium for end uses determined by the Secretary to be nonessential or wasteful, and any determination that any end use is nonessential or wasteful shall be published in the form of general regulations applicable to all transportation or sales of helium.

(d) Suspension; reacquisition of supplies. *Whenever Congress or the President declares that a war or national emergency exists*, the Secretary is authorized to suspend any license granted under this chapter if in his judgment such suspension is necessary to the defense and security of the United States, and he is further authorized to take such steps as may be necessary to recapture or reacquire supplies of helium. (Mar. 3, 1925, ch. 426, § 5, as renumbered Sept. 13, 1960, Pub. L. 86-777, § 2, 74 Stat. 920.)

Third. To require the owner or occupier of any factory in which ships or war material are built or produced to place at the disposal of the United States the whole or any part of the output of such factory, and, within the limit of the amounts appropriated therefor, to deliver such output or parts thereof in such quantities and at such times as may be specified in the order at such reasonable price as shall be determined by the President.

[Emphasis supplied.]

Fourth. To requisition and take over for use or operation by the Government any factory, or any part thereof without taking possession of the entire factory, whether the United States has or has not any contract or agreement with the owner or occupier of such factory.

(d) Whenever the United States shall cancel or modify any contract, make use of, assume, occupy, requisition, or take over any factory or part thereof, or any ships or war material, in accordance with the provisions of subsection (b) of this section, it shall make just compensation therefor, to be determined by the President, and if the amount thereof so determined by the President is unsatisfactory to the person entitled to receive the same, such person shall be paid fifty per centum of the amount so determined by the President and shall be entitled to sue the United States to recover such further sum as added to said fifty per centum shall make up such amount as will be just compensation therefor, in the manner provided for by subsection (20) of section 41 and section 250 of Title 28. (Mar. 4, 1917, ch. 180, 39 Stat. 1192.)

#### —NOTE—

EXCERPT FROM HOUSE REPT. 1392 (MIN. REPT.), 64TH CONG.,  
1ST SESS. (1917)

In conclusion, we will state that the bill, as reported, simply follows the authorizations provided for in the bill passed about five months ago by this Congress and does not undertake to provide a building program for any emergency. If a real emergency should arise, the Government would at once commandeer all navy yards and would wholly change the building program authorized in the bill passed at the first session of this Congress, and by thus assuming control of all private shipbuilding yards and devoting the same to the building of Government ships the completion of any building program required would be largely hastened, and it would be a serious mistake to have contracts outstanding whereby the Government had impliedly assented to a time limit of 48 months or more on some of its capital ships and 41 or 42 months on its scout cruisers. Even if there should exist in the minds of some ground for apprehending that emergency legislation may be required, this but suggests the wisdom of the recommendations hereinbefore made, so as to prevent committing the Government to contracts that would not be completed within the limit of time required.

#### —NOTE—

EXCERPT FROM HOUSE REPT. 1552, 86TH CONG., 2D SESS. (1960)

The primary objective of H.R. 10548 is to furnish authority to the Department of the Interior to carry out an effective long-range program for the production, distribution,

and storage of helium in order to assure a sustained supply, taking into account supplies from other sources, to meet essential Government needs. Provision is made for cooperation by the Department of Defense and the Atomic Energy Commission. The measure also clarifies and perfects certain of the existing provisions of the Helium Act.

The annual consumption of helium today in the United States is approximately 370 million cubic feet—that is, 80 times the 1937 level. Helium is essential to our missile and atomic energy programs and is a valuable industrial material. Seventy percent of the helium now being consumed is used directly by the Department of Defense, the Atomic Energy Commission, the National Aeronautics and Space Administration, and other Federal agencies. An additional 20 percent is used in industry on Federal defense and atomic energy contracts. Smaller, but important, quantities are used in hospitals and in research.

The upward trend in helium demand is expected to continue into the future. Many present-day uses, including those in the missile, nuclear energy, and industrial fields, are in early stages of development.

#### 50 U.S.C. 191. REGULATION OF ANCHORAGE AND MOVEMENT OF VESSELS DURING NATIONAL EMERGENCY

*Whenever the President by proclamation or Executive order declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance or threatened disturbance of the international relations of the United States, the Secretary of the Treasury may make, subject to the approval of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, may inspect such vessel at any time, place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of the rights and obligations of the United States, may take, by and with the consent of the President, for such purposes, full possession and control of such vessel and remove therefrom the officers and crew thereof and all other persons not specially authorized by him to go or remain on board thereof.*

Within the territory and waters of the Canal Zone the Governor of the Canal Zone, with the approval of the President, shall exercise all the powers conferred by this section on the Secretary of the Treasury.

*Whenever the President finds that the security of the United States is endangered by reason of actual or threatened war, or invasion, or insurrection, or subversive activity, or of disturbances or threatened disturbances of the international relations of the United*

[Emphasis supplied.]

*States*, the President is authorized to institute such measures and issue such rules and regulations—

(a) to govern the anchorage and movement of any foreign-flag vessels in the territorial waters of the United States, to inspect such vessels at any time, to place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of rights and obligations of the United States, may take for such purposes full possession and control of such vessels and remove therefrom the officers and crew thereof, and all other persons not especially authorized by him to go or remain on board thereof;

(b) to safeguard against destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature, vessels, harbors, ports, and waterfront facilities in the United States, the Canal Zone, and all territory and water, continental or insular, subject to the jurisdiction of the United States.

Any appropriation available to any of the Executive Departments shall be available to carry out the provisions of this chapter. (June 15, 1917, ch. 30, title II, § 1, 40 Stat. 220; Aug. 9, 1950, ch. 656, § 1, 64 Stat. 427; Sept. 26, 1950, ch. 1049, § 2(b), 64 Stat. 1038.)

#### 50 U.S.C. 196. EMERGENCY FOREIGN VESSEL ACQUISITION; PURCHASE OR REQUISITION OF VESSELS LYING IDLE IN UNITED STATES WATERS

During any period in which vessels may be requisitioned under section 1242 of Title 46, *the President is authorized and empowered through the Secretary of Commerce* to purchase, or to requisition, or for any part of such period to charter or requisition the use of, or to take over the title to or possession of, for such use or disposition as he shall direct, any merchant vessel not owned by citizens of the United States which is lying idle in waters within the jurisdiction of the United States, including the Canal Zone, and which the President finds to be necessary to the national defense. Just compensation shall be determined and made to the owner or owners of any such vessel in accordance with the applicable provisions of section 1242 of Title 46. Such compensation hereunder, or advances on account thereof, shall be deposited with the Treasurer of the United States in a separate deposit fund. Payments for such compensation and also for payment of any valid claim upon such vessel in accord with the provisions of the second paragraph of subsection (d) of section 1242 of Title 46, shall be made from such fund upon the certificate of the Secretary of Commerce. (Aug. 9, 1954, ch. 659, § 1, 68 Stat. 675.)

#### 50 U.S.C. 197. SAME; VOLUNTARY PURCHASE OR CHARTER AGREEMENTS

During any period in which vessels may be requisitioned under section 1242 of Title 46, the President is authorized through the Sec-

[Emphasis supplied.]

retary of Commerce to acquire by voluntary agreement of purchase or charter the ownership or use of any merchant vessel not owned by citizens of the United States. (Aug. 9, 1954, ch. 659, § 2, 68 Stat. 675.)

### —NOTE—

EXCERPT FROM SENATE REPT. 1087, 83D CONG., 2D SESS. (1954)

The purpose of the bill is to make permanent certain provisions of Public Law 101, 77th Congress, as amended, which will give to the Secretary of Commerce in time of national emergency the authority to requisition, purchase, or charter foreign merchant vessels lying idle in United States waters.

#### HISTORICAL BACKGROUND

This bill involves two distinct rights of a sovereign nation under international law: first, the right of angary, which is a right deriving from the law of war; secondly, the right which every State undoubtedly possesses of seizing in case of emergency, and subject to compensation, any foreign property within its jurisdiction (Oppenheim, International Law, vol. II, p. 510).

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50 U.S.C. 198. SAME; DOCUMENTATION OF VESSELS; WAIVER OF COMPLIANCE; COASTWISE TRADE; INSPECTION; RECONDITIONING OF VESSELS; EFFECTIVE PERIOD; DEFINITION

(a) Any vessel not documented under the laws of the United States, acquired by or made available to the Secretary of Commerce under sections 196 to 198 of this title, or otherwise, may, notwithstanding any other provision of law, in the discretion of the Secretary of the Treasury be documented as a vessel of the United States under such rules and regulations or orders, and with such limitations, as the Secretary of the Treasury may prescribe or issue as necessary or appropriate to carry out the purposes and provisions of sections 196 to 198 of this title, and in accordance with provisions of subsection (c) of this section, engage in the coastwise trade when so documented. Any document issued to a vessel under the provisions of this subsection shall be surrendered at any time that such surrender may be ordered by the Secretary of the Treasury. No vessel, the surrender of the documents of which has been so ordered, shall, after the effective date of such order, have the status of a vessel of the United States unless documented anew.

(b) *The President may*, notwithstanding any other provisions of law, by rules and regulations or orders, *wave compliance with any provision of law* relating to masters, officers, members of the crew, or crew accommodations on any vessel documented under authority of this section to such extent and upon such terms as he finds necessary

[Emphasis supplied.]

because of the lack of physical facilities on such vessels, and because of the need to employ aliens for their operation. No vessel shall cease to enjoy the benefits and privileges of a vessel of the United States by reason of the employment of any person in accordance with the provisions of this subsection.

(c) Any vessel while documented under the provisions of this section, when chartered under sections 196 to 198 of this title by the Secretary of Commerce to Government agencies or departments or to private operators, may engage in the coastwise trade under permits issued by the Secretary of Commerce, who is authorized to issue permits for such purpose pursuant to such rules and regulations as he may prescribe. The Secretary of Commerce is authorized to prescribe such rules and regulations as he may deem necessary or appropriate to carry out the purposes and provisions of this section. The second paragraph of section 808 of Title 46, shall not apply with respect to vessels chartered to Government agencies or departments or to private operators or otherwise used or disposed of under sections 196 to 198 of this title. Existing laws covering the inspection of steam vessels are made applicable to vessels documented under this section only to such extent and upon such conditions as may be required by regulations of the Secretary of the department in which the Coast Guard is operating: Provided, That in determining to what extent those laws should be made applicable, due consideration shall be given to the primary purpose of transporting commodities *essential to the national defense*.

(d) The Secretary of Commerce without regard to the provisions of section 5 of Title 41 may repair, reconstruct, or recondition any vessels to be utilized under sections 196 to 198 of this title. The Secretary of Commerce and any other Government department or agency by which any vessel is acquired or chartered, or to which any vessel is transferred or made available under sections 196 to 198 of this title may, with the aid of any funds available and without regard to the provisions of said section 5 of Title 41, repair, reconstruct, or recondition any such vessels to meet the needs of the services intended, or provide facilities for such repair, reconstruction, or reconditioning. The Secretary of Commerce may operate or charter for operation any vessel to be utilized under sections 196 to 198 of this title to private operators, citizens of the United States, or to any department or agency of the United States Government, without regard to the provisions of sections 1191 to 1204 of Title 46, and any department or agency of the United States Government is authorized to enter into such charters.

(e) In case of any voyage of a vessel documented under the provisions of this section begun before the date of termination of an effective period of section 196 of this title, but is completed after such date, the provisions of this section shall continue in effect with respect to such vessel until such voyage is completed.

(f) When used in sections 196 to 198 of this title, the term "documented" means "registered", "enrolled and licensed", or "licensed". (Aug. 9, 1954, ch. 659, § 3, 68 Stat. 675.)

[See excerpt from 50 U.S.C. 196 and 197 (S. Rept. 1087). *Supra.*]

[Emphasis supplied.]

50 U.S.C. 205. SUSPENSION OF COMMERCIAL INTERCOURSE WITH STATE  
IN INSURRECTION

*Whenever the President, in pursuance of the provisions of this chapter, has called forth the militia to suppress combinations against the laws of the United States, and to cause the laws to be duly executed and the insurgents shall have failed to disperse by the time directed by the President, and when the insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in such State or States, or in the part or parts thereof in which such combination exists, and such insurrection is not suppressed by such State or States, or whenever the inhabitants of any State or part thereof are at any time found by the President to be in insurrection against the United States, the President may, by proclamation, declare that the inhabitants of such State, or of any section or part thereof where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; and all goods and chattels, wares and merchandise, coming from such State or section into the other parts of the United States, or proceeding from other parts of the United States to such State or section, by land or water, shall, together with the vessel or vehicle conveying the same, or conveying persons to or from such State or section, be forfeited to the United States. (R.S. § 5301.)*

DERIVATION

Acts July 13, 1861, ch. 3, § 5, 12 Stat. 257; July 31, 1861, ch. 32, 12 Stat. 284.

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50 U.S.C. 206. SUSPENSION OF COMMERCIAL INTERCOURSE WITH PART  
OF STATE IN INSURRECTION

*Whenever any part of a State not declared to be in insurrection is under the control of insurgents, or is in dangerous proximity to places under their control, all commercial intercourse therein and therewith shall be subject to the prohibitions and conditions of section 205 of this title for such time and to such extent as shall become necessary to protect the public interests, and be directed by the Secretary of the Treasury, with the approval of the President. (R. S. § 5302.)*

DERIVATION

Act July 2, 1864, ch. 225, § 5, 13 Stat. 376.

[Emphasis supplied.]



50 U.S.C. 207. PERSONS AFFECTED BY SUSPENSION OF COMMERCIAL INTERCOURSE

The provisions of this chapter in relation to commercial intercourse shall apply to all commercial intercourse by and between persons residing or being within districts within the lines of national military occupation in the States or parts of States declared in insurrection, whether with each other or with persons residing or being within districts declared in insurrection and not within those lines; and all persons within the United States, not native or naturalized citizens thereof, shall be subject to the same prohibitions, in all commercial intercourse with inhabitants of States or parts of States declared in insurrection, as citizens of States not declared to be in insurrection. (R.S. § 5303.)

DERIVATION

Act July 2, 1864, ch. 225 § 4, 13 Stat. 376.

50 U.S.C. 208. LICENSING OR PERMITTING COMMERCIAL INTERCOURSE WITH STATE OR REGION IN INSURRECTION

*The President may, in his discretion*, license and permit commercial intercourse with any part of such State or section, the inhabitants of which are so declared in a state of insurrection, so far as may be necessary to authorize supplying the necessities of loyal persons residing in insurrectionary States, within the lines of actual occupation by the military forces of the United States, as indicated by published order of the commanding general of the department or district so occupied; and, also, so far as may be necessary to authorize persons residing within such lines to bring or send to market in the loyal States any products which they shall have produced with their own labor or the labor of freedmen, or others employed and paid by them, pursuant to rules relating thereto, which may be established under proper authority. And no goods, wares, or merchandise shall be taken into a State declared in insurrection, or transported therein, except to and from such places and to such monthly amounts as shall have been previously agreed upon, in writing, by the commanding general of the department in which such places are situated, and an officer designated by the Secretary of the Treasury for that purpose. Such commercial intercourse shall be in such articles and for such time and by such persons as *the President, in his discretion, may think most conducive to the public interest*; and, so far as by him licensed, shall be conducted and carried on only in pursuance of rules and regulations prescribed by the Secretary of the Treasury. (R. S. § 5304.)

DERIVATION

Acts July 13, 1861, ch. 3, § 5, 12 Stat. 257; July 2, 1864, ch. 225, § 9, 13 Stat. 377.

[Emphasis supplied.]

50 U.S.C. 212. CONFISCATION OF PROPERTY EMPLOYED TO AID  
INSURRECTION

Whenever during any insurrection against the Government of the United States, *after the President shall have declared by proclamation that the laws of the United States are opposed*, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law, any person, or his agent, attorney, or employee, purchases or acquires, sells or gives, any property of whatsoever kind or description, with intent to use or employ the same, or suffers the same to be used or employed in aiding, abetting, or promoting such insurrection or resistance to the laws, or any person engaged therein; or being the owner of any such property, knowingly uses or employs, or consents to such use or employment of the same, all such property shall be lawful subject of prize and capture wherever found; and it shall be the duty of the President to cause the same to be seized, confiscated, and condemned. (R.S. § 5308.)

DERIVATION

Act of Aug. 6, 1861, ch. 60, § 1, 12 Stat. 319.

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50 U.S.C. 223. FORFEITURE OF VESSELS OWNED BY CITIZENS OF  
INSURRECTIONARY STATES

From and after fifteen days after the issuing of *the proclamation, as provided in section 205 of this title*, any vessel belonging in whole or in part to any citizen or inhabitant of such State or part of a State whose inhabitants are so declared in a state of insurrection, found at sea, or in any port of the rest of the United States, shall be forfeited. (R.S. § 5319.)

DERIVATION

Act July 12, 1861, ch. 3, § 7, 12 Stat. 257.

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50 U.S.C. 451. CONGRESSIONAL DECLARATION OF PURPOSE AND POLICY

In enacting this chapter, it is the intent of Congress to provide a comprehensive and continuous program for the future safety and for the defense of the United States by providing adequate measures whereby an essential nucleus of Government-owned industrial plants and a national reserve of machine tools and industrial manufacturing equipment may be assured for immediate use to supply the needs of the armed forces *in time of national emergency or in anticipation thereof*; it is further the intent of the Congress that such Government-owned plants and such reserve shall not exceed in number or kind the minimum requirements *for immediate use in time of national emergency*, and that any such items which shall become surplus to such

[Emphasis supplied.]

requirements shall be disposed of as expeditiously as possible. (July 2, 1948, ch. 811, § 2, 62 Stat. 1225.)

#### SHORT TITLE

Congress in enacting this chapter provided by section 1 of act July 2, 1948 that it should be popularly known as the "National Industrial Reserve Act of 1948."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 453 of this title.

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### 50 U.S.C. 452. DEFINITIONS

(a) The term "national industrial reserve", as used in this chapter, means that excess industrial property which has been or may hereafter be sold, leased, or otherwise disposed of by the United States, subject to a national security clause, and that excess industrial property of the United States which not having been sold, leased, or otherwise disposed of, subject to a national security clause, shall be transferred to the Administrator of General Services under section 454 of this title.

(b) The term "excess industrial property", as used herein, means any machine tool, any industrial manufacturing equipment and any industrial plant (including structures on land owned by or leased to the United States, substantially equipped with machinery, tools, and equipment) which is capable of economic operation as a separate and independent industrial unit and which is not an integral part of an installation of a private contractor, which machine tools, industrial manufacturing equipment, and industrial plants are under the control of any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation and which are not required for its immediate needs and responsibilities as determined by the head thereof.

(c) The term "national security clause", as used in this chapter, means those terms, conditions, restrictions, and reservations, heretofore formulated or as may be formulated under section 453 (2) of this title for insertion in instruments of sale or lease of property, determined in accordance with section 453 (1) of this title to be a part of the national industrial reserve, *which will guarantee the availability of such property for the purposes of national defense at any time when availability thereof for such purposes is deemed necessary by the Secretary of Defense.* (July 2, 1948, ch. 811. § 3, 62 Stat. 1225; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380.)

#### TRANSFER OF FUNCTIONS

All functions of the Federal Works Agency and of all agency thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section

[Emphasis supplied.]

103(a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103(b) of that act.

#### EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 453 of this title.

### 50 U.S.C. 453. POWERS AND DUTIES OF SECRETARY OF DEFENSE

To effectuate the policy set forth in section 451 of this title the Secretary of Defense is authorized and directed to—

(1) determine which excess industrial properties should become a part of the national industrial reserve under the provisions of this chapter;

(2) *formulate a national security clause*, as defined in section 452(c) of this title and vary or modify the same from time to time in such manner as best to attain the objectives of this chapter, having due regard to securing advantageous terms to the Government in the disposal of excess industrial property;

(3) consent to the relinquishment or waiver of all or any part of any national security clause in specific cases when necessary to permit the disposition of particular excess industrial property when it is determined that the retention of the productive capacity of any such excess industrial property is no longer essential to the national security or that the retention of a lesser interest than that originally required will adequately fulfill the purposes of this chapter: Provided, That nothing in this subsection shall require the modification or waiver of any part of any such national security clause when such clause is deemed necessary by the Secretary of Defense to effectuate the purposes of this chapter; and

(4) designate what excess industrial property shall be disposed of subject to the provisions of the national security clause.

(July 2, 1948, ch. 811, § 4, 62 Stat. 1226.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 454, 455 of this title.

### 50 U.S.C. 454. PLANT DISPOSAL; MODIFICATION OF NATIONAL SECURITY CLAUSE; TRANSFER TO ADMINISTRATOR OF GENERAL SERVICES; MACHINE TOOLS

(a) In the event that any agency charged with the disposal of excess industrial property, after making every practicable effort so to

[Emphasis supplied.]

do, is unable to dispose of any excess industrial plant because of the national security clause it shall notify the Secretary of Defense, indicating such modifications in *the national security clause*, if any, which in its judgment would make possible disposal of the plant. The Secretary of Defense shall consider and agree to any and all such proposed modifications as in his judgment would be consistent with the purposes of this chapter. If, however, such clause is not modified or the requirements thereof waived pursuant to section 453(c) of this title, or if modified, such plant cannot then be disposed of under such modified clause, the Secretary of Defense shall direct that such plant be transferred to the Administrator of General Services, and such transfer shall be without reimbursement or transfer of funds.

(b) Notwithstanding any other provisions of law, any agency charged with the disposal of excess machine tools and industrial manufacturing equipment shall transfer custody of such machine tools and equipment as may be designated by the Secretary of Defense pursuant to section 453 of this title to the Administrator of General Services, without reimbursement, for storage and maintenance. (July 2, 1948, ch. 811, § 5, 62 Stat. 1226; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380.)

#### TRANSFER OF FUNCTIONS

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103(a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103(b) of that act.

#### EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 452, 456, 457 of this title.

### 50 U.S.C. 455. ACCEPTANCE OF PLANTS BY ADMINISTRATOR OF GENERAL SERVICES; DISPOSITION; CONDITIONS OF LEASE

Subject to provisions of section 456 of this title, the Administrator of General Services is authorized and directed to accept the transfer to it of such excess industrial property as is directed to be transferred to it under section 453 of this title and, as and when directed or authorized by the Secretary of Defense pursuant to section 456 of this title, to utilize, maintain, protect, repair, restore, renovate, lease, or dispose of such property. Notwithstanding section 303(b) of Title 40, any lease may provide for the renovation, maintenance, protection, repair, and restoration by the lessee, of the property leased, or of the entire

[Emphasis supplied.]

unit or installation when a substantial part thereof is leased, as part or all of the consideration for the lease of such property. (July 2, 1948, ch. 811, § 6, 62 Stat. 1226; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380.)

#### TRANSFER OF FUNCTIONS

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103(a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103(b) of that act.

#### EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

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#### 50 U.S.C. 456. POWERS OF SECRETARY OF DEFENSE RESPECTING PROPERTY IN NATIONAL INDUSTRIAL RESERVE

The Secretary of Defense, with respect to property in the national industrial reserve, is authorized when he deems such action to be in the *interest of national security*—

- (1) to establish general policies for the care, maintenance, utilization, recording, and security of such property transferred to the Administrator of General Services pursuant to section 454 of this title; and
- (2) to direct the transfer without reimbursement by the Administrator of General Services of any of such property to other Government agencies with the consent of such agencies; and
- (3) to direct the leasing by the Administrator of General Services of any of such property to designated lessees; and
- (4) to authorize the disposition by the Administrator of General Services of any of such property by sale or otherwise when in the opinion of the Secretary of Defense such property may be disposed of subject to or free of the national security clause provided for in section 454 of this title; and
- (5) to authorize and regulate the lending of any such property by the Administrator of General Services to any nonprofit educational institution or training school when (a) the Secretary shall determine that the program proposed by such institution or school for the use of such property will contribute materially to national defense, and (b) such institution or school shall be agreement make such provision as the Secretary shall deem satisfactory for the proper maintenance of such property and for its return to the Administrator of General Services without expense to the Government.

(July 2, 1948, ch. 811, § 7, 62 Stat. 1227; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380.)

[Emphasis supplied.]

## TRANSFER OF FUNCTIONS

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103(a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103(b) of that act.

## EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

## CROSS REFERENCES

Administration of synthetic rubber-producing facilities, see section 1941(f) of Appendix to this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 455, 457 of this title.

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50 U.S.C. 457. TRANSPORTATION, MAINTENANCE, DISPOSITION, ET CETERA, BY ADMINISTRATOR OF GENERAL SERVICES OF TRANSFERRED PROPERTY

As and when directed or authorized by the Secretary of Defense pursuant to the provisions of section 456 of this title, the Administrator of General Services shall after the date upon which transfer is directed pursuant to section 454 of this title provide for the transportation, handling, care, storage, protection, maintenance, utilization, repair, restoration, renovation, leasing, and disposition of excess industrial property. (July 2, 1948, ch. 811, § 8, 62 Stat. 1227; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380.)

## TRANSFER OF FUNCTIONS

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103(a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103(b) of that act.

## EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

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50 U.S.C. 458. LIMITATION ON ACQUISITION OF PROPERTY

Nothing contained in this chapter shall be construed as authorizing the acquisition of any property for the national industrial reserve

except from excess or surplus Government-owned property. (July 2, 1948, ch. 811, § 9, 62 Stat. 1227.)

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50 U.S.C. 459. INDUSTRIAL RESERVE REVIEW COMMITTEE; COMPOSITION, APPOINTMENT, TENURE, AND COMPENSATION; LAWS APPLICABLE

The Secretary of Defense shall appoint a National Industrial Reserve Review Committee, which shall consist of not exceeding fifteen persons to be appointed from civilian life who are by training and experience familiar with various fields of American industry, including shipbuilding, aircraft manufacture, machine tools, and arms and armament production. The members of such Committee shall serve for such term or terms as the Secretary of Defense may specify and shall meet at such times as may be specified by the Secretary of Defense to consult with and advise the Department of Defense. Each member of such Committee shall be entitled to compensation in the amount of \$50 for each day, or part of day, he shall be in attendance at any regular called meeting of the Committee, together with reimbursement for all travel expenses incident to such attendance. Provided, That nothing contained in sections 93, 198 and 203 of Title 18; in section 99 of Title 5; in last paragraph of section 119 of Title 41; or in any other provision of Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim proceeding, or matter involving the United States, shall apply to such persons solely by reason of their appointment to and membership on such Committee. (July 2, 1948, ch. 811, § 10, 62 Stat. 1227; Aug. 10, 1949, ch. 412, § 12(a), 63 Stat. 591.)

REFERENCES IN TEXT

Sections 93, 198, and 203 of Title 18, referred to in the text, were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and are now covered by sections 203, 205 and 208 of Title 18, Crimes and Criminal Procedure.

Section 99 of Title 5, referred to in text was repealed by Pub. L. 87-849, § 3, Oct. 23, 1962, 76 Stat. 1126. See section 207 of Title 18, Crimes and Criminal Procedure.

Section 119, sixth paragraph, of Title 41, referred to in the text, which was derived from act July 1, 1944, ch. 358, § 19(e), 58 Stat. 668, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 207 of Title 18, Crimes and Criminal Procedure.

CHANGE OF NAME

The National Military Establishment was changed to the Department of Defense by act Aug. 10, 1949.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460 of this title.



## 50 U.S.C. 460. DUTIES OF COMMITTEE; RECOMMENDATIONS

It shall be the duty of the Committee appointed under section 459 of this title to review not less often than once each year the justification for the retention of property in the national industrial reserve established hereunder and (i) to recommend to the Secretary of Defense the disposition of any such property which in the opinion of the Committee would no longer be of sufficient strategic value to warrant its further retention for the production of war material *in the event of a national emergency*; (ii) to recommend to the Secretary of Defense standards of maintenance for the property held in the national industrial reserve; (iii) to review and recommend to the Secretary of Defense the disposal of that property which in the opinion of the Committee could and should be devoted to commercial use in the civilian economy; and (iv) to advise the Secretary of Defense with respect to such activities under this chapter as he may request. (July 2, 1948, ch. 811, § 11, 62 Stat. 1228.)

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## 50 U.S.C. 461. REPORTS TO CONGRESS

The Secretary of Defense shall submit to the Congress on April 1 of each year a report detailing the action taken by it under this chapter and containing such other pertinent information on the status of the national industrial reserve as will enable the Congress to evaluate its administration and the need for amendments and related legislation. (July 2, 1948, ch. 811, § 12, 62 Stat. 1228.)

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## 50 U.S.C. 462. APPROPRIATIONS

There are authorized to be appropriated to the Office of the Secretary of Defense and to the Administrator of General Services out of any moneys in the Treasury not otherwise appropriated, such sums as the Congress may, from time to time, determine to be necessary to enable the Secretary of Defense and the Administrator of General Services to carry out their respective functions under this chapter. (July 2, 1948, ch. 811, § 14, 62 Stat. 1228; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380.)

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## 50 U.S.C. 812. DECLARATION OF "INTERNAL SECURITY EMERGENCY" BY PRESIDENT; EVENTS WARRANTING; PERIOD OF EXISTENCE

- (a) In the event of any one of the following:
- (1) Invasion of the territory of the United States or its possessions,
  - (2) Declaration of war by Congress, or
  - (3) Insurrection within the United States in aid of a foreign enemy.

[Emphasis supplied.]

If, upon the occurrence of one or more of the above, the *President shall find* that the proclamation of an emergency pursuant to this section is essential to the preservation, protection and defense of the Constitution, and to the common defense and safety of the territory and people of the United States, the *President is authorized* to make public proclamation of the existence of an "Internal Security Emergency."

(b) A state of "Internal Security Emergency" (hereinafter referred to as the "emergency") so declared *shall continue in existence until terminated by proclamation of the President or by concurrent resolution of the Congress.* (Sept. 23, 1950, ch. 1024, title II, § 102, 64 Stat. 1021.)

#### APPLICATION TO COMMUNIST PARTY MEMBERS

Application of this section to members of the Communist Party and other subversive organizations, see section 843 of this title, and References in Text note under that section.

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#### 50 U.S.C. 832. FULL FIELD INVESTIGATION AND APPRAISAL

(a) Conditional employment; other current security clearance; circumstances authorizing employment on temporary basis.

No person shall be employed in, or detailed or assigned, to the Agency unless he has been the subject of a fullfield investigation in connection with such employment, detail, or assignment, and is cleared for access to classified information in accordance with the provisions of this subchapter, excepting that conditional employment without access to sensitive cryptologic information or material may be tendered any applicant, under such regulations as the Secretary may prescribe, pending the completion of such full field investigation: And provided further. That such full field investigation at the discretion of the Secretary need not be required in the case of persons assigned or detailed to the Agency who have a current security clearance for access to sensitive cryptologic information under equivalent standards of investigation and clearance. *During any period of war declared by the Congress, or during any period when the Secretary determines that a national disaster exists, or in exceptional cases in which the Secretary (or his designee for such purpose) makes a determination in writing that his action is necessary or advisable in the national interest, he may authorize the employment of any person in, or the detail or assignment of any person to, the Agency, and may grant to any such person access to classified information, on a temporary basis, pending the completion of the full field investigation and the clearance for access to classified information required by this subsection, if the Secretary determines that such action is clearly consistent with the national security.*

(b) Boards of appraisal; establishment; membership; appointment; appraisal in doubtful cases; report and recommendation; qualifications of members; Secretary's clearance contrary to board's recommendation.

[Emphasis supplied.]

To assist the Secretary and the Director of the Agency in carrying out their personal security responsibilities, one or more boards of appraisal of three members each, to be appointed by the Director of the Agency, shall be established in the Agency. Such a board shall appraise the loyalty and suitability of persons for access to classified information, in those cases in which the Director of the Agency determines that there is a doubt whether their access to that information would be clearly consistent with the national security, and shall submit a report and recommendation on each such a case. However, appraisal by such a board is not required before action may be taken under section 863 of Title 5, section 22-1 of Title 5, or any other similar provision of law. Each member of such a board shall be specially qualified and trained for his duties as such a member, shall have been the subject of a full field investigation in connection with his appointment as such a member, and shall have been cleared by the Director for access to classified information at the time of his appointment as such a member. No person shall be cleared for access to classified information, contrary to the recommendations of any such board, unless the Secretary (or his designee for such purpose) shall make a determination in writing that such employment, detail, assignment, or access to classified information is in the national interest. (Sept. 23, 1950, ch. 1024, title III, § 302, as added Mar. 26, 1964, Pub. L. 88-290, 78 Stat. 168.)

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#### 50 U.S.C. 1431. AUTHORIZATION; OFFICIAL APPROVAL

*The President may authorize any department or agency of the Government which exercises functions in connection with the national defense, acting in accordance with regulations prescribed by the President for the protection of the Government, to enter into contracts or into amendments or modifications of contracts heretofore or hereafter made and to make advance payments thereon, without regard to other provisions of law relating to the making, performance, amendment, or modification of contracts, whenever he deems that such action would facilitate the national defense. The authority conferred by this section shall not be utilized to obligate the United States in an amount in excess of \$50,000 without approval by an official at or above the level of an Assistant Secretary or his Deputy, or an assistant head or his deputy, of such department or agency, or by a Contract Adjustment Board established therein. (Pub. L. 85-804, § 1, Aug. 28, 1958, 72 Stat. 972.)*

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#### 50 U.S.C. 1435. EFFECTIVE PERIOD

*This chapter shall be effective only during a national emergency declared by Congress or the President and for six months after the termination thereof or until such earlier time as Congress, by concurrent resolution, may designate. (Pub. L. 85-804, § 5, Aug. 28, 1958, 72 Stat. 973.)*

[Emphasis supplied.]

## —NOTE—

EXCERPT FROM HOUSE REPT. 2232, 85TH CONG., 2D SESS. (1958)

The instant bill enacts into permanent law, with certain exceptions, the authority contained in title II of the First War Powers Act of 1941. The original authority was both conceived and reactivated during periods of emergency. Its continued extensions from year to year have been based largely upon the expression of need by the military departments of Government. Like the legislation granting the extensions of title II of the First War Powers Act, the instant legislation is primarily of an emergency nature. The authority which it grants is limited therefore to periods of national emergency and 6 months thereafter. It should be noted in this respect that *the national emergency proclaimed by President Truman on December 16, 1950, is still in effect.*

Although the President has been authorized by title II, and is authorized by this bill, to select the departments and agencies which may exercise the broad authority contained in the bill, the President was limited by title II, and is limited by this bill, in his selection, to those departments and agencies of Government which exercise functions in connection with the national defense. Furthermore, once a department or agency has been designated by the President to exercise these powers and procedures, such department or agency may only utilize them whenever the action would facilitate the national defense. The authority contained in this bill is not, therefore, authority by which the departments and agencies of Government may dispense aid solely for the benefit of contractors or subcontractors. While contractors or subcontractors may be the recipients of aid in some instances, the primary consideration is, and must be, whether such aid will facilitate the national defense.

The contracting authority granted under this bill is substantially the same as that afforded by title II of the First War Powers Act. It permits the President to authorize (1) any department or agency exercising functions in connection with the national defense to amend or modify Government contracts without additional consideration; and (2) to make advance payments without regard to other laws relating to Government contracts.

In addition to these two specifically authorized uses of this authority, the departments authorized to use this authority have heretofore utilized it as the basis for the making of indemnity payments under certain contracts. The need for indemnity clauses in most cases arises from the advent of nuclear power and the use of highly volatile fuels in the missile program. The magnitude of the risks involved under procurement contracts in these areas have rendered commercial insurance either unavailable or limited in coverage.

[Emphasis supplied.]

At the present time, military departments have specific authority to indemnify contractors who are engaged in hazardous research and development, but this authority does not extend to production contracts (10 U.S.C. 2354). Nevertheless, production contracts may involve items, the production of which may include a substantial element of risk giving rise to the possibility of an enormous amount of claims. It is, therefore, the position of the military departments that to the extent that commercial insurance is unavailable, the risk of loss in such a case should be borne by the United States. The Atomic Energy Commission now possesses similar indemnification authority by virtue of the enactment of the Price-Anderson Act last year (Public Law 85-177).

In addition to the use of this authority for the indemnification of contractors engaged in production of hazardous items, the authority conferred by this bill has been used to effect amendments of contracts without consideration. This authority has proved both necessary and useful where the fulfillment of a defense contract has been impaired by the financial condition of a contractor whose productive capacity was essential to the national defense. If such authority were not available, the result would often be default proceedings, reprocurement, perhaps at a higher cost, and loss of valuable time. This authority has also been used to provide relief for defense contractors where losses have resulted from inequitable action of the Government toward a particular contractor. In this manner, contractors have been encouraged to continue performance while pursuing an administrative remedy rather than requiring them to refuse to proceed with a contract and undertaking such recourse as they might have at law.

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As must be evident from the foregoing explanation, the authority contained in this bill is similar to that which has heretofore been granted by the Congress in succeeding extensions since the Korean conflict. It is extraordinary authority which is justifiable only by reason of the emergency conditions of world affairs. While it is broad in its scope, and therefore subject to abuse, the legislation is surrounded with protections designed to minimize those possibilities. The instant bill gives due recognition of the fact that the *emergency conditions which necessitated the existence of this authority* in the first instance is such that it is not likely to dissipate within any short period of time. As a consequence, it seems desirable to forego the requirement that the Congress renew this authority by extensions of a year or 2 years in duration. *The confinement of the operation of this legislation to the period of national emergency, plus 6 months*, with the accompanying authority in the Congress to terminate the authority at an earlier date by concurrent resolution, represents

[Emphasis supplied.]

in the view of the committee, sufficient residual authority to assure that if the powers granted are not at some point needed they may be withdrawn on the initiative of the Congress. Under these conditions, and with the understanding set forth in this report, the committee believes that the legislation is meritorious and should be favorably considered.

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#### 50 U.S.C. 1511. REPORTS TO CONGRESS

The Secretary of Defense shall submit semiannual reports to the Congress on or before January 31 and on or before July 31 of each year setting forth the amounts spent during the preceding six-month period for research, development, test and evaluation and procurement of all lethal and nonlethal chemical and biological agents. The Secretary shall include in each report *a full explanation of each expenditure, including the purpose and the necessity therefor.* (Pub. L. 91-121, title IV, § 409(a), Nov. 19, 1969, 83 Stat. 209.)

[See 50 U.S.C. (H. Rept. 607). *Infra.*]

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#### 50 U.S.C. 1512. TRANSPORTATION, OPEN AIR TESTING, AND DISPOSAL; PRESIDENTIAL DETERMINATION; REPORT TO CONGRESS; NOTICE TO CONGRESS AND STATE GOVERNORS

None of the funds authorized to be appropriated by this Act or any other Act may be used for the transportation of any lethal chemical or any biological warfare agent to or from any military installation in the United States, or the open air testing of any such agent within the United States, or the disposal of any such agent within the United States until the following procedures have been implemented:

(1) the Secretary of Defense (hereafter referred to in this chapter as the "Secretary") has determined that the transportation or testing proposed to be made *is necessary in the interests of national security*;

(2) the Secretary has brought the particulars of the proposed transportation, testing, or disposal to the attention of the Secretary of Health, Education, and Welfare, who in turn may direct the Surgeon General of the Public Health Service and other qualified persons to review such particulars with respect to any hazards to public health and safety which such transportation, testing, or disposal may pose and to recommend what precautionary measures are necessary to protect the public health and safety;

(3) the Secretary has implemented any precautionary measures recommended in accordance with paragraph (2) above (including, where practicable, the detoxification of any such agent, if such agent is to be transported to or from a military installation for disposal). Provided, however, That in the event the Secretary

[Emphasis supplied.]

finds the recommendation submitted by the Surgeon General would have the effect of preventing the proposed transportation, testing, or disposal, the President may determine that overriding considerations of national security require such transportation, testing, or disposal be conducted. Any transportation, testing, or disposal conducted pursuant to such a Presidential determination shall be carried out in the safest practicable manner, and the President shall report his determination and an explanation thereof to the President of the Senate and the Speaker of the House of Representatives as far in advance as practicable; and

(4) the Secretary has provided notification that the transportation, testing, or disposal will take place, except where a Presidential determination has been made: (A) to the President of the Senate and the Speaker of the House of Representatives at least 10 days before any such transportation will be commenced and at least 30 days before any such testing or disposal will be commenced; (B) to the Governor of any State through which such agents will be transported, such notification to be provided appropriately in advance of any such transportation.

(Pub. L. 91-121, title IV, § 409(b), Nov. 19, 1969, 83 Stat. 209; Pub. L. 91-441, title V, § 506(b)(1), Oct. 7, 1970, 84 Stat. 912.)  
[See, 50 U.S.C. 1515 (H. Rept. 607). *Infra.*]

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50 U.S.C. 1513. DEPLOYMENT, STORAGE, AND DISPOSAL; NOTIFICATION TO HOST COUNTRY AND CONGRESS; INTERNATIONAL LAW VIOLATIONS; REPORTS TO CONGRESS AND INTERNATIONAL ORGANIZATIONS

(1) None of the funds authorized to be appropriated by this Act or any other Act may be used for the future deployment, storage, or disposal, at any place outside the United States of—

(A) any lethal chemical or any biological warfar agent, or

(B) any delivery system specifically designed to disseminate any such agent,

unless prior notice of such deployment, storage, or disposal has been given to the country exercising jurisdiction over such place. In the case of any place outside the United States which is under the jurisdiction or control of the United States Government, no such action may be taken unless the Secretary gives prior notice of such action to the President of the Senate and the Speaker of the House of Representatives. As used in this paragraph, the term "United States" means the several States and the District of Columbia.

(2) None of the funds authorized by this Act or any other Act shall be used for the future testing, development, transportation, storage, or disposal of any lethal chemical or any biological warfare agent outside the United States, or for the disposal of any munitions in international waters, if the Secretary of State, after appropriate notice by the Secretary whenever any such action is contemplated, determines that such testing, development, transportation, storage, or disposal will violate international law. The Secretary of State shall

[Emphasis supplied.]

report all determinations made by him under this paragraph to the President of the Senate and the Speaker of the House of Representatives, and to all appropriate international organizations, or organs thereof, in the event such report is required by treaty or other international agreement. (Pub. L. 91-121, title IV, § 409(c), Nov. 19, 1969, 83 Stat. 210; Pub. L. 91-441, title V, § 506(b) (2), (3), Oct. 7, 1970, 84 Stat. 912.)

[See, 50 U.S.C. 1515 (H. Rept. 607). *Infra*.]

#### 50 U.S.C. 1515. SUSPENSION; PRESIDENTIAL AUTHORIZATION

After November 19, 1969, the operation of this section, or any portion thereof, *may be suspended by the President during the period of any war declared by Congress and during the period of any national emergency declared by Congress or by the President.* (Pub. L. 91-121, title IV, § 409(e), Nov. 19, 1969, 83 Stat. 210.)

#### —NOTE—

EXCERPT FROM HOUSE REPT. 607, 91ST CONG., 2D SESS. (1970)

The House amendment provided for suspension of this section's provisions *during any war or national emergency.* The Senate recedes and accepts this provision with a modification clarifying the fact that the power of suspension is vested in the President.

NOTE: The original version of this statute, Senate bill number 2546, as introduced and passed by the Senate did not contain any provision allowing either the Congress or the President to suspend its operation. When the Senate bill arrived on the House floor, the late Cong. Mendel Rivers (D., S.C.) promptly introduced amendments that included the clause that is now numbered § 1515. Neither the House debates, the Conference Committee reports, nor the subsequent Senate debates which led to acceptance of the compromise measure reveal any discussion of the merits of the suspension provision.

#### 50 U.S.C. 1516. DELIVERY SYSTEMS

None of the funds authorized to be appropriated by this Act may be used for the procurement of any delivery system specifically designed to disseminate any lethal chemical or any biological warfare agent, or for the procurement of any part or component of any such delivery system, unless the President shall certify to the Congress that such procurement *is essential to the safety and security of the United States.* (Pub. L. 91-121, title IV, § 409(f), Nov. 19, 1969, 83 Stat. 210.)

[See 50 U.S.C. 1515 (H. Rept. 607). *Supra*.]

[Emphasis supplied.]



50 U.S.C. 1517. IMMEDIATE DISPOSAL WHEN HEALTH OR SAFETY ARE  
ENDANGERED

Nothing contained in this chapter shall be deemed to restrict the transportation or disposal of research quantities of any lethal chemical or any biological warfare agent, or to delay or prevent, *in emergency situations* either within or outside the United States, the immediate disposal together with any necessary associated transportation, of any lethal chemical or any biological warfare agent when compliance with the procedures and requirements of this chapter would clearly endanger the health or safety of any person. (Pub. L. 91-121, title IV, § 409 (g), as added Pub. L. 91-441, title V, § 506(b) (4), Oct. 7, 1970, 84 Stat. 912.)

[See 50 U.S.C. 1515 (H. Rept. 607). *Supra.*]

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50 U.S.C. 1518. DISPOSAL; DETOXIFICATION; REPORT TO CONGRESS;  
EMERGENCIES

On and after October 7, 1970, no chemical or biological warfare agent shall be disposed of within or outside the United States unless such agent has been detoxified or made harmless to man and his environment unless immediate disposal is clearly necessary, *in an emergency*, to safeguard human life. An immediate report should be made to Congress in the event of such disposal. (Pub. L. 91-441, title V, § 506(d), Oct. 7, 1970, 84 Stat. 913.)

[See 50 U.S.C. 1515 (H. Rept. 607). *Supra.*]

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TITLE 50, APPENDIX—WAR AND NATIONAL DEFENSE

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50 U.S.C. APP. 3. ACTS PROHIBITED

It shall be unlawful—

(a) For any person in the United States, *except with the license of the President*, granted to such person, or to the enemy, or ally of enemy, as provided in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] to trade, or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person, with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade, directly or indirectly, for, or on account of, or on behalf of, for the benefit of, an enemy or ally of enemy.

(b) For any person, except with the license of the President, to transport or attempt to transport into or from the United States, or

[Emphasis supplied.]

for any owner, master, or other person in charge of a vessel of American registry to transport or attempt to transport from any place to any other place, any subject or citizen of an enemy or ally of enemy nation, with knowledge or reasonable cause to believe that the person transported or attempted to be transported is such subject or citizen.

(c) For any person (other than a person in the service of the United States Government or of the Government of any nation, except that of an enemy or ally of enemy nation, and other than such persons or classes of persons as may be exempted hereunder by the President or by such person as he may direct), to send, or take out of, or bring into, or attempt to send, or take out of, or bring into the United States, any letter or other writing or tangible form of communication, except in the regular course of the mail; and it shall be unlawful for any person to send, take, or transmit, or attempt to send, take, or transmit out of the United States, any letter or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an enemy or ally of enemy: Provided, however, That any person may send, take, or transmit out of the United States anything herein forbidden if he shall first submit the same to the President, or to such officer as the President may direct, and shall obtain the license or consent of the President, under such rules and regulations, and with such exemptions, as shall be prescribed by the President.

(d) Whenever, during the present war, *the President shall deem that the public safety demands it*, he may cause to be censored under such rules and regulations as he may from time to time establish, communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country he may from time to time specify, or which may be carried by any vessel or other means of transportation touching at any port, place, or territory of the United States and bound to or from any foreign country. Any person who willfully evades or attempts to evade the submission of any such communication to such censorship or willfully uses or attempts to use any code or other device for the purpose of concealing from such censorship the intended meaning of such communication shall be punished as provided in section sixteen of this Act [section 16 of this Appendix]. (Oct. 6, 1917, ch. 106, § 3, 40 Stat. 412.)

[See 12 U.S.C. 95 and 95a. *Supra.*]

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#### 50 U.S.C. APP. 4. LICENSES TO ENEMY OR ALLY OF ENEMY INSURANCE OR REINSURANCE COMPANIES; CHANGE OF NAME; DOING BUSINESS IN UNITED STATES

(a) Every enemy or ally of enemy insurance or reinsurance company, and every enemy or ally of enemy, doing business within the United States through an agency or branch office, or otherwise, may within thirty days after the passage of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], apply to the President for a license

[Emphasis supplied.]

to continue to do business; and, within thirty days after such application, the President may enter an order either granting or refusing to grant such license. The license, if granted, may be temporary or otherwise, and for such period of time, and may contain such provisions and conditions regulating the business, agencies, managers and trustees and the control and disposition of the funds of the company, or of such enemy or ally of enemy, as *the President shall deem necessary for the safety of the United States*; and any license granted hereunder may be revoked or regrantd or renewed in such manner and at such times as the President shall determine: Provided, however, That reasonable notice of his intent to refuse to grant a license or to revoke a license granted to any reinsurance company shall be given by him to all insurance companies incorporated within the United States and known to the President to be doing business with such reinsurance company: Provided, further, That no insurance company, organized within the United States, shall be obligated to continue any existing contract, entered into prior to the beginning of the war, with any enemy or ally of enemy insurance or reinsurance company, but any such company may abrogate and cancel any such contract by serving thirty days' notice in writing upon the President of its election to abrogate such contract.

For a period of thirty days after the passage of this Act [said sections], and further pending the entry of such order by the President, after application made by any enemy or ally of enemy insurance or reinsurance company, within such thirty days as above provided, the provisions of the President's proclamation of April sixth, nineteen hundred and seventeen, relative to agencies in the United States of certain insurance companies, as modified by the provisions of the President's proclamation of July thirteenth, nineteen hundred and seventeen, relative to marine and war-risk insurance, shall remain in full force and effect so far as it applies to such German insurance companies, and the conditions of said proclamation of April sixth, nineteen hundred and seventeen, as modified by said proclamation of July thirteenth, nineteen hundred and seventeen, shall also during said period of thirty days after the passage of this Act [said sections], and pending the order of the President as herein provided, apply to any enemy or ally of enemy insurance or reinsurance company, anything in this Act [said sections] to the contrary notwithstanding. It shall be unlawful for any enemy or ally of enemy insurance or reinsurance company, to whom license is granted, to transmit out of the United States any funds belonging to or held for the benefit of such company or to use any such funds as the basis for the establishment directly or indirectly of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

For a period of thirty days after the passage of this Act [said sections], and further pending the entry of such order by the President, after application made within such thirty days by any enemy or ally of enemy, other than an insurance or reinsurance company as above provided, it shall be lawful for such enemy or ally of enemy to con-

[Emphasis supplied.]

tinue to do business in this country and for any person to trade with, to from, for, on account of, on behalf of or for the benefit of such enemy or ally of enemy, anything in this Act [said sections] to the contrary notwithstanding: Provided, however, That the provisions of sections three and sixteen hereof [sections 3 and 16 of this Appendix] shall apply to any act or attempted act of transmission or transfer of money or other property out of the United States and to the use or attempted use of such money or property as the basis for the establishment of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

If no license is applied for within thirty days after the passage of this Act [said sections], or if a license shall be refused to any enemy or ally of enemy, whether insurance or reinsurance company, or other person, making application, or if any license granted shall be revoked by the President, the provisions of sections three and sixteen hereof [sections 3 and 16 of this Appendix] shall forthwith apply to all trade or to any attempt to trade with, to, from, for, by, on account of, or on behalf of, or for the benefit of such company or other person: Provided, however, That after such refusal or revocation, anything in this Act [said sections] to the contrary notwithstanding, it shall be lawful for a policyholder or for an insurance company, not an enemy or ally of enemy, holding insurance or having effected reinsurance in or with such enemy or ally of enemy insurance or reinsurance company, to receive payment of, and for such enemy or ally of enemy insurance or reinsurance company to pay any premium, return premium, claim, money, security, or other property due or which may become due on or in respect to such insurance or reinsurance in force at the date of such refusal or revocation of license; and nothing in this Act [said sections] shall vitiate or nullify then existing policies or contracts of insurance or reinsurance, or the conditions thereof; and any such policyholder or insurance company, not an enemy or ally of enemy, having any claim to or upon money or other property of the enemy or ally of enemy insurance or reinsurance company in the custody or control of the Alien Property Custodian, hereinafter provided for, or of the Treasurer of the United States, may make application for the payment thereof and may institute suit as provided in section nine hereof [section 9 of this Appendix].

(b) During the present war, no enemy, or ally of enemy, and no partnership of which he is a member or was a member at the beginning of the war, shall for any purpose assume or use any name other than that by which such enemy or partnership was ordinarily known at the beginning of the war, except under license from the President.

*Whenever, during the present war, in the opinion of the President the public safety or public interest requires, the President may prohibit any or all foreign insurance companies from doing business in the United States, or the President may license such company or companies to do business upon such terms as he may deem proper.* (Oct. 6, 1917, ch. 106, § 4, 40 Stat. 413.)

[See 12 U.S.C. 95 and 95a. *Supra.*]

[Emphasis supplied.]

50 U.S.C. APP. 5. SUSPENSION OF PROVISIONS RELATING TO ALLY OF ENEMY; REGULATION OF TRANSACTIONS IN FOREIGN EXCHANGE OF GOLD OR SILVER, PROPERTY TRANSFERS, VESTED INTERESTS, ENFORCEMENT AND PENALTIES

(a) *The President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this Act* [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time; and the President may grant licenses, special or general, temporary or otherwise, and for such period of time and containing such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section four hereof [section 4(a) of this Appendix], and to perform any act made unlawful without such license in section three hereof [section 3 of this Appendix], and to file and prosecute applications under subsection (b) of section ten hereof [section 10(b) of this Appendix]; and he may revoke or renew such licenses from time to time, if he shall be of opinion that such grant or revocation or renewal shall be compatible with the safety of the United States and with the successful prosecution of the war; and he may make such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; and the President may exercise any power or authority conferred by this Act [said sections] through such officer or officers as he shall direct.

If the President shall have reasonable cause to believe that any act is about to be performed in violation of section three hereof [section 3 of this Appendix] he shall have authority to order the postponement of the performance of such act for a period not exceeding ninety days, pending investigation of the facts by him.

(b)(1) *During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—*

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest.

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms,

[Emphasis supplied.]

directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this subdivision the term "United States" means the United States and any place subject to the jurisdiction thereof: Provided, however, That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision. Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term "person" means an individual, partnership, association, or corporation. (Oct. 6, 1917, ch. 106, § 5, 40 Stat. 415; Sept. 24, 1918, ch. 176, § 5, 40 Stat. 966; Mar. 9, 1933, ch. 1, § 2, 48 Stat. 1; May 7, 1940, ch. 185, § 1, 54 Stat. 179; Dec. 18, 1941, ch. 593, title III, § 301 55 Stat. 839; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

[See 12 U.S.C. 95 and 95a. *Supra*.]

[Emphasis supplied.]

50 U.S.C. APP. 6. ALIEN PROPERTY CUSTODIAN; GENERAL POWERS  
AND DUTIES

*The President is authorized to appoint and prescribe the duties of an official to be known as the Alien Property Custodian, who shall be empowered to receive all money and property in the United States due or belonging to an enemy, or ally of enemy, which may be paid, conveyed, transferred, assigned, or delivered to said custodian under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; and to hold, administer, and account for the same under the general direction of the President and as provided in this Act [said sections]. The Alien Property Custodian shall give such bond or bonds, and in such form and amount, and with such security as the President shall prescribe. The President may further employ in the District of Columbia and elsewhere and fix the compensation of such clerks, attorneys, investigators, accountants, and other employees as he may find necessary for the due administration of the provisions of this Act [said sections]; Provided, That such clerks, investigators, accountants, and other employees shall be appointed from lists of eligibles to be supplied by the Civil Service Commission and in accordance with the civil-service law: Provided further, That the President shall cause a detailed report to be made to Congress on the first day of January of each year of all proceedings had under this Act [said sections] during the year preceding. Such report shall contain a list of all persons appointed or employed, with the salary or compensation paid to each, and a statement of the different kinds of property taken into custody and the disposition made thereof. (Oct. 6, 1917, ch. 106, § 6, 40 Stat. 415.)*

[See 12 U.S.C. 95 and 95a. *Supra.*]

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50 U.S.C. APP. 7. LISTS OF ENEMY OR ALLY OF ENEMY OFFICERS, DIRECTORS OR STOCKHOLDERS OF CORPORATIONS IN UNITED STATES; ACTS CONSTITUTING TRADE WITH ENEMY PRIOR TO PASSAGE OF ACT; CONVEYANCE OF PROPERTY TO CUSTODIAN; VOLUNTARY PAYMENT TO CUSTODIAN BY HOLDER; ACTS UNDER ORDER, RULE, OR REGULATION

(a) Every corporation incorporated within the United States, and every unincorporated association, or company, or trustee, or trustees within the United States, issuing shares or certificates representing beneficial interests, shall, *under such rules and regulations as the President may prescribe and*, within sixty days after the passage of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] and at such other times thereafter *as the President may require*, transmit to the Alien Property Custodian a full list, duly sworn to, of every officer, director, or stockholder known to be, or whom the representative of such corporation, association, company, or trustee has reasonable cause to believe to be an enemy or ally of enemy resident within the territory, or a subject or citizen residing outside of the United State, of any nation with which the United States is at war, or resident within the territory, or a subject or citizen residing outside of

[Emphasis supplied.]

the United States, of any ally of any nation with which the United States is at war, together with the amount of stock or shares owned by each such officer, director, or stockholder, or in which he has any interest.

*The President may also require* a similar list to be transmitted of all stock or shares owned on February third, nineteen hundred and seventeen, by any person now defined as an enemy or ally of enemy, or in which any such person had any interest; and he may also require a list to be transmitted of all cases in which said corporation, association, company, or trustee has reasonable cause to believe that the stock or shares on February third, nineteen hundred and seventeen, were owned or are owned by such enemy or ally of enemy, though standing on the books in the name of another: Provided, however, That the name of any such officer, director, or stockholder, shall be stricken permanently or temporarily from such list by the Alien Property Custodian when he shall be satisfied that he is not such enemy or ally of enemy.

Any person in the United States who holds or has or shall hold or have custody or control of any property beneficial or otherwise, alone or jointly with others, of, for, or on behalf of an enemy or ally of enemy, or of any person whom he may have reasonable cause to believe to be an enemy or ally of enemy and any person in the United States who is or shall be indebted in any way to an enemy or ally of enemy, or to any person whom he may have reasonable cause to believe to be an enemy or ally of enemy, shall, with such exceptions and *under such rules and regulations as the President shall prescribe*, and within thirty days after the passage of this Act [said sections], or within thirty days after such property shall come within his custody or control, or after such debt shall become due, report the fact to the Alien Property Custodian by written statement under oath containing such particulars as said custodian shall require. *The President may also require* a similar report of all property so held, of, for, or on behalf of, and of all debts so owed to, any person now defined as an enemy or ally of enemy, on February third, nineteen hundred and seventeen: Provided, That the name of any person shall be stricken from the said report by the Alien Property Custodian, either temporarily or permanently, when he shall be satisfied that such person is not an enemy or ally of enemy. The President may extend the time for filing the lists or reports required by this section for an additional period not exceeding ninety days.

(b) Nothing in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] contained shall render valid or legal, or be construed to recognize as valid or legal, any act or transaction constituting trade with, to, from, for or on account of, or on behalf or for the benefit of an enemy performed or engaged in since *the beginning of the war* and prior to the passage of this Act [said sections] or any such act or transaction hereafter performed or engaged in except as authorized hereunder, which would otherwise have been or be void, illegal, or invalid at law. No conveyance, transfer, delivery, payment, or loan of money or other property, in violation of section three hereof [section 3 of this Appendix], made after the passage of this Act

[Emphasis supplied.]



[sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] and not under license as herein provided shall confer or create any right or remedy in respect thereof; and no person shall by virtue of any assignment, indorsement, or delivery to him of any debt, bill, note, or other obligation or chose in action by, from, or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy have any right or remedy against the debtor, obligor, or other person liable to pay, fulfill, or perform the same unless said assignment, indorsement, or delivery was made prior to the beginning of the war or shall be made under license as herein provided, or unless, if made after the beginning of the war and prior to the date of passage of this Act [said sections], the person to whom the same was made shall prove lack of knowledge and of reasonable cause to believe on his part that the same was made by, from or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy; and any person who knowingly pays, discharges, or satisfies any such debt, note, bill, or other obligation or chose in action shall, on conviction thereof, be deemed to violate section three hereof [section 3 of this Appendix]: Provided, That nothing in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] contained shall prevent the carrying out, completion, or performance of any contract, agreement, or obligation originally made with or entered into by an enemy or ally of enemy where, prior to the beginning of the war and not in contemplation thereof, the interest of such enemy or ally of enemy devolved by assignment or otherwise upon a person not an enemy or ally of enemy, and no enemy or ally of enemy will be benefited by such carrying out completion, or performance otherwise than by release from obligation thereunder.

Nothing in this Act [said sections] shall be deemed to prevent payment of money belonging or owing to an enemy or ally of enemy to a person within the United States not an enemy or ally of enemy, for the benefit of such person or of any other person within the United States, not an enemy or ally of enemy, if the funds so paid shall have been received prior to the beginning of the war and such payments arise out of transactions entered into prior to the beginning of the war, and not in contemplation thereof: Provided, That such payment shall not be made *without the license of the President*, general or special, as provided in this Act [said sections].

Nothing in this Act [said sections] shall be deemed to authorize the prosecution of any suit or action at law or in equity in any court within the United States by an enemy or ally of enemy prior to the end of the war, except as provided in section ten hereof [section 10 of this Appendix]: Provided, however, That an enemy or ally of enemy licensed to do business under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] may prosecute and maintain any such suit or action so far as the same arises solely out of the business transacted within the United States under such license and so long as such license remains in full force and effect: *And provided further*, That an enemy or ally of enemy may defend by counsel any suit in equity or action at law which may be brought against him.

Receipt of notice from the President to the effect that he has reasonable ground to believe that any person is an enemy or ally of enemy

[Emphasis supplied.]

shall be prima facie defense to any one receiving the same, in any suit or action at law or in equity brought or maintained, or to any right or set-off or recoupment asserted by, such person and based on failure to complete or perform since the beginning of the war any contract or other obligation. In any prosecution under section sixteen hereof [section 16 of this Appendix] proof of receipt of notice from the President to the effect that he has reasonable cause to believe that any person is an enemy or ally of enemy shall be prima facie evidence that the person receiving such notice has reasonable cause to believe such other person to be an enemy or ally of enemy within the meaning of section three hereof [section 3 of this Appendix].

(c) If the President shall so require any money or other property including (but not thereby limiting the generality of the above) patents, copyrights, applications therefor, and rights to apply for the same, trade marks, choses in action, and rights and claims of every character and description owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owing or so belongs or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian, or the same may be seized by the Alien Property Custodian; and all property thus acquired shall be held, administered and disposed of as elsewhere provided in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix].

Any requirement made pursuant to this Act [said sections], or a duly certified copy thereof, may be filed, registered, or recorded in any office for the filing, registering, or recording of conveyances, transfers, or assignments of any such property or rights as may be covered by such requirement (including the proper office for filing, registering, or recording conveyances, transfers, or assignments of patents, copyrights, trade-marks, or any rights therein or any other rights); and if so filed, registered, or recorded shall impart the same notice and have the same force and effect as a duly executed conveyance, transfer, or assignment to the Alien Property Custodian so filed, registered, or recorded.

Whenever any such property shall consist of shares of stock or other beneficial interest in any corporation, association, or company or trust, it shall be the duty of the corporation, association, or company or trustee or trustees issuing such shares or any certificates or other instruments representing the same or any other beneficial interest to cancel upon its, his, or their books all shares of stock or other beneficial interest standing upon its, his, or their books in the name of any person or persons, or held for, on account of, or on behalf of, or for the benefit of any person or persons who shall have been determined by the President, after investigation, to be an enemy or ally of enemy, and which shall have been required to be conveyed, transferred, assigned, or delivered to the Alien Property Custodian or seized by him, and in lieu thereof to issue certificates or other instruments for such shares or other beneficial interest to the Alien Property Custodian or otherwise, as the Alien Property Custodian shall require.

The sole relief and remedy of any person having any claim to any money or other property heretofore or hereafter conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian, or required so to be, or seized by him shall be that provided by the terms of this Act [said sections], and in the event of sale or other disposition of such property by the Alien Property Custodian, shall be limited to and enforced against the net proceeds received therefrom and held by the Alien Property Custodian or by the Treasurer of the United States.

(d) If not required to pay, convey, transfer, assign, or deliver under the provisions of subsection (c) of this section, any person not an enemy or ally of enemy who owes to, or holds for, or on account of, or on behalf of, or for the benefit of an enemy or of an ally of enemy not holding a license granted by the President hereunder, any money or other property, or to whom any obligation or form of liability to such enemy or ally of enemy is presented for payment, may, at his option, with the consent of the President, pay, convey, transfer, assign, or deliver to the Alien Property Custodian said money or other property under such rules and regulations as the President shall prescribe.

(e) No person shall be held liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the President under the authority of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix].

Any payment, conveyance, transfer, assignment, or delivery of money or property made to the Alien Property Custodian hereunder shall be a full acquittance and discharge for all purposes of the obligation of the person making the same to the extent of same. The Alien Property Custodian and such other persons as the President may appoint shall have power to execute, acknowledge, and deliver any such instrument or instruments as may be necessary or proper to evidence upon the record or otherwise such acquittance and discharge, and shall, in case of payment to the Alien Property Custodian of any debt or obligation owed to an enemy or ally of enemy, deliver up any notes, bonds, or other evidences of indebtedness or obligation, or any security therefor in which such enemy or ally of enemy had any right or interest that may have come into the possession of the Alien Property Custodian, with like effect as if he or they, respectively, were duly appointed by the enemy or ally of enemy, creditor, or obligee. The President shall issue to every person so appointed a certificate of the appointment and authority of such person, and such certificate shall be received in evidence in all courts within the United States. Whenever any such certificate of authority shall be offered to any registrar, clerk, or other recording officer, Federal or otherwise, within the United States, such officer shall record the same in like manner as a power of attorney, and such record or a duly certified copy thereof shall be received in evidence in all courts of the United States or other courts within the United States. (Oct. 6, 1917, ch. 106, § 7, 40 Stat. 416; Nov. 4, 1918, ch. 201, § 1, 40 Stat. 1020.)

[See 12 U.S.C. 95 and 95a. *Supra.*]

[Emphasis supplied.]

50. U.S.C. APP. 8. CONTRACTS, MORTGAGES, OR PLEDGES AGAINST OR WITH ENEMY OR ALLY OF ENEMY; ABROGATION OF CONTRACTS; SUSPENSION OF LIMITATIONS

(a) Any person not an enemy or ally of enemy holding a lawful mortgage, pledge, or lien, or other right in the nature of security in property of an enemy or ally of enemy which, by law or by the terms of the instrument creating such mortgage, pledge, or lien, or right, may be disposed of on notice or presentation or demand, and any person not an enemy or ally of enemy who is a party to any lawful contract with an enemy or ally of enemy, the terms of which provide for a termination thereof upon notice or for acceleration of maturity on presentation or demand, may continue to hold said property, and, after default, may dispose of the property in accordance with law or may terminate or mature such contract by notice or presentation or demand served or made on the alien property custodian in accordance with the law and the terms of such instrument or contract and *under such rules and regulations as the President shall prescribe*; and such notice and such presentation and demand shall have, in all respects, the same force and effect as if duly served or made upon the enemy or ally of enemy personally: Provided, That no such rule or regulation shall require that notice or presentation or demand shall be served or made in any case in which, by law or by the terms of said instrument or contract, no notice, presentation, or demand was, prior to the passage of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], required; and that in case were, by law or by the terms of such instrument or contract, notice is required, no longer period of notice shall be required: Provided further, That if, on any such disposition of property, a surplus shall remain after the satisfaction of the mortgage, pledge, lien, or other right in the nature of security, notice of that fact shall be given to the President pursuant to such rules and regulations as he may prescribe, and such surplus shall be held subject to his further order.

(b) Any contract entered into prior to the beginning of the war between any citizen of the United States or any corporation organized within the United States, and an enemy or ally of an enemy, the terms of which provide for the delivery, *during or after any war in which a present enemy or ally of enemy nation has been or is now engaged*, of anything produced, mined, or manufactured in the United States, may be abrogated by such citizen or corporation by serving thirty days' notice in writing upon the alien property custodian of his or its election to abrogate such contract.

(c) The running of any statute of limitations shall be suspended with reference to the rights or remedies on any contract or obligation entered into prior to the beginning of the war between parties neither of whom is an enemy or ally of enemy, and containing any promise to pay or liability for payment which is evidenced by drafts or other commercial paper drawn against or secured by funds or other property situated in an enemy or ally of enemy country, and no suit shall be maintained on any such contract or obligation in any court within the United States *until after the end of the war*, or until the said funds

[Emphasis supplied.]

or property shall be released for the payment or satisfaction of such contract or obligation: Provided, however, That nothing herein contained shall be construed to prevent the suspension of the running of the statute of limitations in all other cases where such suspension would occur under existing law. (Oct. 6, 1917, ch. 106, § 8, 40 Stat. 418.)  
[Sec. 12 U.S.C. 95 and 95a, *Supra*.]

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50 U.S.C. APP. 9. CLAIMS TO PROPERTY TRANSFERRED TO CUSTODIAN;  
NOTICE OF CLAIM; FILING; RETURN OF PROPERTY; SUITS TO RECOVER;  
SALE OF CLAIMED PROPERTY IN TIME OF WAR OR DURING NATIONAL  
EMERGENCY

(a) Any person not an enemy or ally of enemy claiming any interest, right, or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States, or to whom any debt may be owing from an enemy or ally of enemy whose property or any part thereof shall have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States may file with the said custodian a notice of his claim under oath and in such form and containing such particulars as the said custodian shall require; and the President, if application is made therefore by the claimant, may order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States, or of the interest therein to *which the President shall determine said claimant is entitled*: Provided, That no such order by the President shall bar any person from the prosecution of any suit at law in equity against the claimant to establish any right, title, or interest which he may have in such money or other property. If the President shall not so order within sixty days after the filing of such application or if the claimant shall have filed the notice as above required and shall have made no application to the President, said claimant may institute a suit in equity in the United States District Court for the District of Columbia or in the district court of the United States for the district in which such claimant resides, or, if a corporation, where it has its principal place of business (to which suit the Alien Property Custodian or the Treasurer of the United States, as the case may be, shall be made a party defendant), to establish the interest, right, title, or debt so claimed, and if so established the court shall order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States or the interest therein to which the court shall determine said claimant is entitled. If suit shall be so instituted, then such money or property shall be retained in the custody of the Alien Property Custodian, or in the Treasury of the United States, as provided in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], and

[Emphasis supplied.]

until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied by payment or conveyance, transfer, assignments, or delivery by the defendant, or by the Alien Property Custodian, or Treasurer of the United States on order of the court, or until final judgment or decree shall be entered against the claimant or suit otherwise terminated: Provided further, That upon a determination made by the President, *in time of war or during any national emergency declared by the President*, that the interest and welfare of the United States require the sale of any property or interest or any part thereof claimed in any suit filed under this subsection and pending on or after the date of enactment [Oct. 22, 1962] of this proviso the Alien Property Custodian or any successor officer, or agency may sell such property or interest or part thereof, in conformity with law applicable to sales of property by him, at any time prior to the entry of final judgment in such suit. No such sale shall be made until thirty days have passed after the publication of notice in the Federal Register of the intention to sell. The net proceeds of any such sale shall be deposited in a special account established in the Treasury, and shall be held in trust by the Secretary of the Treasury pending the entry of final judgment in such suit. Any recovery of any claimant in any such suit in respect of the property or interest or part thereof so sold shall be satisfied from the net proceeds of such sale unless such claimant, within sixty days after receipt of notice of the amount of net proceeds of sale serves upon the Alien Property Custodian, or any successor officer or agency, and files with the court an election to waive all claims to the net proceeds, or any part thereof, and to claim just compensation instead. If the court finds that the claimant has established an interest, right, or title in any property in respect of which such an election has been served and filed, it shall proceed to determine the amount which will constitute just compensation for such interest, right, or title, and shall order payment to the claimant of the amount so determined. An order for the payment of just compensation hereunder shall be a judgment against the United States and shall be payable first from the net proceeds of the sale in an amount not to exceed the amount the claimant would have received had he elected to accept his proportionate part of the net proceeds of the sale, and the balance, if any, shall be payable in the same manner as are judgments in cases arising under section 1346 of Title 28. The Alien Property Custodian or any successor officer or agency shall, immediately upon the entry of final judgment, notify the Secretary of the Treasury of the determination by final judgment of the claimant's interest and right to the proportionate part of the net proceeds from the sale, and the final determination by judgment of the amount of just compensation in the event the claimant has elected to recover just compensation for the interest in the property he claimed.

(b) In respect of all money or other property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States, *if the President shall determine* that the owner thereof at the time such money or other property was required to be so conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian

[Emphasis supplied.]

today or at the time when it was voluntarily delivered to him or was seized by him was—

(1) A citizen or subject of any nation or State or free city other than Germany or Austria or Hungary or Austria-Hungary, and is at the time of the return of such money or other property hereunder a citizen or subject of any such nation or State or free city; or

(2) A woman who, at the time of her marriage, was a subject or citizen of a nation which has remained neutral in the war, or of a nation which was associated with the United States in the prosecution of said war, and who, prior to April 6, 1917, intermarried with a subject or citizen of Germany or Austria-Hungary and that the money or other property concerned was not acquired by such woman, either directly or indirectly from any subject or citizen of Germany or Austria-Hungary subsequent to January 1, 1917; or

(3) A woman who at the time of her marriage was a citizen of the United States, and who prior to April 6, 1917, intermarried with a subject or citizen of Germany or Austria-Hungary, and that the money or other property concerned, was not acquired by such woman either directly or indirectly, from any subject or citizen of Germany or Austria-Hungary subsequent to January 1, 1917; or who was a daughter of a resident citizen of the United States and herself a resident or former resident thereof, or the minor daughter or daughters of such woman, she being deceased; or

(3A) An individual who was at such time a citizen or subject of Germany, Austria, Hungary, or Austria-Hungary, or not a citizen or subject of any nation, state or free city, and that the money or other property concerned was acquired by such individual while a bona fide resident of the United States, and that such individual, on January 1, 1926, and at the time of the return of the money or other property, shall be a bona fide resident of the United States; or

(3B) Any individual who at such time was not a subject or citizen of Germany, Austria, Hungary, or Austria-Hungary, and who is now a citizen or subject of a neutral or allied country: Provided, however, That nothing contained herein shall be construed as limiting or abrogating any existing rights of an individual under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; or

(4) A citizen or subject of Germany or Austria or Hungary or Austria-Hungary and was at the time of the severance of diplomatic relations between the United States and such nations, respectively, accredited to the United States as a diplomatic or consular officer of any such nation, or the wife or minor child of such officer, and that the money or other property concerned was within the territory of the United States by reason of the service of such officer in such capacity; or

(5) A citizen or subject of Germany or Austria-Hungary, who by virtue of the provisions of sections 4067, 4068, 4069, and 4070 of the Revised Statutes [sections 21 to 24 of this title] and of the

proclamations and regulations thereunder, was transferred, after arrest, into the custody of the War Department of the United States for detention during the war and is at the time of the return of his money or other property hereunder living within the United States; or

(6) A partnership, association, or other unincorporated body of individuals outside the United States, or a corporation incorporated within any country other than the United States, and was entirely owned at such time by subjects or citizens of nations, States, or free cities other than Germany or Austria or Hungary or Austria-Hungary and is so owned at the time of the return of its money or other property hereunder; or

(7) The Government of Bulgaria or Turkey, or any political or municipal subdivision thereof; or

(8) The Government of Germany or Austria or Hungary or Austria-Hungary, and that the money or other property concerned was the diplomatic or consular property of such Government; or

(9) An individual who was at such time a citizen or subject of Germany, Austria, Hungary, or Austria-Hungary, or who is not a citizen or subject of any nation, State or free city, and that such money or other property, or the proceeds thereof, if the same has been converted, does not exceed in value the sum of \$10,000, or although exceeding in value the sum of \$10,000 is nevertheless susceptible of division, and the part thereof to be returned hereunder does not exceed in value the sum of \$10,000: Provided, That an individual shall not be entitled, under this paragraph, to the return of any money or other property owned by a partnership, association, unincorporated body of individuals, or corporation at the time it was conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, or seized by him hereunder; or

(10) A partnership, association, other unincorporated body of individuals, or corporation, and that it is not otherwise entitled to the return of its money or other property, or any part thereof, under this section, and that such money or other property, or the proceeds thereof, if the same has been converted, does not exceed in value the sum of \$10,000, or although exceeding in value the sum of \$10,000, is nevertheless susceptible of division, and the part thereof to be returned hereunder does not exceed in value the sum of \$10,000; or

(11) A partnership, association, or other unincorporated body of individuals, having its principal place of business within any country other than Germany, Austria, Hungary, or Austria-Hungary, or a corporation organized or incorporated within any country other than Germany, Austria, Hungary, or Austria-Hungary, and that the control of, or more than 50 per centum of the interests or voting power in, any such partnership, association, other unincorporated body of individuals, or corporation, was at such time, and is at the time of the return of any money or other property, vested in citizens or subjects of nations, States, or free cities other than Germany, Austria, Hungary, or Austria-Hungary: Provided, however, That this subsection shall not affect



any rights which any citizen or subject may have under paragraph (1) of this subsection; or

(12) A partnership, association, or other unincorporated body of individuals, or a corporation, and was entirely owned at such time by subjects or citizens of nations, States, or free cities other than Austria or Hungary or Austria-Hungary and is so owned at the time of the return of its money or other property, and has filed the written consent provided for in subsection (m) of this section; or

(13) A partnership, association or other unincorporated body of individuals, having its principal place of business at such time within any country other than Austria, Hungary, or Austria-Hungary, or a corporation organized or incorporated within any country other than Austria, Hungary, or Austria-Hungary, and that the written consent provided for in subsection (m) of this section has been filed; or

(14) An individual who at such time was a citizen or subject of Germany or who, at the time of the return of any money or other property, is a citizen or subject of Germany or is not a citizen or subject of any nation, State, or free city, and that the written consent provided for in subsection (m) of this section has been filed; or

(15) Repealed. Aug. 6, 1956, ch. 1016, § 3, 70 Stat. 1073.

(16) An individual, partnership, association, or other unincorporated body of individuals, or a corporation, and that the written consent provided for in subsection (m) of this section has been filed, and that no suit or proceeding against the United States or any agency thereof is pending in respect of such return, and that such individual has filed a written waiver renouncing on behalf of himself, his heirs, successors, and assigns any claim based upon the fact that at the time of such return he was in fact entitled to such return under any other provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; or

(17) A partnership, association, or other unincorporated body of individuals, or a corporation, and was entirely owned at such time by citizens of Austria and is so owned at the time of the return of its money or other property; or

(18) A partnership, association, or other unincorporated body of individuals, having its principal place of business at such time within Austria, or a corporation organized or incorporated within Austria; or

(19) An individual who at such time was a citizen of Austria or who, at the time of the return of any money or other property, is a citizen of Austria; or

(20) A partnership, association, or other unincorporated body of individuals, or a corporation, and was entirely owned at such time by citizens of Hungary and is so owned at the time of the return of its money or other property; or

(21) A partnership, association, or other unincorporated body of individuals, having its principal place of business at such time within Hungary, or a corporation organized or incorporated within Hungary; or

(22) An individual who at such time was a citizen of Hungary or who, at the time of the return of any money or other property, is a citizen of Hungary;

*Then the President, without any application being made therefor, may order the payment, conveyance, transfer, assignment, or delivery of such money or other property held by the Alien Property Custodian or by the Treasurer of the United States, or of the interest therein to which the President shall determine such person entitled, either to the said owner or to the person by whom said property was conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian: Provided, That no person shall be deemed or held to be a citizen or subject of Germany or Austria or Hungary or Austria-Hungary for the purposes of this section, even though he was such citizen or subject at the time first specified in this subsection, if he has become or shall become, ipso facto or through exercise of option, a citizen or subject of any nation or State or free city other than Germany, Austria, or Hungary, (first) under the terms of such treaties of peace as have been or may be concluded subsequent to November 11, 1918, between Germany or Austria or Hungary (of the one part) and the United States and/or three or more of the following-named powers: The British Empire, France, Italy, and Japan (of the other part), or (second) under the terms of such treaties as have been or may be concluded in pursuance of the treaties of peace aforesaid between any nation, State, or free city (of the one part) whose territories, in whole or in part, on August 4, 1914, formed a portion of the territory of Germany or Austria-Hungary and the United States and/or three or more of the following-named powers: The British Empire, France, Italy, and Japan (of the other part). For the purposes of this section any citizen or subject of a State or free city which at the time of the proposed return of money or other property of such citizen or subject hereunder forms a part of the territory of any one of the following nations: Germany, Austria, or Hungary, shall be deemed to be a citizen or subject of such nation. And the receipt of the said owner or of the person by whom said money or other property was conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian shall be a full acquittance and discharge of the Alien Property Custodian or the Treasurer of the United States, as the case may be, and of the United States in respect to all claims of all persons heretofore or hereafter claiming any right, title, or interest in said money or other property, or compensation or damages arising from the capture of such money or other property by the President or the Alien Property Custodian: Provided further, however, That except as herein provided no such action by the President shall bar any person from the prosecution of any suit at law or in equity to establish any right, title, or interest which he may have therein.*

(c) Any person whose money or other property the President is authorized to return under the provisions of subsection (b) of this section may file notice of claim for the return of such money or other property, as provided in subsection (a) of this section, and thereafter may make application to the President for allowance of such claim and/or may institute suit in equity to recover such money or other

[Emphasis supplied.]

property, as provided in said subsection, and with like effect. The President or the court, as the case may be, may make the same determinations with respect to citizenship and other relevant facts that the President is authorized to make under the provisions of subsection (b) of this section.

(d) Whenever an individual, deceased, would have been entitled, if living, to the return of any money or other property without filing the written consent provided for in subsection (m) of this section, then his legal representative may proceed for the return of such money or other property in the same manner as such individual might proceed if living, and such money or other property may be returned to such legal representative without requiring the appointment of an administrator, or an ancillary administrator, by a court in the United States, or to any such ancillary administrator, for distribution directly to the persons entitled thereto. Return in accordance with the provisions of this subsection may be made in any case where an application or court proceeding by any legal representative, under the provisions of this subsection before its amendment by the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167] is pending and undetermined at the time of the enactment of such Act. All bonds or other security given under the provisions of this subsection before such amendment shall be canceled or released and all sureties thereon discharged.

(e) No money or other property shall be returned nor any debt allowed under this section to any person who is a citizen or subject of any nation which was associated with the United States in the prosecution of the war, unless such nation in like case extends reciprocal rights to citizens of the United States: Provided, That any arrangement made by a foreign nation for the release of money and other property of American citizens and certified by the Secretary of State to the Attorney General as fair and the most advantageous arrangement obtainable shall be regarded as meeting this requirement; nor in any event shall a debt be allowed under this section unless it was owing to and owned by the claimant prior to October 6, 1917, and as to claimants other than citizens of the United States unless it arose with reference to the money or other property held by the Alien Property Custodian or Treasurer of the United States hereunder; nor shall a debt be allowed under this section unless notice of the claim has been filed, or application therefor has been made, prior to the date of the enactment of the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167].

(f) Except as herein provided, the money or other property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, shall not be liable to lien, attachment, garnishment, trustee process, or execution, or subject to any order or decree of any court.

(g) Whenever an individual, deceased, would have been entitled, if living, to the return of any money or other property upon filing the written consent provided for in subsection (m) of this section, then his legal representative may proceed for the return of such money or other property in the same manner as such individual might proceed if living, and such money or other property may be returned, upon filing the written consent provided for in subsection (m) of this section, to such legal representative without requiring the appointment

of an administrator, or an ancillary administrator, by a court in the United States, or to any such ancillary administrator, for distribution to the persons entitled thereto. This subsection shall not be construed as extinguishing or diminishing any right which any citizen of the United States may have had under this subsection prior to its amendment by the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167] to receive in full his interest in the property of any individual dying before such amendment.

(h) The aggregate value of the money or other property returned under paragraphs (9) and (10) of subsection (b) of this section to any person, irrespective of the number of trusts involved, shall in no case exceed \$10,000.

(i) For the purposes of paragraphs (9) and (10) of subsection (b) of this section accumulated net income, dividends, interest, annuities, and other earnings, shall be considered as part of the principal.

(j) The Alien Property Custodian is authorized and directed to return to the person entitled thereto, whether or not an enemy or ally of enemy and regardless of the value, any patent, trade-mark, print, label, copyright, or right therein or claim thereto, which was conveyed, transferred, assigned, or delivered to the Alien Property Custodian, or seized by him, and which has not been sold, licensed, or otherwise disposed of under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], and to return any such patent, trade-mark, print, label, copyright, or right therein or claim thereto, which has been licensed, except that any patent, trade-mark, print, label, copyright, or right therein or claim thereto, which is returned by the Alien Property Custodian and which has been licensed, or in respect of which any contract has been entered into, or which is subject to any lien or encumbrance, shall be returned subject to the license, contract, lien, or encumbrance.

(k) Except as provided in section 27 [section 27 of this Appendix], paragraphs (12) to (22), both inclusive, of subsection (b) of this section shall apply to the proceeds received from the sale, license, or other disposition of any patent, trade-mark, print, label, copyright, or right therein or claim thereto, conveyed, transferred, assigned, or delivered to the Alien Property Custodian, or seized by him.

(l) This section shall apply to royalties paid to the Alien Property Custodian, in accordance with a judgment or decree in a suit brought under subsection (f) of section 10 [section 10 (f) of this Appendix]; but shall not apply to any other money paid to the Alien Property Custodian under section 10 [section 10 of this Appendix].

(m) No money or other property shall be returned under paragraphs (12), (13), (14), or (16) of subsection (b) of this section or under subsection (g) or (n) of this section or (to the extent therein provided) under subsection (p) of this section, unless the person entitled thereto files a written consent to a postponement of the return of an amount equal to 20 per centum of the aggregate value of such money or other property (at the time, as nearly as may be, of the return), as determined by the Alien Property Custodian, and the investment of such amount in accordance with the provisions of section 25 [section 25 of this Appendix]. Such amount shall be deducted from the money to be returned to such person, so far as possible, and the balance shall

be deducted from the proceeds of the sale of so much of the property as may be necessary, unless such person pays the balance to the Alien Property Custodian, except that no property shall be so sold prior to the expiration of six years from the date of the enactment of the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167] without the consent of the person entitled thereto. The amounts so deducted shall be returned to the persons entitled thereto as provided in subsection (f) of section 25 [section 25 (f) of this Appendix]. The sale of any such property shall be made in accordance with the provisions of section 12 [section 12 of this Appendix], except that the provisions of such section relating to sales or resales to, or for the benefit of, citizens of the United States shall not be applicable. If such aggregate value of the money or other property to be returned under paragraphs (12), (13), (14), or (16) of subsection (b) of this section or under subsection (g) of this section is less than \$2,000, then the written consent shall not be required and the money or other property shall be returned in full without the temporary retention and investment of 20 per centum thereof.

(n) In the case of property consisting of stock or other interest in any corporation, association, company, or trust, or of bonded or other indebtedness thereof, evidenced by certificates of stock or by bonds or by other certificates of interest therein or indebtedness thereof, or consisting of dividends or interest or other accruals thereon, where the right, title, and interest in the property (but not the actual certificate or bond or other certificate of interest or indebtedness) was conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, or seized by him, *if the President determines* that the owner thereof or of any interest therein has acquired such ownership by assignment, transfer, or sale of such certificate or bond or other certificate of interest or indebtedness, (it being the intent of this subsection that such assignment, transfer, or sale shall not be deemed invalid hereunder by reason of such conveyance, transfer, assignment, delivery, or payment to the Alien Property Custodian or seizure by him) and that the written consent provided for in subsection (m) of this section has been filed, then *the President may make in respect of such property an order of the same character*, upon the same conditions, and with the same effect, as in cases provided for in subsection (b) of this section, including the benefits of subsection (c) of this section.

(o) The provisions of paragraph (12) to (14), (17) to (21), or (22) of subsection (b) of this section, or of subsection (m) or (n) of this section, and (except to the extent therein provided) the provisions of paragraph (16) of subsection (b) of this section, shall not be construed as diminishing or extinguishing any right under any other provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] in force immediately prior to the enactment of the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167].

(p) The Alien Property Custodian shall transfer the money or other property in the trust of any partnership, association, or other unincorporated body of individuals, or corporation, the existence of which has terminated, to trusts in the names of the persons (including

[Emphasis supplied.]

the German Government and members of the former ruling family) who have succeeded to its claim or interest; and the provisions of subsection (a) of this section relating to the collection of a debt (*by order of the President or of a court*) out of money or other property held by the Alien Property Custodian or the Treasurer of the United States shall be applicable to the debts of such successor and any such debt may be collected out of the money or other property in any of such trusts if not returnable under subsection (a) of this section. Subject to the above provisions as to the collection of debts, each such successor (except the German Government and members of the former ruling family) may proceed for the return of the amount so transferred to his trust, in the same manner as such partnership, association, or other unincorporated body of individuals, or corporation might proceed if still in existence. If such partnership, association, or other unincorporated body of individuals, or corporation, would have been entitled to the return of its money or other property only upon filing the written consent provided for in subsection (m) of this section, then the successor shall be entitled to the return under this subsection only upon filing such written consent.

(q) The return of money or other property under paragraphs (15), (17), (18), (19), (20), (21), or (22) of subsection (b) of this section (relating to the return of Austrian and Hungarian nationals) shall be subject to the limitations imposed by subsections (d) and (e) of section 7 of the Settlement of War Claims Act of 1928 [Act Mar. 10, 1928, ch. 167, 45 Stat. 265, 266]. (Oct. 6, 1917, ch. 106, § 9, 40 Stat. 419; July 11, 1919, ch. 6, § 1, 41 Stat. 35; June 5, 1920, ch. 241, 41 Stat. 977; Feb. 27, 1921, ch. 76, 41 Stat. 1147; Dec. 21, 1921, ch. 13, 42 Stat. 351; Dec. 27, 1922, ch. 13, 42 Stat. 1065; Mar. 4, 1923, ch. 285, § 1, 42 Stat. 1511; May 7, 1926, ch. 252, 44 Stat. 406; Mar. 10, 1928, ch. 167, §§ 11–14, 20, 45 Stat. 270–273, 277; June 25, 1936, ch. 804, 49 Stat. 1921; Aug. 24, 1937, ch. 745, 50 Stat. 748; June 25, 1948, ch. 646, § 32 (a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 6, 1956, ch. 1016, § 3, 70 Stat. 1073; Oct. 22, 1962, Pub. L. 87–846, title II, § 203, 76 Stat. 1113.)

[See 12 U.S.C. 95 and 95a. *Supra*.]

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50 U.S.C. APP. 10. ACTS PERMITTED; APPLICATIONS FOR PATENTS OR REGISTRATION OF TRADE-MARKS OR COPYRIGHTS; PAYMENT OF TAX IN RELATION THERETO; LICENSES UNDER ENEMY-OWNED PATENT OR COPYRIGHT; STATEMENTS BY LICENSEES; TERM AND CANCELLATION; SUITS AGAINST LICENSEES; RESTRAINING INFRINGEMENTS; POWERS OF ATTORNEY; KEEPING SECRET INVENTIONS

Nothing contained in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] shall be held to make unlawful any of the following acts:

(a) Repealed. Aug 8, 1946, ch. 910, § 13, 60 Stat. 944.

(b) Any citizen of the United States, or any corporation organized within the United States, may, *when duly authorized by the President*, pay to an enemy or ally of enemy any tax, annuity, or fee which may

[Emphasis supplied.]

be required by the laws of such enemy or ally of enemy nation in relation to patents and trade-marks, prints, labels, and copyrights; and any such citizen or corporation may file and prosecute an application for letters patent or for registration of trade-mark, print, label, or copyright in the country of an enemy, or of an ally of enemy after first submitting such application to the President and receiving license so to file and prosecute, and to pay the fees required by law and customary agents' fees, the maximum amount of which in *each case shall be subject to the control of the President.*

(c) Any citizen of the United States or any corporation organized within the United States desiring to manufacture, or cause to be manufactured, a machine, manufacture, composition of matter, or design, or to carry on, or to use any trade-mark, print, label or cause to be carried on, a process under any patent or copyrighted matter owned or controlled by an enemy or ally of enemy *at any time during the existence of a state of war may apply to the President for a license*; and the President is authorized to grant such a license, non-exclusive or exclusive as he shall deem best, provided he shall be of the opinion that such grant is for the public welfare, and that the applicant is able and intends in good faith to manufacture, or cause to be manufactured, the machine, manufacture, composition of matter, or design, or to carry on, or cause to be carried on, the process or to use the trade-mark, print, label or copyrighted matter. The President may prescribe the conditions of this license, including the fixing of prices of articles and products necessary to the health of the military and naval forces of the United States or the successful prosecution of the war, and the rules and regulations under which such license may be granted and the fee which shall be charged therefor, not exceeding \$100, and not exceeding one per centum of the fund deposited as hereinafter provided. Such license shall be a complete defense to any suit at law or in equity instituted by the enemy or ally of enemy owners of the letters patent, trade-mark, print, label or copyright, or otherwise, against the licensee for infringement or for damages, royalty, or other money award on account of anything done by the licensee under such license, except as provided in subsection (f) of this section.

(d) The licensee shall file with the President a full statement of the extent of the use and enjoyment of the license, and of the prices received in such form and at such stated periods (at least annually) as the President may prescribe; and the licensee shall pay at such times as may be required to the alien property custodian not to exceed five per centum of the gross sums received by the licensee from the sale of said inventions or use of the trade-mark, print, label or copyrighted matter, or, if the President shall so order, five per centum of the value of the use of such inventions, trade-marks, prints, labels or copyrighted matter to the licensee as established by the President; and sums so paid shall be deposited by said alien property custodian forthwith in the Treasury of the United States as a trust fund for the said licensee and for the owner of the said patent, trade-mark, print, label or copyright registration as hereinafter provided, to be paid from the

[Emphasis supplied.]

Treasury upon order of the court, as provided in subsection (f) of this section, or upon the direction of the alien property custodian.

(e) Unless surrendered or terminated as provided in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], any license granted hereunder shall continue during the term fixed in the license or in the absence of any such limitation during the term of the patent, trade-mark, print, label, or copyright registration under which it is granted. Upon violation by the licensee of any of the provisions of this Act [said sections], or of the conditions of the license, the President may, after due notice and hearing, cancel any license granted by him.

(f) The owner of any patent, trade-mark, print, label, or copyright under which a license is granted hereunder may, *after the end of the war and until the expiration of one year thereafter*, file a bill in equity against the licensee in the district court of the United States for the district in which the said licensee resides, or, if a corporation, in which it has its principal place of business (to which suit the Treasurer of the United States shall be made a party), for recovery from the said licensee for all use and enjoyment of the said patented invention, trade-mark, print, label, or copyrighted matter: Provided, however, That whenever suit is brought, as above, notice shall be filed with the alien property custodian within thirty days after date of entry of suit: Provided further, That the licensee may make any and all defenses which would be available were no license granted. The court on due proceedings had may adjudge and decree to the said owner payment of a reasonable royalty. The amount of said judgment and decree, when final, shall be paid on order of the court to the owner of the patent from the fund deposited by the licensee, so far as such deposit will satisfy said judgment and decree; and the said payment shall be in full or partial satisfaction of said judgment and decree, as the facts may appear; and if, after payment of all such judgments and decrees, there shall remain any balance of said deposit, such balance shall be repaid to the licensee on order of the alien property custodian. If no suit is brought within one year after the end of the war, or no notice is filed as above required, then the licensee shall not be liable to make any further deposits, and all funds deposited by him shall be repaid to him on order of the Alien Property Custodian. Upon entry of suit and notice filed as above required, or upon repayment of funds as above provided, the liability of the licensee to make further reports to the President shall cease.

If suit is brought as above provided, the court may, at any time, terminate the license, and may, in such event, issue an injunction to restrain the licensee from infringement thereafter, or the court, in case the licensee, prior to suit, shall have made investment of capital based on possession of the license, may continue the license for such period and upon such terms and with such royalties as it shall find to be just and reasonable.

In the case of any such patent, trade-mark, print, label, or copyright, conveyed, assigned, transferred, or delivered to the Alien Property Custodian or seized by him, any suit brought under this subsection, within the time limited therein, shall be considered as having been brought by the owner within the meaning of this subsection,

[Emphasis supplied.]



insofar as such suit relates to royalties for the period prior to the sale by the Alien Property Custodian of such patent, trade-mark, print, label, or copyright, if brought either by the Alien Property Custodian or by the person who was the owner thereof immediately prior to the date such patent, trade-mark, print, label, or copyright was seized or otherwise acquired by the Alien Property Custodian.

(g) Any enemy, or ally of enemy, may institute and prosecute suits in equity against any person other than a licensee under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] to enjoin infringement of letters patent, trade-mark, print, label, and copyrights in the United States owned or controlled by said enemy or ally of enemy, in the same manner and to the extent that he would be entitled so to do if the United States was not at war: Provided, That no final judgment or decree shall be entered in favor of such enemy or ally of enemy by any court except after thirty days' notice to the Alien Property Custodian. Such notice shall be in writing and shall be served in the same manner as civil process of Federal courts.

(h) All powers of attorney heretofore or hereafter granted by an enemy or ally of enemy to any person within the United States, insofar as they may be requisite to the performance of acts authorized in subsections (a) and (g) of this section, shall be valid.

(i) Whenever the publication of an invention by the granting of a patent may, *in the opinion of the President, be detrimental to the public safety or defense, or may assist the enemy or endanger the successful prosecution of the war, he may order that the invention be kept secret and withhold the grant of a patent until the end of the war: Provided, That the invention disclosed in the application for said patent may be held abandoned upon it being established before or by the Commissioner of Patents that, in violation of said order, said invention has been published or that an application for a patent therefor has been filed in any other country, by the inventor or his assigns or legal representatives, without the consent or approval of the commissioner or under a license of the President.*

When an applicant whose patent is withheld as herein provided and who faithfully obeys the order of the President above referred to shall tender his invention to the Government of the United States for its use, he shall, if he ultimately receives a patent, have the right to sue for compensation in the Court of Claims, such right to compensation to begin from the date of the use of the invention by the Government. (Oct. 6, 1917, ch. 106, § 10, 40 Stat. 420; Mar. 10, 1928, ch. 167, § 19, 45 Stat. 277; Aug. 8, 1946, ch. 910, § 13, 60 Stat. 944.)

[See 12 U.S.C. 95 and 95a, *Supra*.]

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#### 50 U.S.C. APP. 11. IMPORTATIONS PROHIBITED

*Whenever during the present war the President shall find that the public safety so requires and shall make proclamation thereof it shall be unlawful to import into the United States from any country named in such proclamation any article or articles mentioned in such procla-*

[Emphasis supplied.]

mation except at such time or times, and under such regulations or orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: Provided, however, That no preference shall be given to the ports of one State over those of another. (Oct. 6, 1917, ch. 106. § 11, 40 Stat. 422.)

[See 12 U.S.C. 95 and 95a. *Supra.*]

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#### 50 U.S.C. APP. 12. PROPERTY TRANSFERRED TO ALIEN PROPERTY CUSTODIAN

All moneys (including checks and drafts payable on demand) paid to or received by the alien property custodian pursuant to this Act [section 1 to 6, 7 to 39 and 41 to 44 of this appendix] shall be deposited forthwith in the Treasury of the United States, and may be invested and reinvested by the Secretary of the Treasury in United States bonds or United States certificates or indebtedness, *under such rules and regulations as the President shall prescribe for such deposit, investment, and sale of securities; and as soon after the end of the war as the President shall deem practicable, such securities shall be solid and the proceeds deposited in the Treasury.*

All other property of an enemy, or ally of enemy, conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian hereunder shall be safely held and administered by him except as hereinafter provided; *and the President is authorized to designate as a depositary, or depositaries, of property of an enemy or ally of enemy, any bank, or banks, or trust company, or trust companies, or other suitable depositary or depositaries, located and doing business in the United States. The Alien Property Custodian may deposit with such designated depositary or depositaries, or with the Secretary of the Treasury, any stocks, bonds, notes, time drafts, time bills of exchange, or other securities, or property (except money or checks or drafts payable on demand which are required to be deposited with the Secretary of the Treasury) and such depositary or depositaries shall be authorized and empowered to collect any dividends or interest or income that may become due and any maturing obligations held for the account of such custodian. Any moneys collected on said account shall be paid and deposited forthwith by said depositary or by the Alien Property Custodian into the Treasury of the United States as hereinbefore provided.*

*The President shall require all such designated depositaries to execute and file bonds sufficient in his judgment to protect property on deposit, such bonds to be conditioned as he may direct.*

The Alien Property Custodian shall be vested with all of the powers of a common-law trustee in respect of all property, other than money, which has been or shall be, or which has been or shall be required to be, conveyed, transferred, assigned, delivered, or paid over to him in pursuance of the provisions of this Act [said sections], and, in addition thereto, acting under the supervision and direction of the President, and under such rules and regulations as the President shall pre-

[Emphasis supplied.]

scribe, shall have power to manage such property and do any act or things in respect thereof or make any disposition thereof or of any part thereof, by sale or otherwise, and exercise any rights or powers which may be or become appurtenant thereto or to the ownership thereof in like manner as though he were the absolute owner thereof: *Provided, That any property sold under this Act [said sections] except when sold to the United States, shall be sold only to American citizens, at public sale to the highest bidder, after public advertisement of time and place of sale which shall be where the property or a major portion thereof is situated, unless the President stating the reasons therefor, in the public interest shall otherwise determine: Provided further, That when sold at public sale, the Alien Property Custodian upon the order of the President stating the reasons therefor, shall have the right to reject all bids and resell such property at public sale or otherwise as the President may direct. Any person purchasing property from the Alien Property Custodian for an undisclosed principal, or for resale to a person not a citizen of the United States, or for the benefit of a person not a citizen of the United States, shall be guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of not more than \$10,000, or imprisonment for not more than ten years, or both, and the property shall be forfeited to the United States. It shall be the duty of every corporation incorporated within the United States and every unincorporated association, or company, or trustee, or trustees within the United States issuing shares or certificates representing beneficial interests to transfer such shares or certificates upon its, his, or their books into the name of the Alien Property Custodian upon demand, accompanied by the presentation of the certificates which represent such shares or beneficial interests. The Alien Property Custodian shall forthwith deposit in the Treasury of the United States, as hereinbefore provided, the proceeds of any such property or rights so sold by him.*

Any money or property required or authorized by the provisions of this Act [said sections] to be paid, conveyed, transferred, assigned, or delivered to the Alien Property Custodian shall, if said custodian shall so direct by written order, be paid, conveyed, transferred, assigned, or delivered to the Treasurer of the United States with the same effect as if to the Alien Property Custodian.

After the end of the war any claim of any enemy or of an ally of enemy to any money or other property received and held by the Alien Property Custodian or deposited in the United States Treasury, shall be settled as Congress shall direct: *Provided, however, That on order of the President as set forth in section nine hereof [section 9 of this Appendix], or of the court, as set forth in sections nine and ten hereof [sections 9 and 10 of this Appendix], the Alien Property Custodian or the Treasurer of the United States, as the case may be, shall forthwith convey, transfer, assign, and pay to the person to whom the President shall so order, or in whose behalf the court shall enter final judgment or decree, any property of an enemy or ally of enemy held by said custodian or by said Treasurer, so far as may be necessary to comply with said order of the President or said final judgment or decree of the court: And provided further, That the Treasurer of the*

[Emphasis supplied.]

United States, on order of the Alien Property Custodian shall, as provided in section ten hereof [section 10 of this Appendix], repay to the licensee any funds deposited by said licensee. (Oct. 6, 1917, ch. 106, § 12, 40 Stat. 423; Mar. 28, 1918, ch. 28, § 1, 40 Stat. 460.)  
 [See 12 U.S.C. 95 and 95a. *Supra.*]

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50 U.S.C. APP. 14. SAME; REFUSAL OF CLEARANCE; REPORTS OF GOLD OR SILVER COIN IN CARGOES FOR EXPORT

*During the present war*, whenever there is reasonable cause to believe that the manifest or the additional statements under oath required by the preceding section [section 13 of this Appendix] are false or that any vessel, domestic or foreign, is about to carry out of the United States any property to or for the account or benefit of an enemy, or ally of enemy, or any property or person whose export, taking out, or transport will be in violation of law, the collector of customs for the district in which such vessel is located is authorized and empowered *subject to review by the President* to refuse clearance to any such vessel, domestic or foreign, for which clearance is required by law, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, to forbid the departure of such vessel from the port, and it shall thereupon be unlawful for such vessel to depart.

*The collector of customs shall, during the present war, in each case report to the President* the amount of gold or silver coin or bullion or other moneys of the United States contained in any cargo intended for export. Such report shall include the names and addresses of the consignors and consignees, together with any facts known to the collector with reference to such shipment and particularly those which may indicate that such gold or silver coin or bullion or moneys of the United States may be intended for delivery or may be delivered, directly or indirectly, to an enemy or an ally of enemy. (Oct. 6, 1917, ch. 106, § 14, 40 Stat. 424.)

[See 12 U.S.C. 95 and 95a. *Supra.*]

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50 U.S.C. APP. 19. PRINT, NEWSPAPER OR PUBLICATION IN FOREIGN LANGUAGES

Ten days after the approval of this act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] and until the end of the war, it shall be unlawful for any person, firm, corporation, or association, to print, publish, or circulate, or cause to be printed, published, or circulated in any foreign language, any news item, editorial or other printed matter, respecting the Government of the United States, or of *any nation engaged in the present war*, its policies, international relations, the state or conduct of war, or any matter relating thereto: Provided,

[Emphasis supplied.]

That this section shall not apply to any print, newspaper, or publication where the publisher or distributor thereof, on or before offering the same for mailing, or in any manner distributing it to the public, has filed with the postmaster at the place of publication, in the form of an affidavit, a true and complete translation of the entire article containing such matter proposed to be published in such print, newspaper, or publication, and has caused to be printed, in plain type in the English language, at the head of each such item, editorial, or other matter, on each copy of such print, newspaper, or publication, the words "True translation filed with postmater at ——— on ——— (naming the post office where the translation was filed, and the date of filing thereof), as required by the Act of ——— (here giving the date of this Act [said sections])."

Any print, newspaper, or publication in any foreign language which does not conform to the provisions of this section is declared to be non-mailable, and it shall be unlawful for any person, firm, corporation, or association, to transport, carry, or otherwise publish or distribute the same, or to transport, carry or otherwise publish or distribute any matter which is made nonmailable by the provisions of the Act relating to espionage, approved June fifteenth, nineteen hundred and seventeen: Provided, further, That upon evidence satisfactory to him that any print, newspaper, or publication, printed in a foreign language may be printed, published, and distributed free from the foregoing restrictions and conditions without detriment to the United States in *the conduct of the present war, the President may cause to be issued to the printers or publishers of such print, newspaper, or publication, a permit to print, publish, and circulate the issue or issues of their print, newspaper, or publication, free from such restrictions and requirements, such permits to be subject to revocation at his discretion. And the Postmaster General shall cause copies of all such permits and revocations of permits to be furnished to the postmaster of the post office serving the place from which the print, newsprint, or publication, granted the permit is to emanate. All matter printed, published and distributed under permits shall bear at the head thereof in plain type in the English language, the words, "Published and distributed under permit authorized by the Act of ——— (here giving date of this Act [said sections]), on file at the post office of ——— (giving name of office)."*

Any person who shall make an affidavit containing any false statement in connection with the translation provided for in this section shall be guilty of the crime of perjury and subject to the punishment provided therefor by section one hundred and twenty-five of the Act of March fourth, nineteen hundred and nine, entitled "An Act to codify, revise, and amend the penal laws of the United States," and any person firm, corporation, or association, violating any other requirement of this section shall, on conviction thereof, be punished by a fine of not more than \$500, or by imprisonment of not more than one year, or, in the discretion of the court, may be both fined and imprisoned. (Oct. 6, 1917, ch. 106, § 19, 40 Stat. 425.)

[See 12 U.S.C. 95 and 95a. *Supra.*]

[Emphasis supplied.]

## 50 U.S.C. APP. 32. RETURN OF PROPERTY

## (a) Conditions precedent.

*The President, or such officer or agency as he may designate, may return any property or interest vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the net proceeds thereof, whenever the President or such officer or agency shall determine—*

(1) That the person who has filed a notice of claim for return, in such form as the President or such officer or agency may prescribe, was the owner of such property or interest immediately prior to its vesting in or transfer to the Alien Property Custodian, or is the legal representative (whether or not appointed by a court in the United States), or successor in interest by inheritance, devise, bequest, or operation of law, of such owner; and

(2) That such owner, and legal representative or successor in interest, if any, are not—

(A) the Government of Germany, Japan, Bulgaria, Hungary, or Rumania; or

(B) a corporation or association organized under the laws of such nation: Provided, That any property or interest or proceeds which, but for the provision of this subdivision, might be returned under this section to any such corporation or association, may be returned to the owner or owners of all the stock of such corporation or of all the proprietary and beneficial interest in such association, if their ownership of such stock or proprietary and beneficial interest existed immediately prior to vesting in or transfer to the Alien Property Custodian and continuously thereafter to the date of such return (without regard to purported divestments or limitations of such ownership by any government referred to in subdivision (A) of this subsection) and if such ownership was by one or more citizens of the United States or by one or more corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia: Provided further, That such owner or owners shall succeed to those obligations limited in aggregate amount to the value of such property or interest or proceeds, which are lawfully assertible against the corporation or association by persons not ineligible to receive a return under this section; or

(C) an individual voluntarily resident at any time since December 7, 1941, within the territory of such nation, other than a citizen of the United States or a diplomatic or Consular officer of Italy or of any nation with which the United States has not at any time since December 7, 1941, been at war: Provided, That an individual who, while in the territory of a nation with which the United States has at any time since December 7, 1941, been at war, was deprived of life or substantially deprived of liberty pursuant to any law, decree

[Emphasis supplied.]

or regulation of such nation discriminating against political, racial, or religious groups, shall not be deemed to have voluntarily resided in such territory; or

(D) an individual who was at any time after December 7, 1941, a citizen or subject of Germany, Japan, Bulgaria, Hungary, or Rumania, and who on or after December 7, 1941, and prior to the date of the enactment of this section [March 8, 1946], was present (other than in the service of the United States) in the territory of such nation or in any territory occupied by the military or naval forces thereof or engaged in any business in any such territory: Provided, That notwithstanding the provisions of this subdivision return may be made to an individual who, as a consequence of any law, decree, or regulation of the nation of which he was then a citizen or subject, discriminating against political, racial, or religious groups, has at no time between December 7, 1941, and the time when such law, decree, or regulation was abrogated, enjoyed full rights of citizenship under the law of such nation: And provided further, That notwithstanding the provisions of subdivision (C) of this subsection and of this subdivision, return may be made to an individual who at all times since December 7, 1941, was a citizen of the United States, or to an individual who, having lost United States citizenship solely by reason of marriage to a citizen or subject of a foreign country, reacquired such citizenship prior to September 29, 1950, if such individual would have been a citizen of the United States at all times since December 7, 1941, but for such marriage: And provided further, That the aggregate book value of returns made pursuant to the foregoing proviso shall not exceed \$9,000,000; and any return under such proviso may be made if the book value of any such return, taken together with the aggregate book value of returns already made under such proviso does not exceed \$9,000,000; and for the purposes of this proviso the term "book value" means the value, as of the time of vesting, entered on the books of the Alien Property Custodian for the purpose of accounting for the property or interest involved; or

(E) a foreign corporation or association which at any time after December 7, 1941, was controlled or 50 per centum or more of the stock of which was owned by any person or persons ineligible to receive a return under subdivisions (A)—(C) or (D) of this subsection: Provided, That notwithstanding the provisions of this subdivision, return may be made to a corporation or association so controlled or owned, if such corporation or association was organized under the laws of a nation any of whose territory was occupied by the military or naval forces of *any nation with which the United States has at any time since December 7, 1941, been at war*, and if such control or ownership arose after March 1, 1938, as an incident to such occupation and was terminated prior to the enactment of this section [March 8, 1946];

and

[Emphasis supplied.]

(3) that the property or interest claimed, or the net proceeds of which are claimed, was not at any time after September 1, 1939, held or used, by or with the assent of the person who was the owner thereof immediately prior to vesting in or transfer to the Alien Property Custodian, pursuant to any arrangement to conceal any property or interest within the United States of any person ineligible to receive a return under subsection (a) (2) of this section;

(4) that the Alien Property Custodian has no actual or potential liability under the Renegotiation Act or the Act of October 31, 1942 (56 Stat. 1013; 35 U.S.C. §§ 89 to 96), in respect of the property or interest or proceeds to be returned and that the claimant and his predecessor in interest, if any, have no actual or potential liability of any kind under the Renegotiation Act or the said Act of October 31, 1942; or in the alternative that the claimant has provided security or undertakings adequate to assure satisfaction of all such liabilities or that property or interest or proceeds to be retained by the Alien Property Custodian are adequate therefor; and

(5) that such return is in the interest of the United States.

(b) Extension of filing time limitation for redetermination of excessive profits.

Notwithstanding the limitation prescribed in the Renegotiation Act upon the time within which petitions may be filed in The Tax Court of the United States, any person to whom any property or interest or proceeds are returned hereunder shall, for a period of ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) following return, have the right to file such a petition for a redetermination in respect of any final order of the Renegotiation Board determining excessive profits, made against the Alien Property Custodian, or of any determination, not embodied in an agreement, of excessive profits, so made by or on behalf of a Secretary.

(c) Inventions.

Any person to whom any invention, whether patented or unpatented, or any right or interest therein is returned hereunder shall be bound by any notice or order issued or agreement made pursuant to the Act of October 31, 1942 (56 Stat. 1013; 35 U.S.C. §§ 89 to 96), in respect of such invention or right or interest, and such person to whom a licensor's interest is returned shall have all rights assertible by a licensor pursuant to section 2 of the said Act.

(d) Rights and duties.

Except as otherwise provided herein, and except to the extent that the President or such officer or agency as he may designate may otherwise determine, any person to whom return is made hereunder, shall have all rights, privileges, and obligations in respect to the property or interest returned or the proceeds of which are returned which would have existed if the property or interest had not vested in the Alien Property Custodian, but no cause of action shall accrue to such person in respect of any deduction or retention of any part of the property or interest or proceeds by the Alien Property Custodian for the purpose of paying taxes, costs, or expenses in connection with such property or interest or proceeds: Provided, That except as provided in subsections



(b) and (c) of this section no person to whom a return is made pursuant to this section, nor the successor in interest of such person, shall acquire or have any claim or right of action against the United States or any department, establishment or agency thereof, or corporation owned thereby, or against any person authorized or licensed by the United States, founded upon the retention, sale, or other disposition, or use, during the period it was vested in the Alien Property Custodian, of the returned property, interest, or proceeds. Any notice to the Alien Property Custodian in respect of any property or interest or proceeds shall constitute notice to the person to whom such property or interest or proceeds is returned and such person shall succeed to all burdens and obligations in respect of such property or interest or proceeds which accrued during the time of retention by the Alien Property Custodian, but the period during which the property or interest or proceeds returned were vested in the Alien Property Custodian shall not be included for the purpose of determining the application of any statute of limitations to the assertion of any rights by such person in respect of such property or interest or proceeds.

(e) Legal proceeding unaffected.

No return hereunder shall bar the prosecution of any suit at law or in equity against a person to whom return has been made, to establish any right, title, or interest, which may exist or which may have existed at the time of vesting, in or to the property or interest returned, but no such suit may be prosecuted by any person ineligible to receive a return under subsection (a) (2) of this section. With respect to any such suit, the period during which the property or interest or proceeds returned were vested in the Alien Property Custodian shall not be included for the purpose of determining the application of any statute of limitations.

(f) Notice of intention.

At least thirty days before making any return to any person other than a resident of the United States or a corporation organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, *the President or such officer or agency as he may designate* shall publish in the Federal Register a notice of intention to make such return, specifying therein the person to whom return is to be made and the place where the property or interest or proceeds to be returned are located. Publication of a notice of intention to return shall confer no right of action upon any person to compel the return of any such property or interest or proceeds, and such notice of intention to return may be revoked by appropriate notice in the Federal Register. After publication of such notice of intention and prior to revocation thereof, the property or interest or proceeds specified shall be subject to attachment at the suit of any citizen or resident of the United States or any corporation organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, in the same manner as property of the person to whom return is to be made: Provided, That notice of any writ of attachment which may issue prior to return shall be served upon the Alien Property Custodian. Any such attachment pro-

[Emphasis supplied.]

ceeding shall be subject to the provisions of law relating to limitation of actions applicable to actions at law in the jurisdiction in which such proceeding is brought, but the period during which the property or interest or proceeds were vested in the Alien Property Custodian shall not be included for the purpose of determining the period of limitation. No officer of any court shall take actual possession, without the consent of the Alien Property Custodian, of any property or interest or proceeds so attached, and publication of a notice of revocation of intention to return shall invalidate any attachment with respect to the specified property or interest or proceeds, but if there is no such revocation, the President or such officer or agency as he may designate shall accord full effect to any such attachment in returning any such property or interest or proceeds.

(g) Payment of expenses of Custodian.

Without limitation by or upon any other existing provision of law with respect to the payment of expenses by the Alien Property Custodian, the Custodian may retain or recover from any property or interest or proceeds returned pursuant to this section or section 9 (a) of this Act [section 9 (a) of this Appendix] an amount not exceeding that expended or incurred by him for the conservation, preservation, or maintenance of such property or interest or proceeds, or other property or interest or proceeds returned to the same person.

(h) Designation of successor organizations to receive heirless property; time for application; payment of funds: time, allocation, claims barred by acceptance and conditions.

*The President may designate one or more organizations as successors in interest to deceased persons who, if alive, would be eligible to receive returns under the provisos of subdivision (C) or (D) of subsection (a) (2) thereof. In the case of any organization not so designated before the date of enactment of this amendment, such organization may be so designated only if it applies for such designation within three months after such date of enactment.*

*The President, or such officer as he may designate, shall, before the expiration of the one-year period which begins on the date of enactment of this amendment, pay out of the War Claims Fund to organizations designated before or after the date of enactment of this amendment pursuant to this subsection the sum of \$500,000. If there is more than one such designated organization, such sum shall be allocated among such organizations in the proportions in which the proceeds of heirless property were distributed, pursuant to agreements to which the United States was a party, by the Intergovernmental Committee for Refugees and successor organizations thereto. Acceptance of payment pursuant to this subsection by any such organization shall constitute a full and complete discharge of all claims filed by such organization pursuant to this section, as it existed before the date of enactment of this amendment.*

No payment may be made to any organization designated under this section unless it has given firm and responsible assurances *approved by the President* that (1) the payment will be used on the basis of need in the rehabilitation and settlement of persons in the United States who

[Emphasis supplied.]

suffered substantial deprivation of liberty or failed to enjoy the full rights of citizenship within the meaning of subdivisions (C) and (D) of subsection (a) (2) of this section; (2) it will make to the President, with a copy to be furnished to the Congress, such reports (including a detailed annual report on the use of the payment made to it) and permit such examination of its books as the President, or such officer or agency as he may designate, may from time to time require; and (3) it will not use any part of such payment for legal fees, salaries, or other administrative expenses connected with the filing of claims for such payment or for the recovery of any property or interest under this section.

As used in this subsection, "organization" means only a nonprofit charitable corporation incorporated on or before January 1, 1950, under the laws of any State of the United States or of the District of Columbia with the power to sue and be sued. (Oct. 6, 1917, ch. 106, § 32 as added Dec. 18, 1941, ch. 593, title III, § 304, as added Mar. 8, 1946, ch. 83, § 1, 60 Stat. 50 and amended Aug. 8, 1946, ch. 878, § 2, 60 Stat. 930; Aug. 5, 1947, ch. 499, § 2, 61 Stat. 784; Sept. 29, 1950, ch. 1108, § 1, 64 Stat. 1080; Mar. 23, 1951, ch. 15, title II, § 201 (a, b), 65 Stat. 23; June 6, 1952, ch. 372, 66 Stat. 129; Aug. 23, 1954, ch. 830, § 1, 68 Stat. 767; Oct. 22, 1962, Pub. L. 87-846, title II, § 204(a), 76 Stat. 1114.)

[See 12 U.S.C. 95 and 95a. *Supra.*]

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#### 50 U.S.C. APP. 38. SHIPMENT OF RELIEF SUPPLIES; DEFINITIONS

(a) Notwithstanding any other provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], it shall be lawful, at any time *after the date of cessation of hostilities with any country with which the United States is at war*, for any person in the United States to donate, or otherwise dispose of to, and to transport or deliver to, any person in such country an article or articles (including food, clothing, and medicine) intended to be used solely to relieve human suffering.

(b) As used in this section—

(1) the term "person" means any individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic;

(2) with respect to any country with which the United States was at war on January 1, 1946, the term "date of cessation of hostilities" shall mean the date of enactment of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix];

(3) with respect to any other war the term "date of cessation of hostilities" shall mean the date specified by proclamation of the President or by a concurrent resolution of the two Houses of Congress whichever is the earlier.

(Oct. 6, 1917, ch. 106, § 38, formerly § —, as added May 10, 1946, ch. 260, 60 Stat. 182, numbered Aug. 8, 1946, ch. 878 § 3, 60 Stat. 920.)

[See 12 U.S.C. 95 and 95a. *Supra.*]

[Emphasis supplied.]

50 U.S.C. APP. 40. INTERCUSTODIAL CONFLICTS INVOLVING ENEMY PROPERTY; AUTHORITY OF PRESIDENT TO CONCLUDE; DELEGATION OF AUTHORITY

*The President, or such officer or agency as he may designate, is authorized to conclude and give effect to agreements to further the amicable and expeditious settlement of intercustodial conflicts involving enemy property, subject to the following:*

(1) The authority granted in this section shall extend only to agreements with governments with which the United States was not at war in World War II.

(2) Such agreements shall be in accordance with the policy of protecting and making available for utilization the American and nonenemy interests in such property and further the elimination of enemy interests in such property and the efficient administration and liquidation of enemy property in the United States.

(3) For the purposes of this section, the United States as to any intergovernmental agreements hereafter negotiated shall seek treatment equal to that accorded United States nationals for persons who, although citizens or residents of an enemy country before or during World War II, were deprived of full rights of citizenship or substantially deprived of liberty by laws, decrees, or regulations of such enemy country discriminating against racial, religious, or political groups: Provided, That on September 28, 1950, such persons were (1) permanent residents of the United States and (2) had declared their intention to become citizens of the United States in conformity with the provisions of the Nationality Act of 1940, as amended; and that such persons shall have acquired citizenship of the United States prior to the effective date of any intergovernmental agreement hereafter negotiated.

(4) Reimbursement to the United States by other governments pursuant to such agreements shall be administered as vested property: Provided, That nothing contained in this section shall hinder, restrict or limit the payment of claims from the War Claims Fund established by section 2012 of this Appendix.

(Sept. 28, 1950, ch. 1094, 64 Stat. 1079.)

[See 12 U.S.C. 95 and 95a. *Supra.*]

50 U.S.C. APP. 785. EFFECTIVE DATE OF SECTIONS 781 TO 785

This Act [sections 781 to 785 of this Appendix] shall be effective only *until six months after the termination of the national emergency proclaimed by the President on December 16, 1950* (Proc. 2914, 3 C.F.R., 1950 Supp., p. 71 [set out as a note preceding section 1 of this Appendix]). (June 25, 1942, ch. 447, § 5, 56 Stat. 391; June 4, 1953, ch. 97, 67 Stat. 41.)

[Emphasis supplied.]

## —NOTE—

EXCERPT FROM S. REPT. 145, 83D CONG., 1ST SESS. (1953)

The bill proposes to extend existing wartime prohibition provided in the act of June 25, 1942, against photographing, mapping, sketching, or the making of comparable representation of military facilities or equipment located on posts, stations, camps, and other installations vital to the defense of the United States. Under the terms of the bill this prohibition would be extended for the *period of the present emergency proclaimed by the President and for a period of 6 months thereafter.*

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50 U.S.C. APP. 1211. CONGRESSIONAL DECLARATION OF POLICY

It is recognized and declared that the Congress has made available for the execution of the national defense program extensive funds, by appropriation and otherwise, for the procurement of property, processes, and services, and the construction of facilities necessary for the national defense; that sound execution of the national defense program requires the elimination of excessive profits from contracts made with the United States, and from related subcontracts, in the course of said program; and that the *considered policy of the Congress, in the interests of the national defense and the general welfare of the Nation, requires that such excessive profits be eliminated* as provided in this title [sections 1211 to 1224 of this Appendix]. (Mar. 23, 1951, ch. 15, title I, § 101, 65 Stat. 7.)

## —NOTE—

EXCERPT FROM H. REPT. 7, 82D CONG., 1ST SESS. (1951)

The country has embarked once more upon a vast program of military procurement as a defense against aggression. In the prosecution of this undertaking, industry will be called upon again—indeed, is already being called upon—to manufacture and deliver essential supplies and equipment hastily and against accelerated delivery schedules, without sufficient opportunity to make accurate cost estimates for the production of such items.

It is recognized, too, that contractors will be asked again to produce items not included in the customary output of their plants, as well as many items that are wholly new and unfamiliar to them or which have been invented or developed since the close of World War II. Doubtless many changes and improvements have also been made in the manufacturing processes of items previously produced.

[Emphasis supplied.]

Again, the magnitude of the defense program will entail the procurement of supplies in enormous quantities far in excess of ordinary commercial levels, with consequent inevitable effect on production costs. The full extent of this effect will not be easily determinable in advance with any degree of accuracy.

For these reasons, it is evident that contractors and contracting officers will be unable in countless instances to make accurate forecasts of costs on which to base prices and, therefore, that close initial pricing will be almost impossible to achieve. Nevertheless, the procurement of needed military supplies and equipment cannot be delayed for the completion of cost and price analyses that might otherwise be made as an incident to careful purchasing. In addition, it must be anticipated that specifications, quantities, and delivery rates will be revised from time to time in the light of experience and to keep pace with the fluctuations of actual or threatened military situations.

These are the major difficulties and uncertainties that prompted the adoption and *continuance of statutory renegotiation of contracts throughout World War II. The same conditions make it necessary today.*

#### 50 U.S.C. APP. 1213. DEFINITIONS

For the purposes of this title [sections 1211 to 1224 of this Appendix]—

(a) Department.

The term "Department" means the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Maritime Administration, the Federal Maritime Board, the General Services Administration, the National Aeronautics and Space Administration, the Federal Aviation Agency, and the Atomic Energy Commission. Such term also includes any other agency of the Government exercising functions having a direct and immediate connection with the national defense which is designated by the President *during a national emergency proclaimed by the President, or declared by the Congress*, after the date of the enactment of the Renegotiation Amendments Act of 1956 [August 1, 1956]; but such designation shall cease to be in effect on the last day of the month during which such national emergency is terminated.

(b) Secretary.

The term "Secretary" means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Secretary of Commerce (with respect to the Maritime Administration), the Federal Maritime Board, the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, the Administrator of the Federal Aviation Agency, the Atomic Energy Commission, and the head of any other

[Emphasis supplied.]

agency of the Government which the President shall designate as a Department pursuant to subsection (a) of this section.

\* \* \* \* \*

[See 50 U.S.C. App. 1211 (H. Rept. 7). *Supra.*]

#### 50 U.S.C. APP. 1216. EXEMPTIONS

(a) Mandatory exemptions.

The provisions of this title [sections 1211 to 1224 of this Appendix] shall not apply to—

(1) any contract by a Department with any Territory, possession, or State, or any agency or political subdivision thereof, or with any foreign government or any agency thereof; or

(2) any contract or subcontract for an agricultural commodity in its raw or natural state, or if the commodity is not customarily sold or has not an established market in its raw or natural state, in the first form or state, beyond the raw or natural state, in which it is customarily sold or in which it has an established market. The term "agricultural commodity" as used herein shall include but shall not be limited to—

(A) commodities resulting from the cultivation of the soil such as grains of all kinds, fruits, nuts, vegetables, hay, straw, cotton, tobacco, sugarcane and sugar beets;

(B) natural resins, saps, and gums of trees;

(C) animals, such as cattle, hogs, poultry, and sheep, fish and other marine life, and the produce of live animals, such as wool, eggs, milk and cream; or

(3) any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, which has not been processed, refined, or treated beyond the first form or state suitable for industrial use; or

(4) any contract or subcontract with a common carrier for transportation, or with a public utility for gas, electric energy, water communications, or transportation, when made in either case at rates not in excess of published rates or charges filed with, fixed, approved, or regulated by a public regulatory body, State, Federal, or local, or at rates not in excess of unregulated rates of such a public utility which are substantially as favorable to users and consumers as are regulated rates. In the case of the furnishing or sale of transportation by common carrier by water, this paragraph shall apply only to such furnishing or sale which is subject to the jurisdiction of the Interstate Commerce Commission under Part III of the Interstate Commerce Act [chapter 12 of Title 49] or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933 [chapter 23A of Title 46] and to such furnishing or sale in any case in which the Board finds that the regulatory aspects of rates for such furnishing or sale, or the type and nature of the contract for such furnishing or sale, are such as to indicate, in the opinion of the Board, that excessive profits are improbable; or

[Emphasis supplied.]

(5) any contract or subcontract with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code [section 101 (6) of Title 26, I.R.C. 1939], but only if the income from such contract or subcontract is not includible under section 422 of such code [section 422 of Title 26, I.R.C. 1939] in computing the unrelated business net income of such organization; or

(6) any contract which the Board determines does not have a direct and immediate connection with the national defense. The Board shall prescribe regulations designating those classes and types of contracts which shall be exempt under this paragraph; and the Board shall, in accordance with regulations prescribed by it, exempt any individual contract not falling within any such class or type if it determines that such contract does not have a direct and immediate connection with the national defense. In designating those classes and types of contracts which shall be exempt and in exempting any individual contract under this paragraph, the Board shall consider as not having a direct or immediate connection with national defense any contract for the furnishing of materials or services to be used by the United States, a Department or agency thereof, in the manufacture and sale of synthetic rubbers to a private person or to private persons which are to be used for nondefense purposes. If the use by such private person or persons shall be partly for defense and partly for nondefense purposes, the Board shall consider as not having a direct or immediate connection with national defense that portion of the contract which is determined not to have been used for national defense purposes. The method used in making such determination shall be subject to approval by the Board. Notwithstanding section 108 of this title [section 1218 of this Appendix], regulations prescribed by the Board under this paragraph, and any determination of the Board that a contract is or is not exempt under this paragraph shall not be reviewed or redetermined by the Court of Claims or by any other court or agency; or

(7) any subcontract directly or indirectly under a contract or subcontract to which this title [sections 1211 to 1224 of this Appendix] does not apply by reason of any paragraph, other than paragraph (1), (5), or (8), of this subsection; or

(8) Repealed. Aug. 1, 1946, ch. 821, § 9(a), 70 Stat. 789.

(9) any contract, awarded as a result of competitive bidding, for the construction of any building, structure, improvement, or facility, other than a contract for the construction of housing financed with a mortgage or mortgages insured under the provisions of title VIII of the National Housing Act, as now or hereafter amended [section 1748 et seq. of Title 12].

(b) Cost allowance.

In the case of a contractor or subcontractor who produces or acquires the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, and processes, refines, or treats such a product to and beyond the first form or state suitable for industrial use, or who produces or acquires an agricultural product and processes, refines, or treats such a product to and beyond the first form or state in which it is customarily sold or in which it has an established market,



the Board shall prescribe such regulations as may be necessary to give such contractor or subcontractor a cost allowance substantially equivalent to the amount which would have been realized by such contractor or subcontractor if he had sold such product at such first form or state. Notwithstanding any other provisions of this title [sections 1211 to 1224 of this Appendix], there shall be excluded from consideration in determining whether or not a contractor or subcontractor has received or accrued excessive profits that portion of the profits, derived from receipts and accruals subject to the provisions of this title [said sections], attributable to the increment in value of the excess inventory. For the purposes of this subsection the term "excess inventory" means inventory of products, hereinbefore described in this subsection, acquired by the contractor or subcontractor in the form or at the state in which contracts for such products on hand or on contract would be exempted from this title [said sections] by subsection (a) (2) or (3) of this section, which is in excess of the inventory reasonably necessary to fulfill existing contracts or orders. That portion of the profits, derived from receipts and accruals subject to the provisions of this title [said sections], attributable to the increment in value of the excess inventory, and the method of excluding such portions of profits from consideration in determining whether or not the contractor or subcontractor has received or accrued excessive profits, shall be determined in accordance with regulations prescribed by the Board.

(c) Partial mandatory exemption for durable productive equipment.

(1) Receipts and accruals.

The provisions of this title [sections 1211 to 1224 of this Appendix] shall not apply to receipts or accruals (other than rents) from contracts or subcontracts for new durable productive equipment, except (A) to that part of such receipts or accruals which bears the same ratio to the total of such receipts or accruals as five years bears to the average useful life of such equipment as set forth in Bulletin F of the Bureau of Internal Revenue (1942 edition), or, if an average useful life is not so set forth, then as estimated by the Board and (B) to receipts and accruals from contracts for new durable productive equipment in cases in which the Board finds that the new durable productive equipment covered by such contracts cannot be adapted, converted, or retooled for commercial use.

(2) Definitions.

For the purpose of this subsection, the term "durable productive equipment" means machinery, tools, or other productive equipment, which has an average useful life of more than five years.

(d) Permissive exemptions.

The Board is authorized, in its discretion, to exempt from some or all of the provisions of this title [sections 1211 to 1224 of this Appendix]—

(1) any contract or subcontract to be performed outside of the territorial limits of the continental United States or in Alaska;

(2) any contracts or subcontracts under which, in the opinion of the Board, the profits can be determined with reasonable certainty when the contract price is established, such as certain classes of (A) agreements for personal services or for the purchase of real property, perishable goods, or commodities the mini-

imum price for the sale of which has been fixed by a public regulatory body, (B) leases and license agreements, and (C) agreements where the period of performance under such contract or subcontract will not be in excess of thirty days.

(3) any contract or subcontract or performance thereunder during a specified period or periods if, in the opinion of the Board, the provisions of the contract are otherwise adequate to prevent excessive profits;

(4) any contract or subcontract the renegotiation of which would jeopardize secrecy required in the public interest;

(5) any subcontract or group of subcontracts not otherwise exempt from the provisions of this section, if, in the opinion of the Board, it is not administratively feasible in the case of such subcontract or in the case of such group of subcontracts to determine and segregate the profits attributable to such subcontract or group of subcontracts from the profits attributable to activities not subject to renegotiation.

The Board may so exempt contracts and subcontracts both individually and by general classes or types.

(e) Mandatory exemption for standard commercial articles and services.

(1) Articles and services.

The provisions of this title [sections 1211 to 1224 of this Appendix] shall not apply to amounts received or accrued in a fiscal year under any contract or subcontract for an article or service which (with respect to such fiscal year) is—

(A) a standard commercial article; or

(B) a service which is a standard commercial service or is reasonably comparable with a standard commercial service.

(2) Classes of articles.

The provisions of this title [sections 1211 to 1224 of this Appendix] shall not apply to amounts received or accrued in a fiscal year under any contract or subcontract for an article which (with respect to such fiscal year) is an article in a standard commercial class of articles.

(3) Applications.

Paragraph (1)(B) and paragraph (2) shall apply to amounts received or accrued in a fiscal year under any contract or subcontract for an article or service only if—

(A) the contractor or subcontractor at his election files, at such time and in such form and detail as the Board shall by regulations prescribe, an application containing such information and data as may be required by the Board under its regulations for the purpose of enabling it to make a determination under the applicable paragraph, and

(B) the Board determines that such article or service is, or fails to determine that such article or service is not, an article or service to which such paragraph applies, within the following periods after the date of filing such application:

(i) in the case of paragraph (1)(B), three months;

(ii) in the case of paragraph (2), six months; or

(iii) in either case, any longer period stipulated by mutual agreement.

(4) Definitions.

For the purposes of this subsection—

(A) the term “article” includes any material, part, component, assembly, machinery, equipment, or other personal property;

(B) the term “standard commercial article” means, with respect to any fiscal year, an article—

(i) which either is customarily maintained in stock by the contractor or subcontractor or is offered for sale in accordance with a price schedule regularly maintained by the contractor or subcontractor,

(ii) the price of which under any contract or subcontract subject to this title [sections 1211 to 1224 of this Appendix] is not in excess of the lowest price at which such article is sold in similar quantity by the contractor or subcontractor for civilian, industrial or commercial use, except for any excess attributable to the cost of accelerated delivery or other significantly different circumstances, and

(iii) from the sales of which by the contractor or subcontractor at least 55 percent of the receipts or accruals in such fiscal year are not (without regard to this subsection and subsection (c) of this section) subject to this title [sections 1211 to 1224 of this Appendix];

(C) the term “service” means any processing or other operation performed by chemical, electrical, physical, or mechanical methods directly on materials owned by another person;

(D) the term “standard commercial service” means, with respect to any fiscal year, a service—

(i) the price of which under any contract or subcontract subject to this title [sections 1211 to 1224 of this Appendix] is not in excess of the lowest price at which such service is performed under similar circumstances by the contractor or subcontractor for civilian industrial or commercial purposes, and

(ii) from the performance of which by the contractor or subcontractor at least 55 percent of the receipts or accruals in such fiscal year are not (without regard to this subsection) subject to this title [sections 1211 to 1224 of this Appendix];

(E) a service is, with respect to any fiscal year “reasonably comparable with a standard commercial service” only if—

(i) such service is of the same or a similar kind, performed with the same or similar materials, and has the same or a similar result, without necessarily involving identical operations, as a standard commercial service from the performance of which the contractor or subcontractor has receipts or accruals in such fiscal year,

(ii) the price of such service under any contract or subcontract subject to this title [sections 1211 to 1224 of this Appendix] is not in excess of the lowest price at which such service is performed under similar circumstances by the contractor or subcontractor for civilian industrial or commercial purposes, and

(iii) at least 55 percent of the aggregate receipts or accruals in such fiscal year by the contractor or subcontractor from the performance of such service and such standard com-

mercial service are not (without regard to this subsection) subject to this title [sections 1211 to 1224 of this Appendix]; and

(F) the term "standard commercial class of articles" means, with respect to any fiscal year, two or more articles with respect to which the following conditions are met:

(i) at least one of such articles either is customarily maintained in stock by the contractor or subcontractor or is offered for sale in accordance with a price schedule regularly maintained by the contractor or subcontractor,

(ii) all of such articles are of the same kind and manufactured of the same or substitute materials (without necessarily being of identical specifications),

(iii) the price of each of such articles under any contract or subcontract subject to this title [sections 1211 to 1224 of this Appendix] is not in excess of the lowest price at which such article is sold in similar quantity by the contractor or subcontractor for civilian industrial or commercial use, except for any excess attributable to the cost of accelerated delivery or other significantly different circumstances,

(iv) all of such articles are sold at reasonably comparable prices, and

(v) at least 55 percent of the aggregate receipts or accruals in such fiscal year by the contractor or subcontractor from sales of all such articles are not (without regard to this subsection and subsection (c) of this section) subject to this title.

(5) Waiver of exemption.

Any contractor or subcontractor may waive the exemption provided in paragraphs (1) and (2) with respect to his receipts or accruals in any fiscal year from sales of any article or service by including a statement to such effect in the financial statement filed by him for such fiscal year pursuant to section 105 (e) (1) [section 1215 (e) (1) of this Appendix], without necessarily waiving such exemption with respect to receipts or accruals in such fiscal year from sales of any other article or service. A waiver, if made, shall be unconditional, and no waiver may be made without the permission of the Board for any receipts or accruals with respect to which the contractor or subcontractor has previously filed an application under paragraph (3).

(6) Nonapplicability during national emergencies.

Paragraphs (1) and (2) shall not apply to amounts received or accrued *during a national emergency proclaimed by the President*, or declared by the Congress, after the date of the enactment of the Renegotiation Amendments Act of 1956 [August 1, 1956]. (Mar. 23, 1951, ch. 15, title I, § 106, 65 Stat. 17; Sept. 1, 1954, ch. 1209, §§ 3(a), 4(a)-(c), 5(a), 6(a), 68 Stat. 1116, 1118; Aug. 3, 1955, ch. 499, §§ 3(a), 4(a), 5(a), 69 Stat. 447, 448; Aug. 1, 1956, ch. 821, §§ 8(a), 9(a), 70 Stat. 789; Oct. 24, 1968, Pub. L. 90-634, title I, § 104, 82 Stat. 1345.)

(As amended July 1, 1971, Pub. L. 92-41, § 3(d), 85 Stat. 98.)

[See 50 U.S.C. App. 1211 (H. Rept. 7). *Supra.*]

[Emphasis supplied.]

50 U.S.C. APP. 1622. DISPOSAL TO LOCAL GOVERNMENTS AND NONPROFIT INSTITUTIONS

(a)-(c). Repealed. June 30, 1949, ch. 288, title VI, § 602(a) (1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.

(d) Power transmission lines.

Whenever any State or political subdivision thereof, or any State or Government agency or instrumentality certifies to the Administrator of General Services that any power transmission line determined to be surplus property under the provisions of this Act [former sections 1611 to 1614, 1615 to 1622, 1623 to 1632 and 1633 to 1646 of this Appendix] is needful for or adaptable to the requirements of any public or cooperative power project, such line and the right-of-way acquired for its construction shall not be sold, leased for more than one year, or otherwise disposed of, except as provided in section 12 [former section 1621 of this Appendix] or this section, unless specifically authorized by Act of Congress.

(e), (f). Repealed. June 30, 1949, ch. 288, title VI, § 602(a) (1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.

(g) Real and personal property for public airports.

(1) Notwithstanding any other provision of this Act [former sections 1611 to 1614, 1615 to 1622, 1623 to 1632 and 1633 to 1646 of this Appendix], and disposal agency designated pursuant to this Act [such sections] may with the approval of the Administrator of General Services, convey or dispose of to any State political subdivision, municipality, or tax-supported institution, without monetary consideration to the United States, but subject to the terms, conditions, reservations and restrictions hereinafter provided for, all of the right, title, and interest of the United States in and to any surplus real or personal property (exclusive of property the highest and best use of which is determined by the Administrator of General Services to be industrial and which shall be so classified for disposal without regard to the provisions of this subsection) which, in the determination of the Administrator of the Federal Aviation Agency, is essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport as defined in the Airport and Airway Development Act of 1970 [section 1701 et seq. of Title 49] or reasonably necessary to fulfill the immediate and foreseeable future requirements of the grantee for the development, improvement, operation, or maintenance of a public airport, including property needed to develop sources of revenue from nonaviation businesses at a public airport.

(2) Except as provided in paragraph (3) of this subsection, all property disposed of under the authority of this subsection shall be disposed of on and subject to the following terms, conditions, reservations, and restrictions:

(A) No property disposed of under the authority of this subsection shall be used, leased, sold, salvaged, or disposed of by the grantee or transferee for other than airport purposes without the written consent of the Administrator of the Federal Aviation Agency, which consent shall be granted only if the Administrator of the Federal Aviation Agency determines that the property can be used, leased, sold, salvaged, or disposed of for other than

airport purposes without materially and adversely affecting the development, improvement, operation, or maintenance of the airport at which such property is located.

(B) All property transferred for airport purposes shall be used and maintained for the use and benefit of the public, without unjust discrimination.

(C) No exclusive right for the use of the airport at which the property disposed of is located shall be vested (either directly or indirectly) in any person or persons to the exclusion of others in the same class. For the purpose of this condition, an exclusive right is defined to mean—

(1) any exclusive right to use the airport for conducting any particular aeronautical activity requiring operation of aircraft;

(2) any exclusive right to engage in the sale or supplying of aircraft, aircraft accessories, equipment, or supplies (excluding the sale of gasoline and oil), or aircraft services necessary for the operation of aircraft (including the maintenance and repair of aircraft, aircraft engines, propellers, and appliances).

(D) The grantee shall, insofar as it is within its powers, adequately clear and protect the aerial approaches to the airport by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

(E) *During any national emergency declared by the President or by the Congress*, the United States shall have the right to make exclusive or nonexclusive use and have exclusive or nonexclusive control and possession, without charge, of the airport at which the surplus property is located or used, or of such portion thereof as it may desire: Provided, however, That the United States shall be responsible for the entire cost of maintaining such part of the airport as it may use exclusively or over which it may have exclusive possession and control, during the period of such use, possession, or control, and shall be obligated to contribute a reasonable share, commensurate with the use made by it, of the cost of maintenance of such property as it may use nonexclusively or over which it may have nonexclusive control and possession; Provided further, That the United States shall pay a fair rental for its use, control, or possession, exclusively or nonexclusively, of any improvements to the airport made without United States aid.

(F) The United States shall at all times have the right to make nonexclusive use of the landing area of the airport at which the surplus property is located or used, without charge: *Provided, however*, That such use may be limited as may be determined at any time by the Administrator of the Federal Aviation Agency to be necessary to prevent undue interference with use by other authorized aircraft: Provided further, That the United States shall be obligated to pay for damages caused by such use, or if its use of the landing area is substantial, to contribute a reasonable

share of the cost of maintaining and operating the landing area, commensurate with the use made by it.

(G) Any public agency accepting a conveyance or transfer of surplus property under the provisions of this subsection shall release the United States from any and all liability it may be under for restoration or other damages under any lease or other agreement covering the use by the United States of any airport, or part thereof, owned, controlled, or operated by the public agency upon which, adjacent to which, or in connection with which, the surplus property was located or used: Provided, That no such release shall be construed as depriving the public agency of any right it may otherwise have to receive reimbursement under section 17 of the Federal Airport Act [former section 1116 of Title 49] for the necessary rehabilitation or repair of public airports heretofore or hereafter substantially damaged by any Federal agency.

(H) In the event that any of the terms, conditions, reservations, and restrictions upon or subject to which the property is disposed of is not met, observed, or complied with, all of the property so disposed of or any portion thereof, shall, at the option of the United States, revert to the United States in its then existing condition.

(3) In making any disposition of surplus property under this subsection, the disposal agency is authorized, upon the request of the Administrator of the Federal Aviation Agency, the Secretary of the Army, or the Secretary of the Navy, to omit from the instruments of disposal any of the terms, conditions, reservations, and restrictions required by paragraph (2) hereof, and to include any additional terms, conditions, reservations, and restrictions, if the Administrator of the Federal Aviation Agency, the Secretary of the Army, or the Secretary of the Navy determines that such omission or inclusion is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

(4) Repealed. Oct. 1, 1949, ch. 589, § 5, 63 Stat. 700.

(5) All surplus property within the purview of this subsection which is not disposed of pursuant hereto shall be disposed of as provided elsewhere in this Act [former sections 1611 to 1614, 1615 to 1622, 1623 to 1632, and 1633 to 1646 of this Appendix] or other applicable Federal Statute.

(6) Notwithstanding the provisions of subsection (f) of this section and subsection (e) of section 18 [former section 1627(e) of this Appendix], the disposal of surplus property under this subsection, which is determined by the Administrator of General Services to be available for the purposes enumerated in this subsection, shall be given priority immediately following transfers to other Government agencies under section 12 [former section 1621 of this Appendix].

(h) Historic-monument sites.

(1) Notwithstanding any other provision of this Act [former sections 1611 to 1614, 1615 to 1622, 1623 to 1632 and 1633 to 1646 of this Appendix], any disposal agency designated pursuant to this Act [said

[Emphasis supplied.]

sections] may, with the approval of the Administrator of General Services, convey to any State, political subdivision, instrumentalities thereof, or municipality, all of the right, title, and interest of the United States in and to any surplus land, including improvements and equipment located thereon, which in the determination of the Secretary of the Interior, is suitable and desirable for use as a historic monument, for the benefit of the public. The Administrator of General Services, from funds appropriated to the War Assets Administration, shall reimburse the Secretary of the Interior for the costs incurred in making any such determination.

(2) Conveyances of property for historic-monument purposes under this subsection shall be made without monetary consideration: Provided, That no property shall be determined under this paragraph to be suitable or desirable for use as an historic-monument except in conformity with the recommendation of the Advisory Board on National Parks, Historic Sites, Buildings and Monuments established by section 3 of the Act entitled "An Act for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666) [section 463 of Title 16], and no property shall be so determined to be suitable or desirable for such use if (A) its area exceeds that necessary for the preservation of proper observation of the historic monument situated thereon, or (B) its historical significance relates to a period of time within the fifty years immediately preceding the determination of suitability and desirability for such use.

(3) The deed of conveyance of any surplus real property disposed of under the provisions of this subsection—

(A) shall provide that all such property shall be used and maintained for the purpose for which it was conveyed for a period of not less than twenty years, and that in the event that such property ceases to be used or maintained for such purpose during such period, all or any portion of such property shall in its then existing condition, at the option of the United States, revert to the United States; and

(B) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator of General Services to be necessary to safeguard the interests of the United States.

(Oct. 3, 1944, ch. 479, § 13, 58 Stat. 770; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533; May 3, 1946, ch. 248, §§ 2-4, 60 Stat. 168; 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952; July 30, 1947, ch. 404, 61 Stat. 678; June 10, 1948, ch. 433, §§ 1, 2, 62 Stat. 350; June 29, 1948, ch. 727, 62 Stat. 1103; June 30, 1949, ch. 288, title I, § 105, title VI, § 602(a)(1), formerly title V, § 502(a)(1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6 (a), (b), 64 Stat. 583, and amended Oct. 1, 1949, ch. 589, §§ 1, 5, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85-726, title XIV, § 1402(c), 72 Stat. 807; July 20, 1961, Pub. L. 87-90, 75 Stat. 211; May 21, 1970, Pub. L. 91-258, title I, § 52(b)(6), 84 Stat. 235; Oct. 22, 1970, Pub. L. 91-485, § 5, 84 Stat. 1085.)

[Emphasis supplied.]



## 50 U.S.C. APP. 1742. PRICE ADJUSTMENT ON PRIOR SALES TO CITIZENS

## (a) Form, manner, and time of application.

A citizen of the United States who on the date of the enactment of this Act [March 8, 1946]—

(1) owns a vessel which he purchased from the Commission prior to such date, and which was delivered by its builder after December 31, 1940; or

(2) is party to a contract with the Commission to purchase from the Commission a vessel, which has not yet been delivered to him; or

(3) owns a vessel on account of which a construction-differential subsidy was paid, or agreed to be paid, by the Commission under section 504 of the Merchant Marine Act, 1936, as amended [section 1154 of Title 46], and which was delivered by its builder after December 31, 1940; or

(4) is party to a contract with a shipbuilder for the construction for him of a vessel, which has not yet been delivered to him, and on account of which a construction-differential subsidy was agreed, prior to such date, to be paid by the Commission under section 504 of the Merchant Marine Act, 1936, as amended [section 1154 of Title 46],

shall, except as hereinafter provided, be entitled to an adjustment in the price of such vessel under this section if he makes application therefor, in such form and manner as the Commission may prescribe, within sixty days after the date of publication of the applicable pre-war domestic costs in the Federal Register under section 3 (c) of this Act [section 1736 (c) of this Appendix]. No adjustment shall be made under this section in respect of any vessel the contract for the construction of which was made after September 2, 1945, under the provisions of title V [subchapter V of chapter 27 of Title 46] (including section 504 [section 1154 of Title 46]) or title VII of the Merchant Marine Act, 1936, as amended [subchapter VII of chapter 27 of Title 46].

## (b) Determination of amount.

Such adjustment shall be made, as hereinafter provided, by treating the vessel as if it were being sold to the applicant on the date of the enactment of this Act [March 8, 1946], and not before that time. The amount of such adjustment shall be determined as follows:

(1) The Commission shall credit the applicant with the excess of the cash payments made upon the original purchase price of the vessel over 25 per centum of the statutory sales price of the vessel as of such date of enactment [March 8, 1946]. If such payment was less than 25 per centum of the statutory sales price of the vessel, the applicant shall pay the difference to the Commission.

(2) The applicant's indebtedness under any mortgage to the United States with respect to the vessel shall be adjusted.

(3) The adjusted mortgage indebtedness shall be in an amount equal to the excess of the statutory sales price of the vessel as of the date of the enactment of this Act [March 8, 1946] over the sum of the cash payment retained by the United States under para-

graph (1) plus the readjusted trade-in allowance (determined under paragraph (7)) with respect to any vessel exchanged by the applicant on the original purchase. The adjusted mortgage indebtedness shall be payable in equal annual installments thereafter during the remaining life of such mortgage with interest on the portion of the statutory sales price remaining unpaid at the rate of  $3\frac{1}{2}$  per centum per annum.

(4) The Commission shall credit the applicant with the excess, if any, of the sum of the cash payments made by the applicant upon the original purchase price of the vessel plus the readjusted trade-in allowance (determined under paragraph (7)) over the statutory sales price of the vessel as of the date of the enactment of this Act [March 8, 1946] to the extent not credited under paragraph (1).

(5) The Commission shall also credit the applicant with an amount equal to interest at the rate of  $3\frac{1}{2}$  per centum per annum (for the period beginning with the date of the original delivery of the vessel to the applicant and ending with the date of the enactment of this Act [March 8, 1946]) on the excess of the original purchase price of the vessel over the amount of any allowance allowed by the Commission on the exchange of any vessel on such purchase; the amount of such credit first being reduced by any interest on the original mortgage indebtedness accrued up to such date of enactment and unpaid. Interest so accrued and unpaid shall be canceled.

(6) The applicant shall credit the Commission with all amounts paid by the United States to him as charter hire for use of the vessel (exclusive of service, if any, required under the terms of the charter) under any charter party made prior to the date of the enactment of this Act [March 8, 1946], and any charter hire for such use accrued up to such date of enactment and unpaid shall be canceled; and the Commission shall credit the applicant with the amount that would have been paid by the United States to the applicant as charter hire for bare-boat use of vessels exchanged by the applicant on the original purchase (for the period beginning with date on which the vessels so exchanged were delivered to the Commission and ending with the date of the enactment of this Act [March 8, 1946]).

(7) The allowance made to the applicant on any vessel exchanged by him on the original purchase shall be readjusted so as to limit such allowance to the amount provided for under section 8 [section 1741 of this Appendix].

(8) There shall be subtracted from the sum of the credits in favor of the Commission under the foregoing provisions of this subsection the amount of any overpayments of Federal taxes by the applicant resulting from the application of subsection (c) (1) of this section, and there shall be subtracted from the sum of the credits in favor of the applicant under the foregoing provisions of this subsection the amount of any deficiencies in Federal taxes of the applicant resulting from the application of subsection (c) (1) of this section. If, after making such subtractions, the sum of the credits in favor of the applicant exceeds the sum of the credits in favor of the Commission, such excess shall be paid by

the Commission to the applicant. If, after making such subtractions, the sum of the credits in favor of the Commission exceeds the sum of the credits in favor of the applicant, such excess shall be paid by the applicant to the Commission. Upon such payment by the Commission or the applicant, such overpayments shall be treated as having been refunded and such deficiencies as having been paid.

For the purposes of this subsection, the purchase price of a vessel on account of which a construction-differential subsidy was paid or agreed to be paid under section 504 of the Merchant Marine Act, 1936, as amended [section 1154 of Title 46], shall be the net cost of the vessel to the owner.

(c) Conditions binding on applicant.

An adjustment shall be made under this section only if the applicant enters into an agreement with the Commission binding upon the citizen applicant and any affiliated interest to the effect that—

(1) depreciation and amortization allowed or allowable with respect to the vessel up to the date of the enactment of this Act [March 8, 1946] for Federal tax purposes shall be treated as not having been allowable; amounts credited to the Commission under subsection (b) (6) of this section shall be treated for Federal tax purposes as not having been received or accrued as income; amounts credited to the applicant under subsection (b) (5) and (6) of this section shall be treated for Federal tax purposes as having been received and accrued as income in the taxable year in which falls the date of the enactment of this Act (March 8, 1946);

(2) the liability of the United States for use (exclusive of service, if any, required under the terms of the charter) of the vessel on or after the date of the enactment of this Act [March 8, 1946] under any charter party shall not exceed 15 per centum per annum of the statutory sales price of the vessel as of such date of enactment [March 8, 1946] and the liability of the United States under any such charter party for loss of the vessel shall be determined on the basis of the statutory sales price as of the date of the enactment of this Act [March 8, 1946], depreciated to the date of loss at the rate of 5 per centum per annum: Provided, That the provisions of this subsection (c) (2) [of this section] shall not apply to any such charter party executed on or after the date of enactment of this amendatory proviso [August 6, 1956]; and the Secretary of Commerce is directed to modify any adjustment agreement to the extent necessary to conform to the provisions of this amendatory proviso; and

(3) in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bare-boat charter made, on or after the date of the enactment of this Act [March 8, 1946], the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 per centum per annum of the statutory sales price as of such date.

(d) Applicability of other laws.

Section 506 of the Merchant Marine Act, 1936, as amended [section 1156 of Title 46], shall not apply with respect to (1) any vessel which

is eligible for an adjustment under this section, or (2) any vessel described in clause (1), (2), (3), or (4) of subsection (a) of this section, the contract for the construction of which is made after September 2, 1945, and prior to the date of enactment of this Act [March 8, 1946]. (Mar. 8, 1946, ch. 82, § 9, 60 Stat. 46; Aug. 6, 1956, ch. 1013, 70 Stat. 1068.)

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**50 U.S.C. APP. 1744. COMPOSITION OF NATIONAL DEFENSE RESERVE FLEET;  
VESSELS AVAILABLE TO STATE MARINE SCHOOLS**

(a) The Secretary of Commerce shall place in a national defense reserve (1) such vessels owned by the Department of Commerce as, after consultation with the Secretary of the Army and the Secretary of the Navy, he deems should be retained for the national defense, and (2) all vessels owned by the Department of Commerce on June 30, 1950, for the sale of which a contract has not been made by that time, except those determined by the Secretary of Commerce to be of insufficient value for commercial and national defense purposes to warrant their maintenance and preservation, and except those vessels, the contracts for the construction of which are made after September 2, 1945, under the provisions of the Merchant Marine Act, 1936, as amended [chapter 27 of Title 46]. A vessel under charter on March 1, 1948, shall not be placed in the reserve until the termination of such charter. Unless otherwise provided for by law, all vessels placed in such reserve shall be preserved and maintained by the Secretary of Commerce for the purpose of national defense. A vessel placed in such reserve shall in no case be used for any purpose whatsoever except that any such vessel may be used for account of any agency or department of the United States during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936, as amended [section 1242 of Title 46], and that any such vessel may be used under a bare-boat charter entered into pursuant to authority vested in the Secretary of Commerce on July 1, 1950, or granted to the Secretary of Commerce after such date.

(b) Any war-built vessel may be made available by the Secretary of Commerce to any State maintaining a marine school or nautical branch in accordance with the Act of July 29, 1941, Public Law 191, Seventy-seventh Congress; 55 Stat. 607 (Mar. 8, 1946, ch. 82, § 11, 60 Stat. 49; June 28, 1947, ch. 161, § 1, 61 Stat. 190; Feb. 27, 1948, ch. 78, § 1(a), 62 Stat. 38; Feb. 28, 1949, ch. 12, 63 Stat. 9; June 29, 1949, ch. 281, § 1, 63 Stat. 349; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F.R. 3178; 64 Stat. 1276, 1277; June 30, 1950, ch. 427, § 2, 64 Stat. 308.)

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**50 U.S.C. APP. 1878e. EXTENSION OF LOAN TO FRANCE; AVAILABILITY OF  
VESSELS TO EUROPEAN, LATIN AMERICAN, AND FAR EASTERN NATIONS;  
POOL OF VESSELS; RULES AND REGULATIONS**

Notwithstanding section 7307 of title 10, United States Code, or any other law, the President may extend the loan of one aircraft carrier to the Government of France until June 30, 1960, and may in addition lend or otherwise make available to friendly foreign nations, from

the reserve fleet, on such terms and under such conditions as he deems appropriate, destroyers, destroyer escorts, and submarines, as follows: (1) North Atlantic Treaty Organization and European Area (the Federal Republic of Germany, Greece, Italy, Norway, Spain and Turkey) not to exceed nineteen ships; (2) Latin American area (Argentina, Brazil, Chile, Colombia, Cuba, Ecuador, Peru and Uruguay) not to exceed eighteen ships; (3) Far Eastern area (Japan, Taiwan, and Thailand) not to exceed four ships; and (4) a pool of not to exceed two such ships to be loaned to friendly nations *in an emergency*. The President may promulgate such rules and regulation as he deems necessary to carry out the provisions of this Act [sections 1878e to 1878i of this Appendix]. (Pub. L. 85-532, § 1, July 18, 1958, 72 Stat. 376.)

### —NOTE—

EXCERPT FROM S. REPT. 1583, 85TH CONG., 2D SESS. (1958)

The committee was informed that the ships proposed for loan under this bill will be used by the recipient countries to discharge naval responsibilities assumed by them in their areas. These ships will assist the recipient countries in maintaining their own internal security, in protecting their coasts and coastal lines of communication, and in protecting sea lines of communication.

The Department of Defense regards as important the achievement of a strong antisubmarine capability in the areas where these ships would be loaned.

EXCERPT OF LETTER TO COMMITTEE FROM RICHARD JACKSON,  
ASSISTANT SECRETARY OF THE NAVY

*The proposed legislation would authorize the President to lend a total of 43 ships of the destroyer, destroyer escort, and submarine types from the reserve fleet. Such loans would be for periods not to exceed 5 years.*

The loan of these ships would be very advantageous to the United States. One of the most important factors in countering an enemy threat is the timely positioning of forces. It is essential that forces that have vital tasks to perform must be organized and functioning at the outbreak of hostilities and the loan of these ships will serve the most important purpose of deploying ships to critical areas about the world prior to D-day. We will look to our allies to assist us in many areas during any future emergency and with the loan of these ships, which in many instances would replace wornout ships now operated by the recipient nations, such nations will be better able to carry out their functions of assisting our Navy. These loans would serve the additional purpose of allowing us to disperse part of our reserve fleet and prevent undue concentration of ships in reserve berthing facilities. It has always

[Emphasis supplied.]

been true that a ship in operation is better than a ship in the reserve fleet. Though our reserve fleet comprises a strong potential, that potential would be vastly increased if the ships could be adequately manned, operated, and maintained in an active status. In order for us to accomplish ourselves what this proposal will do for the United States we would require an additional number of active ships with an increase in personnel and, of course, a tremendous increase in cost to the United States. By allowing our allies to operate these ships now, the ships would be readily available to us for any use we might have for them in any emergency.

50 U.S.C. APP. 1878s. LOANS OF NAVAL VESSELS TO FRIENDLY FOREIGN NATIONS FROM RESERVE FLEET

Notwithstanding section 7307 of title 10, United States Code, or any other law, the *President may, under conditions which he prescribes, lend or otherwise make available to friendly foreign nations* from the Reserve Fleet, on such terms and under such conditions as he deems appropriate, destroyers, destroyer escorts, and submarines as follows: (1) North Atlantic Treaty Organization and European area, not to exceed six ships; (2) southern Asia, not to exceed two ships; (3) Far Eastern area, not to exceed six ships; and (4) a pool of not to exceed two such ships to be loaned to friendly nations in an emergency as a replacement for a ship, covered under an existing loan, lost by enemy action or an act of God. (Pub. L. 87-387, § 4, Oct. 4, 1961, 75 Stat. 815.)

50 U.S.C. APP. 1878vv. FIVE-YEAR PERIOD LIMITATION ON LOANS; DISCRETIONARY EXTENSION; ACTS OF WARFARE BY RECEIPT COUNTRY; EARLY TERMINATION

All new loans and loan extensions executed under this Act [sections 1878tt to 1878xx of this Appendix] shall be for periods not exceeding five years, but the *President may in his discretion extend* such loans for an additional period of not more than five years. Any agreement for a new loan or for the extension of a loan executed under this Act shall be made subject to the condition that the agreement *may be terminated by the President* if he finds that the armed forces of the borrowing country have engaged, at any time after the date of such agreement, in acts of warfare against any country which is a party to a mutual defense treaty ratified by the United States. Any agreement for a new loan or for the extension of a loan executed pursuant to this Act shall be subject to the condition that the agreement will be immediately terminated upon a finding made by the President that the country with which such agreement was made has seized any United States fishing vessel on account of its fishing activities in international waters, except that such condition shall not be applicable in any case governed by international agreement to which the

[Emphasis supplied.]

United States is a party. All loans and loan extensions shall be made on the condition that they may be terminated at an earlier date if necessitated by the defense requirements of the United States. (Pub. L. 90-224, § 3, Dec. 26, 1967, 81 Stat. 729.)

### —NOTE—

EXCERPT FROM H. REPT. 1016, 90TH CONG., 1ST SESS. (1967)

The ships proposed for extension under this legislation will continue to be used by the recipient countries to discharge naval responsibilities assumed by them in their areas. These ships will continue to be of importance to the recipient countries as regards their own internal security, in protection of their coasts, coastal lines of communications, and sea lines of communications. The Department of Defense regards as most important the achievement of a strong antisubmarine capability in the areas where these ships are loaned. This contribution by the recipient countries to offsetting any prospective submarine threat enhances the total defense capability of the free world. To the extent the recipient countries develop an antisubmarine capability, U.S. naval forces will be freed from certain antisubmarine tasks.

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#### 50 U.S.C. APP. 2005. PRISONERS OF WAR

##### (a) Definition.

As used in subsection (b) of this section, the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military or naval forces of the United States who was held as a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.

##### (b) Payment of claims; rate allowed; certification of claims.

The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by any prisoner of war for compensation for the violation by the enemy government by which he was held as a prisoner of war, or its agents, of its obligation to furnish him the quantity or quality of food to which he was entitled as a prisoner of war under the terms of the Geneva Convention of July 27, 1929. The compensation allowed to any prisoner of war under the provisions of this subsection shall be at the rate of \$1 for each day he was held as a prisoner of war on which the enemy government or its agents failed to furnish him such quantity or quality of food. Any claim allowed under the provisions of this subsection shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this title [section 2012 of this Appendix].

##### (c) Persons entitled to payments.

Claims pursuant to subsection (b) of this section shall be paid to the person entitled thereto, and shall in case of death of the persons who

are entitled be payable only to or for the benefit of the following persons:

(1) Widow or husband if there is no child or children of the deceased;

(2) Widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

(3) Child or children of the deceased (in equal shares) if there is no widow or husband; and

(4) Parents (in equal shares) if there is no widow, husband, or child.

(d) Additional definition of "prisoner of war"; payment of claims; rate allowed; person entitled to payments.

(1) As used in this subsection the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military or naval forces of the United States, who was held a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.

(2) The Commission is authorized to receive, adjudicate according to law, and to provide for the payment of any claim filed by any prisoner of war for compensation—

(A) for the violations by the enemy government by which he was held as a prisoner of war, or its agents, of such government's obligations under title III, section III, of the Geneva Convention of July 27, 1929, relating to labor of prisoners of war; or

(B) for inhumane treatment by the enemy government by which he was held, or its agents. The term "inhumane treatment" as used herein shall include, but not be limited to, violation by such enemy government, or its agents, of one or more of the provisions of articles 2, 3, 7, 10, 12, 13, 21, 22, 54, 56, or 57, of the Geneva Convention of July 27, 1929.

(3) Compensation shall be allowed to any prisoner of war under this subsection at the rate of \$1.50 per day for each day he was held as a prisoner of war on which he alleges and proves in a manner acceptable to the Commission—

(A) the violation by such enemy government or its agents of the provisions of title III, section III, of the Geneva Convention of July 27, 1929; or

(B) any inhumane treatment as defined herein.

Any claim allowed under the provisions of this subsection shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this title [section 2012 of this Appendix]. In no event shall the compensation allowed to any prisoner of war under this subsection exceed the sum of \$1.50 with respect to any one day.

(4) Claims pursuant to subsection (d) (2) of this section shall be paid to the person entitled thereto, or to his legal or natural guardian if he has one, and shall, in case of death of the persons who are entitled be payable only to or for the benefit of the following persons:

(A) widow or husband if there is no child or children of the deceased;



(B) widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

(C) child or children of the deceased (in equal shares) if there is no widow or husband; and

(D) parents (in equal shares) if there is no widow, husband, or child.

(e) Extension to Korean War prisoners.

(1) As used in this subsection the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States who was held as a prisoner of war for any period of time subsequent to June 25, 1950, by any hostile force with which the Armed Forces of the United States were actually engaged in armed conflict subsequent to such date and prior to August 21, 1954, or any person (military or civilian) assigned to duty in the U.S.S. Pueblo who was captured by the military forces of North Korea on January 23, 1968, and thereafter held prisoner by the Government of North Korea for any period of time ending on or before December 23, 1968, except any person who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by any prisoner of war for compensation for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of July 27, 1929. The compensation allowed to any prisoner of war under the provisions of this paragraph shall be at the rate of \$1 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

(3) The Commission is authorized to receive and to determine, according to law, the amount and validity and provide for the payment of any claim filed by any prisoner of war for compensation—

(A) for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to meet the conditions and requirements prescribed under title III, section III, of the Geneva Convention of July 27, 1929, relating to labor of prisoners of war; or

(B) for inhumane treatment by the hostile force by which he was held, or its agents. The term "inhumane treatment" as used herein shall include, but not be limited to, failure of such hostile force, or its agents, to meet the conditions and requirements of one or more of the provisions of articles 2, 3, 7, 10, 12, 13, 21, 22, 54, 56, or 57 of the Geneva Convention of July 27, 1929.

Compensation shall be allowed to any prisoner of war under this paragraph at the rate of \$1.50 per day for each day on which he was held as a prisoner of war and with respect to which he alleges and proves in a manner acceptable to the Commission the failure to meet the conditions and requirements described in subparagraph (A) of this paragraph or the inhumane treatment described in subparagraph

(B) of this paragraph. In no event shall the compensation allowed to any prisoner of war under this paragraph exceed the sum of \$1.50 with respect to any one day.

(4) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection and shall be paid by the Secretary of the Treasury to the person entitled thereto, and shall, in case of death or determination of death of the persons who are entitled, be paid only to or for the benefit of the persons specified, and in the order established, by paragraph (4) of subsection (d) of this section.

(5) Each claim filed under this subsection must be filed not later than one year from whichever of the following dates last occurs:

(A) August 21, 1954;

(B) The date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or

(C) The date upon which the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States.

(D) In the case of any person assigned to duty in the U.S.S. Pueblo referred to in paragraph (1) of this subsection, one year after the date of enactment of this subparagraph.

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(6) Any claim allowed under the provisions of this subsection shall be paid from funds appropriated pursuant to paragraph (7) of this subsection.

(7) (A) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(B) The Commission shall determine, from time to time, the share of its administrative expenses attributable to the performance of its functions under this subsection and make the appropriate adjustments in its accounts, and determinations and adjustments made pursuant to this subparagraph shall be final and conclusive.

(f) Vietnam conflict; definitions; authority of Commission; classes of claims; rate of compensation; certification for payment; persons entitled to payments; filing date; determination of claims; fund for payment; appropriations.

(1) As used in this subsection—

(A) the term "Vietnam conflict" relates to the period beginning February 28, 1961, and ending on such date *as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress*; and

(B) the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of

[Emphasis supplied.]

the United States who was held as a prisoner of war for any period of time during the Vietnam conflict by any force hostile to the United States, except any such member who, at any time, voluntarily, knowingly, and without duress, gave aid to, collaborated with, or in any manner served, such hostile force.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by any prisoner of war for compensation for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of August 12, 1949. The compensation allowed to any prisoner of war under the provisions of this paragraph shall be at the rate of \$2 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

(3) The commission is authorized to receive and to determine, according to law, the amount and validity and provide for the payment of any claim filed by any prisoner of war for compensation—

(A) for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to meet the conditions and requirements prescribed under chapter VIII, section III, of the Geneva Convention of August 12, 1949, relating to labor of prisoners of war; or

(B) for inhumane treatment by the hostile force by which he was held, or its agents. The term "inhumane treatment" as used in this subparagraph shall include, but not be limited to, failure of such hostile force, or its agents, to meet the conditions and requirements of one or more of the provisions of articles 3, 12, 13, 14, 17, 19, 22, 23, 24, 25, 27, 29, 43, 44, 45, 46, 47, 48, 84, 85, 86, 87, 88, 89, 90, 97, or 98 of the Geneva Convention of August 12, 1949.

Compensation shall be allowed to any prisoner of war under this paragraph at the rate of \$3 per day for each day on which he was held as a prisoner of war and with respect to which he alleges and proves in a manner acceptable to the Commission the failure to meet the conditions and requirements described in subparagraph (A) of this paragraph or the inhumane treatment described in subparagraph (B) of this paragraph. In no event shall the compensation allowed to any prisoner of war under this paragraph exceed the sum of \$3 with respect to any one day.

(4) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection and shall be paid by the Secretary of the Treasury to the person entitled thereto, and shall, in the case of death or determination of death of the persons who are entitled, be paid only to or for the benefit of the persons specified, and in the order established, by subsection (d) (4) of this section.

(5) Each claim filed under this subsection must be filed not later than three years from whichever of the following dates last occurs:

(A) the date of enactment of this subsection;

(B) the date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or

(C) the date upon which the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States.

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(6) Any claim allowed under the provisions of this subsection shall be paid from funds appropriated pursuant to paragraph (7) of this subsection.

(7) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(g) Manner of payment.

Where any person entitled to payment under this section is under any legal disability, payment may be made in accordance with the provisions of subsection (e) of section 5 [section 2004(e) of this Appendix]. (July 3, 1948, ch. 826, § 6, 62 Stat. 1244; Sept. 30, 1950, ch. 1116, 64 Stat. 1090; Apr. 9, 1952, ch. 167, § 1, 66 Stat. 47; Apr. 9, 1952, ch. 168, § 2, 66 Stat. 49; Aug. 21, 1954, ch. 784, § 2, 68 Stat. 761; Aug. 31, 1954, ch. 1162, title I, § 102(a)(1), 68 Stat. 1034; Oct. 22, 1962, Pub. L. 87-846, title I, § 102, 76 Stat. 1107; June 24, 1970, Pub. L. 91-289, §§ 1, 2, 84 Stat. 323.)

#### 50 U.S.C. APP. 2071. PRIORITY IN CONTRACTS AND ORDERS

(a) Allocation of materials and facilities.

*The President is authorized* (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

(b) Critical and strategic materials.

The powers granted in this section shall not be used to control the general distribution of any material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship. (Sept. 8, 1950, ch. 932, title I, § 101, 64 Stat. 799; July 31, 1951, ch. 275, title I, § 101(a), 65 Stat. 132; June 30, 1952, ch. 530,

[Emphasis supplied.]

title I, §§ 101, 102, 66 Stat. 296; June 30, 1953, ch. 171, § 3, 67 Stat. 129.)

### —NOTE—

EXCERPT FROM H. REPT. 2759, 81ST CONG., 2D SESS. (1950)

The President's message to the Congress of July 19, 1950, reported on the situation in Korea and presented his views concerning the significance of these events for this Nation and for the world. In the words of the President the significance of Korea is, "The free world has made it clear, through the United Nations, that lawless aggression will be met with force." He pointed out that the United States must increase its military strength and preparedness not only to deal with the aggression in Korea but also to increase our common defense, with other free nations, against further aggression and that the steps that must be taken will necessarily have repercussions upon our economy. He urged prompt action to insure that the increased national-defense needs will be met and that our economic strength which is at the base of our security is not impaired, but continues to grow.

\* \* \* \* \*

The bill reported by your committee provides for dealing with the situation in two principal ways. The first, by channeling needed materials into production for the national defense and the second by providing authority through the exercising of credit controls to reduce consumer demand for goods and materials needed for the national defense. At the same time the bill also provides authority through a system of loans and loan guaranties for increasing the production of materials required to support an increased defense program and also provides authority for the procurement of metals and minerals for stockpiling and other defense purposes.

\* \* \* \* \*

#### PRIORITIES, ALLOCATIONS, AND AUTHORITY TO REQUISITION

Titles I and II of the bill would provide the means for a direct and specific approach to the problem of channeling materials and equipment in accordance with our national objectives. *Title I would authorize the President* to assign priorities and to allocate materials and facilities. It would provide that the authority shall not be used to ration at the retail level consumer goods for household or personal use. In all other respects, the powers that would be granted are broad and flexible. They would include the power to issue orders stopping or reducing the production of any item; orders to prohibit the use of a material for a particular purpose or for anything except a particular purpose; and orders to prohibit the accumulation of excessive inventories. *They would au-*

[Emphasis supplied.]

*thorize the President* to require filling certain orders in preference to other orders, or requiring the acceptance and performance of particular orders. Where limited action would be required to accomplish the necessary purpose, limited action could be taken. As far as possible the action to be taken could be limited to the immediate objective. Our productive and distributive system is so complex that authority which did not permit this flexibility would be likely either to prove insufficient or to do more harm than good. *Title II would give the President authority* to requisition. This power is needed only as a stand-by device, to insure that persons who hoard excessive quantities of materials and refuse to make them available could be compelled to do so. Full provision would be made, of course, for the payment of just compensation.

The power to requisition is a drastic exercise of the sovereign power. The committee is desirous of reducing to the minimum the effect of requisitioning upon the public. Provisions have therefore been inserted, requiring that the authority cannot be exercised unless the President has been unable to obtain the property on fair and reasonable terms, requiring the President to give the former owner the opportunity to reacquire the property at its then fair value, when it is no longer needed for the national defense, and providing for payment of 75 percent (instead of 50 percent as provided in the bill as introduced) of the value as determined by the President, when the former owner does not accept the amount so determined and wishes to have the amount of compensation determined by a court.

#### 50 U.S.C. APP. 2072. HOARDING OF DESIGNATED SCARCE MATERIALS

In order to prevent hoarding, no person shall accumulate (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President as scarce materials or materials the supply of which would be threatened by such accumulation. *The President shall order* published in the Federal Register, and in such other manner as he may deem appropriate, every designation of materials the accumulation of which is unlawful and any withdrawal of such designation.

In making such designations the *President may prescribe such conditions* with respect to the accumulation of materials in excess of the reasonable demands of business, personal, or home consumption as he deems necessary to carry out the objectives of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix]. This section shall not be construed to limit the authority contained in sections 101 and 704 of this Act [sections 2071 and 2154 of this Appendix]. (Sept. 8, 1950, ch. 932, title I, § 102, 64 Stat. 799; July 31, 1951, ch. 275, title I, § 101(b), 65 Stat. 132.)

[See 50 U.S.C. 2071 (H. Rept. 2759). *Supra*.]

[Emphasis supplied.]

## 50 U.S.C. APP. 2073. PENALTIES

Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this title [sections 2071 to 2073 of this Appendix] or any rule, regulation, or order thereunder, shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both. (Sept. 8, 1950, ch. 932, title I, § 103, 64 Stat. 799.)

[See 50 App. U.S.C. 2071 (H. Rept. 2759). *Supra*.]

50 U.S.C. APP. 2093. PURCHASE OF RAW MATERIALS AND  
INSTALLATION OF EQUIPMENT

(a) Purchases for use or resale; development of strategic minerals and metals; agricultural commodities; termination date.

To assist in carrying out the objectives of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix], *the President may make provision* (1) for purchases of or commitments to purchase metals, minerals, and other materials, for Government use or resale; and (2) for the encouragement of exploration, development, and mining of critical and strategic minerals and metals: Provided, however, That purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial uses or stockpiling, and no commodity purchased under this subsection shall be sold at less than the established ceiling price for such commodity (except that minerals and metals shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower), or, if no ceiling price has been established, the higher of the following: (i) the current domestic market price for such commodity, or (ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of Public Law 439, Eighty-first Congress [section 1427 of Title 7]: *Provided further, however, That no purchase or commitment to purchase any imported agricultural commodity shall be made calling for delivery more than one year after the expiration of this Act [June 30, 1952].*

(b) Terms and conditions of purchase.

Subject to the limitations in subsection (a) of this section, purchases and commitments to purchase and sales under such subsection may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods, but not extending beyond June 30, 1975, as the President deems necessary, except that purchases or commitments to purchase involving higher than established ceiling prices (or if there be no established ceiling prices, currently prevailing market prices) or anticipated loss on resale shall not be made unless it is determined that supply of the materials could not be effectively increased at lower prices or on terms more favorable to the Government or that such

[Emphasis supplied.]

purchases are necessary to assure the availability to the United States of overseas supplies.

(c) Subsidy payments on domestically produced materials; exclusion of agricultural products.

If the President finds—

(1) that under generally fair and equitable ceiling prices for any raw or nonprocessed material, there will result a decrease in supplies from high-costs sources of such material, and that the continuation of such supplies is necessary to carry out the objectives of the Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix]; or

(2) that an increase in cost of transportation is temporary in character and threatens to impair maximum production or supply in any area at stable prices of any materials;

he may make provision for subsidy payments on any such domestically produced material other than an agricultural commodity in such amounts and in such manner (including purchases of such material and its resale at a loss without regard to the limitations of existing law), and on such terms and conditions, as he determines to be necessary to insure that supplies from such high-cost sources are continued, or that maximum production or supply in such area at stable prices of such materials is maintained, as the case may be.

(d) Transportation, storage, and processing.

*The procurement power granted to the President by this section shall include the power to transport and store and have processed and refined any materials procured under this section.*

(e) Installation of equipment in industrial facilities.

*When in his judgment it will aid the national defense, the President is authorized to install additional equipment, facilities, processes or improvements to plants, factories, and other industrial facilities owned by the United States Government, and to install government-owned equipment in plants, factories, and other industrial facilities owned by private persons.*

(f) Transfer of excess materials to national stockpile.

Notwithstanding any other provision of law to the contrary, metals, minerals, and materials acquired pursuant to the provisions of this section which, in the judgment of the President, are excess to the needs of programs under this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix], shall be transferred to the national stockpile established pursuant to the Act of June 7, 1939, as amended [sections 98–98h of Title 50], *when the President deems such action to be in the public interest.* Transfers made pursuant to this subsection shall be made without charge against or reimbursement from funds available under such Act of June 7, 1939 [sections 98 to 98h of Title 50], as amended, except that costs incident to such transfer other than acquisition costs shall be paid or reimbursed from such funds, and the acquisition costs of such metals, minerals, and materials transferred shall be deemed to be net losses incurred by the transferring agency and the notes payable issued to the Secretary of the Treasury representing the amounts thereof shall be canceled. Upon the cancellation of any such notes the aggregate amount of borrowing which may be outstanding at any one time under

[Emphasis supplied.]



section 304 (b) of this Act, as amended [section 2094 (b) of this Appendix], shall be reduced in an amount equal to the amount of any notes so canceled.

(g) Development of substitutes for strategic and critical materials.

When in his judgment it will aid the national defense, and upon a certification by the Secretary of Agriculture or the Secretary of the Interior that a particular strategic and critical material is likely to be in short supply *in time of war or other national emergency*, the President may make provision for the development of substitutes for such strategic and critical materials. (Sept. 8, 1950, ch. 932, title III, § 303, 64 Stat. 801; July 31, 1951, ch. 275, title I, § 103(a), 65 Stat. 133; June 30, 1953, ch. 171, §§ 5, 6, 67 Stat. 130; Aug. 9, 1955, ch. 655, § 3, 69 Stat. 580; June 29, 1956, ch. 474, § 2, 70 Stat. 408; June 30, 1964, Pub. L. 88-343, § 2, 78 Stat. 235.)

### —NOTE—

EXCERPT FROM H. REPT. 2759, 81ST CONG., 2D SESS. (1950)

The President's message to the Congress of July 19, 1950, reported on the situation in Korea and presented his views concerning the significance of these events for this Nation and for the world. In the words of the President the significance of Korea is, "The free world has made it clear, through the United Nations, that lawless aggression will be met with force." He pointed out that the United States must increase its military strength and preparedness not only to deal with the aggression in Korea but also to increase our common defense, with other free nations, against further aggression and that the steps that must be taken will necessarily have repercussions upon our economy. He urged prompt action to insure that the increased national-defense needs will be met and that our economic strength, which is at the base of our security is not impaired, but continues to grow.

The bill reported by your committee provides for dealing with the situation in two principal ways. The first, by channeling needed materials into production for the national defense and the second, by providing authority through the exercising of credit controls to reduce consumer demand for goods and materials needed for the national defense. At the same time the bill also provides authority through a system of loans and loan guaranties for increasing the production of materials required to support an increased defense program and also provides authority for the procurement of metals and minerals for stockpiling and other defense purposes.

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50 U.S.C. APP. 2151. SMALL BUSINESS

#### [TITLE VII—GENERAL PROVISIONS]

(a) Encouragement.

It is the sense of the Congress that small-business enterprises be encouraged to make the greatest possible contribution toward achiev-

[Emphasis supplied.]

ing the objectives of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix].

(b) Information; advisory committees; exemptions; administration.  
In order to carry out this policy—

(i) the President shall provide small-business enterprises with full information concerning the provisions of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] relating to, or of benefit to, such enterprises and concerning the activities of the various departments and agencies under this Act [said sections];

(ii) such business advisory committees shall be appointed as shall be appropriate for purposes of consultation in the formulation of rules, regulations, or orders, or amendments thereto issued under authority of this Act [said sections], and in their formation there shall be fair representation for independent small, for medium, and for large business enterprises, for different geographical areas, for trade association members and non-members, and for different segments of the industry;

(iii) in administering this Act [said sections], such exemptions shall be provided for small-business enterprises as may be feasible without impeding the accomplishment of the objectives of this Act [said sections]; and

(iv) in administering this Act [said sections], special provisions shall be made for the expeditious handling of all requests, applications, or appeals from small-business enterprises.

(c) Allocation of materials in civilian market.

*Whenever the President invokes the powers given him in this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] to allocate any material in the civilian market, he shall do so in such a manner as to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period preceding any future allocation of materials: Provided, That the President shall, in the allocation of materials in the civilian market, give due consideration to the needs of new concerns and newly acquired operations, undue hardships of individual businesses, and the needs of smaller concerns in an industry.*

(d) Distribution of defense contracts.

In order to further the objectives and purposes of this section, the Office of Defense Mobilization is directed to investigate the distribution of defense contracts with particular reference to the share of such contracts which has gone and is now going to small business, either directly or by subcontract; to review the policies, procedures, and administrative arrangements now being followed in order to increase participation by small business in the mobilization program; to explore all practical ways, whether by amendments to laws, policies, regulations, or administrative arrangements, or otherwise, to increase the share of defense procurement going to small business; to get from the departments and agencies engaged in procurement, and from other

[Emphasis supplied.]

appropriate agencies including the Small Business Administration, their views and recommendations on ways to increase the share of procurement going to small business; and to make a report to the President and the Congress, not later than six months after August 9, 1955, which report shall contain the following: (i) a full statement of the steps taken by the Office of Defense Mobilization in making investigations required by this subsection; (ii) the findings of the Office of Defense Mobilization with respect to the share of procurement which has gone and is now going to small business; (iii) a full and complete statement of the actions taken by the Office of Defense Mobilization and other agencies to increase such small business share; (iv) a full and complete statement of the recommendations made by the procurement agencies and other agencies consulted by the Office of Defense Mobilization; and (v) specific recommendations by the Office of Defense Mobilization for further action to increase the share of procurement going to small business. (Sept. 8, 1950, ch. 932, title VII, § 701, 64 Stat. 815; July 31, 1951, ch. 275, title I, § 108, 65 Stat. 138; June 30, 1953, ch. 171, § 7, 67 Stat. 130; Aug. 9, 1955, ch. 655, §§ 4, 5, 69 Stat. 580.)

[See 50 App. U.S.C. 2160 (H. Rept. 2759). *Infra.*]

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#### 50 U.S.C. APP. 2152. DEFINITIONS

As used in this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix].

(a) The word "person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing: Provided, That no punishment provided by this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] shall apply to the United States, or to any such government, political subdivision, or government agency.

(b) The word "materials" shall include raw materials, articles, commodities, products, supplies, components, technical information, and processes.

(c) The word "facilities" shall not include farms, churches or other places of worship, or private dwelling houses.

(d) The term "national defense" means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

(e) The words "wages, salaries, and other compensation" shall include all forms of remuneration to employees by their employers for personal services, including, but limited to, vacation and holiday payments, night shift and other bonuses, incentive payments, year-end bonuses, employer contributions to or payments of insurance or welfare benefits, employer contributions to a pension fund or annuity, payments in kind, and premium overtime payments.

[Emphasis supplied.]

(f) The term "defense contractor" means any person who enters into a contract with the United States for the production of material or the performance of services for the national defense. (Sept. 8, 1950, ch. 932, title VII, § 702, 64 Stat. 815; June 30, 1953, ch. 171, § 8, 67 Stat. 130; Aug. 15, 1970, Pub. L. 91-379, title I, § 102, 84 Stat. 796.)

[See 50 U.S.C. App. 2160 (H. Rept. 2759). *Supra.*]

50 U.S.C. APP. 2153. DELEGATION OF AUTHORITY; CREATION OF NEW AGENCIES; APPOINTMENT AND COMPENSATION OF OFFICERS AND PERSONNEL; STATE REPRESENTATION IN REGIONAL OFFICES

(a) Except as otherwise specifically provided, the *President may delegate any power or authority conferred upon him by this Act* [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] to any officer or agency of the Government, including any new agency or agencies (and *the President is authorized to create* such new agencies, other than corporate agencies, as he deems necessary), and he may authorize such redelegations by that officer or agency as the President may deem appropriate. *The President is authorized* to appoint heads and assistant heads of any such new agencies, and other officials therein of comparable status, and to fix their compensation, without regard to the Classification Act of 1949, as amended, the head of one such agency to be paid at a rate comparable to the compensation paid to the heads of executive departments of the Government, and other such heads, assistant heads, and officials at rates comparable to the compensation paid to the heads and assistant heads of independent agencies of the Government. Any officer or agency may employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, without regard to section 14 of the Federal Employees Pay Act of 1946 (60 Stat. 219), as the President deems necessary to carry out the provisions of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix].

(b) The head and assistant heads of any independent agency created to administer the authority conferred by title IV of this Act [former sections 2101 to 2112 of this Appendix] shall be appointed by the President, by and with the advice and consent of the Senate. There shall be included among the policy-making officers of each regional office administering the authority conferred by title IV of this Act [former sections 2101 to 2112 of this Appendix] a resident of each State served by such office whose governor requests such representation. (Sept. 8, 1950, ch. 932, title VII, § 703, 64 Stat. 816; July 31, 1951, ch. 275 title I, § 109 (a, b), 65 Stat. 139.)

[See 50 U.S.C. App. 2160 (H. Rept. 2759). *Supra.*]

50 U.S.C. APP. 2154. RULES, REGULATIONS, AND ORDERS

*The President may make such rules, regulations, and orders as he deems necessary or appropriate to carry out the provisions of this Act* [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164

[Emphasis supplied.]

to 2168 of this Appendix]. Any regulation or order under this Act [said sections] may be established in such form and manner, may contain such classifications and differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the President are necessary or proper to effectuate the purposes of this Act [said sections], or to prevent circumvention or evasion, or to facilitate enforcement of this Act [said sections], or any rule, regulation, or order issued under this Act [said sections]. No rule, regulation, or order issued under this Act [said sections] which restricts the use of natural gas (either directly, or by restricting the use of facilities for the consumption of natural gas, or in any other manner) shall apply in any State in which a public regulatory agency has authority to restrict the use of natural gas and certifies to the President that it is exercising that authority to the extent necessary to accomplish the objectives of this Act [said sections]. (Sept. 8, 1950, ch. 932, title VII, § 704, 64 Stat. 816; July 31, 1951, ch. 275, title I, § 109(c), 65 Stat. 139.) [See 50 U.S.C. App. 2160 (H. Rept. 2759). *Infra.*]

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50 U.S.C. APP. 2155. INVESTIGATIONS; RECORDS; REPORTS; SUBPENAS;  
RIGHT TO COUNSEL

(a) *The President shall be entitled*, while this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] is in effect and for a period of two years thereafter, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to, any person as may be necessary or appropriate, in his discretion, to the enforcement or the administration of this Act [said sections] and the regulations or orders issued thereunder. The President shall issue regulations insuring that the authority of this subsection will be utilized only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority, and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency. In case of contumacy by, or refusal to obey a subpoena served upon, any person referred to in this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the President, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Repealed. Pub. L. 91-452, title II, § 251, Oct. 15, 1970, 84 Stat. 931.

(c) The production of a person's books, records, or other documentary evidence shall not be required at any place other than the place where such person usually keeps them, if, prior to the return date specified in the regulations, subpoena, or other document issued with respect thereto, such person furnishes the President with a true copy

[Emphasis supplied.]

of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation with the President as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(d) Any person who willfully performs any act prohibited or willfully performs any act prohibited or willfully fails to perform any act required by the above provisions of this section, or any rule, regulation, or order thereunder, shall upon conviction be fined not more than \$1,000 or imprisoned for not more than one year or both.

(e) Information obtained under this section which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the President determines that the withholding thereof is contrary to the interest of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000, or imprisoned for not more than one year, or both.

All information obtained by the Office of Price Stabilization under this section 705, as amended, and not made public prior to April 30, 1953, shall be deemed confidential and shall not be published or disclosed, either to the public or to another Federal agency except the Congress or any duly authorized committee thereof, and except the Department of Justice for such use as it may deem necessary in the performance of its functions, unless the President determines that the withholding thereof is contrary to the interests of the national defense, and a showing by the President that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted without bond.

(b) The district courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction of violations of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] or any rule, regulation, order, or subpoena thereunder, and of all civil actions under this Act [said sections] to enforce any liability or duty created by, or to enjoin any violation of, this Act [said sections] or any rule, regulation, order, or subpoena thereunder. Any criminal proceeding on account of any such violation may be brought in any district in which any act, failure to act, or transaction constituting the violation occurred. Any such civil action may be brought in any such district or in the district in which the defendant resides or transacts business. Process in such cases, criminal or civil, may be served in any district wherein the defendant resides or transacts business or wherever the defendant may be found; the subpoena for witnesses who are required to attend a court in any district in such case may run into any other district. The termination of the authority granted in any title or section of this Act [said sections], or of any rule, regulation, or order issued thereunder, shall not operate to defeat any suit, action, or prosecution, whether theretofore

or thereafter commenced, with respect to any right, liability, or offense incurred or committed prior to the termination date of such title or of such rule, regulation, or order. No costs shall be assessed against the United States in any proceeding under this Act [said sections]. All litigation arising under this Act [said sections] or the regulations promulgated thereunder shall be under the supervision and control of the Attorney General. (Sept. 8, 1950, ch. 932, title VII, § 706, 64 Stat. 817; July 31, 1951, ch. 275, title I, § 109(e), 65 Stat. 139.)  
 [See 50 U.S.C. App. 2160 (H. Rept. 2759). *Infra.*]

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50 U.S.C. APP. 2157. LIABILITY FOR COMPLIANCE WITH INVALID REGULATIONS; DISCRIMINATION AGAINST ORDERS OR CONTRACTS AFFECTED BY PRIORITIES OR ALLOCATIONS

No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with a rule, regulation, or order issued pursuant to this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix], notwithstanding that any such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid. No person shall discriminate against orders or contracts to which priority is assigned or for which materials or facilities are allocated under title I of this Act [sections 2071 to 2073 of this Appendix] or under any rule, regulation, or order issued thereunder, by charging higher prices or by imposing different terms and conditions for such orders or contracts than for other generally comparable orders or contracts, or in any other manner. (Sept. 8, 1950, ch. 932, title VII, § 707, 64 Stat. 818; June 30, 1952, ch. 530, title I, § 118, 66 Stat. 306.)

[See 50 U.S.C. App. 2160 (H. Rept. 2759). *Infra.*]

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50 U.S.C. APP. 2158. VOLUNTARY AGREEMENTS AND PROGRAMS; EXEMPTIONS FROM ANTI-TRUST LAWS AND FEDERAL TRADE COMMISSION ACT; SURVEYS AND REPORTS TO CONGRESS; TERMINATION

(a) *The President is authorized to consult with* representatives of industry, business, financing, agriculture, labor, and other interests, with a view to encouraging the making by such persons with the approval by the President of voluntary agreements and programs to further the objectives of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix].

(b) No act or omission to act pursuant to this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] which occurs while this Act [said sections] is in effect, if requested by the President pursuant to a voluntary agreement or program approved under subsection (a) [of this section] and found by the President to be in the public interest as contributing to the national defense shall be construed to be within the prohibitions of the anti-

[Emphasis supplied.]

trust laws or the Federal Trade Commission Act [sections 41 to 46 and 47 to 58 of Title 15] of the United States.

(c) The authority granted in subsection (b) of this section shall be delegated only (1) to officials who shall for the purpose of such delegation be required to be appointed by the President by and with the advice and consent of the Senate, unless otherwise required to be so appointed, and (2) upon the condition that such officials consult with the Attorney General and with the Chairman of the Federal Trade Commission not less than ten days before making any request or finding thereunder, and (3) upon the condition that such officials obtain the approval of the Attorney General to any request thereunder before making the request. For the purpose of carrying out the objectives of title I of this Act [sections 2071 to 2073 of this title], the authority granted in subsection (b) of this section shall not be delegated except to a single official of the Government.

(d) Upon withdrawal of any request or finding made hereunder, or upon withdrawal by the Attorney General of his approval of the voluntary agreement or program on which the request or finding is based, the provisions of this section shall not apply to any subsequent act or omission to act by reason of such finding or request.

(e) The Attorney General is directed to make, or request the Federal Trade Commission to make for him, surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of the administration of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix]. Such surveys shall include studies of the voluntary agreements and programs authorized by this section. The Attorney General shall submit to the Congress and the President at least once every three months reports setting forth the results of such studies of voluntary agreements and programs authorized by this section. (Sept. 8, 1950, ch. 932, title VII, § 708, 64 Stat. 818; June 30, 1952, ch. 530, title I, § 116(c), 66 Stat. 305; Aug. 9, 1955, ch. 655, § 6, 69 Stat. 581; Sept. 26, 1961, Pub. L. 87-305, § 5(b), 75 Stat. 667; Dec. 23, 1969, Pub. L. 91-151, title I, § 9, 83 Stat. 376.)

[See 50 U.S.C. App. 2160 (H. Rept. 2759). *Infra*.]

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50 U.S.C. APP. 2159. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT; STATEMENTS IN RULES, REGULATIONS, AND ORDERS AS TO CONSULTATION WITH INDUSTRY REPRESENTATIVES

The functions exercised under this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) [sections 551 et seq. and 701 et seq. of Title 5] except as to the requirements of section 3 thereof [section 1002 of Title 5]. Any rule, regulation, or order, or amendment thereto, issued under authority of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] shall be accompanied



by a statement that in the formulation thereof there has been consultation with industry representatives, including trade association representatives, and that consideration has been given to their recommendations, or that special circumstances have rendered such consultation impracticable or contrary to the interest of the national defense, but no such rule, regulation, or order shall be invalid by reason of any subsequent finding by judicial or other authority that such a statement is inaccurate. (Sept. 8, 1950, ch. 932, title VII, § 709, 64 Stat. 819.)

[See 50 U.S.C. App. 2160 (H. Rept. 2759). *Infra.*]

50 U.S.C. APP. 2160. EMPLOYMENT OF PERSONNEL; APPOINTMENT POLICIES; NUCLEUS EXECUTIVE RESERVE; USE OF CONFIDENTIAL INFORMATION BY EMPLOYEES; PRINTING AND DISTRIBUTION OF REPORTS

(a) Repealed. June 28, 1955, ch. 189, § 12(c) (1), 69 Stat. 180.

(b) (1) *The President is further authorized*, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation;

(2) The President shall be guided in the exercise of the authority provided in this subsection by the following policies:

(i) So far as possible, operations under the Act [said sections] shall be carried on by full-time, salaried employees of the Government, and appointments under this authority shall be to advisory or consultative positions only.

(ii) Appointments to positions other than advisory or consultative may be made under this authority only when the requirements of the position are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

(iii) In the appointment of personnel and in assignment of their duties, the head of the department or agency involved shall take steps to avoid, to as great an extent as possible, any conflict between the governmental duties and the private interests of such personnel.

(3) Appointees under this subsection shall, when policy matters are involved, be limited to advising appropriate full-time salaried Government officials who are responsible for making policy decisions.

(4) Any person employed under this subsection is exempted, with respect to such employment, from the operation of sections 281, 283, 284, 434, and 1914 of Title 18, and section 190 of the Revised Statutes [now covered by section 207 of Title 18], except that—

(i) exemption hereunder shall not extend to the negotiation or execution, by such appointee, of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

[Emphasis supplied.]

(ii) exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(iii) exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under this subsection, during the period of such employment and the further period of two years after the termination of such employment; and

(iv) exemption hereunder shall not extend to the receipt or payment of salary in connection with the appointee's Government service hereunder from any source other than the private employer of the appointee at the time of his appointment hereunder.

(5) Appointments under this subsection shall be supported by written certification by the head of the employing department or agency—

(i) that the appointment is necessary and appropriate in order to carry out the provisions of the Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix];

(ii) that the duties of the position to which the appointment is being made require outstanding experience and ability;

(iii) that the appointee has the outstanding experience and ability required by the position; and

(iv) that the department or agency head has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

(6) The heads of the departments or agencies making appointments under this subsection shall file with the Division of the Federal Register for publication in the Federal Register a statement including the name of the appointee, the employing department or agency, the title of his position, and the name of his private employer, and the appointee shall file with such Division for publication in the Federal Register a statement listing the names of any corporations of which he is an officer or director or within sixty days preceding his appointment has been an officer or director, or in which he owns, or within sixty days preceding his appointment has owned, any stocks, bonds, or other financial interests, and the names of any partnerships in which he is, or was within sixty days preceding his appointment, a partner, and the names of any other businesses in which he owns, or within such sixty-day period has owned, any similar interest. At the end of each succeeding six-month period, the appointee shall file with such Division for publication in the Federal Register a statement showing any changes in such interests during such period.

(7) At least once every three months the Chairman of the United States Civil Service Commission shall survey appointments made under this subsection and shall report his findings to the President

and the Joint Committee on Defense Production and make such recommendations as he may deem proper.

(8) Persons appointed under the authority of this subsection may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment.

(c) *The President is authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] to employ experts and consultants or organizations thereof as authorized by section 55a of Title 5. Individuals so employed may be compensated at rates not in excess of \$50 per diem and while away from their homes or regular places of business they may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence and other expenses while so employed. The President is authorized to provide by regulation for the exemption of such persons from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 190 of the Revised Statutes [now covered by section 207 of Title 18].*

(d) The President may utilize the services of Federal, State, and local agencies and may utilize and establish such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed; and he is authorized to provide by regulation for the exemption of persons whose services are utilized under this subsection from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 190 of the Revised Statutes [now covered by section 207 of Title 18].

(e) *The President is further authorized to provide for the establishment and training of a nucleus executive reserve for employment in executive positions in Government during periods of emergency. Members of this executive reserve who are not full-time Government employees may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business for the purpose of participating in the executive reserve training program. The President is authorized to provide by regulation for the exemption of such persons who are not full-time Government employees from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 190 of the Revised Statutes [now covered by section 207 of Title 18].*

(f) Whoever, being an officer or employee of the United States or any department or agency thereof (including any Member of the Senate or House of Representatives), receives, by virtue of his office or employment, confidential information, and (1) uses such information in speculating directly or indirectly on any commodity exchange, or (2) discloses such information for the purpose of aiding any other person so to speculate, shall be fined not more than \$10,000 or imprisoned not more than one year, or both. As used in this section, the term "speculate" shall not include a legitimate hedging transaction, or a purchase or sale which is accompanied by actual delivery of the commodity.

[Emphasis supplied.]

(g) The President, when he deems such action necessary, may make provision for the printing and distribution of reports, in such number and in such manner as he deems appropriate, concerning the actions taken to carry out the objectives of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix]. (Sept. 8, 1950, ch. 932, title VII, § 710, 64 Stat. 819; July 31, 1951, ch. 275, title I, § 109(f), 65 Stat. 139; June 28, 1955, ch. 189, § 12(c)(1), 69 Stat. 180; Aug. 9, 1955, ch. 655, §§ 7, 8, 69 Stat. 583.)

### —NOTE—

EXCERPT FROM H. REPT. 2759, 81ST CONG., 2D SESS. (1950)

The President's message to the Congress of July 19, 1950, reported on the situation in Korea and presented his views concerning the significance of these events for this Nation and for the world. In the words of the President the significance of Korea is, "The free world has made it clear, through the United Nations, that lawless aggression will be met with force." He pointed out that the United States must increase its military strength and preparedness not only to deal with the aggression in Korea but also to increase our common defense, with other free nations, against further aggression and that the steps that must be taken will necessarily have repercussions upon our economy. He urged prompt action to insure that the increased national-defense needs will be met and that our economic strength which is at the base of our security is not impaired, but continues to grow.

The bill reported by your committee provides for dealing with the situation in two principal ways. The first, by channeling needed materials into production for the national defense and the second, by providing authority through the exercising of credit controls to reduce consumer demand for goods and materials needed for the national defense. At the same time the bill also provides authority through a system of loans and loan guarantees for increasing the production of materials required to support an increased defense program and also provides authority for the procurement of metals and minerals for stockpiling and other defense purposes.

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#### 50 U.S.C. APP. 2161. APPROPRIATIONS AUTHORIZED; AVAILABILITY OF FUNDS

There are authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] by the President and such agencies as he may designate or create. Funds made available for the purposes of this Act [said sections] may be allocated or transferred for any of the purposes of this Act [said sections], with the approval of the Bureau of the Budget, to any agency designated to assist in carry-

ing out this Act [said sections]. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available. (Sept. 8, 1950, ch. 932, title VII, § 711, 64 Stat. 820.)

[See 50 U.S.C. App. 2160 (H. Rept. 2759). *Supra.*]

### —NOTE—

In 1950, the Defense Production Act contained seven titles. Today three titles remain.

The Act granted controls and authority that provided the Executive branch vast and sweeping powers. Congress delegated authority for day-to-day supervision of the economy, as well as long-range economic planning. Titles of this Act have been repealed which applied specifically to the Korean war effort, namely those provisions which give the President the authority to requisition and condemn property (II), to stabilize prices and wages (IV), to settle labor disputes (V), and to control consumer and real estate credit (VI).

The authority that remains in the Act includes the power to establish priorities for defense contracts; the power to allocate materials for defense purposes; the authority to guarantee loans made in connection with defense contracts; the authority to make loans and purchases to build up defense capacities, assure supplies of defense materials and to carry out existing contracts; the authority to enable businessmen to cooperate voluntarily in meeting defense needs, with exemptions from antitrust laws; the authority to employ and to prescribe conditions of employment including compensation; the provision for establishment of a reserve of trained executives to fill government positions in time of mobilization; and provision for the establishment of particular cost-accounting standards.

Authority for the remaining provisions of the Defense Production Act expires on June 30, 1974.

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#### 50 U.S.C. App. 2162. JOINT COMMITTEE ON DEFENSE PRODUCTION

(a) There is established a joint congressional committee to be known as the Joint Committee on Defense Production (hereinafter referred to as the committee), to be composed of ten members as follows:

(1) Five members who are members of the Committee on Banking and Currency of the Senate, three from the majority and two from the minority party, to be appointed by the chairman of the committee; and

(2) Five members who are members of the Committee on Banking and Currency of the House of Representatives, three from the majority and two from the minority party, to be appointed by the chairman of the committee.

A vacancy in the membership of the committee shall be filled in the

same manner as the original selection. The committee shall elect a chairman and a vice chairman from among its members, one of whom shall be a member of the Senate and the other a member of the House of Representatives.

(b) It shall be the function of the Committee to make a continuous study of the programs and of the fairness to consumers of the prices authorized by this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] and to review the progress achieved in the execution and administration thereof. Upon request, the committee shall aid the standing committees of the Congress having legislative jurisdiction over any part of the programs authorized by this Act [said sections]; and it shall make a report to the Senate and the House of Representatives, from time to time, concerning the results of its studies, together with such recommendations as it may deem desirable. Any department, official, or agency administering any of such programs shall, at the request of the committee, consult with the committee, from time to time, with respect to their activities under this Act [said sections].

(c) The committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places, to require by subpoena (to be issued under the signature of the chairman or vice chairman of the committee) or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 40 cents per hundred words. The provisions of sections 102 to 104, inclusive, of the Revised Statutes [sections 192 to 194 of Title 2] shall apply in case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection.

(d) The committee is authorized to appoint and, without regard to the Classification Act of 1949, as amended, fix the compensation of such experts, consultants, technicians, and organizations thereof, and clerical and stenographic assistants as it deems necessary and advisable.

(e) The expenses of the committee under this section, which shall not exceed \$100,000 in any fiscal year, shall be paid from the contingent fund of the House of Representatives upon vouchers signed by the Chairman or Vice Chairman.

(f) The Secretary of Commerce shall make a special investigation and study of the production, allocation, distribution, use of nickel, of its resale as scrap, and of other aspects of the current situation with respect to supply and marketing of nickel, with particular attention to, among other things, the adequacy of the present system of nickel allocation between defense and civilian users. The Secretary of Commerce shall consult with the Joint Committee on Defense Production during the course of such investigation and study with respect to the progress achieved and the results of the investigation and study, and shall make an interim report on the results of the investigation and study on or before August 15, 1956, and shall, on or before December 31, 1956, make a final report on the results of such investigation and study, together with such recommendations as the Secretary of Com-

merce deems advisable. Such reports shall be made to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House of Representatives if the House is not in session). (Sept. 8, 1950, ch. 932, title VII, § 712, 64 Stat. 820; June 30, 1952, ch. 530, title I, § 119; 66 Stat. 306; Aug. 9, 1955, ch. 655, § 9, 69 Stat. 583; June 29, 1956, ch. 474, §§ 3, 5, 70 Stat. 408; June 30, 1966, Pub. L. 89-482, § 2, 80 Stat. 235; July 1, 1968, Pub. L. 90-370, § 2, 82 Stat. 279.)  
 [See 50 U.S.C. App. 2160 (H. Rept. 2759). *Supra.*]

#### 50 U.S.C. APP. 2163. TERRITORIAL APPLICATION OF ACT

The provisions of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] shall be applicable to the United States, its Territories and possessions, and the District of Columbia. (Sept. 8, 1950, ch. 932, title VII, § 713, 64 Stat. 821.)

[See 50 U.S.C. App. 2160 (H. Rept. 2759). *Supra.*]

#### 50 U.S.C. APP. 2166. TERMINATION OF ACT

(a) Title I (except section 104), title III, and title VII (except sections 714 and 719) of this Act [section 2071 to 2073, 2091 to 2094, 2151 to 2163, and 2164 to 2168 of this Appendix], and all authority conferred thereunder, *shall terminate at the close of June 30, 1974*. Section 714 of this Act [section 2163a of this Appendix], and all authority conferred thereunder, shall terminate at the close of July 31, 1953. Section 104, title II, and title VI of this Act [section 2074, 2081 and 2132 to 2137 of this Appendix], and all authority conferred thereunder, shall terminate at the close of June 30, 1953. Title IV and V of this Act [sections 2101 to 2112 and 2121 to 2123 of this Appendix], and all authority conferred thereunder, shall terminate at the close of April 30, 1953.

(b) Notwithstanding the foregoing—

(1) *The Congress by concurrent resolution or the president by proclamation may terminate this Act* [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix] prior to the termination otherwise provided therefor.

(2) *The Congress may also provide by concurrent resolution that any section of this Act* [said sections] and all authority conferred thereunder shall terminate prior to the termination otherwise provided therefor.

(3) Any agency created under this Act [said sections] may be continued in existence for purposes of liquidation for not to exceed six months after the termination of the provision authorizing the creation of such agency.

(c) The termination of any section of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix], or of any agency or corporation utilized under this Act [said

[Emphasis supplied.]

section], shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act [said sections] prior to the date of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act [said sections], or the taking of any action (including the making of new guarantees) deemed by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment or settlement of any loans guaranteed under this act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix], including actions deemed necessary to avoid undue hardship to borrowers in reconverting to normal civilian production; and *all of the authority granted to the President*, guaranteeing agencies, and fiscal agents, under section 301 of this Act [section 2091 of this Appendix] shall be applicable to actions taken pursuant to the authority contained in this subsection.

Notwithstanding any other provision of this Act [sections 2061, 2062, 2071, to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix], the termination of title VI [sections 2132 to 2137 of this Appendix] or any section thereof shall not be construed as affecting any obligation, condition, liability, or restriction arising out of any agreement heretofore entered into pursuant to, or under the authority of, section 602 or section 605 of this Act [former section 2132 or 2135 of this Appendix], or any issuance thereunder, by any person or corporation and the Federal Government or any agency thereof relating to the provision of housing for defense workers or military personnel in an area designated as a critical defense housing area pursuant to law.

(d) No action for the recovery of any cooperative payment made to a cooperative association by a Market Administrator under an invalid provision of a milk marketing order issued by the Secretary of Agriculture pursuant to the Agricultural Marketing Agreement Act of 1937 shall be maintained unless such action is brought by producers specifically named as party plaintiffs to recover their respective share of such payments within ninety days after the date of enactment of the Defense Production Act Amendments of 1952 [June 30, 1952] with respect to any cause of action heretofore accrued and not otherwise barred, or within ninety days after accrual with respect to future payments, and unless each claimant shall allege and prove (1) that he objected at the hearing to the provisions of the order under which such payments were made and (2) that he either refused to accept payments computed with such deduction or accepted them under protest to either the Secretary or the Administrator. The district courts of the United States shall have exclusive original jurisdiction of all such actions regardless of the amount involved. This subsection shall not apply to funds held in escrow pursuant to court order. Notwithstanding any other provision of this Act [sections 2061, 2062, 2071 to 2073, 2091 to 2094, 2151 to 2163 and 2164 to 2168 of this Appendix], no termination date shall be applicable to this subsection. . . .

[Emphasis supplied.]



## REFERENCES IN TEXT

The Agricultural Marketing Agreement Act of 1937, referred to in subsec. (d), is classified to sections 601, 601 note, 602, 608a, 608b, 608c, 608d, 610, 612, 614, 624 and 671—674 of Title 7, Agriculture.

## AMENDMENTS

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## EFFECTIVE DATE OF 1955 AMENDMENT

Amendment of this section by act Aug. 9, 1955, effective as of the close of July 31, 1955, see section 11 of act Aug. 9, 1955, set out as a note under section 2062 of this Appendix.

## CROSS REFERENCES

Effect of termination of act on actions or prosecutions based on rights or liabilities arising prior to termination, see section 2156(b) of this Appendix.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2061, 2072, 2093, 2151 to 2163, 2164, 2165, 2182, 2183 of this Appendix.

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**50 U.S.C. APP. 2291. SECTIONS 2291 TO 2297 OF THIS APPENDIX EFFECTIVE ONLY DURING CIVIL DEFENSE EMERGENCY; PROCLAMATION OF EMERGENCY; TERMINATION**

The provisions of this title [sections 2291 to 2297 of this Appendix] shall be operative only during the existence of a state of civil defense emergency (referred to hereinafter in this title [said sections] as "emergency"). The existence of such emergency *may be proclaimed by the President* or by concurrent resolution of the Congress if the President in such proclamation, or the Congress in such resolution, finds that an attack upon the United States has occurred or is anticipated and that the national safety therefor requires an invocation of the provisions of this title [said sections]. Such emergency also shall exist with respect to any designated geographic area or areas of the United States *when the President determines* that any such attack has been made upon or is anticipated within such area or areas, and directs the Administrator to proceed pursuant to the provisions of this title [said sections] with respect to such area or areas. *Any such emergency shall terminate upon the proclamation of the termination thereof by the President, or the passage by the Congress of a concurrent resolution terminating such emergency.* (Jan. 12, 1951, ch. 1228, title III, § 301, 64 Stat. 1251.)

[Emphasis supplied.]

## —NOTE—

EXCERPT FROM H. REPT. 3209, 81ST CONG., 2D SESS. (1950)

In view of these considerations, it has been concluded that the State-supervised plan for civil defense should seek to—

1. Organize critical target areas to meet emergency conditions anticipated under an atomic-bomb attack. This type of organization would include all existing elements of local civil government and facilities, protective services not included in peacetime civil organization, and mutual aid.

2. Organize mobile support in the support areas, which are of equal importance to critical target areas.

In order to achieve a balanced organization of the various services, the State civil-defense agency must supervise the organization and development of all such units in support areas.

Mobility of unit organization in the support areas will give the communities in which they are formed an effective means of self-protection in the event of direct enemy attack, and at the same time will provide emergency protection on a State-wide basis.

All communities should anticipate the possibility of some form of attack, as well as the possibility of their being called upon to receive evacuees from other areas.

In this air-atomic age, the United States can no longer be free from the danger of a sudden devastating attack against the homeland; and there being no absolute military defense, an effective civil defense has now become vital to the future security of the United States. It affords the only means whereby this country, if suddenly attacked heavily and without warning, can rock with the blow and fight back, for whether such an attack would succeed in destroying America's productive power would depend in the main on the organization and functional efficiency of the country's civil defense. It is to commence promptly the creation of an effective civil defense organization that the Armed Services Committee brings this legislation before the House of Representative.

50 U.S.C. APP. 2292. UTILIZATION OF FEDERAL DEPARTMENTS AND AGENCIES

*During the period of such emergency*, under such terms and conditions as to donation, compensation, or return as may be prescribed, and solely for civil defense purposes, *the President may direct*, after taking into consideration the military requirements of the Department of Defense, any Federal department or agency to provide, and such departments and agencies are authorized to provide,—

(a) their personnel, materials, and facilities to the Administrator for the aid of the States;

[Emphasis supplied.]

(b) emergency shelter by construction or otherwise; and  
 (c) on public or private lands, protective and other work essential for the preservation of life and property, for clearing debris and wreckage, and for making emergency repairs to, and temporary replacement of, communications, hospitals, utilities, transportation facilities, or public facilities of States or their political subdivisions damaged or destroyed by attack. (Jan. 12, 1951, ch. 1228, title III, § 302, 64 Stat. 1252.)

[See 50 U.S.C. App. 2291 (H. Rept. 3209). *Supra.*]

#### 50 U.S.C. APP. 2293. EMERGENCY POWERS OF ADMINISTRATOR

*During the period of such emergency*, the Administrator is authorized to—

(a) exercise the authority contained in section 201 (h) [section 2281 (h) of this Appendix] without regard to the limitation of any existing law including the provisions of the Act of June 30, 1932, as amended [section 278a of Title 40], and section 3709 of the Revised Statutes, as amended [section 5 of Title 41], and section 3734 of the Revised Statutes, as amended [sections 259 and 269 of Title 40], and the Federal Property and Administrative Services Act of 1949, as amended;

(b) sell, lease, lend, transfer, or deliver materials or perform services for civil defense purposes on such terms and conditions as the Administrator shall prescribe and without regard to the limitations of existing law: Provided, That any funds received from the sale or other disposition of materials or for services shall be deposited to the credit of appropriations currently available and made pursuant to this Act [sections 2251 to 2284, 2286 and 2291 to 2297 of this Appendix] and shall be available for expenditure for the purposes of such appropriations;

(c) coordinate and direct, for civil defense purposes, the relief activities of the various departments and agencies of the United States as provided in section 302 hereof [section 2292 of this Appendix];

(d) reimburse any State, including any political subdivisions thereof, for the compensation paid to and the transportation, subsistence, and maintenance expenses of any employees while engaged in rendering civil defense aid outside the State and to pay fair and reasonable compensation for the materials of the State government or any political subdivision utilized or consumed outside of the State, including any transportation costs, in accordance with rules and regulations prescribed by the Administrator. As used in this subsection, the term "employees" shall include full- or part-time paid, volunteer, auxiliary, and civil defense workers subject to the order or control of a State government or any political subdivision thereof, and such employees shall not be deemed by reason of such reimbursement to be employees or appointees of the United States;

(e) provide financial assistance for the temporary relief or aid of any civilian injured or in want as the result of any attack; and

(f) employ temporarily additional personnel without regard to the civil-service laws and to incur such obligations on behalf of the United

[Emphasis supplied.]

States as may be required to meet the civil defense requirements of an attack or of an anticipated attack. During the period of any such emergency, the Administrator shall transmit quarterly to the Congress a detailed report concerning all action taken pursuant to this section. (Jan. 12, 1951, ch. 1228, title III, § 303, 64 Stat. 1252.)

[See 50 U.S.C. App. 2291 (H. Rept. 3209). *Supra.*]

#### 50 U.S.C. APP. 2294. GOVERNMENT IMMUNE FROM LIABILITY FOR DEATH OR PERSONAL INJURY TO EMPLOYEES; BENEFITS EMPLOYEES ENTITLED TO

The Federal Government shall not be liable for any damage to property or for any death or personal injury occurring directly or indirectly as a result of the exercise or performance of, or failure to exercise or perform, any function or duty, by any Federal agency or employee of the Government, in carrying out the provisions of this title [sections 2291 to 2297 of this Appendix] during the period of such emergency. Nothing contained in this section shall affect the right of any person to receive any benefit or compensation to which he might otherwise be entitled under the Federal Employees' Compensation Act, as amended [chapter 81 of Title 5], or any other Act of Congress providing for any pension or retirement. (Jan. 12, 1951, ch. 1228, title III, § 304, 64 Stat. 1253.)

[See 50 U.S.C. App. 2291 (H. Rept. 3209). *Supra.*]

#### 50 U.S.C. APP. 2295. WAIVER OF ADMINISTRATIVE PROCEDURE ACT

*During the period of such emergency*, the functions and duties exercised under this Act [sections 2251 to 2284, 2286 and 2291 to 2297 of this Appendix] shall be excluded from the operation of the Administrative Procedure Act [sections 551 et seq. and 701 et seq. of Title 5], except as to the requirements of section 3 thereof [section 552 of Title 5]. (Jan. 12, 1951, ch. 1228, title III, § 305, 64 Stat. 1253.)

[See 50 U.S.C. App. 2291 (H. Rept. 3209). *Supra.*]

#### 50 U.S.C. APP. 2297. TERMINATION OF SECTIONS 2291 TO 2297 OF THIS APPENDIX

The provisions of this title [sections 2291-2297 of this Appendix] shall terminate on June 30, 1974, or on such earlier date as may be prescribed by concurrent resolution of the Congress. (Jan. 12, 1951, ch. 1228, title III, § 307, 64 Stat. 1254; June 3, 1954, ch. 253, 68 Stat. 170; July 11, 1958, Pub. L. 85-514, 72 Stat. 356; June 27, 1962, Pub. L. 87-501, 76 Stat. 111; June 30, 1966, Pub. L. 89-483, 80 Stat. 235; June 30, 1970, Pub. L. 91-299, 84 Stat. 367.)

[See 50 U.S.C. App. 2291 (H. Rept. 3209). *Supra.*]

[Emphasis supplied.]

## 50 U.S.C. APP. 2401. CONGRESSIONAL FINDINGS

The Congress makes the following findings:

(1) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(2) The unrestricted export of materials, information, and technology without regard to whether they make a significant contribution to the military potential of any other nation or nations may adversely affect the national security of the United States.

(3) The unwarranted restriction of exports from the United States has a serious adverse effect on our balance of payments.

(4) The uncertainty of policy toward certain categories of exports has curtailed the efforts of American business in those categories to the detriment of the overall attempt to improve the trade balance of the United States. (Pub. L. 91-184, § 2, Dec. 30, 1969, 83 Stat. 841.)

[See 50 U.S.C. App. 2413. *Infra*.]

## 50 U.S.C. APP. 2402. CONGRESSIONAL DECLARATION OF POLICY

The Congress makes the following declarations:

(1) It is the policy of the United States both (A) to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest, and (B) to restrict the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which *would prove detrimental to the national security of the United States*.

(2) It is the policy of the United States to use export controls (A) to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand, (B) to the extent necessary to further significantly the foreign policy of the United States and to fulfill its international responsibilities, and (C) to the extent necessary to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States.

(3) It is the policy of the United States (A) to formulate, reformulate, and apply any necessary controls to the maximum extent possible in cooperation with all nations with which the United States has defense treaty commitments, and (B) to formulate a unified trade control policy to be observed by all such nations.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as *well as to further its national security and foreign policy objectives*.

(5) It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries

[Emphasis supplied.]

against other countries friendly to the United States, and (B) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States. (Pub. L. 91-184, § 3, Dec. 30, 1969, 83 Stat. 841.)

[See 50 U.S.C. App. 2413. *Infra.*]

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#### 50 U.S.C. APP. 2403. AUTHORITY TO EFFECTUATE POLICY

(a) Secretary of Commerce.

(1) The Secretary of Commerce shall institute such organizational and procedural changes in any office or division of the Department of Commerce which has heretofore exercised functions relating to the control of exports and continues to exercise such controls under this Act [sections 2401 to 2413 of this Appendix] as he determines are necessary to facilitate and effectuate the fullest implementation of the policy set forth in this Act [sections 2401 to 2413 of this Appendix] with a view to promoting trade with all nations with which the United States is engaged in trade, including trade with (A) those countries or groups of countries with which other countries or groups of countries having defense treaty commitments with the United States have a significantly larger percentage of volume of trade than does the United States, and (B) other countries eligible for trade with the United States but not significantly engaged in trade with the United States. In addition, the Secretary shall review any list of articles, materials, or supplies, including technical data or other information, the exportation of which from the United States, its territories and possessions, was heretofore prohibited or curtailed with a view to making promptly such changes and revisions in such list as may be necessary or desirable in furtherance of the policy, purposes, and provisions of this Act [sections 2401 to 2413 of this Appendix]. The Secretary shall include a detailed statement with respect to actions taken in compliance with the provisions of this paragraph in the second quarterly report (and in any subsequent report with respect to actions taken during the preceding quarter) made by him to the Congress after the date of enactment of this Act [December 30, 1969] pursuant to section 10 [section 2409 of this Appendix].

(2) The Secretary of Commerce shall use all practicable means available to him to keep the business sector of the Nation fully apprised of changes in export control policy and procedures instituted in conformity with this Act [sections 2401 to 2413 of this Appendix] with a view to encouraging the widest possible trade.

(b) Presidential determination; rules and regulations.

To effectuate the policies set forth in section 3 of this Act [section 2402 of this Appendix], *the President may prohibit or curtail* the exportation from the United States, its territories and possessions, of

[Emphasis supplied.]

any articles, materials, or supplies, including technical data or any other information, except under such rules and regulations as he shall prescribe. To the extent necessary to achieve effective enforcement of this Act [sections 2401 to 2413 of this Appendix], these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. Rules and regulations may provide for denial of any request or application for authority to export articles, materials, or supplies, including technical data, or any other information, from the United States, its territories and possessions, to any nation or combination of nations *threatening the national security of the United States if the President determines that their export would prove detrimental to the national security of the United States*, regardless of their availability from nations other than any nation or combination of nations threatening the national security of the United States, but whenever export licenses are required on the ground that considerations of national security override considerations of foreign availability, the reasons for so doing shall be reported to the Congress in the quarterly report following the decision to require such licenses on that ground to the extent considerations of national security and foreign policy permit. The rules and regulations shall implement the provisions of section 3(5) of this Act [section 2402(5) of this Appendix] and shall require that all domestic concerns receiving requests for the furnishing of information or the signing of agreements as specified in that section must report this fact to the Secretary of Commerce for such action as he may deem appropriate to carry out the purposes of that section.

(c) Protection of national security, foreign policy and domestic economy.

Nothing in this Act [sections 2401 to 2413 of this Appendix] or in the rules and regulations authorized by it, shall in any way be construed to require authority and permission to export articles, materials, supplies, data, or information except where the national security, the foreign policy of the United States, or the need to protect the domestic economy from the excessive drain of scarce materials makes such requirement necessary.

(d) Delegation of Presidential authority and power.

*The President may delegate the power, authority, and discretion conferred upon him by this Act [sections 2401 to 2413 of this Appendix] to such departments, agencies, or officials of the Government as he may deem appropriate.*

(e) Exclusion of agricultural commodities.

The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils, during any period for which the supply of such commodity is determined by the Secretary of Agriculture to be in excess of the requirements of the domestic economy, except to the extent required to effectuate the policies set forth in clause (B) or (C) of paragraph (2) of section 3 of this Act [section 2402 of this Appendix]. (Pub. L. 91-184, § 4, Dec. 30, 1969, 83 Stat. 842.)

[See 50 U.S.C. App. 2413. *Infra*.]

[Emphasis supplied.]

50 U.S.C. App. 2404. CONSULTATIONS FOR DETERMINATION OF CONTROLS;  
STANDARDS OR CRITERIA ESTABLISHED

(a) In determining what shall be nontrolled hereunder, and in determining the extent to which exports shall be limited, any department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. *Consistent with considerations of national security, the President shall from time to time seek information and advice from various segments of private industry in connection with the making of these determinations.*

(b) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act [sections 2401 to 2413 of this Appendix]. (Pub. L. 91-184, § 5, Dec. 30, 1969, 83 Stat. 843.)

[See 50 U.S.C. App. 2413. *Infra.*]

50 U.S.C. App. 2405. VIOLATIONS AND PENALTIES

(a) Generally; subsequent offenses.

Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act [sections 2401 to 2413 of this Appendix] or any regulation, order, or license issued thereunder shall be fined not more than \$10,000 or imprisoned not more than one year, or both. For a second or subsequent offense, the offender shall be fined not more than three times the value of the exports involved or \$20,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Export to Communist-dominated nations; penalties.

Whoever willfully exports anything contrary to any provision of this Act [sections 2401 to 2413 of this Appendix] or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any Communist-dominated nation, shall be fined not more than five times the value of the exports involved or \$20,000, whichever is greater, or imprisoned not more than five years, or both.

(c) Civil penalty for violations.

The head of any department or agency exercising any functions under this Act [sections 2401 to 2413 of this Appendix], or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed \$1,000 for each violation of this Act [sections 2401 to 2413 of this Appendix] or any regulation, order, or license issued under this Act [sections 2401

[Emphasis supplied.]



to 2413 of this Appendix], either in addition to or in lieu of any other liability or penalty which may be imposed.

(d) Export licenses.

The payment of any penalty imposed pursuant to subsection (c) may be made a condition for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed.

(e) Discretion to refund civil penalty.

Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28 of the United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) Action for recovery of civil penalty.

In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in the subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Availability of other remedies.

Nothing in subsection (c), (d), or (f) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this Act [sections 2401–2413 of this Appendix], or any regulation, order, or license issued under this Act [sections 2401 to 2413 of this Appendix];

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act [sections 2401 to 2413 of this Appendix], or any regulation, order, or license issued under this Act [sections 2401 to 2413 of this Appendix]; or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

(Pub. L. 91–184, § 6, Dec. 30, 1969, 83 Stat. 844.)

[See 50 U.S.C. APP. 2413. *Infra*.]

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## 50 U.S.C. APP. 2406. ENFORCEMENT

(a) Compliance with requirements; subpoena of witnesses and records.

To the extent necessary or appropriate to the enforcement of this Act [sections 2401 to 2413 of this Appendix] or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949 [sections 2021 to 2032 of this Appendix], the head of any

department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpoena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Self-incrimination; exception.

No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege.

(c) Disclosure of confidential information.

No department, agency, or official exercising any functions under this Act [sections 2401 to 2413 of this Appendix] shall publish or disclose information obtained hereunder which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, *unless the head of such department or agency determines that the withholding thereof is contrary to the national interest.*

(d) Simplification of reporting requirements.

In the administration of this Act [sections 2401 to 2413 of this Appendix], reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act [sections 2401 to 2413 of this Appendix] to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology. A detailed statement with respect to any action taken in compliance with this subsection shall be included in the first quarterly report made pursuant to section 10 [section 2409 of this Appendix] after such action is taken (Pub. L. 91-184, § 7, Dec. 30, 1969, 83 Stat. 845.)

[See 50 U.S.C. App. 2413. *Infra.*]

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#### 50 U.S.C. App. 2407. EXEMPTION FROM ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW PROVISIONS

The functions exercised under this Act [sections 2401 to 2413 of this Appendix] are excluded from the operation of sections 551, 553 to 559,

[Emphasis supplied.]

and 701 to 706, of title 5 United States Code (Pub. L. 91-184, § 8, Dec. 30, 1969, 83 Stat. 846.)

[See 50 U.S.C. App. 2413. *Infra.*]

#### 50 U.S.C. APP. 2408. INFORMATION TO EXPORTERS

In order to enable United States exporters to coordinate their business activities with the export control policies of the United States Government, the agencies, departments, and officials responsible for implementing the rules and regulations authorized under this Act [sections 2401 to 2413 of this Appendix] shall, if requested, *and insofar as it is consistent with the national security*, the foreign policy of the United States, the effective administration of this Act [sections 2401 to 2413 of this Appendix], and requirements of confidentiality contained in this Act [sections 2401 to 2413 of this Appendix]—

(1) inform each exporter of the considerations which may cause his export license request to be denied or to be the subject of lengthy examination;

(2) in the event of undue delay, inform each exporter of the circumstances arising during the Government's consideration of his export license application which are cause for denial or for further examination;

(3) give each exporter the opportunity to present evidence and information which he believes will help the agencies, departments, and officials concerned to resolve any problems or questions which are, or may be, connected with his request for a license; and

(4) inform each exporter of the reasons for a denial of an export license request.

(Pub. L. 91-184, § 9, Dec. 30, 1969, 83 Stat. 846.)

[See 50 U.S.C. App. 2413. *Infra.*]

#### 50 U.S.C. APP. 2409. QUARTERLY REPORTS

The *head of any department or agency, or other official exercising any functions under this Act* [sections 2401 to 2413 of this Appendix], shall make a quarterly report, within 45 days after each quarter, to the President and to the Congress of his operations hereunder. (Pub. L. 91-184, § 10, Dec. 30, 1969, 83 Stat. 846.)

[See 50 U.S.C. App. 2413. *Infra.*]

#### 50 U.S.C. APP. 2410. DEFINITIONS

The term "person" as used in this Act [sections 2401 to 2413 of this Appendix] includes the singular and the plural and any individual, partnership, corporation, or other form of association, *including any*

[Emphasis supplied.]

government or agency thereof. (Pub. L. 91-184, § 11, Dec. 30, 1969, 83 Stat. 846.)

[See 50 U.S.C. App. 2413. *Infra.*]

#### 50 U.S.C. APP. 2411. EFFECTS ON OTHER ACTS

(a) The Act of February 15, 1936 (49 Stat. 1140) [sections 86 to 88 of Title 50], relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act [sections 2401 to 2413 of this Appendix] shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) *The authority granted to the President under this Act* [sections 2401 to 2413 of this Appendix] shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), (Pub. L. 91-184, § 12, Dec. 30, 1969, 83 Stat. 846.)

[See 50 U.S.C. App. 2413. *Infra.*]

#### 50 U.S.C. APP. 2412. EFFECTIVE DATE

(a) This Act [sections 2401 to 2413 of this Appendix] takes effect upon the expiration of the Export Control Act of 1949 [sections 2021 to 2032 of this Appendix].

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 [sections 2021 to 2032 of this Appendix] or section 6 of the Act of July 2, 1940 (54 Stat. 714) [section 701 of this Appendix], *shall, until amended or revoked, remain in full force and effect*, the same as if promulgated under this Act [sections 2401 to 2413 of this Appendix]. (Pub. L. 91-184, § 13, Dec. 30, 1969, 83 Stat. 847.)

[See 50 U.S.C. App. 2413. *Infra.*]

#### 50 U.S.C. APP. 2413. TERMINATION DATE

The authority granted by this Act [sections 2401 to 2413 of this Appendix] *terminates on June 30, 1974, or upon any prior date which the Congress by concurrent resolution or the President by proclamation may designate.*

(Pub. L. 91-184, § 14, December 30, 1969, 83 Stat. 847.) (As amended Pub. L. 92-37, June 30, 1971, 85 Stat. 89; Pub. L. 92-150 October 30, 1971, 85 Stat. 416.)

[Emphasis supplied.]

## PUBLIC LAWS

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68TH CONGRESS

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P.L. 438—43 STAT. 959—60

CHAP. 282.—An Act To authorize the Secretary of War to grant a perpetual easement for railroad right of way over and upon a portion of the military reservation on Anastasia Island, in the State of Florida.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized and directed to grant and convey to the Saint Johns Electric Company, an electric power and railroad corporation, organized and existing under and by virtue of the laws of the State of Florida, its successors and assigns, a perpetual easement, subject to the proviso in section 2 herein, for electric railroad purposes over and upon the following-described property, being a part of the military reservation on Anastasia Island, in the State of Florida, to wit:

Beginning at a point in old right of way of the Saint Johns Electric Company in the northeast quarter of the northeast quarter of section 28, township 7 south, range 30 east, said point of beginning being one hundred and twenty-five feet from the north line and five hundred and seventy-two feet from the west line of the northeast quarter of the northeast quarter of section 28, township 7 south, range 30 east, running thence generally in a southerly direction to a point in the half-section line of section 27, township 7 south, range 30 east, said point being one hundred and eighty-one feet east of the section line between sections 27 and 28, township 7 south, range 30 east; thence in a southeasterly direction to a point in the south line of lot 10 of section 27, township 7 south, range 30 east, said point being three hundred and twenty-six feet east of the southwest corner of said lot 10; said perpetual easement to be one hundred feet on each side of the center of the track of railroad company and six thousand one hundred and thirty-eight feet in length; with full power to locate and construct railroad tracks, sidings, switches, stations, and other appurtenances thereon and to use said property for any and all purposes appurtenant to its business: *Provided*, That no part of the property hereby granted shall be used for any other than railroad purposes, and that when the property above described shall cease to be so used it shall revert to the United States of America.

SEC. 2. The said conveyance shall be subject to the conditions and reversion hereinbefore provided for, and shall be used for the purposes hereinbefore described only, and shall be subject to the right of the United States *in case of an emergency* to assume control of, hold, use, and occupy, temporarily or otherwise, without license, consent or leave from said corporation, any or all of said land for any and all military, naval, or lighthouse purposes, free from any conveyance, charges, encumbrances, or liens made, created, permitted, or sanctioned thereon by said corporation: *Provided*, That the United States shall not be or become liable for any damages or compensation whatever to the said corporation for any future use by the Government of any or all of the above-described land for any of the above-mentioned purposes: *Provided further*, That this grant shall not become effective until there shall have been reconveyed to the United States free from all incumbrances the title to that portion of the right-of-way of the St. John's Electric Company across this reservation which will be superseded by the new right-of-way.

Approved, February 21, 1925.

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P.L. 479—43 STAT. 984—5

CHAP. 340.—An Act To permit the Secretary of War to dispose of and the Port of New York Authority to acquire the Hoboken Manufacturers' Railroad.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, authorized, for such sum and on such terms and conditions as he may deem best, to sell to and dispose of, and the Port of New York Authority is authorized to acquire from the Secretary of War, the stock of the Hoboken Manufacturers' Railroad Company, said corporation being the lessee of the line known as the Hoboken Shore Road now constituting part of Belt Line Numbered 13 in the comprehensive plan for the development of the port of New York, adopted by the States of New York and New Jersey under chapter 43, Laws of New York, 1922, and chapter 9, Laws of New Jersey, 1922, and ratified and confirmed by the Congress of the United States by Public Resolution 66, Sixty-seventh Congress; and the Secretary is authorized and empowered to take and accept in lieu of cash the bonds of the said Port of New York Authority, secured by such lien as the Secretary in his discretion may determine is proper and sufficient; and upon such acquisition the said railroad shall continue to be operated in intrastate, interstate, and foreign commerce and in accordance with the provisions of the said comprehensive plan for the development of the port and the improvement of commerce and navigation: *Provided*, That the operation of said railroad in intrastate, interstate, and foreign commerce shall be subject to the jurisdiction of the Interstate Commerce Commission in the same manner and to the same extent as would be the case if this Act had not been passed: *Provided further*, That the

[Emphasts supplied.]

Secretary shall attach such conditions to such transfer as shall insure the use of such railroad facility by the United States *in the event of war or other national emergency*: *Provided further*, That in order to facilitate the interchange of freight between rail and water facilities, such railroad, if acquired by the Port of New York Authority hereunder shall be operated in coordination with the piers and docks adjacent thereto so long as said piers and docks are owned and operated by the United States Government or by any agency thereof, or by any corporation a majority of whose stock is owned by the United States: *Provided further*, That if the Port of New York Authority fails to agree upon terms and conditions of sale which are considered satisfactory by the Secretary of War, he is hereby authorized to sell and dispose of the stock of the Hoboken Manufacturers' Railroad Company or all or any part of the real and personal property of the Hoboken Manufacturers' Railroad Company to any purchaser or purchasers upon such terms and conditions as he may deem best subject, nevertheless, to the provisos herein above stated: *Provided further*, That if the Secretary of War shall deem it to be in the public interest that any real or personal property owned by the said Hoboken Manufacturers' Railroad Company not connected with the railroad itself should be separately disposed of or held for later disposition, he is hereby authorized to cause such property to be transferred from the said Hoboken Manufacturers' Railroad Company to the United States, and thereafter to sell the same upon such terms as he deems best, or if more expedient, he is hereby authorized to form a corporation to acquire such property, and is authorized to cause such property, or any part thereof, to be transferred from the said Hoboken Manufacturers' Railroad Company to such new corporations so organized and to accept in place thereof the stock of such new corporation, and to hold the same until such time as he secures what he shall deem to be a fair and reasonable price for such property, at which time he is authorized to sell said property in whole or in part or the stock in the said new corporation to which such property is transferred on such terms and conditions as in his judgment will best promote the public interest, and the Secretary of War is further authorized to make and impose any terms, conditions, or reservations necessary to effectuate the purpose hereof, and to enter into such contracts as will effectuate the same: *And provided further*, That nothing in this Act shall be construed as relieving or exempting the property acquired hereunder by the Port of New York Authority from any municipal taxes or assessments for public improvements and nothing herein contained shall be construed as an expression on the part of the Congress as to whether the States of New York and New Jersey, or either of them, should relieve or exempt the said Port of New York Authority from taxation or subject the said port of New York or any of said property to taxation.

Approved February 26, 1925.

[Emphasis supplied.]

CHAP. 450.—An Act Authorizing the Secretary of War to convey certain portions of the military reservation of the Presidio of San Francisco to the city and county of San Francisco for educational, art, exposition, and park purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized to convey to the city and county of San Francisco, subject to the conditions hereinafter specified, for educational, art, exposition, and park purposes, that portion of the military reservation of the Presidio of San Francisco in the city and county of San Francisco, State of California, on which the Palace of Fine Arts is located, included within metes and bounds as follows:

Commencing at a point on the westerly line of Lyon Street, distant thereon five and seventeen one-hundredths feet southerly from the northerly line of Bay Street, if extended and produced westerly, and running thence northerly along the westerly line of Lyon Street one thousand one hundred and ninety-six and eighty one-hundredths feet; thence southwesterly on a curve to the left of six hundred and twelve feet radius, central angle one hundred and fifty-five degrees forty-seven minutes and fifty seconds, tangent to a line deflected one hundred and two degrees six minutes and five seconds to the left from the preceding course a distance of one thousand six hundred and sixty-four and thirteen one-hundredths feet to the westerly line of Lyon Street and the point of commencement, containing nine and ninety-three one-hundredths acres, more or less: *Provided, however, in the event of war or any other great national emergency*, the exclusive possession of said land and all improvements thereon, without the payment of any compensation therefor, and to hold, occupy, and use the same during the continuance of such war or emergency.

Said grant shall become effective only in the event that the city and county of San Francisco shall grant to the United States the right to maintain and operate over its public streets a spur track railroad extending from Fort Mason Military Reservation in the city and county of San Francisco to said Presidio Reservation, over such route or routes as may be determined by resolution or ordinance of the board of supervisors of said city and county and approved by the Secretary of War. If, before the 1st day of July, 1927, the city and county of San Francisco shall fail to grant by valid ordinance to the United States the right to maintain and operate said spur track, this grant shall become null and void, and title to said premises shall revert to the United States: *Provided, however*, That in any event until the 1st day of July, 1927, said city and county of San Francisco, may use, occupy, and retain possession of said Palace of Fine Arts and the ground upon which it is located.

Approved March 3, 1925.

[Emphasis supplied.]



## 69TH CONGRESS

## P.L. 99—44 STAT. 241

CHAP. 116.—An Act To authorize the use by the city of Tucson, Arizona, of certain public lands for a municipal aviation field, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he hereby is, authorized to lease to the city of Tucson, Arizona, for the establishment and maintenance of a municipal aviation field, sections 26 and 27 in township 14 south of range 14 east, G. and S. R. B. and M, Pima County, Arizona, containing one thousand two hundred and eighty acres, more or less.

SEC. 2. That said lease shall be for a period of twenty years, and be subject to renewal for a like period, on condition that the city pay to the United States a rental of \$1 per year for the use of the said land: *Provided*, That Government departments and agencies operating aircraft shall always have free and unrestricted use of said field and the right to erect and install upon said land such structures and improvements as the heads of such departments and agencies may deem advisable, including facilities for maintaining supplies of fuel, oil, and other materials for operating aircraft, and that *in case of emergency*, or in event it shall be deemed advisable, the Government of the United States may assume absolute control of the management and operation of said field for military purposes.

Approved April 12, 1926.

## P.L. 314—44 STAT. 677

CHAP. 424.—An Act To authorize the exchange of certain public lands and the establishment of an aviation field near Yuma, Arizona.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in order that the entire southeast quarter of section 9, township 9, south of range 23, west of the Gila and Salt River meridian, Arizona, may be reserved for a public aviation field, the Secretary of the Interior is hereby authorized to issue unrestricted patent for any public land in said section 9 in exchange for the east half of the southeast quarter and the northwest quarter of the southeast quarter of said section 9.

SEC. 2. That upon the exchange being completed, the entire southeast quarter of said section 9 shall be reserved as a public field for the landing and taking off of aircraft of all descriptions: *Provided*, That the board of supervisors of Yuma County, Arizona, shall by resolution agree to assume the expense of clearing and maintaining the field, and that the following conditions are agreed to:

That operators of Government-owned aircraft shall always have free and unrestricted use of said field; that rules and regulations

[Emphasis supplied.]

governing the operation of aircraft upon said field shall include and coincide with rules and regulations prescribed and promulgated by the War Department; that Government departments and agencies operating aircraft shall have the right to erect and install upon said land such structures and improvements as the heads of such departments and agencies may deem advisable, including facilities for maintaining supplies of fuel, oil, and other materials for operating aircraft; *that in case of emergency, or in the event that it shall be deemed advisable by the Secretary of War*, the War Department may assume absolute control of the management and operation of said field.

Approved May 29, 1926.

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71ST CONGRESS

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P.L. 222—46 STAT. 329-32

CHAP. 278.—An Act To authorize the Secretary of the Navy to proceed with the construction of certain public works, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Navy is hereby authorized to proceed with the construction of the following-named public-works projects at a cost not to exceed the amount stated after each item enumerated:

\* \* \* \* \*

SEC. 10. That the Secretary of the Navy be, and he hereby is, authorized to lease for periods not exceeding ten years, and revocable on six months' notice, or at his discretion *in case of national emergency declared by the President*, the floating dry dock and water-front accessories at the naval station, New Orleans (Algiers), Louisiana, to the highest bidder at a rental that will not permit operation of the dock on other than a fair competitive basis with other local ship building and ship-repair plants operating dry docks, and the money received from the said rental shall be covered into the Treasury as miscellaneous receipts. Such leases shall be reported to Congress: *Provided*, That said floating dry dock and accessories shall not be removed from the vicinity of New Orleans.

SEC. 11. That the Secretary of the Navy is hereby authorized to execute on behalf of the United States all instruments necessary to accomplish the aforesaid purposes.

Approved May 14, 1930.

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P.L. 280—46 STAT. 479

CHAP. 350.—An Act To Authorize the Secretary of the Navy to lease the United States naval destroyer and submarine base, Squantum, Massachusetts.

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

[Emphasis supplied.]

of the Navy be, and he is hereby, authorized to lease all or any part of the United States naval destroyer and submarine base, Squantum, Massachusetts, for periods not exceeding twenty-five years, on such terms and conditions as he may deem most advantageous to the Government when in his judgment such property may not be needed for naval uses and the leasing of it may serve the public interests. Any such lease shall be granted only after competitive bidding and shall be revocable at the discretion of the Secretary of the Navy *in case of national emergency declared by the President*, and the lessee shall not be entitled to any damages that may result from such revocation.

Approved May 29, 1930.

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72D CONGRESS

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P.L. 382—47 STAT. 1367-8

Authorizing the Secretary of War to convey certain properties to the county of Arlington, State of Virginia, in order to connect Lee Boulevard with the Arlington Memorial Bridge, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in order to provide a connection between the Lee Boulevard and the Arlington Memorial Bridge, the Secretary of War is hereby authorized to convey to the county of Arlington, State of Virginia, for highway purposes only, all the right, title, and interest of the United States in and to a strip of land through the southerly portion of the Fort Myer Military Reservation necessary for the construction of a connection from the Lee Boulevard to the Arlington Memorial Bridge, consisting of a right of way not more than one hundred feet in width, said deed of conveyance to contain a restriction against the construction of buildings, fences, or other structures within one hundred and ten feet of the center line of said right of way.

SEC. 2. The Secretary of War is hereby further authorized to convey to the said county of Arlington for highway purposes only all the right, title, and interest of the United States in and to a strip of land for a continuous right of way approximately sixty feet in width within and adjacent to the southerly boundary of the Arlington Reservation from the intersection of said reservation line with the northerly line of the right of way to be conveyed under section 1 to the east line of McKinley Street.

SEC. 3. The lands to be so conveyed are approximately as shown on plat numbered 104.2-166 in the files of the National Capital Park and Planning Commission.

SEC. 4. The deeds of conveyance shall contain a reservation reserving to the United States the right to resume possession and occupy said tracts of land, or any portion thereof, whenever *in the judgment of the President an emergency exists* that requires the use and appropriation of the same for the public defense, and also a further reservation that the title hereby conveyed shall revert to the United

[Emphasis supplied.]

States and all rights hereby granted shall cease and be forfeited, unless the said county of Arlington shall construct the said highway and assume the obligations herein provided within three years from the date of the enactment of this Act.

SEC. 5. Upon the consummation of the conveyance herein authorized to the county of Arlington, State of Virginia, the jurisdiction of the United States over said lands, subject to the conditions and reservations in said deed provided, shall immediately cease and determine and revert in the State of Virginia.

SEC. 6. That if at any time the lands herein authorized to be conveyed to the said county of Arlington, State of Virginia, shall cease to be used for the purposes herein specified, the title in and jurisdiction over the same shall revert to the Government of the United States.

Approved February 28, 1933.

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74TH CONGRESS

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P.L. 598—49 STAT. 1278

Making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1937, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1937, and for other purposes, namely:

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That the Secretary of War is hereby authorized and directed to convey to the city of Little Rock, Arkansas, a municipal corporation of the State of Arkansas, the land described in section 2 hereof, subject to the following conditions:

(1) Said property shall be at all times utilized only by the municipality for public purposes, except what is known as building numbered 19 thereon covered by existing lease and any building erected with the consent of the city of Little Rock, Arkansas, on the site of hangar numbered 1.

(2) *In time of national emergency*, upon request of the Secretary of War, the municipality shall turn over complete control and operation of the entire Little Rock Municipal Airport and the property thereon, without rental or other charge, to the United States of America, for such use and for such length of time as the emergency shall require, in the discretion of the Secretary of War.

(3) That the said municipality shall at all times furnish free use of the said Little Rock Municipal Airport to all Army and Navy

[Emphasis supplied.]

aircraft, together with such hangar and necessary service facilities as are available at said airport.

(4) That the said municipality shall furnish free use of the airport field and the squadron hangar now located thereon to the One Hundred and Fifty-fourth Observation Squadron, Arkansas National Guard, or its successor as designated by the War Department, and that the said squadron during periods of intensive training under direction of the War Department, shall have right-of-way or priority in the use of the said field, and that the municipality shall continue to extend to the quadron the same free services of said field as are now extended to the squadron, including free use of the lighting system for night flights.

(5) The municipality shall annually expend in new and additional improvements to the airport an amount equal to the amount now paid the United States of America as rental.

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### P.L. 624—49 STAT. 1387

Authorizing the Secretary of Commerce to convey the Charleston Army Base Terminal to the city of Charleston, South Carolina.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of Commerce is authorized and directed to convey by quitclaim deed to the city of Charleston, South Carolina, that portion of the Charleston Quartermaster Intermediate Depot, including improvements thereon, which was transferred to the United States Shipping Board by Executive Order Numbered 3920 dated November 3, 1923, with the exception of such portion of said land as has been retransferred to the War Department by Executive order, or is now under consideration for retransfer, and also subject to all the rights and privileges now enjoyed by the War Department as specifically set forth in said Executive Order Numbered 3920, or as may hereafter be agreed upon by Secretary of War and the city of Charleston: *Provided, however*, That the charges for water and electric current furnished the War Department shall not exceed rates prevailing in the city of Charleston and vicinity for such services.

SEC. 2. The deed executed by the Secretary of Commerce shall include a provision prohibiting the city of Charleston from transferring the title to said property to any person, firm, or corporation and shall contain the express condition that in *the event of a national emergency* the property so conveyed, with all improvements placed thereon, *may be taken upon order of the President* by the United States for the use of the War Department during the period of such emergency.

Approved May 27, 1936.

[Emphasis supplied.]

## P.L. 704—49 STAT. 1535-6

To authorize the transfer of land from the War Department to the Territory of Hawaii.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War is hereby authorized to transfer to the Territory of Hawaii all right, title, and interest of the United States in such portion of the land at the base of the east breakwater at Kahului, county of Maui, Territory of Hawaii, as is not required for the maintenance of said breakwater, on such terms and conditions as the Secretary of War may determine: *Provided*, That the conveyance shall be upon the express condition and with a reservation reserving the right to resume and occupy said tract of land *whenever in the judgment of the President an emergency exists* that requires the use and appropriation of the same for public defense, and also with the further reservation as to that portion of said tract of land other than known as pier numbered 1 and the land immediately adjacent thereto that it shall be used for park purposes, and that in case it is not so used it shall revert to the United States.

Approved June 19, 1936.

## P.L. 730—49 STAT. 1557-8

To provide for the sale of the Port Newark Army Base to the city of Newark, New Jersey, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the secretary of War be, and he is hereby, authorized to sell to the city of Newark, New Jersey, on terms and conditions deemed advisable by him, the right, title, and interest of the United States in the Port Newark Army Base, New Jersey, including such equipment pertaining thereto as he determines is not required for military purposes, for the sum of \$2,000,000, of which \$100,000 shall be paid in cash and the balance in annual installments, on or before August 1 of each succeeding year, of \$100,000 per year for the first five years and \$200,000 per year thereafter, with permission to the city of Newark to anticipate payment of the deferred installments at any time: *Provided*, That said initial payment of \$100,000 of the purchase price shall be made by the city of Newark to the Secretary of War not later than August 1, 1936, and possession delivered by the United States as of September 1, 1936, or as soon thereafter as practicable: *Provided further*, That title to the property shall pass to the city of Newark and a quitclaim deed delivered by the Secretary of War after receipt by him of the final payment: *And provided further*, That such conveyance shall be made upon the condition that the United States, *in the event of war or of any national emergency declared by Congress* to exist, shall have the right to take over said property and shall pay to the city of Newark as liquidated

[Emphasis supplied.]

damages a sum equal to 3 per centum per annum on the amount theretofore paid on the purchase price of the said property by the said city during each year or part thereof that the said property is occupied under such taking by the United States, the said property to be returned to the city of Newark upon the expiration of such war or national emergency.

SEC. 2. In the event the city of Newark shall not elect to acquire said property as provided in section 1 of this Act, then the Secretary of War is authorized to offer said property at public sale to the highest responsible bidder on terms and conditions to be prescribed by him, which terms and conditions shall not be less favorable to the United States than those prescribed in section 1 of this Act: *Provided*, That if the highest responsible bidder shall fail to enter into and consummate a contract of sale, the Secretary of War may award the contract to the next highest responsible bidder or, in his discretion, readvertise said property for sale in like manner.

SEC. 3. Any contract of sale shall be subject to the conditions that if the purchaser shall fail to pay any installment of the purchase price and interest, if any, as and when the same are due, or shall fail to comply with the other terms and conditions of the sale, then the Secretary of War may, at his election, declare such purchaser in default and reenter and repossess said property in the name of the United States and he may thereafter cause said property to be readvertised and resold at public sale in accordance with the provisions of this Act.

SEC. 4. During any interval of time that the property may be in the custody of the Secretary of War, he may, in a manner that will best conserve the interests of the United States, lease said property, or, if unable to lease the same, on satisfactory terms, may maintain and operate the same, or, in the discretion of the President, the property may be transferred by Executive order to the Department of Commerce for administration under the provisions of the Merchant Marine Act of June 5, 1920, as amended.

SEC. 5. All sums received as a result of the sale of said property, after deducting therefrom any costs of appraisal and other necessary expenses incident to sale, shall be deposited in the Treasury of the United States as miscellaneous receipts.

Approved June 20, 1936.

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75TH CONGRESS

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P.L. 316—50 STAT. 696

To authorize the Secretary of War to lease the Fort Schuyler Military Reservation, New York.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, authorized to lease to the State of New

York, for nautical education purposes in the interests of national defense, the Fort Schuyler Military Reservation, New York, or portions thereof, for such term or terms, and upon such conditions as the Secretary of War may deem advisable, and he may authorize the State of New York incident to making the premises suitable for occupancy to change the contour of the land, alter or demolish existing buildings and other structures, erect new buildings and structures, construct roads and other utilities, and landscape the reservation: *Provided*, That all alterations, construction, and improvements made shall become the property of the United States: *Provided further*, That the consideration for said lease or leases shall be the repair and maintenance of the property by the State of New York in accordance with the terms of the lease, and such lease or leases shall reserve to the United States of America the right to resume possession and occupy said premises or any portion thereof ***whenever in the judgment of the Secretary of War an emergency exists*** that requires the use and appropriation of the same for the public defense.

Approved August 19, 1937.

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P.L. 689—52 STAT. 833-4

Authorizing the United States Maritime Commission to sell or lease the Hoboken Pier Terminals, or any part thereof, to the city of Hoboken, New Jersey.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the United States Maritime Commission is authorized for and on behalf of the United States, (1) to sell to the city of Hoboken, New Jersey, the right, title, and interest of the United States in the whole or any part of such real property now under its jurisdiction or control, and described in schedule A appended to a proclamation of the President of the United States, dated December 3, 1918, which was taken over by the United States by a proclamation of the President of the United States dated June 28, 1918, pursuant to the authority vested in him by the Act entitled "An Act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1918, and prior fiscal years, on account of war expenses, and for other purposes," approved March 28, 1918, or (2) to lease to the said city of Hoboken the whole or any part of such aforementioned real property for any term up to fifty years, said sale or said lease to be on such terms and under such conditions as shall be mutually agreeable to the Maritime Commission and the said city of Hoboken: *Provided*, That any contract of lease executed between the Maritime Commission and the city of Hoboken under the provisions of this Act shall expressly authorize the Maritime Commission and the said city, at or before the expiration of the original contract of lease, to enter into a new contract of lease of the same property and for a like term of years.

[Emphasis supplied.]



SEC. 2. In event that the Maritime Commission, in accordance with the provisions of this Act, shall convey to said city all or any of the real property herein described, or in event that any such lease as is herein provided for, shall be executed between the Maritime Commission and the city of Hoboken, the Commission shall transfer any leases in existence upon the property so sold or leased at the time of said sale or lease, to the city of Hoboken and assign to it any future benefit to be received thereunder.

SEC. 3. In event the property herein described shall be sold to the city of Hoboken, the deed executed by the Commission shall contain express covenants that (1) *in event of a national emergency* the property so conveyed, with all improvements placed thereon, may be taken upon order of the President of the United States for the use of the War Department during the period of such emergency, but no longer: *Provided*, That just compensation shall be paid for any improvements placed thereon or made thereto, and (2) the said city shall not resell the property conveyed thereunder.

Approved June 21, 1938.

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79TH CONGRESS

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P.L. 465—60 STAT. 332

To provide for the conveyance to the State of Alabama for use as a public park of the military reservation known as Fort Morgan.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, subject to condition hereinafter specified, the Secretary of the Navy is authorized and directed to donate and convey to the State of Alabama all the right, title, and interest of the United States in and to the military reservation known as Fort Morgan, situated in Baldwin County, Alabama, containing four hundred and eight and ninety-two one-hundredths acres, more or less, and shown on map numbered 6559-110, entitled "Fort Morgan, Alabama, Reservation Map", dated June 1914, revised to February 7, 1936, on file in the office of the Quartermaster General, Washington, District of Columbia (A.G. 600.93 (2-18-36)). The conveyance executed by the Secretary of the Navy shall contain the express condition that if the State of Alabama shall at any time cease to use such property as a public park for public recreation, or shall alienate or attempt to alienate such property, title thereto shall revert to the United States. The said conveyance shall also contain the further express condition that *at any time during any future national emergency* the Navy or War Department may reoccupy the property, such occupancy to be without cost to the United States.

Approved June 28, 1946.

[Emphasis supplied.]

## P.L. 885—62 STAT. 1229-30

To authorize the Secretary of the Army to sell and convey to Okaloosa County, State of Florida, all the right, title, and interest of the United States in and to a portion of Santa Rosa Island, Florida, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army is authorized to convey, subject to the limitations and conditions hereinafter enumerated and such others as he may prescribe, to Okaloosa County, State of Florida, for recreational purposes, all right, title, and interest of the United States in and to all or any part of that portion of Santa Rosa Island, Florida, extending one mile east from Brooks Bridge on United States Highway 98 near the town of Fort Walton, Florida, except for a strip of land six hundred feet wide (three hundred feet east and three hundred feet west from center line of road leading to radar site "Dick"), extending from Highway 98 to the mean low water level of the Gulf of Mexico, and two miles west from said bridge, and to all or any part of that portion of said Santa Rosa Island which lies east of the new channel at East Pass (consisting of two small islands), said property being under the jurisdiction of the Department of the Army. Such conveyance shall be made upon payment by said county of a sum which shall be fifty per centum of the fair value of the property conveyed, based upon the highest and best use of the property at the time it is offered for sale regardless of its former character of use, as determined by the Secretary, less such portion of the price originally paid by said county for said island, prior to its conveyance to the United States, as the Secretary shall determine to be fair and equitable. The deed of conveyance of said property by the Federal Government will contain the following limitations and restrictions:

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c. That the Federal Government reserves the free right of ingress and egress in, on, and over the above-described property to other Federal Government property.

d. That the Federal Government reserves a navigation easement in perpetuity, prohibiting the erection of any structure or obstacle in excess of seventy-five feet above mean low-water level within the area to be conveyed.

e. That *in the event of a national emergency* the United States of America, acting through the Secretary of the Army, shall have the right to take over from Okaloosa County, its successors or assigns, complete control and operation of the property herein described for such use and for such length of time as the emergency shall require, in the discretion of the Secretary of the Army; without rental or

[Emphasis supplied.]

other charge as far as Okaloosa County is concerned but subject to all valid existing private rights in and to the said property or any part or parts thereof: *Provided*, That just compensation shall be given to the owners, lessees, or other persons interested for the taking of control or operation of, or rights in, improvements of said property.

f. That cost of any surveys that will be necessary in connection with the conveyance of said land shall be borne by the county of Okaloosa, its successors or assigns.

g. The public recreational purposes provided for herein shall include the erection and operation by private persons, for profit, of houses, hotels, restaurants, cafes, bathhouses, casinos, night clubs, and other enterprises and usages usual to beach resorts and resort housing developments.

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Approved July 2, 1948. \_\_\_\_\_

81ST CONGRESS

P.L. 97—63 STAT. 169-70

Removing certain restrictions and conditions imposed by section 2 of the Act of May 27, 1936, on certain of the lands conveyed by such Act to the city of Charleston, South Carolina, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) with respect to the restrictions and conditions required by section 2 of the Act entitled "An Act authorizing the Secretary of Commerce to convey the Charleston Army Base Terminal to the city of Charleston, South Carolina", approved May 27, 1936 (prohibiting the city of Charleston from transferring title to the property conveyed under such Act and reserving a right to the United States to retake such property *in the event of a national emergency*), to be included in the deed executed pursuant to the provisions of such Act the Secretary of the Army is hereby authorized and directed to release to the city of Charleston, South Carolina, by an appropriate written instrument, such restrictions and conditions so far as they pertain to the area designated as "tract numbered 2—part 1", comprising approximately two hundred seventy-eight and ninety-two one-hundredths acres, on the map on file in the Office, Chief of Engineers, Department of the Army, entitled "Tract No. 2, Portion of Charleston Ordnance Depot, North Charleston, S.C., Date: 2 Feb. 1949, Drawing Number RE-1/372 (Rev.), as further revised 9 Feb. 1949."

(b) In executing the written instrument referred to in subsection (a) the Secretary of the Army is authorized and directed to make provision for reservation and/or conveyance to the United States of

[Emphasis supplied.]

all easements and rights-of-way (including use of water and sewer mains) that are now enjoyed by the United States with respect to such tract and are deemed necessary for retention by the Secretary of the Army, subject to the provision that any such easements and rights-of-way (including use of water and sewer mains) as may at any time in the opinion of the Secretary of the Army, be no longer required for governmental use may be abandoned, and upon such abandonment will automatically terminate. Such instrument shall recite that with respect to that certain water main which intersects the northwesterly corner of the above-described premises, the City Council of Charleston, South Carolina, its successors, or assigns, may with the written consent of the Secretary of the Army, relocate at its sole cost and expense such water main on other lands and that in such event all rights and privileges now enjoyed by the United States with respect to such water main shall cease and terminate.

SEC. 2. The Secretary of the Army is authorized to convey by quitclaim deed to the City Council of Charleston, South Carolina, all or any part of the right, title, and interest of the United States in and to so much of that certain tract of land comprising one and two hundred and five one-thousandths acres, more or less, and designated as tract 5, exception "C", on the drawing described in the first section of this Act, as the Secretary of the Army determines is no longer needed for military purposes. Any conveyance executed pursuant to the authority contained in this section shall be made upon payment by the City Council of Charleston, South Carolina, of the fair market value of the property to be conveyed.

Approved June 10, 1949.

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P.L. 593—64 STAT. 310—11

Authorizing the transfer of part of Camp Joseph T. Robinson to the State of Arkansas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army be, and he is hereby, authorized to transfer to the State of Arkansas that part of Camp Joseph T. Robinson that was licensed by the Secretary of the Army to the Military Department of the State of Arkansas on the 25th day of March 1947, consisting of thirty-four thousand acres, more or less, and particularly described in the aforementioned license, copies thereof being on file in the offices of the Chief of the National Guard Bureau, the Chief of Engineers, and the Adjutant General of the State of Arkansas, together with all buildings, improvements thereon, and all appurtenances and utilities belonging or appertaining thereto, including water line from Little Rock to Camp Joseph T. Robinson, Arkansas, and to execute and deliver in the name of the United States in its behalf any and all contracts, conveyances, or other instruments as may be necessary to effectuate the said transfer: *Provided*, That there shall be excluded from the conveyance hereinabove provided for, the following-described lands: The west half of the east half of the northwest

quarter of section 1; the west half of the west half of section 1; the east half of section 2; and a portion of the west half of section 2 described as follows: Beginning at the northeast corner of the northwest quarter of section 2; thence west one hundred and eighty feet to the intersection of Sixty-second Street (Old Remount or Batesville Road) and Maryland Avenue; thence in a south southwesterly direction to a point nine hundred feet west of the southeast corner of the southwest quarter of section 2 (the intersection of New York Avenue and the reservation boundary); thence east to the southeast corner of the southwest quarter of section 2; thence along the north-south center line of section 2 to the point of beginning. All in township 2 north, range 12 west, containing approximately five hundred seventy-one and three-tenths acres, more or less: *And provided further*, That there shall be reserved to the United States all minerals, including oil and gas, in the lands authorized for conveyance by this section.

SEC. 2. Such conveyance shall contain a provision that said property shall be used primarily for training of the National Guard and for other military purposes, and that if the State of Arkansas shall cease to use the property so conveyed for the purposes intended, then title thereto shall immediately revert to the United States, and, in addition, all improvements made by the State of Arkansas during its occupancy shall vest in the United States without payment of compensation therefor.

SEC. 3. Such conveyance shall contain the further provision that *whenever the Congress of the United States shall declare a state of war or other national emergency or the President declares a state of emergency to exist*, and upon the determination by the Secretary of National Defense that the property so conveyed is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made by the State of Arkansas for the duration of such state of war or other national emergency and upon the cessation thereof plus six months said property is to revert to the State of Arkansas: *Provided, however*, That the United States shall have no obligation to restore the property in any way.

Approved June 30, 1950.

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P.L. 755—64 STAT. 591-2

To authorize the conveyance of a portion of the United States military reservation at Fort Schuyler, New York, to the State of New York for use as a maritime school, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Army is authorized to convey to the State of New York all that portion of the United States Military Reservation at Fort Schuyler, New York, together with all improvements thereon, lying

easterly of a line commencing at a point (latitude forty degrees forty-eight minutes twenty-three seconds; longitude seventy-three degrees forty-seven minutes fifty-two seconds) fixed on the south sea wall which is approximately twenty-five and five-tenths feet westerly from an angle in said sea wall and thence running in a northeasterly direction five hundred and ninety-two and five-tenths feet, more or less, to a point on the north sea wall which is approximately one hundred and ninety-six and five-tenths feet westerly from an angle in the north sea wall, said line being the easterly edge of a concrete curb for an eighteen-foot concrete road running in a north-easterly and southwesterly direction, together with such easements for highway or other purposes, over that portion of such reservation which is not herein authorized to be conveyed to the State of New York, as may be necessary for the proper use and enjoyment of the portion so conveyed and as may be determined by agreement between the Secretary of the Navy and the appropriate officials of the State of New York.

SEC. 2. Such conveyance shall contain the express provision that if the State of New York shall fail to maintain so much of the military structures and appurtenances presently erected, which formerly constituted the old fort, as a historical monument reasonably available to the public, and if the State of New York shall at any time cease to use the property so conveyed as a maritime school, devoted exclusively to purposes of nautical education, title thereto shall revert to the United States.

SEC. 3. Such conveyance shall contain the further provision that whenever the Congress of the United States *shall declare a state of war or other national emergency to exist*, upon determination by the Secretary of the Army or the Secretary of the Navy that the property so conveyed is useful or necessary for military or naval purposes or in the interest of national defense, the United States shall have the right to reenter upon such property and use the same or any part thereof for the duration of *such state of war or other national emergency*.

SEC. 4. The conveyance herein authorized shall not be executed by the Secretary of the Army until the State of New York shall have relinquished to the United States of America in a manner satisfactory to the Secretary of the Navy, all right, title, or interest that it may have pursuant to any lease or otherwise in that portion of Fort Schuyler Military Reservation which is not herein expressly authorized to be conveyed to said State.

SEC. 5. All rights and privileges granted to the United States Coast Guard by the War Department on April 18, 1933, and renewed by the Secretary of the Army for a further five-year period on June 29, 1948, in connection with the site of Throgs Neck Coast Guard Light Station, and the operation thereof, will be preserved to the United States Coast Guard until such time as the Secretary of the Treasury determines that the operation of Throgs Neck Coast Guard Light Station will at no time be necessary.

Approved September 5, 1950.

[Emphasis supplied.]

## P.L. 222—65 STAT. 658

To authorize the Secretary of the Navy to transfer to the Commonwealth of Massachusetts certain lands and improvements comprising the Castle Island Terminal Facility at South Boston in exchange for certain other lands.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy is authorized to convey to the Commonwealth of Massachusetts subject to the terms and conditions hereinafter expressly stated and to such other terms and conditions as the said Secretary of the Navy shall deem to be in the public interest, all of the right, title, and interest of the United States in and to the property known as Castle Island Terminal Facility in South Boston, Massachusetts, including Government-owned land and improvements thereon and all Government improvements constructed on lands of the Commonwealth of Massachusetts or the city of Boston, being the same property transferred to the Navy Department by the War Assets Administration on April 13, 1949, in consideration of the conveyance by the Commonwealth of Massachusetts to the United States of America, free of all encumbrances the following lands together with any improvements thereon: (a) An area one hundred and forty-two feet by one hundred and sixty feet occupied by the United States under permit 4112 issued by the Commonwealth of Massachusetts; (b) an area of approximately four hundred and eighty thousand square feet occupied by the United States under permit 4113 issued by the Commonwealth of Massachusetts; and (c) an area of approximately four hundred and forty thousand square feet adjacent to lands occupied under said permit 4113, this area being a part of the Reserve Channel and being occupied and filled by the United States pursuant to informal permission of the Commonwealth of Massachusetts.

SEC. 2. The conveyance to the Commonwealth of Massachusetts hereinabove authorized shall be made subject to the following express conditions: (a) That the Commonwealth, at its own expense, will preserve and maintain in a condition suitable for terminal purposes the improvements now existing on said property and those which may hereafter be constructed thereon; (b) *that in time of war or national emergency* the United States shall have the right of the free and unlimited use of all of said property including any improvements which may be erected by the grantee; and (c) that the property shall not be used for any purpose other than as a terminal except with the prior consent in writing of the Secretary of the Navy.

Approved October 27, 1951.

[Emphasis supplied.]

## P.L. 377—66 STAT. 128-9

To authorize the Secretary of the Navy to convey to the Territory of Hawaii certain real property at Kahului, Wailuku, Maui, Territory of Hawaii.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Navy is authorized to convey, without reimbursement, to the Territory of Hawaii, subject to the reservations set forth in section 2 hereof and to such other terms, conditions reservations, and restrictions as he may deem to be in the public interest, all of the right, title, and interest of the United States in and to the former Naval Air Station, Kahului, Wailuku, Maui, Territory of Hawaii, comprising one thousand three hundred and forty-one acres, more or less, together with all improvements thereon and such personal property relating thereto as the Secretary of the Navy may select.

SEC. 2. The conveyance to the Territory of Hawaii herein authorized shall be made subject to the following terms and conditions: (a) That the Territory shall not alienate its title to the property conveyed nor shall it lease the same or any part thereof except for public-airport purposes: *Provided*, That particular structures or parcels not suitable for airport purposes may be leased for other purposes with the consent of the Secretary of the Navy; (b) that the Territory shall maintain or cause to be maintained in a condition which the Secretary of the Navy may deem to be suitable for public-airport purposes, the improvements now existing on the land as well as those which may hereafter be constructed thereon which the Territory and the Secretary of the Navy may mutually agree are suitable for such purposes, and (c) *that in time of war or national emergency* the United States shall have the right of free and unlimited use, exclusive or nonexclusive, of the land conveyed, together with any improvements thereon and personal property relating thereto, and may after thirty days' notice in writing to the Territory, enter upon, repossess, and reassert ownership of and title to said property, including within the discretion of the Secretary of the Navy all or any part of the improvements erected by the Territory, whereupon title to said property shall vest in the United States: *Provided, however*, That the United States shall make just compensation for the acquisition of title to any personal property acquired by the Territory without Federal aid and for any new facilities provided by the Territory without Federal aid which are not in the nature of improvements to or replacements of existing structures.

Approved June 5, 1952.

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P.L. 559—66 STAT. 727-8

To amend the Act entitled "An Act to authorize the conveyance of a portion of the United States military reservation at Fort Schuyler, New York, to the State of New York for use as a maritime school, and for other purposes", approved September 5, 1950.

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

[Emphasis supplied.]



tion of the Act entitled "An Act to authorize the conveyance of a portion of the United States military reservation at Fort Schuyler, New York, to the State of New York for use as a maritime school, and for other purposes", approved September 5, 1950 (Public Law 755, Eighty-first Congress), is hereby amended to read as follows: "That the Secretary of the Army is authorized to convey to the people of the State of New York all that portion of the United States Military Reservation at Fort Schuyler, in the borough and county of Bronx in the city of New York, State of New York, together with all improvements thereon, bounded and described as follows, to wit: . . .

\* \* \* \* \*

SEC. 2. Section 3 of the Act is amended to read as follows:

"Such conveyance shall contain the further provision that *during any emergency declared by the President or the Congress* of the United States in existence at the time of enactment of this Act, *or whenever the President or the Congress of the United States declares a state of war or other national emergency*, and upon the determination by the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force that the property so conveyed is useful for military, air, or naval purposes or in the interest of national defense, the United States shall have the right, without charge, except as indicated below, to the full, unrestricted possession, control, and use of the property conveyed, or any part thereof, including any additions or improvements thereto made by the State subsequent to this conveyance: *Provided, however*, That the United States shall be responsible during the period of such use for the entire cost of maintaining all of the property so used, and shall pay a fair rental for the use of any structures or other improvements which have been added thereto without Federal aid."

Approved July 16, 1952.

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### 83D CONGRESS

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### P.L. 39—67 STAT. 38

To continue in effect certain appointments as officers and as warrant officers of the Army and of the Air Force.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if the appointment as a commissioned officer or warrant officer of any person who is determined, as provided in the Missing Persons Act (56 Stat. 143), as amended, to have been in a status of missing, missing in action, interned, captured, beleaguered, or besieged at any time after June 25, 1950, *and before the termination of the national emergency proclaimed by the President on December 16, 1950* (Proc. 2914, 3 C.F.R. 71), would normally terminate before the person holding that appointment is released from active duty, the President

[Emphasis supplied.]

is authorized to continue that appointment in effect until that person is released from active duty. On or before the date of his release from active duty, any such person who agrees in writing to have his appointment as a Reserve commissioned officer or a Reserve warrant officer continued in effect for an indefinite term shall be given an indefinite term appointment in lieu of the appointment which he holds at that time.

Approved May 27, 1953.

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P.L. 56—67 STAT. 54

Authorizing the transfer of certain property of the Veterans' Administration (in Johnson City, Tennessee) to the State of Tennessee.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs be, and he is hereby, authorized to transfer to the State of Tennessee certain property of the Veterans' Administration situated in Johnson City, Tennessee, and described as follows:*

Approximately thirty acres of land comprising the westerly portion of the Veterans' Administration Center, the exact courses and distances of the perimeter of which shall be determined and approved by the Administrator of Veterans' Affairs. The State of Tennessee shall pay the cost of surveys as may be required by the Administrator of Veterans' Affairs in determining the required legal description. The land shall be conveyed together with all buildings, improvements thereon, and all appurtenances and utilities belonging or appertaining thereto, and the Administrator of Veterans' Affairs shall execute and deliver in the name of the United States in its behalf any and all contracts, conveyances, or other instruments as may be necessary to effectuate the said transfer: *Provided*, That the State of Tennessee shall perpetuate and provide for the maintenance of the cemetery located on the property: *Provided further*, That there shall be reserved to the United States all minerals, including oil and gas, in the lands authorized for conveyance of this section.

SEC. 2. Such conveyance shall contain a provision that said property shall be used primarily for training of the National Guard and for other military purposes, and that if the State of Tennessee shall cease to use the property so conveyed for the purposes intended, then title thereto shall immediately revert to the United States, and in addition, all improvements made by the State of Tennessee during its occupancy shall vest in the United States without payment of compensation therefor.

SEC. 3. Such conveyance shall contain the further provision that ***whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist***, and upon the determination by the Secretary of National Defense that the property so conveyed is useful or necessary for military, air, or naval purposes, or in the interest of

[Emphasis supplied.]

national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made by the State of Tennessee for the duration of such state of war or other national emergency and upon the cessation thereof plus six months said property is to revert to the State of Tennessee: *Provided, however*, That the United States shall have no obligation to restore the property in any way.

Approved June 6, 1953.

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P.L. 92—67 STAT. 120

To continue the effectiveness of the Act of March 27, 1942, as extended, relating to the inspection and audit of plants, books, and records of defense contractors, for the duration of the national emergency proclaimed December 16, 1950, and six months thereafter.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Act of March 27, 1942 (56 Stat. 185, 186, ch. 199, secs. 1301-1304), as extended by subsection 1(a)(2) of the Emergency Powers Continuation Act (Public Law 450, Eighty-second Congress), as amended, shall remain in full force and effect **until six months after the termination of the national emergency proclaimed by the President on December 16, 1950** (Proc. 2914, 3 C.F.R., 71), notwithstanding any limitation by reference to war of the time during which the powers and authorizations therein granted may be exercised, or until such earlier date as may be provided by the Congress by concurrent resolution or by the President.

Approved June 30, 1953.

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P.L. 169—67 STAT. 244

To continue in effect certain provisions of section 6 of the Act of February 4, 1887, as amended, relating to military traffic in time of war or threatened war, for the duration of the national emergency proclaimed December 16, 1950, and six months thereafter, or until such earlier date as may be established by concurrent resolution of Congress.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions of the eighth paragraph (designated "Military traffic in time of war") of section 6 of the Act of February 4, 1887 (ch. 104, 24 Stat. 380), as that section was amended by section 2 of the Act of June 29, 1906 (ch. 3591, 34 Stat. 586), as amended, and as extended by section 1(a)(24), Emergency Powers Continuation Act (Public Law 450, Eighty-second Congress) shall remain in full force and effect **until six months after the termination of the national emergency proclaimed by the President on December 16, 1950** (Proclamation 2914, C.F.R. 71), or until such earlier date as the Congress

[Emphasis supplied.]

by concurrent resolution declares that it is no longer necessary to exercise the powers continued in force and effect by this Act, notwithstanding any limitation by reference to war or threatened war of the time during which the powers and authorizations therein granted may be exercised.

Approved July 31, 1953.

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P.L. 315—68 STAT. 32

To direct the Secretary of the Army to convey certain land located in Windsor Locks, Connecticut, to the State of Connecticut.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is authorized and directed to convey by quitclaim deed, without consideration, to the State of Connecticut all right, title, and interest of the United States, except as retained in this Act, in and to the following described land in Windsor Locks, Connecticut, together with all buildings, improvements thereon, and all appurtenances and utilities belonging or appertaining thereto, such land including approximately fifty-eight and six hundred eighty-five one-thousandths acres and formerly designated as the Post Engineer Area of Bradley Field, as shown on maps on file with the Office of the Chief of Engineers:*

\* \* \* \* \*

SEC. 3. The conveyance of the property authorized by this Act shall be upon condition that such property shall be used primarily for training of the National Guard and for other military purposes, and that if the State of Connecticut shall cease to use the property so conveyed for the purposes intended, then title thereto shall immediately revert to the United States, and in addition, all improvements made by the State of Connecticut during its occupancy shall vest in the United States without payment of compensation therefor.

SEC. 4. The conveyance of the property authorized by this Act shall be upon the further provision that ***whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency***, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the State of Connecticut, for the duration of such state of war or of such emergency. Upon the termination of such state of war or of such emergency plus six months such property shall revert to the State of Connecticut.

SEC. 5. In executing the deed of conveyance authorized by this Act, the Secretary of the Army shall include specific provisions cov-

[Emphasis supplied.]

ering the reservations and conditions contained in sections 2, 3, and 4 of this Act.

Approved March 26, 1954.

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P.L. 327—68 STAT. 51

To provide for the conveyance of a portion of the Camp Butner Military Reservation, North Carolina, to the State of North Carolina.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Army is authorized to convey to the State of North Carolina all the right, title, and interest of the United States in and to (a) a tract of land in Granville County, North Carolina, comprising twenty-six and four-tenths acres, more or less, together with buildings and improvements thereon, being a portion of the cantonment area of the former Camp Butner Military Reservation, and (b) a tract of land comprising four thousand seven hundred thirty-four and nine one-hundredths acres more or less in Durham and Granville Counties, North Carolina, being the same property now utilized by the State of North Carolina National Guard as a general firing range, subject, however, to reservation in the United States of all mineral rights, including gas and oil, in the land authorized to be conveyed by this Act.

SEC. 2. The conveyance of the property identified in section 1 of this Act to the State of North Carolina shall be made without consideration therefor and upon condition that it shall be used for military purposes only, and in the event it shall not be used for such purposes title thereto shall immediately revert to the United States, and, in addition, title to all improvements made by the State of North Carolina during its occupancy shall vest in the United States without payment of compensation therefor. The deed of conveyance shall contain the further provision ***that whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist***, and upon the determination by the Secretary of Defense that the property so conveyed is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without charge, except as indicated below, to reenter upon the property and use the same or any part thereof, including any and all improvements made by the State of North Carolina, for a period not to exceed the duration of such state of war or national emergency plus six months, and upon cessation of such use, such property shall revert to the State of North Carolina, together with any or all improvements thereon and appurtenances appertaining thereto: *Provided, however*, That the United States shall be responsible during the period of such use for the entire cost of maintaining all of the property so used, and shall pay a fair rental for the use of any structures or other improvements which have been added thereto without Federal aid.

[Emphasis supplied.]

SEC. 3. The cost of any surveys necessary as an incident of the conveyance authorized herein shall be borne by the grantee.

Approved April 2, 1954.

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P.L. 349—68 STAT. 65—70

To establish limitations on the numbers of officers who may serve in various commissioned grades in the Army, Navy, Air Force, and Marine Corps, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Officer Grade Limitation Act of 1954".

TITLE I—ARMY

SEC. 101. The number of commissioned officers on active duty in the Army in each of the following grades on the last day of each fiscal year when compared to the total number of commissioned officers on active duty in the Army authorized by the Secretary of the Army (exclusive of Reserve officers on active duty for training purposes only, and officers serving with other departments or agencies of the Government on a reimbursable basis) shall not exceed the numbers which are set forth in the following table:

\* \* \* \* \*

SEC. 403. *The President may suspend all or any part of the provisions of this Act in time of war, or in time of national emergency hereafter declared by the Congress or by the President.* Notwithstanding section 426(c) of the Officer Personnel Act of 1947, as amended, the President may suspend all or any part of those provisions of the Officer Personnel Act of 1947, which are amended by this Act, which relate to grades above that of lieutenant, only in time of war, or in time of national emergency hereafter declared by the Congress or by the President.

SEC. 404. Not later than January 30 of each year, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall present to the Committees on Armed Services of the House of Representatives and the Senate, the estimated active-duty personnel requirements for his respective service for the next fiscal year, the estimated number of commissioned officers in each grade on active duty whether by permanent or temporary appointment, to be promoted during the next fiscal year, and an analysis of the current distribution by grade of commissioned officers serving on active duty, whether by permanent or temporary appointment.

Approved May 5, 1954.

[Emphasis supplied.]

To provide for the conveyance to the State of Indiana of certain surplus real property situated in Marion County, Indiana.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Administrator of General Services is authorized and directed to convey to the State of Indiana, upon the terms and conditions and for the consideration set forth in section 2, all the right, title, and interest of the United States in and to certain land (hereinafter referred to as Federal land) situated in Marion County, Indiana, together with all fixtures and improvements thereon. Such land, which is surplus to the requirements of the United States, comprises a part of the north half of the northwest quarter of section 20, township 15 north, range 3 east, Marion County, Indiana, known as Tent City, and is more particularly described as follows:

\* \* \* \* \*

SEC. 2. The conveyance of the Federal land provided for in the first section shall be made upon the terms and conditions and for the consideration set forth as follows:

(1) ***In time of war or of national emergency heretofore or hereafter declared by the President or the Congress,*** and upon the request of the Secretary of Defense to the State of Indiana, the United States shall have the right to the exclusive or nonexclusive use of all or any part of the Federal land, and all improvements thereon, for the full period of such war or national emergency without cost to the United States. Upon the expiration of such war or national emergency the use of the Federal land shall cease in favor of the State of Indiana.

\* \* \* \* \*

(3) ***In time of war or of national emergency heretofore or hereafter declared by the President or the Congress,*** and upon the request of the Secretary of Defense to the State of Indiana, the United States shall have the right to the exclusive or nonexclusive use of all or any part of the State land for the full period of such war or national emergency without cost to the United States. Upon the expiration of such war or national emergency the use of the State land shall cease in favor of the State of Indiana.

(4) In the event that the State of Indiana shall at any time sell, convey, or otherwise dispose of, or shall attempt to sell, convey, or otherwise dispose of, all or any part of the State or Federal land without the consent of the Secretary of Defense, all of the right, title, and interest in and to the Federal land, including any improvements thereon, shall revert to the United States without cost.

SEC. 3. Nothing herein contained shall prevent the State of Indiana from granting leases of said lands and rights and easements

[Emphasis supplied.]

therein and thereon without the consent of the Secretary of Defense providing any such lease, rights, and easements are made subject to the right of use thereof by the United States during war or national emergency.

Approved June 4, 1954.

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P.L. 493—68 STAT. 474—7

To provide for the conveyance of the federally owned lands which are situated within Camp Blanding Military Reservation, Florida, to the Armory Board, State of Florida, in order to consolidate ownership and perpetuate the availability of Camp Blanding for military training and use.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army is authorized and directed to convey, upon the terms and conditions and for the consideration set forth in section 2 of this Act, to the Armory Board, State of Florida (hereinafter referred to as the "board"), all of the right, title, and interest of the United States in and to certain land (hereinafter referred to as "Federal land") situated within Camp Blanding Military Reservation, Florida, and more particularly described as follows:

\* \* \* \* \*

SEC. 2. The conveyance of the Federal land provided for in the first section shall be made upon the terms and conditions and for the consideration set forth as follows:

(1) *In the event of the existence of any national emergency declared by proclamation of the President or by action of the Congress*, the use of the Federal land, or any part thereof, shall, upon the request of the Secretary of the Army to the board, revert to the United States for the full period of such national emergency without cost to the United States. Upon the expiration of such national emergency such use of the Federal land shall cease in favor of the board, and the United States shall be under no obligation to restore the premises or to compensate the State for any waste or any damage to the property arising out of the use and occupancy thereof by the United States.

(2) In consideration of the conveyance of the Federal land, the board, acting for the State of Florida, shall agree to use for military purposes only, and not to sell, convey, or otherwise dispose of all or any part of certain land or permanent improvements thereon (hereinafter referred to as "State land") comprising a part of the State-owned portion of Camp Blanding Military Reservation to any party other than the United States. The State land is more particularly described as follows:

\* \* \* \* \*

Approved July 14, 1954.

[Emphasis supplied.]



To authorize certain construction at military and naval installations and for the Alaska Communications System, and for other purposes.

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

## TITLE I

SEC. 101. The Secretary of the Army is authorized to establish or develop military installations and facilities by the construction, conversion, rehabilitation, or installation of permanent or temporary public works in respect of the following projects, which include site preparation, appurtenances, and related utilities and equipment: *Provided*, That the Secretary of the Army, in exercising the authority granted herein, shall, whenever practicable and in the best interests of the United States, provide for the rehabilitation of existing barracks and officer quarters in lieu of new construction:

\* \* \* \* \*

(c) Any lease entered into under this section shall provide (1) ***that during any national emergency declared by the President, or in the event the Congress shall declare a state of war to exist***, and the Secretary of the Army shall determine that the leased property is useful or necessary for military purposes, the United States shall have the right to reenter such property and use the same for such period of time as shall be determined by the Secretary of the Army to be necessary in the interests of national security; (2) that upon any such reentry, and at the option of the Commonwealth of Massachusetts, the lease shall be terminated, or the term thereof extended for such period of time as the United States may be in possession following any such reentry; and (3) that in the event the lease is terminated, the Commonwealth of Massachusetts shall be appropriately compensated for the cost of repairing and rehabilitating the leased property, as provided in subsection (b) of this section, and for the cost of capital items provided by it.

(d) Any such lease shall also provide for termination by the Secretary of the Army in the event of a breach of the terms or conditions of the lease.

(e) In the event that a lease is entered into under this section, the Department of the Army, or any other department or agency of the United States, which, prior to the entering into such lease, was furnishing necessary utilities or services to the leased property, may, upon the request of the lessee, continue to provide such utilities or services. Any such utilities or services so furnished shall be paid for by the lessee at a rate to be determined by the supplying agency. Such rate shall be fixed with a view to obtaining full reimbursement for the cost to any such agency of supplying any such utilities or services to the lessee. Any sums so received shall be covered into the

[Emphasis supplied.]

Treasury to the credit of the appropriation or appropriations from which the cost of furnishing such utilities or services was paid.

\* \* \* \* \*

Approved July 27, 1954.

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P.L. 556—68 STAT. 586

To permit the city of Philadelphia to further develop the Hog Island tract as an air, rail, and marine terminal by directing the Secretary of Commerce to release the city of Philadelphia from the fulfillment of certain conditions contained in the existing deed which restrict further development.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of Commerce is authorized and directed to release the city of Philadelphia from the fulfillment of any and all conditions for the benefit of the United States set forth in a deed of the United States, acting through the United States Shipping Board, dated the 23d day of July 1930, relating to a tract of land, known as Hog Island, situated partly in the township of Tinicum in the county of Delaware and State of Pennsylvania and partly in the Fortieth Ward of the city of Philadelphia, comprising nine hundred and fifty-one acres more or less; and to execute in proper form a full and complete release and discharge of the yearly ground rent reserved to the United States under and pursuant to said deed, and relieving the city of Philadelphia from the fulfillment of any and all covenants, conditions and trusts for the benefit of the United States set forth in said deed.

SEC. 2. The execution of the aforesaid release shall be made without consideration therefor and upon condition that the aforesaid tract shall be held, used and developed as and for an air, rail, and marine terminal for the promotion and furtherance of the interstate and foreign commerce of the United States, and for industrial purposes related thereto: *Provided*, That the premises shall not be disposed of by the city of Philadelphia by conveyance or sale, except in furtherance of the public purposes herein set forth. The release shall contain a further provision *that whenever the Congress of the United States shall declare a state of war or other national emergency* the United States shall have the right to enter upon the premises and use the same or any part thereof owned by the city of Philadelphia for a period not to exceed the duration of such state of war or national emergency plus six months, and upon cessation of such use said premises shall revert to the city of Philadelphia: *Provided, however*, That the United States shall be responsible during the period of such use for the maintenance of all of the property so used, and shall pay a fair rental for the use of any structures or other improvements which have been added thereto, said rental to include all debt service charges or other obligations arising out of the financing of all structures or improvements on the aforesaid premises.

Approved July 29, 1954.

[Emphasis supplied.]

## P.L. 711—68 STAT. 974-5

To direct the Secretary of the Army to convey certain property located in El Paso, Texas, and described as part of Fort Bliss, to the State of Texas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army is authorized and directed to convey by quitclaim deed, without consideration, to the State of Texas all right, title, and interest of the United States, except as retained in this Act, in and to a parcel of land within Fort Bliss Military Reservation, such parcel consisting of a portion of North El Paso Addition and a portion of Morningside Heights Addition, El Paso, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a point which is the intersection of the east right-of-way line of Pollard Street and the south right-of-way line of Hayes Avenue; thence south no degrees fourteen and ninety one-hundredths minutes west along the east right-of-way line of Pollard Street, a distance of nine hundred two and six-tenths feet; thence south eighty-nine degrees forty-five and ten one-hundredths minutes east a distance of one thousand forty-two and thirty-nine one-hundredths feet to the west right-of-way line of the Southern Pacific Railroad (formerly the E.P. & S.W.R.R.); thence north thirteen degrees forty-five and two one-hundredths minutes east a distance of eight hundred forty-five and seventy-three one-hundredths feet along the Southern Pacific Railroad right-of-way line, to a point; thence north one degree fifteen and sixty-two one-hundredths minutes west a distance of one hundred twelve and five one-hundredths feet, to a point in the south right-of-way line of Hayes Avenue; thence south eighty-eight degrees forty-six minutes west a distance of one thousand two hundred thirty-seven and three-tenths feet along the south right-of-way line of Hayes Avenue, to the point of beginning, containing in all twenty-four and twenty-five one-hundredths acres of land, more or less.

SEC. 2. All mineral rights, including gas and oil, in the lands authorized to be conveyed by this Act shall be reserved to the United States.

SEC. 3. There shall be further reserved to the United States in the conveyance of the above-described lands, rights of ingress and egress over roads in the above-described lands serving buildings or other works operated by the United States or its successors or assigns in connection with Fort Bliss, rights-of-way for water lines, sewer lines, telephone and telegraph lines, power lines, and such other utilities which now exist, or which may become necessary to the operation of the said Fort Bliss.

SEC. 4. The conveyance of the property authorized by this Act shall be upon condition that such property shall be used primarily for training of the National Guard and for other military purposes, and that if the State of Texas shall cease to use the property so conveyed for the purposes intended, then title thereto shall immediately revert to the United States, and in addition, all improvements made by the State of Texas during its occupancy shall vest in the United States without payment of compensation therefor.

SEC. 5. The conveyance of the property authorized by this Act shall be upon the further provision *that whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the State of Texas, for the duration of such state of war or of such emergency. Upon the termination of such state of war or of such emergency plus six months such property shall revert to the State of Texas, together with all appurtenances and utilities belonging or appertaining thereto.

SEC. 6. In executing the deed of conveyance authorized by this Act, the Secretary of the Army shall include specific provisions covering the reservations and conditions contained in sections 2, 3, 4, and 5 of this Act.

Approved August 30, 1954.

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P.L. 712—68 STAT. 975-6

To direct the Secretary of the Air Force or his designee to convey certain property located in proximity to San Antonio, Bexar County, Texas, to the State of Texas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Air Force or his designee is authorized and directed to convey by quitclaim deed, without consideration, to the State of Texas all right, title, and interest of the United States, except as retained in this Act, in and to the following described land in proximity to San Antonio, Bexar County, Texas, together with all buildings, improvements thereon, and all appurtenances and utilities belonging or appertaining thereto, such land including approximately two hundred eighteen and fifty-six one-hundredths acres and formerly designated as Martindale Auxiliary Field, as shown on maps on file with the Office of the Chief of Engineers:

\* \* \* \* \*

SEC. 4. The conveyance of the property authorized by this Act shall be upon condition that such property shall be used primarily for training of the National Guard and the Air National Guard and for other military purposes, and that if the State of Texas shall cease to use the property so conveyed for the purposes intended, then title thereto shall immediately revert to the United States, and in addition, all improvements made by the State of Texas during its occupancy shall vest in the United States without payment of compensation therefor.

SEC. 5. The conveyance of the property authorized by this Act shall be upon the further provision *that whenever the Congress of*

[Emphasis supplied.]

***the United States declares a state of war or other national emergency, or the President declares a state of emergency***, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the State of Texas, for the duration of such state of war or of such emergency. Upon the termination of such state of war or of such emergency plus six months such property shall revert to the State of Texas, together with all appurtenances and utilities belonging or appertaining thereto.

SEC. 6. In executing the deed of conveyance authorized by this Act, the Secretary of the Air Force or his designee shall include specific provisions covering the reservations and conditions contained in sections 2, 3, 4, and 5 of this Act.

Approved August 30, 1954.

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P.L. 713—68 STAT. 977-8

To authorize the conveyance to the State of Texas of approximately nine acres of land in Houston, Texas, to be used for National Guard purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Army is authorized and directed to convey to the State of Texas, without compensation therefor, all the right, title, and interest of the United States in and to approximately nine and three-tenths acres of land in Houston, Harris County, Texas, and all improvements thereon, said property comprising that portion of the former Hughes Strut Plant now being occupied by the Texas National Guard under a license issued by the Secretary of the Army.

SEC. 2. The deed of conveyance authorized under the provisions of this Act shall—

(1) provide that the property conveyed shall not be alienated in whole or in part by the State of Texas and shall be used primarily for training National Guard and Air National Guard personnel and for other military purposes, and if such provision is violated title to such property (including all improvements by the State of Texas) shall revert to the United States;

(2) reserve to the United States all minerals (including oil and gas) in the lands conveyed;

(3) provide that ***during any state of war or national emergency and or six months thereafter***, if the Secretary of Defense determines that the property conveyed is useful or necessary for national defense purposes, the United States may, without payment therefor, reenter such property and use all or any part of it (including improvements by the State of Texas) but upon the

[Emphasis supplied.]

termination of such use such property shall revert to the State of Texas; and

(4) contain such additional terms, conditions, reservations, and restrictions as may be determined by the Secretary of the Army to be necessary to protect the interests of the United States.

Approved August 30, 1954.

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P.L. 716—68 STAT. 980-2

Authorizing the transfer of certain property of the United States Government (in Klamath County, Oregon) to the State of Oregon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the General Services Administration be, and is hereby, authorized to transfer to the State of Oregon certain property of the United States Government situated in Klamath County, Oregon, and described as follows: All that portion of the southwest quarter northwest quarter and the southeast quarter northwest quarter of section 22, township 39 south, range 9 east, Willamette meridian, Klamath County, Oregon, described as follows:

\* \* \* \* \*

There shall be reserved to the United States, in the conveyance of the above-described lands, rights of ingress and egress over roads in the above-described lands serving buildings or other works operated by the United States or its successors or assigns in connection with the Klamath project. There shall be further reserved in said lands all rights-of-way for waterlines, sewer lines, telephone and telegraph lines, powerlines, and such other utilities as now exist, or may become necessary to the operation of said Klamath project.

Such conveyance shall contain a provision that said property shall be used primarily for training of the National Guard or Air National Guard and for other military purposes, and that, if the State of Oregon shall cease to use the property so conveyed for the primary purposes intended, then title thereto shall immediately revert to the United States and, in addition, all improvements made by the State of Oregon during its occupancy shall vest in the United States without payment of compensation therefor.

Such conveyance shall contain the further provision, that ***when- ever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist***, and upon the determination by the appropriate Secretary that the property so conveyed is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made by the State of Oregon for the duration of such state of war or other national emergency and upon the cessation thereof plus six

[Emphasis supplied.]

months said property is to revert to the State of Oregon together with any or all facilities and improvements, appurtenances, and utilities thereon or appertaining thereto other than those hereinabove reserved to the United States.

SEC. 2. The property herein transferred shall come within the provisions of section 203(k)(2)(D) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C., 484(k)(2)(D)).

Approved August 30, 1954.

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84TH CONGRESS

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P.L. 49—69 STAT. 68—70

To direct the Secretary of the Army to convey certain property located in Austin, Travis County, Texas, to the State of Texas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army is authorized and directed to convey by quitclaim deed, without consideration, to the State of Texas all right, title, and interest of the United States, in and to the following-described land in Austin, Travis County, Texas, together with all buildings, improvements thereon, and all appurtenances and utilities belonging or appertaining thereto, such land including approximately one hundred eighty-nine and eleven one-hundredths acres out of the original two hundred acres known as the Camp Mabry Militia Rifle Range Tract, also referred to as the "old Deison Farm":

\* \* \* \* \*

SEC. 2. All mineral rights, including gas and oil, in the lands authorized to be conveyed by this Act shall be reserved to the United States.

SEC. 3. There shall be further reserved to the United States in the conveyance of the above-described lands, rights of ingress and egress over roads in the above-described lands serving buildings or other works operated by the United States or its successors or assigns in connection with the ten and eighty-nine one-hundredths acres referred to in section 1 of this Act as the United States Air Force Reserve training center parcel and the United States Army Reserve, formerly the Organized Reserve Corps armory parcel, rights-of-way for water lines, sewer lines, telephone and telegraph lines, power-lines, and such other utilities as now exist, or which may become necessary to the operation of the above-described ten and eighty-nine one-hundredths acres.

SEC. 4. The conveyance of the property authorized by this Act shall be upon condition that such property shall be used for training of the National Guard and the Air National Guard and for other military purposes, and that if the State of Texas shall cease to use the property so conveyed for the purposes intended, then title thereto

shall immediately revert to the United States, and in addition, all improvements made during its occupancy by the State of Texas shall vest in the United States without payment of compensation therefor.

SEC. 5. The conveyance of the property authorized by this Act shall be upon the further provision that *whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon during its occupancy by the State of Texas, for the duration of such state of war or of such emergency. Upon the termination of such state of war or of such emergency plus six months such property shall revert to the State of Texas, together with all appurtenances and utilities belonging or appertaining thereto.

SEC. 6. In executing the deed of conveyance authorized by this Act, the Secretary of the Army shall include specific provisions covering the reservations and conditions contained in sections 2, 3, 4, and 5 of this Act.

Approved June 1, 1955.

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P.L. 50—69 STAT. 70—1

To direct the Secretary of the Army to convey certain property located in Polk County, Iowa, and described as Camp Dodge and Polk County Target Range, to the State of Iowa.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Army is authorized and directed to convey by quitclaim deed, without consideration, to the State of Iowa all right, title, and interest of the United States, except as retained in this Act, in and to the Camp Dodge Military Reservation, located in Polk County, Iowa, comprising 1,848.32 acres, more or less, and Polk County Target Range, Iowa, comprising 742.34 acres, more or less, both together with all buildings and improvements thereon, and all appurtenances, easements, rights-of-way, and utilities belonging or appurtenant thereto.

SEC. 2. All mineral rights, including gas and oil, in the lands authorized to be conveyed by this Act shall be reserved to the United States.

SEC. 3. The conveyance of the property authorized by this Act shall be upon condition that such property shall be used for training of the National Guard and for other military purposes, and that if the State of Iowa shall cease to use the property so conveyed for the purposes intended, then title thereto shall immediately revert to the United States and, in addition, all improvements made during its

[Emphasis supplied.]



occupancy by the State of Iowa shall vest in the United States without payment of compensation therefor.

SEC. 4. The conveyance of the property authorized by this Act shall be upon the further provision that *whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of national emergency*, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon during its occupancy by the State of Iowa, for the duration of such state of war or of such national emergency. Upon the termination of such state of war or of such national emergency plus six months such property shall revert to the State of Iowa, together with all appurtenances and utilities belonging or appertaining thereto.

SEC. 5. In consideration for the conveyance of the lands described in the first section of this Act, the State of Iowa shall agree to use for military purposes only and not to sell, convey, or otherwise dispose of all or any part of certain lands (hereinafter called State lands) and improvements thereon which are owned by the State of Iowa and are used for National Guard purposes in connection with Camp Dodge and Polk County Target Range as of the date of enactment of this Act: *Provided*, That the improvements on such lands which are now being used by the State of Iowa for other than military purposes may continue to be used for such purposes so long as such use does not interfere with the utilization of such lands for military purposes. The State of Iowa further agrees that it will, prior to delivery of the conveyance authorized herein, file with the Office of the Division Engineer, Corps of Engineers, Farm Credit Building, 206 South Nineteenth Street, Omaha, Nebraska, a description of and inventory of the State-owned property as defined herein. In the event that the State of Iowa at any time shall breach the agreement defined in this section, all right, title, and interest in and to the property conveyed to the State of Iowa by the United States under the provisions of this Act shall revert to the United States without cost. The State shall further agree that *in the event that the Congress of the United States declares a state of war or other national emergency, or the President declares a state of national emergency*, the use of the State lands and improvements thereon, or any part thereof, shall, upon request of the Secretary of Defense, be used by the United States during such emergency without cost to the United States.

SEC. 6. In executing the deed of conveyance authorized by this Act, the Secretary of the Army shall include specific provisions covering the reservations and conditions contained in sections 2, 3, 4, and 5 of this Act.

SEC. 7. The cost of any surveys necessary as an incident of the conveyance authorized herein shall be borne by the State of Iowa.

[Emphasis supplied.]

SEC. 8. The Secretary of the Army is authorized to determine and enforce compliance with the conditions, reservations, and restrictions contained in this Act and any related documents.

Approved June 1, 1955.

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P.L. 52—69 STAT. 79

To provide for the conveyance of Jackson Barracks, Louisiana, to the State of Louisiana, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army is authorized and directed to convey to the State of Louisiana all the right, title, and interest of the United States in and to so much of the real property comprising Jackson Barracks, Louisiana, as is held by the State of Louisiana under lease numbered W-766-QM-6117 and a license issued by the Secretary of the Army on July 26, 1952, being in the aggregate one hundred four and six one-hundredths acres, more or less, in Orleans and Saint Bernard Parishes, Louisiana, together with improvements thereon, and appurtenances thereunto belonging, the property to be used for the training of the National Guard of Louisiana and for other military purposes, and the conveyance to be made without monetary consideration therefor, but subject to the reservation by the United States of all mineral rights, including oil and gas; the right of reentry and use by the United States in the event of need therefor **during a national emergency**; and the condition and limitation that if the property shall fail or cease to be used for the training of the National Guard of Louisiana or for other military purposes, the title to the property so conveyed shall revert to and revest in the United States, and, in addition, all improvements made during its occupancy by the State of Louisiana shall vest in the United States without payment of compensation therefor.

SEC. 2. The costs of any surveys necessary as an incident of the conveyance authorized herein shall be borne by the State of Louisiana.

Approved June 1, 1955.

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P.L. 77—69 STAT. 138-9

Authorizing the Secretary of the Interior to transfer certain property of the United States Government (in the Wyoming National Guard Camp Guernsey target and maneuver area, Platte County, Wyoming) to the State of Wyoming.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized and directed to transfer to the State of Wyoming certain property of the United States Government situated near Lake Guernsey, Platte County, Wyoming, described as follows:

\* \* \* \* \*

[Emphasis supplied.]

... Such property shall be conveyed, together with all buildings, improvements thereon, and all appurtenances and utilities belonging or appertaining thereto, and the Secretary of the Interior shall execute and deliver in the name of the United States in its behalf any and all contracts, conveyances, or other instruments as may be necessary to effectuate the said transfer: *Provided*, That there shall be reserved to the United States all minerals, including oil and gas, in said lands.

Such conveyance shall contain a provision that said property shall be used primarily for training of the National Guard or Air National Guard and for other military purposes, and that, if the State of Wyoming shall cease to use the property so conveyed for such purposes, then title thereto shall immediately revert to the United States and, in addition, all improvements made by the State of Wyoming during its occupancy shall vest in the United States without payment of compensation therefor.

Such conveyance shall contain the further provision that *whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist* and upon the determination by the appropriate Secretary that the property so conveyed is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made by the State of Wyoming, *or the duration of such state of war or other national emergency*, and upon the cessation thereof plus six months said property is to revert to the State of Wyoming together with any or all facilities and improvements, appurtenances, and utilities thereon or appertaining thereto.

SEC. 2. (a) Where lands described to be conveyed herein are being used under valid outstanding United States grazing leases, the Secretary of the Interior shall convey the lands only after he finds suitable provision, equitable to such lessees, has been made to compensate them for losses resulting from the use of the lands for the purposes of this Act and to assure them appropriate preference to such future use of the lands for grazing as may be consistent with the purposes of this Act.

(b) The Secretary of the Interior, at the earliest possible date after the execution of the conveyance authorized by this Act, shall issue a permit to the State of Wyoming allowing the State the free use of the lands described below for the purposes described in the first section of this Act and subject to adequate protection of the lands for Federal purposes:

Lots 1, 2, 3, and 4, southwest quarter northeast quarter, southeast quarter northwest quarter, northwest quarter southeast quarter, southeast quarter southeast quarter section 1; lots 1, 2, 3, and 4, south half northwest quarter, east half southwest quarter, southwest quarter southeast quarter section 2; northeast quarter, northwest quarter southeast quarter section 10; north half northeast quarter, southwest quarter northeast quarter section 11; east half northeast

[Emphasis supplied.]

quarter, southwest quarter northeast quarter, west half southeast quarter section 12; northwest quarter northeast quarter section 13, all in township 27 north, range 67 west, southeast quarter section 35, township 28 north, range 67 west, sixth principal meridian, State of Wyoming.

SEC. 3. The State of Wyoming may dispose of interests and rights in the land by lease, license and easement, provided that the exercise of such rights and uses shall not impair the use of the land for the purposes set out in the first section of this Act. Revenues derived from such transactions by the State of Wyoming shall be expended by the State for the protection, maintenance, and preservation of such land for the purposes expressed in this Act and for the protection and preservation of the natural resources thereon. The United States and the State of Wyoming shall share equally in any residual revenue beyond the cost for those purposes. All moneys to which the United States is entitled under this Act shall be deposited in the Treasury as miscellaneous receipts. The Secretary of the Interior and the Secretary of the Army are authorized to enter into any necessary agreements with the proper authorities of the State of Wyoming for the purpose of carrying out the provisions of this Act.

Approved June 16, 1955.

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P.L. 142—69 STAT. 293-4

To provide for the conveyance of a portion of the Fort Devens Military Reservation, Massachusetts, to the Commonwealth of Massachusetts.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army is authorized to convey to the Commonwealth of Massachusetts all the right, title, and interest of the United States in and to a tract of land comprising sixty-six acres, more or less, together with buildings and improvements thereon, being a portion of Fort Devens Military Reservation and being the same property now utilized by the Massachusetts National Guard under a license granted by the Secretary of the Army, subject, however, to reservation in the United States of all mineral rights, including gas and oil, in the land authorized to be conveyed by this Act.

SEC. 2. The conveyance of the property identified in section 1 of this Act to the Commonwealth of Massachusetts shall be made without consideration therefor and upon condition that it shall be used for training of the National Guard and the Air National Guard and for other military purposes, and in the event it shall not be used for such purposes title thereto shall immediately revert to the United States, and, in addition, title to all improvements made by the Commonwealth of Massachusetts during its occupancy shall vest in the United States without payment of compensation therefor. The deed of conveyance shall also provide for such reservations and joint use of facilities as the Secretary of the Army determines as necessary for the use and maintenance of Fort Devens and contain the further provision that *whenever the Congress of the United States shall*

[Emphasis supplied.]

**declare a state of war or other national emergency, or the President declares a state of emergency to exist**, and upon the determination by the Secretary of Defense that the property so conveyed is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right without charge to reenter upon the property and use the same or any part thereof, including any and all improvements made by the Commonwealth of Massachusetts, for a period not to exceed the duration of such state of war or national emergency plus six months and upon cessation of such use, such property shall revert to the Commonwealth of Massachusetts, together with any or all improvements thereon and appurtenances appertaining thereto.

SEC. 3. The cost of any surveys necessary as an incident of the conveyance authorized herein shall be borne by the grantee.

Approved July 11, 1955.

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P.L. 156—69 STAT. 300-1

To provide for the suspension of certain benefits in the case of members of the reserve components of the Army, Navy, Air Force, and Marine Corps ordered to extended active duty in time of war or national emergency, 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 10 of the Act of August 2, 1946 (60 Stat. 854), as amended, is further amended by deleting the final period, inserting a colon in lieu thereof, and adding the following new proviso: "*Provided further*, That in the case of any member of the Naval or Marine Corps Reserve receiving a pension, retainer pay, disability compensation, or retired pay from the Government of the United States by virtue of prior military service who is ordered to extended active duty in excess of thirty days in time of war or national emergency and is found physically qualified to perform active duty, entitlement to the pension, retainer pay, disability compensation, or retired pay shall be suspended for the period of the extended active duty unless that compensation is greater than the compensation specified in clause (1) of this section. During the period of such suspension the member shall receive compensation for such extended active duty as specified in clause (1) of this section. Upon termination of the period of extended active duty the pension, retainer pay, disability compensation, or retired pay of the member shall be resumed and paid as provided by law. The suspension herein provided shall not operate to affect any other rights or benefits to which the member or his dependents may be entitled under this or any other provision of law."

SEC. 2. Section 2 of the Act of September 27, 1950 (ch. 1053, 64 Stat. 1067), is amended by inserting before the final period a colon and the following proviso: "*Provided*, That in the case of any such

[Emphasis supplied.]

member receiving a pension, retirement pay, disability compensation, or retired pay from the Government of the United States by virtue of prior military service who is ordered to extended active duty for a period in excess of thirty days *in time of war or national emergency* and is found physically qualified to perform active duty, entitlement to the pension, retirement pay, disability compensation, or retired pay shall be suspended for the period of the extended active duty unless that compensation is greater than the compensation specified in clause (1) of this section. During the period of extended active duty the member shall receive the compensation for that duty specified in clause (1) of this section. Upon termination of the period of extended active duty the pension, retirement pay, disability compensation, or retired pay of the member shall be resumed and paid as provided by law. The suspension herein provided shall not operate to affect any other rights or benefits to which the member or his dependents may be entitled under this or any other provision of law."

SEC. 3. Section 3 of the Act of September 27, 1950 (ch. 1053, 64 Stat. 1067), is hereby amended by changing the comma after "1947" to a period and striking out the words "and shall terminate five years after the date of approval of this Act."

SEC. 4. The term "disability allowance" is deleted from section 10 of the Act of August 2, 1946 (60 Stat. 854), as amended, and from section 2 of the Act of September 27, 1950 (ch. 1053, 64 Stat. 1067).

Approved July 12, 1955.

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#### P.L. 301—69 STAT. 592-3

To provide for the conveyance of a portion of the former O'Reilly General Hospital, Springfield, Missouri, to the State of Missouri, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Administrator of General Services is authorized and directed, upon certification to him by the Secretary of Defense and the Governor of Missouri that the property described in section 2 of this Act is needed for the training or support of the National Guard of Missouri, to convey the property to the State of Missouri, by quitclaim deed, without monetary consideration therefor, upon such terms and conditions as the Administrator determines to be necessary to properly protect the interest of the United States: *Provided, however*, That such deed of conveyance by express terms shall—

a. reserve to the United States all mineral rights including gas and oil;

b. reserve to the United States right of exclusive use without charge therefor of such property together with any improvements thereon *during any period of national emergency*.

c. specify that said property shall be used for the training of the National Guard or for other military purposes, and in the event of non-use for such purpose within a reasonable time as

[Emphasis supplied.]

determined by the Secretary of Defense or of discontinuance of use for such purpose, shall, in its then existing condition together with any improvements thereon, at the option of the United States as determined and exercised by the Secretary of Defense, revert to the United States.

SEC. 2. The real property to be conveyed to the State of Missouri is described as follows:

A parcel of land in the city of Springfield, Green County, Missouri, being a portion of the former O'Reilly General Hospital, and beginning at a point 31 poles and 20 links south of the northwest corner of northeast quarter of section 18, township 29, range 21, for a point of true beginning; running thence south 661.3 feet to a woven wire fence; running thence east along said fence 66 poles and 18 links; running thence north 661.3 feet to a point 31 poles and 20 links south of the north line of the northeast quarter of section 18, township 29, range 21; running thence west 66 poles and 18 links to the point of true beginning, being 16.5 acres, more or less.

SEC. 3. The cost of any surveys necessary as an incident of the conveyance authorized herein shall be borne by the State of Missouri.

Approved August 9, 1955.

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P.L. 410—70 STAT. 17-8

To direct the Secretary of the Army or his designee to convey a six and eighty-nine one-hundredths acre tract of land out of a one hundred ninety-nine and nine hundred fifty-nine one-thousandths acre tract of land situated in the vicinity of Houston, Harris County, Texas, to the State of Texas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army or his designee is authorized and directed to convey by quitclaim deed, without consideration, to the State of Texas all right, title, and interest of the United States, except as retained in this Act, in and to six and eighty-nine one-hundredths acres of land out of the P. W. Rose survey, abstract numbered 645 situated in Harris County, Texas, and being a part of and out of the northwest corner of a one hundred ninety-nine and nine hundred fifty-nine one-thousandths acre tract of land out of the D. W. C. Harris survey, abstract numbered 325, and the P. W. Rose survey, abstract numbered 645, being known as the Veterans Hospital site and having been acquired by the United States of America in condemnation proceedings in civil action numbered 2430 in the cause entitled United States of America against 209.01 acres of land situated in Harris County, Texas, and R. S. Sterling, et al., in the District Court of the United States for the Southern District of Texas, Houston Division. . . .

\* \* \* \* \*

SEC. 2. All mineral rights, including gas and oil, in the lands authorized to be conveyed by this Act shall be reserved to the United States.

SEC. 3. There shall be further reserved to the United States in the conveyance of the above-described lands, rights of ingress and egress over roads in the above-described lands serving buildings or other works operated by the United States or its successors or assigns in connection with the remaining portion of such one hundred ninety-nine and nine hundred and fifty-nine one-thousandths acre tract of land, rights-of-way for water lines, sewer lines, telephone and telegraph lines, power lines, and such other utilities which now exist, or which may become necessary to any operations of the United States on or in connection with the remaining portion of said one hundred ninety-nine and nine hundred and fifty-nine one-thousandths acre tract of land.

SEC. 4. The conveyance of the property authorized by this Act shall be upon condition that such property shall be used for training of the National Guard and the Air National Guard and for other military purposes, and that if the State of Texas shall cease to use the property so conveyed for the purposes intended, then title thereto shall immediately revert to the United States, and in addition, all improvements made by the State of Texas during its occupancy shall vest in the United States without payment of compensation therefor.

SEC. 5. The conveyance of the property authorized by this Act shall be upon the further provision that *whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the State of Texas, for the duration of such state of war or of such emergency. Upon the termination of such state of war or of such emergency plus six months such property shall revert to the State of Texas, together with all appurtenances and utilities belonging or appertaining thereto.

SEC. 6. In executing the deed of conveyance authorized by this Act, the Secretary of the Army or his designee shall include specific provisions covering the reservations and conditions contained in sections 2, 3, 4, and 5 of this Act.

SEC. 7. The cost of any surveys necessary as an incident to the conveyance authorized herein shall be borne by the State of Texas.

Approved February 15, 1956.

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P.L. 413—70 STAT. 21-3

To amend an Act entitled "An Act to provide for the sale of the Port Newark Army Base to the city of Newark, New Jersey, and for other purposes" approved June 20, 1938, as amended.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in view of the national interest in the future maintenance and development of

[Emphasis supplied.]



the Port Newark Army Base as a marine terminal in good operating condition, and to encourage, by providing a sound economic basis therefor, the investment by the Port of New York Authority, during the remainder of its term as lessee of the premises of such sums for maintenance, repair, rehabilitation, or reconstruction of wharves, buildings, or other installations as may be necessary to provide and maintain such a terminal, now therefore, the first section of the Act entitled "An Act to provide for the sale of the Port Newark Army Base to the city of Newark, New Jersey, and for other purposes", approved June 20, 1936, as amended, is further amended by striking out "*And provided further*, That such conveyance shall be made upon the condition that the United States, in the event of war or of any national emergency declared by Congress to exist, shall have the right to take over said property and shall pay to the city of Newark as liquidated damages a sum equal to 3 per centum per annum on the amount theretofore paid on the purchase price of the said property by the said city during each year or part thereof that the said property is occupied under such taking by the United States, the said property to be returned to the city of Newark upon the expiration of such war or national emergency", and inserting in lieu thereof the following: "*And provided further*, That such conveyance shall be made upon the condition that the deed executed by the Secretary of the Army shall include a provision prohibiting the city of Newark from utilizing or allowing the property to be utilized for purposes other than as a marine terminal and shall contain the express condition that *whenever the Congress of the United States declares a state of war or other national emergency to exist*, the United States shall have the right, subject to the obligation to make payments as hereinafter provided, to reenter the property and use the same or any part thereof, including any and all improvements made thereon during its occupancy by the city of Newark or its lessees, for the duration of such state of war or other national emergency. If the property is not returned by the United States to the city of Newark prior to the termination of such state of war or other national emergency, it shall revert to the city of Newark upon the termination of such state of war or other national emergency. During each year or part thereof that the said property is occupied by the United States under a reentry during such state of war or other national emergency, the United States shall pay to the city of Newark or, if the property is then under lease, then to the city's then lessee, a rental or rentals to be computed as follows:

\* \* \* \* \*

"The deed shall further provide that there shall be excluded from consideration as part of the sums expended by others than the United States any moneys that may be paid to the city of Newark or its lessee by the United States in lieu of restoration, if any, of the said property to be performed under any lease to the United States of said property or as restoration costs incurred by the United States, during any period of reentry as herein provided, regardless of whether or not the funds are thereafter actually expended for capital repair or improvement, or reconstruction or rehabilitation, of the said property.

[Emphasis supplied.]

"The deed shall further provide that during any period of reentry hereunder, the United States shall have the right to make additions, alterations, modifications, or improvements to the property and that such additions, alterations, modifications, or improvements placed in, upon, or attached to said property may be removed by the United States prior to the return of the property to the city of Newark or its lessee.

"Prior to or at the expiration of the state of war or other national emergency during and on account of which the right to reenter said property herein granted, is exercised, but not later than the expiration thereof, the property shall be returned to the city of Newark or if the property is then under lease, then to the city's then lessee: *Provided, however,* That unless the United States shall return the property and the wharves, buildings, structures, and installations thereon and therein in the same condition as at the time of reentry the fair and reasonable restoration costs (which costs shall include the fair and reasonable costs of the reinstallation of any machinery, equipment, or fixtures placed on the property prior to the reentry and removed therefrom by or at the request of the United States during the period of its occupancy), as agreed upon by the United States and the city of Newark or if the property is then under lease, then by the United States and the city's then lessee shall be allocated between the United States and the city of Newark or its then lessee as follows:

"(a) If the annual rent paid by the United States is computed in accordance with subparagraph (1) hereinabove, then and in that event the United States shall pay no part of such costs;

"(b) If the annual rent paid by the United States is computed in accordance with subparagraph (2) hereinabove, then and in that event the United States shall pay to the city of Newark or if the property is then under lease, then to the city's then lessee three-fifths of such costs; and

"(c) If the annual rent paid by the United States is computed in accordance with subparagraph (3) hereinabove, the United States shall pay to the city of Newark or, if the property is then under lease, then to the city's then lessee so much of the said costs as is the same proportionate part of the total of such costs as the annual paid by the United States (less \$60,000) is of the annual fair rental value.

"In the computation of restoration costs damage caused by reasonable wear and tear, by action of the elements, or by circumstances beyond the control of the United States other than acts of war or of enemies of the United States, shall be excluded.

"If the United States and the city of Newark or its then lessee are unable to agree on the fair and reasonable restoration costs, then said costs shall be determined by the United States District Court in and for the District of New Jersey in accordance with the provisions of this Act and jurisdiction is conferred on that court for such purpose."

SEC. 2. Nothing contained in this Act shall impair, or be construed to impair, in any manner whatsoever, any other right or rights the United States may now or hereafter possess to condemn, seize, lease,

or otherwise take over the property in accordance with the applicable provisions of the laws of the United States.

SEC. 3. The Secretary of the Army is authorized to execute a supplement to the contract of sale entered into with the city of Newark, New Jersey, pursuant to the Act of June 20, 1936, in order to make effective the amendments made to said Act by this Act, but, in any event, the deed to be delivered to said city by the United States upon receipt of the final payment of the purchase price shall conform to these amendments.

Approved February 18, 1956.

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P.L. 428—70 STAT. 35—6

To release certain restrictions on certain real property heretofore granted to the city of Charleston, South Carolina, by the United States of America.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That with respect to the restrictions and conditions required by section 2 of the Act entitled "An Act authorizing the Secretary of Commerce to convey the Charleston Army Base Terminal to the city of Charleston, South Carolina", approved May 27, 1936 (49 Stat. 1387), which restrictions and conditions prohibited the city of Charleston from transferring title to the property conveyed under that Act and reserved a right to the United States to retake such property *in the event of a national emergency* (and which restrictions and conditions were included in deed executed pursuant to such Act, the Secretary of the Army is hereby authorized, in exchange for a minimum four hundred and seventy foot extension at the north end of the existing one thousand foot reinforced concrete wharf of the Charleston Transportation Depot, and the installation on the extension of rail trackage with necessary adjustments to connect with the rail trackage of the existing wharf, to be constructed by the said city of Charleston, South Carolina, or its lessee, the West Virginia Pulp and Paper Company, in accordance with plans and specifications approved by the Secretary of the Army, to release to the city of Charleston, South Carolina, by an appropriate written instrument, such restrictions and conditions so far as they pertain to the portion of the tract of land conveyed pursuant to such Act of May 27, 1936, which is commonly known as tract 12, and is more particularly described as follows:

Beginning at a point in the west harbor line of the Cooper River (which point is south 41 degrees 31 minutes 30 seconds west a distance of 13.2 feet from the southernmost corner of the concrete dock, formerly the dock of the Charleston Quartermaster Intermediate Depot, and which point is the terminal point of the fourteenth call in the deed dated 24 February 1950 from the City Council of Charleston to West Virginia Pulp and Paper Company); thence north 48 degrees 28 minutes 30 seconds west 2,999.27 feet, along lands of the West Virginia Pulp and Paper Company to a point which is distant

[Emphasis supplied.]

11.42 feet north 68 degrees 33 minutes east from an iron pipe; thence north 69 degrees 00 minutes east a distance of 104.71 feet to a point common to this tract, lands leased by the city of Charleston to the North Carolina Terminal Company, and lands of the South Carolina State Ports Authority; thence along lands of the South Carolina State Ports Authority north 86 degrees 45 minutes 50 seconds east 15.58 feet, north 88 degrees 32 minutes 20 seconds east 50.00 feet, south 87 degrees 23 minutes 40 seconds east 50.00 feet, south 82 degrees 42 minutes 40 seconds east 50.00 feet, south 76 degrees 46 minutes 40 seconds east 50.00 feet, south 70 degrees 20 minutes 40 seconds east 50.00 feet, south 64 degrees 09 minutes 40 seconds east 50.00 feet, south 30 degrees 44 minutes 40 seconds east 24.55 feet, north 86 degrees 54 minutes 06 seconds east 374.48 feet, south 48 degrees 27 minutes 10 seconds east 899.77 feet, south 41 degrees 32 minutes 50 seconds west 25.00 feet, south 48 degrees 27 minutes 10 seconds east 1,494.83 feet to a point on the eastern edge of the concrete dock; thence along the eastern edge of the concrete dock south 41 degrees 31 minutes 30 seconds west approximately 483.0 feet to the point of beginning and containing 30.75 acres, more or less.

Approved March 2, 1956.

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P.L. 521—70 STAT. 156

To provide for the conveyance of Camp Livingston, Camp Beauregard, and Esler Field, Louisiana, to the State of Louisiana, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army is authorized and directed, if he determines that the real property comprising Camp Livingston, Camp Beauregard, and Esler Field, or any part thereof, is available for conveyance to the State of Louisiana for the training and support of the National Guard of Louisiana, to convey all the right, title, and interest of the United States in such property, together with improvements thereon and appurtenances thereunto belonging, to the State of Louisiana by quitclaim deed, without monetary consideration therefor, but upon condition that it shall be used for the aforesaid purposes and if such real property shall ever cease to be used for such purposes, all the right, title, and interest in and to such real property shall revert to and become the property of the United States which shall have the immediate right of entry thereon, and to be further subject to the reservation by the United States of all mineral rights, including oil and gas; the right of reentry and use by the United States **in the event of need therefor during a national emergency**; and such other reservations, restrictions, terms, and conditions as the Secretary determines to be necessary to properly protect the interests of the United States.

SEC. 2. The cost of any surveys necessary as an incident of the conveyance authorized herein shall be borne by the State of Louisiana.

Approved May 14, 1956.

[Emphasis supplied.]

## P.L. 598—70 STAT. 296

Authorizing the conveyance of certain property of the United States to the State of New Mexico.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army is authorized and directed to convey to the State of New Mexico, all the right, title, and interest of the United States in and to the fifty-one acres of land, more or less, of the former Bruns General Hospital area in Santa Fe, New Mexico, now under license to the State of New Mexico, the property to be used for the training and support of the National Guard of New Mexico and for other military purposes, and the conveyance to be made without monetary consideration therefor, but upon condition that it shall be used for the aforesaid purposes and that if such real property shall ever cease to be used for such purposes, all the right, title, and interest in and to such real property shall revert to and become the property of the United States which shall have the immediate right of entry thereon, and to be further subject to the reservation by the United States of all mineral rights, including oil and gas; the right of reentry and use by the United States in the event of need therefor **during a national emergency declared by the President or the Congress**, and such other reservations, restrictions, terms, and conditions as the Secretary determines to be necessary to properly protect the interests of the United States.

SEC. 2. The cost of any surveys necessary as an incident of the conveyance authorized herein shall be borne by the State of New Mexico.

Approved June 19, 1956.

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P.L. 616—70 STAT. 335-6

To provide for the conveyance of certain lands of the United States to the city of Saint Augustine, Florida, a municipal corporation organized and existing under and by virtue of the laws of the State of Florida.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is authorized and directed to convey to the city of Saint Augustine, Florida, a municipal corporation organized and existing under and by virtue of the laws of the State of Florida, all of the right, title, and interest of the United States in and to the tracts of land more particularly described as follows:

All that certain five and eighty-two one-hundredths acres, more or less, piece or parcel of land situate, lying and being in Anastasia Island, in the County of Saint Johns in the State of Florida, . . .

\* \* \* \* \*

SEC. 3. The deed shall contain a covenant that no structure shall be erected on the land which will in any way adversely affect the operation of the Coast Guard facilities, and a covenant that the

[Emphasis supplied.]

property shall be used as a public park and that *in the event of national emergency* the property shall be available for use by the Federal Government without compensation.

Approved June 25, 1956.

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P.L. 618—70 STAT. 336—7

To provide for the conveyance of a portion of the former prisoner of war camp, near Douglas, Converse County, Wyoming, to the State of Wyoming, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Administrator of General Services is authorized and directed, upon certification to him by the Secretary of Defense and the Governor of Wyoming that the property described in section 2 of this Act is needed for the training or support of the National Guard of Wyoming, to convey the property to the State of Wyoming, by quitclaim deed, without monetary consideration therefor, upon such terms and conditions as the Administrator determines to be necessary to properly protect the interests of the United States: *Provided, however*, That such deed of conveyance by express term shall—

(a) reserve to the United States all mineral rights including gas and oil;

(b) reserve to the United States right of exclusive use without charge therefor of such property together with any improvements thereon *during any period of national emergency, and*

(c) specify that said property shall be used for the training of the National Guard or for other military purposes, and in the event of nonuse for such purpose, shall, in its then existing condition together with any improvements thereon, at the option of the United States as determined and exercised by the Secretary of Defense, revert to the United States.

SEC. 2. The real property to be conveyed to the State of Wyoming is described as follows:

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SEC. 3. The cost of any surveys necessary as an incident of the conveyance authorized herein shall be borne by the State of Wyoming.

Approved June 25, 1956.

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P.L. 706—70 STAT. 536—7

To provide for the conveyance of part of Ethan Allen Air Force Base, Colchester, Vermont, to the State of Vermont, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Air Force is authorized and directed to convey to the State of

[Emphasis supplied.]

Vermont all right, title, and interest of the United States in and to certain land comprising a part of the Ethan Allen Air Force Base, together with improvements thereon, and appurtenances thereto belonging; such property being more particularly described as follows:

\* \* \* \* \*

SEC. 2. The property authorized to be conveyed by the first section of this Act shall be used for the training of the National Guard of Vermont and for other military purposes, and the conveyance authorized herein shall be made without monetary consideration therefor, but shall be subject to the reservation by the United States of all mineral rights, including oil and gas; the right of reentry and use by the United States in the event of need therefor *during a national emergency declared by the President or the Congress*; and the condition and limitation that if the property shall fail or cease to be used for the training of the National Guard of Vermont or for other military purposes, the title to the property so conveyed shall revert to and revest in the United States, and all improvements made thereon during its occupancy by the State of Vermont shall vest in the United States without payment of compensation therefor.

SEC. 3. The costs of any surveys necessary as an incident of the conveyance authorized herein shall be borne by the State of Vermont.

Approved July 14, 1956.

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P.L. 719—70 STAT. 550-1

To direct the Secretary of the Army or his designee to convey an eleven and one-fourth acre tract of land situated in the vicinity of Williamsburg, Virginia, to the State of Virginia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Army or his designee is authorized and directed to convey by quitclaim deed, without consideration, to the State of Virginia, all right, title, and interest of the United States, except as retained in this Act, in and to eleven and one-fourth acres of land situated in York County, Virginia, and being a part of the lands at the Armed Forces Experimental Training Activity, Camp Peary, Near Williamsburg, Virginia. The eleven and one-fourth acre tract of land to be conveyed to the State of Virginia is more particularly described as follows:

\* \* \* \* \*

SEC. 2. All mineral rights, including gas and oil, in the lands authorized to be conveyed by this Act shall be reserved to the United States.

SEC. 3. There shall be further reserved to the United States in the conveyance of the above-described lands, rights of ingress and egress over roads in the above-described lands serving buildings or other works operated by the United States or its successors or assigns in connection with the remaining portion of the lands at the Armed

[Emphasis supplied.]

Forces Experimental Training Activity, Camp Peary, near Williamsburg, Virginia, rights-of-way for water lines, sewer lines, telephone and telegraph lines, power lines, and such other utilities which now exist, or which may become necessary to any operations of the United States on or in connection with the remaining portion of said lands at the Armed Forces Experimental Training Activity, Camp Peary, near Williamsburg, Virginia.

SEC. 4. The conveyance of the property authorized by this Act shall be upon condition that such property shall be used for training of the National Guard and for other military purposes, and that if the State of Virginia shall cease to use the property so conveyed for the purposes intended, then title thereto shall immediately revert to the United States, and in addition, all improvements made by the State of Virginia during its occupancy shall vest in the United States without payment of compensation therefor.

SEC. 5. The conveyance of the property authorized by this Act shall be upon the further provision that *whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the State of Virginia, for the duration of such state of war or of such emergency. Upon the termination of such state of war or such emergency plus six months, such property shall revert to the State of Virginia, together with all appurtenances and utilities belonging or appertaining thereto.

SEC. 6. In executing the deed of conveyance authorized by this Act, the Secretary of the Army or his designee shall include specific provisions covering the reservations and conditions contained in sections 2, 3, 4, and 5 of this Act.

SEC. 7. The cost of any surveys necessary as an incident to the conveyance authorized herein shall be borne by the State of Virginia.

Approved July 14, 1956.

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P.L. 729—70 STAT. 577

To provide for the conveyance of certain lands by the United States to the State of Wisconsin.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Army is authorized and directed to convey to the State of Wisconsin all the right, title, and interest of the United States in and to the real property described in section 2 of this Act, the property to be used for the training and maintaining of units of the Wisconsin National Guard, and the conveyance to be made without

[Emphasis supplied.]



monetary consideration therefor, but upon condition that it shall be used for the aforesaid purposes and that if such real property shall ever cease to be used for such purposes, all the right, title, and interest in and to such real property shall revert to and become the property of the United States, which shall have the immediate right of entry thereon, and to be further subject to the reservation by the United States of all mineral rights, including oil and gas; the right of reentry and use without payment of rent or other compensation by the United States in the event of need therefor **during a national emergency declared by the Congress or the President of the United States**; and such other reservations, restrictions, terms, and conditions as the Secretary determines to be necessary to properly protect the interests of the United States.

SEC. 2. (a) The La Crosse National Guard Target Range, located near La Crosse, Wisconsin, in La Crosse County, Wisconsin, more particularly described as follows:

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Approved July 18, 1956.

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P.L. 740—70 STAT. 590

To provide for the release of the right, title, and interest of the United States in a certain tract or parcel of land conditionally granted by it to the city of Montgomery, West Virginia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army is authorized to modify by appropriate written instrument the exception and reservation to the United States of America in the deed executed by the Secretary of War on December 13, 1938, pursuant to the Act of Congress approved June 14, 1938 (52 Stat. 675), of the perpetual right to flood such part of the eight and three-tenths acres conveyed to the town of Montgomery, West Virginia, as may be necessary from time to time in the interests of navigation so as to limit such exception and reservation to the portion of the eight and three-tenths acres located below elevation 619 feet, mean sea level, and to release by appropriate written instrument to the city of Montgomery, West Virginia, such restrictions and conditions imposed by section 2 of said Act of June 14, 1938, and included in the deed granted pursuant thereto: *Provided*, That any release by the Secretary of the Army of the restrictions and conditions imposed by section 2 of said Act of June 14, 1938, shall be effective only in the event the land described in such Act is conveyed to the State of West Virginia within one year from the date of enactment of this Act on condition that it shall be used for National Guard or other military purposes.

If the State of West Virginia shall cease to use the property for the purpose intended then the title thereto shall immediately revert to the United States and, in addition, all improvements made by the State of West Virginia during its occupancy shall vest in the United States without payment or compensation therefor.

[Emphasis supplied.]

The conveyance of the property authorized by this Act shall be upon the further provision that *whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or for naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the State of West Virginia, for the duration of such state of war or of such emergency. Upon the termination of such state of war or of such emergency, plus six months, such property shall revert to the State of West Virginia, together with all appurtenances and utilities belonging or appertaining thereto.

All mineral rights, including gas and oil, in the lands authorized by this Act shall be reserved to the United States.

The cost of any surveys necessary as an incidence to the conveyance authorized herein shall be borne by the State of West Virginia.

Approved July 20, 1956.

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P.L. 819—70 STAT. 698

To direct the Secretary of the Army or his designee to convey a three-acre tract of land, situated about six miles south of the city of San Antonio, in Bexar County, Texas, to the State of Texas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Army or his designee is authorized and directed to convey by quitclaim deed, without consideration, to the State of Texas all right, title, and interest of the United States, except as retained in this Act in and to the following described land formerly designated as the Department of Agriculture San Antonio Nursery Site, with all buildings, improvements thereon, and all appurtenances and utilities belonging or appertaining thereto:

A certain tract of land, situated in the county of Bexar, and State of Texas, containing three acres, said tract being situated in the southwest corner of a tract of land containing two hundred and five acres heretofore conveyed to G. W. Ware and R. F. Moore, out of what is known as the Manuel Leal Survey located about six miles south of the city of San Antonio; . . .

\* \* \* \* \*

SEC. 2. All mineral rights, including oil and gas, in the lands authorized to be conveyed by this Act shall be reserved to the United States.

SEC. 3. The conveyance of the property authorized by this Act shall be upon condition that such property shall be used primarily for training of the National Guard and for other military purposes, and that if the State of Texas shall cease to use the property so con-

[Emphasis supplied.]

veyed for the purposes intended, then title thereto shall immediately revert to the United States, and in addition, all improvements made by the State of Texas during its occupancy shall vest in the United States without payment of compensation therefor.

SEC. 4. Nothing in this Act shall prevent the State of Texas from disposing of or salvaging the improvements now located on the land to be conveyed.

SEC. 5. The conveyance of the property authorized by this Act shall be upon the further provision that *whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the State of Texas for the duration of such state of war or of such emergency. Upon the termination of such state of war or of such emergency plus six months such property shall revert to the State of Texas, together with all appurtenances and utilities belonging or appertaining thereto.

SEC. 6. In executing the deed of conveyance authorized by this Act, the Secretary of the Army or his designee shall include specific provisions covering the reservations and conditions contained in sections 2, 3, 4, and 5 of this Act.

Approved July 27, 1956.

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P.L. 872—70 STAT. 793

To provide for the conveyance to the State of Oregon of the land and improvements known as the Clackamas National Guard target range, at Clackamas, Oregon, to be used for National Guard purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Army is authorized to convey to the State of Oregon all the right, title, and interest of the United States in and to a tract of land in Clackamas County, Oregon, comprising two hundred thirty-three and ninety-one one-hundredths acres, more or less, together with buildings and improvements thereon, being the same property now utilized by the State of Oregon National Guard as a firing range and storage depot, subject, however, to reservation in the United States of all mineral rights, including gas and oil, in the land authorized to be conveyed by this Act.

SEC. 2. The conveyance of the property identified in section 1 of this Act to the State of Oregon shall be made without consideration therefor and upon condition that it shall be used for military purposes only, and in the event it shall not be used for such purposes title thereto shall immediately revert to the United States, and, in

[Emphasis supplied.]

addition, title to all improvements made by the State of Oregon during its occupancy shall vest in the United States without payment of compensation therefor. The deed of conveyance shall contain the further provision that *whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist*, and upon determination by the Secretary of Defense that the property so conveyed is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made by the State of Oregon, for a period not to exceed the duration of such state of war or national emergency plus six months, and upon cessation of such use, such property shall revert to the State of Oregon, together with any or all improvements thereon and appurtenances appertaining thereto.

SEC. 3. The cost of any surveys necessary as an incident of the conveyance authorized herein shall be borne by the grantee.

Approved August 1, 1956.

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#### 85TH CONGRESS

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#### P.L. 46—71 STAT. 46—8

To amend the Act for the retirement of public-school teachers in the District of Columbia, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (60 Stat. 875, chapter 779), as amended, is amended as follows:

\* \* \* \* \*

Section 8, as amended, is amended by striking item (d) from the second sentence thereof and inserting in lieu thereof, "(d) periods of honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States (but not the National Guard except when ordered to active duty in the service of the United States) prior to the date of the separation upon which title to annuity is based; except that, if a teacher is awarded retired pay on account of military service, his military service shall not be included, unless such retired pay is awarded on account of a service-connected disability (1) incurred in combat with an enemy of the United States or (2) caused by an instrumentality of war and incurred in line of duty during an enlistment or employment as provided in Veterans Regulation Numbered 1 (a), part 1, paragraph 1, or is awarded under title III of Public Law 810, Eightieth Congress."; by striking from the fourth proviso thereof the words "in

[Emphasis supplied.]

time of war"; by inserting the words "Air Force" after the word "Navy" in item (e) of the second sentence of section 8; and by adding at the end of section 8 the following paragraphs:

**"A teacher who *during the period of any war or of any national emergency as proclaimed by the President or declared by the Congress*, has left or leaves his position to enter the military service, as defined in this section, shall not be considered, for the purposes of this Act, as separated from his teaching position by reason of such military service, unless he shall apply for and receive a lump-sum benefit under this Act, except that such teacher shall not be considered as retaining his teaching position beyond six months after the date of the approval of this Act or the expiration of five years of such military service, whichever is later.**

**"Nothing in this Act shall affect the right of a teacher to retired pay, pension, or compensation in addition to the annuity herein provided."**

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Approved June 4, 1957.

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#### P.L. 157—71 STAT. 391

To provide for the retirement of officers and members of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the White House Police force, and of certain officers and members of the United States Secret Service, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Policemen and Firemen's Retirement and Disability Act amendments of 1957".

SEC. 2. It is the intent of Congress in enacting the Policemen and Firemen's Retirement and Disability Act Amendments of 1957 to give the members coming under such Act benefits substantially similar to benefits given by the Civil Service Retirement Act Amendments of 1956 to officers and employees covered by the Civil Service Retirement Act of May 29, 1930, as amended.

\* \* \* \* \*

#### "CREDITABLE SERVICE

"(c) (1) A member's service for the purposes of this section shall mean all police or fire service and such military and Government service as is authorized by this section prior to the date of separation upon which title to annuity is based.

"(2) Each member shall be allowed credit for periods of military service served prior to the date of the separation upon which the annuity is based; however, if a member is awarded retired pay on account of military service, such military service shall not be included unless such retired pay is awarded on account of a service-connected disability (a) incurred in combat with an enemy of the

[Emphasis supplied.]

United States or (b) caused by an instrumentality of war and incurred in line of duty during an enlistment or employment as provided in Veterans Regulation numbered 1(a), part I, paragraph I, or is awarded under title III of Public Law 810, Eightieth Congress. Nothing in this section shall affect the rights of members to retired pay, pension, or compensation in addition to the annuity herein provided.

"(3) Credit shall be allowed for leaves of absence granted a member while performing military service, excluding from credit so much of any other leaves of absence without pay as may exceed six months in the aggregate in any calendar year.

"(4) A member who, *during any war or national emergency as proclaimed by the President or declared by the Congress*, has left or leaves his position to enter the military service shall not be considered, for the purposes of this section, as separated from his position by reason of such military service, unless he shall apply for and receive his salary deductions: *Provided*, That such member shall not be considered as retaining such position beyond December 31, 1957, or the expiration of five years of such military service, whichever is later.

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Approved August 21, 1957.

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P.L. 185—71 STAT. 467

To provide for the conveyance to the State of Maine of certain lands located in such State.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Navy is authorized to convey, by quitclaim deed and without consideration, to the State of Maine, for vocational or other school purposes, all right, title, and interest of the United States, except as provided in this Act, in and to the lands comprising the Fort Preble Military Reservation, South Portland, Maine, together with all buildings and other improvements located thereon, except that the part of Fort Preble Military Reservation over which the Department of the Air Force exercises jurisdiction, together with all buildings and other improvements located thereon shall not be conveyed by the aforesaid deed.

SEC. 2. The deed effecting the conveyance authorized by the first section of this Act shall provide—

(a) that the State of Maine agrees to use the property only for vocational or other school purposes and in the event that such lands cease to be used for such purposes, all right, title, and interest therein shall immediately revert to and revest in the United States;

(b) that *during any state of war or national emergency and for six months thereafter*, if the Secretary of Defense deter-

[Emphasis supplied.]

mines that such lands are useful or necessary for national defense purposes the United States may, without payment therefor, reenter such lands and use all or any part thereof (including improvements thereon), but upon the termination of such use such lands shall revert to the State of Maine; and

(c) that the conveyance shall be conditioned upon an agreement by the State of Maine—

(1) to maintain the entire property in a condition suitable for immediate use by the Department of Defense in the event of mobilization;

(2) to retain all structures and improvements except for removal which may be requested by the State of Maine and approved by the Commandant, First Naval District.

SEC. 3. In addition to conditions provided for in section 2 of this Act, the Secretary of the Navy shall impose such other conditions and such exceptions and reservations as he determines to be necessary, or desirable to safeguard the interests of the United States and to insure that such lands will be used for the purpose for which they are conveyed.

Approved August 28, 1957.

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P.L. 204—71 STAT. 478-9

To provide for the conveyance of Esler Field, Louisiana, to the parish of Rapides in the State of Louisiana, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, subject to sections 2 and 3, the Secretary of the Army shall convey, without monetary consideration, to the parish of Rapides in the State of Louisiana, all the right, title, and interest of the United States in and to the real property comprising Esler Field, Louisiana, . . .

\* \* \* \* \*

SEC. 2. The conveyance authorized by this Act shall—

(1) reserve to the United States all mineral rights, including gas and oil, in the property authorized to be conveyed by this Act;

(2) contain such other reservations, restrictions, terms, and conditions as the Secretary of the Army determines to be necessary to properly protect the interests of the United States, including (a) the nonexclusive use of the airport by transient military aircraft without charge; (b) the nonexclusive use of the airport by military aircraft without charge during periods of maneuvers in Louisiana; (c) the continued nonexclusive use of the airport, without charge, by the Louisiana National Guard; and (d) the continued use of space at the airport, without charge, by the Louisiana National Guard; and

(3) provide for a reverter to the United States at the election of the Secretary of the Army, for the breach of any of the terms and conditions by the parish of Rapides, its successors and assigns.

SEC. 3. The conveyance authorized by this Act shall be upon condition that—

(1) such property shall be used as a civil airport, and

(2) *whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to re-enter upon the property and use the same or any part thereof, including any and all improvements made thereon by the parish of Rapides, for the duration of such state of war or of such emergency. Upon the termination of such state of war or of such emergency, plus six months, such property shall revert to the parish of Rapides.

SEC. 4. The first section of the Act entitled "An Act to provide for the conveyance of Camp Livingston, Camp Beauregard and Esler Field, Louisiana, to the State of Louisiana, and for other purposes", approved May 14, 1956 (70 Stat. 156; Public Law Numbered 521, Eighty-fourth Congress) is amended by striking out "Camp Livingston, Camp Beauregard, and Esler Field, Louisiana" and inserting in lieu thereof "Camp Livingston and Camp Beauregard, Louisiana".

Approved August 28, 1957.

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P.L. 205—71 STAT. 479—80

To provide for the conveyance of Esler Field, Louisiana, to the parish of Rapides in the State of Louisiana, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, subject to sections 2 and 3, the Secretary of the Army shall convey, without monetary consideration, to the parish of Rapides in the State of Louisiana, all the right, title, and interest of the United States in and to the real property comprising Esler Field, Louisiana, . . .

\* \* \* \* \*

SEC. 4. The first section of the Act entitled "An Act to provide for the conveyance of Camp Livingston, Camp Beauregard and Esler Field, Louisiana, to the State of Louisiana, and for other purposes", approved May 14, 1956 (70 Stat. 156; Public Law Numbered 521, Eighty-fourth Congress) is amended by striking out "Camp Livingston, Camp Beauregard, and Esler Field, Louisiana" and inserting in lieu thereof "Camp Livingston and Camp Beauregard, Louisiana".

Approved August 28, 1957.

[Emphasis supplied.]



## P.L. 236—71 STAT. 516-7

To provide for the conveyance to the State of California a portion of the property known as Veterans' Administration Center Reservation, Los Angeles, California, to be used for National Guard purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Administrator of General Services is authorized and directed to convey to the State of California all right, title, and interest of the United States in and to a parcel of land comprising three and eighty-five one-hundredths acres, more or less, being that parcel of land fronting approximately four hundred nineteen and fifty-two one-hundredths feet on Federal Avenue set aside for a proposed National Guard Armory and now a portion of the Veterans' Administration Reservation, Los Angeles, California, subject, however, to the conditions and restrictions set forth in section 2 of this Act.

SEC. 2. The conveyance authorized by this Act shall be made without monetary consideration therefor but upon condition that the property shall be used for training of the National Guard and for other military purposes, and in the event it shall not be used for such purposes title thereto shall immediately revert to the United States, and, in addition, title to all improvements (except those improvements which the State of California removes at its own expense within a reasonable time after title to such property has reverted to the United States) made by the State of California during its occupancy shall vest in the United States without payment of compensation therefor. The deed of conveyance shall reserve to the United States all mineral rights, including gas and oil, and contain the further provision that *whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*, and upon determination by the Secretary of Defense that the property conveyed is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made by the State of California, for a period not to exceed the duration of such state of war or national emergency plus six months, and upon cessation of such use the property shall revert to the State of California, together with any or all improvements thereon and appurtenances appertaining thereto.

SEC. 3. The cost of any surveys necessary as an incident to the conveyance authorized herein shall be borne by the grantee.

Approved August 30, 1957.

[Emphasis supplied.]

## P.L. 258—71 STAT. 580-3

To direct the Secretary of the Navy or his designee to convey a two thousand four hundred seventy-seven and forty-three one-hundredths acre tract of land, avigation, and sewer easements in Tarrant and Wise Counties, Texas, situated about twenty miles northwest of the city of Fort Worth, Texas, to the State of Texas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy or his designee is authorized and directed to convey by quitclaim deed, without consideration, to the State of Texas all right, title, and interest of the United States, except as retained in this Act, together with all buildings, improvements thereon with related personal property, all appurtenances, runways, and utilities belonging or appertaining thereto, of the former United States Marine Corps Air Station, Eagle Mountain Lake, Texas, . . .

\* \* \* \* \*

SEC. 4. The conveyance of the property authorized by this Act shall be upon condition that such property shall be used primarily for training of the National Guard and the Air National Guard and for other military purposes, and on condition that the aviation potential of the station shall be maintained in a condition equivalent to the condition of the property at the time of its conveyance, ordinary wear and tear excepted, and that if the State of Texas shall cease to use the property so conveyed for the purposes intended, or fails to maintain such property in the condition aforesaid, then title shall immediately revert to the United States, and in addition, all improvements made by the State of Texas during its occupancy shall vest in the United States without payment of compensation therefor.

SEC. 5. Nothing in this Act shall prevent the State of Texas from disposing of or salvaging buildings and improvements now located on the land to be conveyed, or leasing, licensing or granting easements into and on the lands and improvements, except that the exercise of such rights shall not impair the use of the lands and improvements for the purpose set forth in section 4 of this Act, including preservation of the aviation potential of the property and that any revenues derived from such disposal, salvaging, leasing, licensing, or granting of easements shall be expended solely by the State of Texas for the protection, maintenance, and operation of the facility as a training center.

SEC. 6. The conveyance of the property authorized by this Act shall be upon the further provision that *whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the

[Emphasis supplied.]

State of Texas, for the duration of such state of war or of such emergency. Upon termination of such state of war or such emergency plus six months such property shall revert to the State of Texas, together with all appurtenances and utilities belonging or appertaining thereto.

SEC. 7. In executing the deed of conveyance authorized by this Act, the Secretary of the Navy or his designee shall include specific provisions covering the reservations and conditions contained in sections 2, 3, 4, 5, and 6 of this Act and such other terms and conditions, including joint use by the Government on a noninterference basis, not inconsistent with the provisions of this Act, as the Secretary of the Navy deems necessary in the interest of the United States.

SEC. 8. The cost of any surveys necessary as an incident to the conveyance authorized herein shall be borne by the State of Texas.

Approved September 2, 1957.

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P.L. 260—71 STAT. 584—7

To further amend the Act entitled "An Act to authorize the conveyance of a portion of the United States military reservation at Fort Schuyler, New York, to the State of New York for use as a maritime school, and for other purposes", approved September 5, 1950, as amended.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the first section of the Act entitled "An Act to authorize the conveyance of a portion of the United States military reservation at Fort Schuyler, New York, to the State of New York for use as a maritime school, and for other purposes", approved September 5, 1950 (Public Law 755, Eighty-first Congress), as amended July 16, 1952 (Public Law 559, Eighty-second Congress), is hereby amended to read as follows: "That the Secretary of the Army is authorized to convey to the people of the State of New York all that portion of the United States military reservation at Fort Schuyler, in the borough and county of Bronx in the city of New York, State of New York, together with all improvements thereon, . . .

\* \* \* \* \*

SEC. 3. Section 3 of the Act is amended to read as follows:

"SEC. 3. Such conveyance shall contain the further provision that **during any emergency declared by the President or the Congress of the United States in existence at the time of enactment of this Act, or whenever the President or the Congress of the United States declares a state of war or other national emergency**, and upon the determination by the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force that the property so conveyed is useful for military, air, or naval purposes or in the interest of national defense, the United States shall have the right, without charge, except as indicated below, to the full unrestricted possession, control, and use of the property conveyed, or any part thereof,

[Emphasis supplied.]

including any additions or improvements thereto made by the State subsequent to this conveyance: *Provided, however*, That the United States shall be responsible during the period of such use for the entire cost of maintaining all of the property so used, and shall pay a fair rental for the use of any structures or other improvements which have been added thereto without Federal aid: *And provided further*, That such right to possession, control, or use shall not apply to the property described in section 2 of this Act or to such bridge or to any structures or improvements used or useful in connection therewith and with respect thereto the United States shall have only such right as it may have with respect to other property not owned by the United States."

SEC. 4. The Act is amended by adding thereto a new section, numbered 6, reading as follows:

"SEC. 6. The Secretary of the Army is hereby authorized and directed to incorporate the foregoing provisions of this Act in any conveyance made by him or, if a conveyance has been made by him prior to the amendment of this Act, he shall make, execute, and deliver an appropriate written instrument amending such conveyance to conform to the provisions of this Act."

Approved September 2, 1957.

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P.L. 545—72 STAT. 401

Directing the Secretary of the Navy to convey certain land situated in the State of Virginia to the Board of Supervisors of York County, Virginia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Navy is authorized and directed to convey, by quitclaim deed, to the Board of Supervisors of York County, Virginia, for park and recreational purposes, all right, title, and interest of the United States in and to that tract of land situated in York County, Virginia, described as parcel numbered 202 on the property map, United States Naval Construction Training Center, York and James City Counties, Virginia, and consisting of three hundred acres more or less.

SEC. 2. The conveyance authorized by this Act shall be conditional upon the Board of Supervisors of York County, Virginia, paying to the Secretary of the Navy, as consideration for the tract of land conveyed under the provisions of this Act, an amount equal to 50 per centum of its fair market value as determined by the Secretary of the Navy after appraisal of such tract.

SEC. 3. The cost of any surveys and appraisals necessary as an incident to the conveyance authorized herein shall be borne by the Board of Supervisors of York County, Virginia.

SEC. 4. All mineral rights, including gas and oil, in the lands authorized to be conveyed by this Act shall be reserved to the United States.

SEC. 5. The conveyance of the property authorized by this Act shall be upon condition that such property shall be used for park

and recreational purposes, and that if the Board of Supervisors of York County, Virginia, shall cease to use the property so conveyed for the purposes intended, then title thereto shall immediately revert to the United States.

SEC. 6. The conveyance of the property authorized by this Act shall be upon the further provision that *whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the Board of Supervisors of York County, Virginia, for the duration of such state of war or of such emergency. Upon the termination of such state of war or such emergency plus six months, such property shall revert to the Board of Supervisors of York County, Virginia, together with all appurtenances and utilities belonging or appertaining thereto.

SEC. 7. In executing the deed of conveyance authorized by this Act, the Secretary of the Navy or his designee shall include specific provisions covering the reservations and conditions contained in sections 3, 4, 5, and 6 of this Act.

Approved July 22, 1958.

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P.L. 548—72 STAT. 403-4

To direct the Secretary of the Army to convey certain property located at Boston Neck, Narragansett, Washington County, Rhode Island, to the State of Rhode Island.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Army is authorized and directed to convey by quitclaim deed, without consideration, to the State of Rhode Island all right, title, and interest of the United States, except as retained in this Act, in and to a tract of land located a Boston Neck, Narragansett, Washington County, Rhode Island, together with all buildings and improvements thereon, and all appurtenances and utilities belonging or appertaining thereto, such land including approximately thirty-three and seventy-nine one-hundredths acres and formerly designated as Fort Varnum, as shown on maps on file with the Office of the Chief of Engineers, and being the same property now utilized by the Rhode Island National Guard under a license granted by the Secretary of the Army.

SEC. 2. All mineral rights in the lands authorized to be conveyed by this Act shall be reserved to the United States.

SEC. 3. The conveyance of the property authorized by this Act shall be upon condition that such property shall be used primarily for training of the National Guard and for other military purposes, and that if the State of Rhode Island shall cease to use the property

[Emphasis supplied.]

so conveyed for the purposes intended, then title thereto shall immediately revert to the United States, and in addition all improvements made by the State of Rhode Island during its occupancy shall vest in the United States without payment of compensation therefor.

SEC. 4. The conveyance of the property authorized by this Act shall be upon the further provision that *whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the State of Rhode Island, for a period not to exceed the duration of such state of war or national emergency plus six months. Upon the termination of such use the property shall revert to the State of Rhode Island, together with any or all improvements thereon and appurtenances appertaining thereto.

SEC. 5. In executing the deed of conveyance authorized by this Act, the Secretary of the Army shall include specific provisions covering the reservations and conditions contained in sections 2, 3, and 4 of this Act.

Approved July 22, 1958.

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P.L. 799—72 STAT. 965

To provide for the conveyance of certain land of the United States to the State Board of Education of the State of Florida.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Air Force is authorized and directed to convey to the State Board of Education of the State of Florida all of the right, title, and interest of the United States in and to the real property described in section 2 of this Act. The deed effecting the conveyance authorized by this section shall provide—*

(a) that the State Board of Education of the State of Florida agrees to use the property only for recreational camp or other public purposes and in the event that such lands cease to be used for such purposes, all right, title, and interest therein shall immediately revert to and revest in the United States;

(b) that *during any state of war or national emergency and for six months thereafter*, if the Secretary of Defense determines that such lands are useful or necessary for national defense purposes the United States may, without payment therefor, reenter such lands and use all or any part thereof (including improvements thereon), but upon the termination of such use such lands shall revert to the State of Florida;

(c) that no structure, the height of which is in excess of 75 feet above the low water level, shall be constructed upon the property;

[Emphasis supplied.]

(d) that the State of Florida shall waive any and all claim for damages which may result to the property from Air Force operations.

SEC. 2. The land referred to in the first section contains approximately 11 acres lying and being in lot 1, section 36, township 1 south, range 22 west, Tallahassee meridian, Okaloosa County, Florida. Beginning at a point which is on the east line of said section 36, 1,883 feet south of the northeast corner of said section, thence south 55 degrees west 800 feet; thence north 35 degrees west 600 feet; thence north 55 degrees east 800 feet; thence south 35 degrees east 600 feet to the point of beginning.

SEC. 3. The conveyance authorized by this Act, shall be conditional upon the State Board of Education of the State of Florida, paying to the Secretary of the Air Force, as consideration for the tract of land conveyed under the provisions of this Act, an amount equal to 50 per centum of its fair market value as determined by the Secretary of the Air Force after appraisal of such tract.

SEC. 4. The cost of any surveys and appraisals necessary as an incident to the conveyance authorized herein shall be borne by the State Board of Education of the State of Florida.

SEC. 5. All mineral rights, including gas and oil, in the lands authorized to be conveyed by this Act shall be reserved to the United States.

Approved August 28, 1958.

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86TH CONGRESS

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P.L. 323—73 STAT. 594-4

To direct the Secretary of the Army to convey the Army and Navy General Hospital, Hot Springs National Park, Arkansas, to the State of Arkansas, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the Secretary of the Army is authorized and directed to convey to the State of Arkansas by quitclaim deed, without consideration and without regard to the provisions of section 2662 of title 10 of the United States Code, but subject to the conditions, limitations, and reservations hereinafter set forth, all right, title, and interest of the United States in and to approximately twenty-one acres, more or less, of land located at Hot Springs National Park, Arkansas, which comprise a part of the reservation presently occupied by the Army and Navy General Hospital, together with all buildings and improvements situated thereon and all appurtenances and utilities belonging or appertaining thereto.

(b) The conveyance authorized by this Act may not include any part of that portion of the Hot Springs National Park, comprising approximately three and one-half acres hereinafter described by metes and bounds, presently occupied in part by the National Park Service, or any building, improvement, appurtenance, or utility

appertaining thereto, or any personal property situated thereon. Such buildings, improvements, appurtenances, and utilities are hereby transferred to the Department of the Interior. . . .

SEC. 2. The deed of conveyance executed pursuant to this Act shall expressly reserve to the United States (a) all mineral rights in the land so conveyed, and (b) full title to all thermal waters on and under such land. The Secretary of the Interior is authorized to grant to the State of Arkansas a permit for the use of so much of such waters as may be required for the use of such land by the State for the purposes described in section 3 of this Act.

SEC. 3. The deed of conveyance of real property authorized by this Act shall include the conditions that (a) such property shall be used by the State of Arkansas as a vocational rehabilitation center or for other public health or educational purposes, (b) if at any time the Secretary of the Army determines, upon advice received from the Secretary of Health, Education, and Welfare, that the property so conveyed is not used for such purposes, title thereto shall immediately revert to the United States, and (c) in the event of any such reversion, title to all improvements made thereon by the State of Arkansas during its occupancy shall vest in the United States without payment of compensation therefor.

SEC. 4. The deed of conveyance of the real property authorized by this Act shall include appropriate provisions to insure that (a) *whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency*, and upon the determination by the Secretary of Defense that the property conveyed under this Act is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made thereon by the State of Arkansas, for a period not to exceed the duration of such state of war or national emergency plus six months, and (b) upon the termination of such use by the United States, the property shall be returned to the State of Arkansas, together with any or all improvements thereon and appurtenances appertaining thereto.

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Approved September 21, 1959.

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P.L. 473—74 STAT. 143

To authorize the Secretary of Commerce to resell any two of four C1-SAY-1 type vessels to the Government of the Republic of China for use in Chinese trade in Far East and Near East waters exclusively.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of Commerce is authorized to sell, within one year after enactment

[Emphasis supplied.]



hereof, on an "as is, where is" basis, to the Government of the Republic of China, any two of the four C1-SAY-1 vessels, EMPIRE, ANVIL, EMPIRE BATTLEAX, EMPIRE CUTLASS, and EMPIRE SPEARHEAD, subject to the further terms and provisions of this bill. Such vessels shall be sold only if (1) the Department of State finds that such sale will contribute to the economic development of the Republic of China and will serve the interests of the United States, (2) the Department of Defense finds that such sale would be compatible with the interests of the United States, and (3) the Government of the Republic of China gives assurances acceptable to the Secretary of Commerce that each vessel sold under this Act shall (a) remain documented under the laws of the Republic of China for ten years after such sale, or so long as there remains due the United States any principal or interest on account of the sales price, whichever is the longer period, (b) be used only in trade between Taiwan and ports in the Far East and ports east of the Suez Canal, and not engage in trade prohibited to United States flag vessels under Department of Commerce Transportation Orders T-1 and T-2 or any modification thereof, and (c) be returned to the ownership of the United States, upon request of the Government of the United States, **during any national emergency declared by the President of the United States and during any war in which the United States is participating**, the compensation for the vessel to be the value of the vessel but not exceeding the statutory sales price of the vessel under the Merchant Ship Sales Act of 1946 (\$1,100,000) depreciated at the rate of 10 per centum per annum from the date of sale under this Act to the date ownership of the vessel is returned to the United States, or the scrap value of the vessel, whichever is higher. No downpayment of any part of the purchase price shall be required at the time of the sale. The sale price of the vessels shall be the statutory sales price, less payments heretofor made from 1948 to 1951 on account of the purchase of the four named vessels, and less depreciation computed at the rate of 31½ per centum per annum from the date of default under the original contract to the date of sale under this Act. The purchase price shall be payable in not more than ten equal annual installments with interest on the unpaid balance at a rate determined by the Secretary of Commerce after consultation with the National Advisory Council on International Monetary and Fiscal Problems. The obligation of the Government of the Republic of China to pay the purchase price and interest thereon shall be secured by a mortgage on the vessel with terms satisfactory to the Secretary of Commerce. All repairs and betterments required to fit the vessels for their intended use shall be done in a shipyard in the United States at the expense of the purchaser.

Approved May 14, 1960.

[Emphasis supplied.]

To authorize the Secretary of the Navy to transfer to the Massachusetts Port Authority, an instrumentality of the Commonwealth of Massachusetts, certain lands and improvements thereon comprising a portion of the so-called E Street Annex, South Boston Annex, Boston Naval Shipyard, in South Boston, Massachusetts, in exchange for certain other lands.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy is authorized to convey to the Massachusetts Port Authority, an instrumentality of the Commonwealth of Massachusetts, subject to the terms and conditions hereinafter in this Act expressly stated, and to such other terms and conditions as the said Secretary of the Navy shall deem to be in the public interest, all the right, title, and interest of the United States in and to that portion of the property known as E Street Annex, South Boston Annex, Boston Naval Shipyard, in South Boston, Massachusetts, including the improvements thereon, and described as follows:

\* \* \* \* \*

SEC. 2. The conveyance to the Massachusetts Port Authority authorized by the first section of this Act shall be made subject to the following express conditions: (a) That the Massachusetts Port Authority, at its own expense, will preserve and maintain in a condition suitable for, and not inconsistent with, the purposes of the Authority, the lands and the improvements existing on said property on the date of enactment of this Act, and those which may be constructed thereon after such date of enactment; (b) *that in a time of war or national emergency* the United States shall have the right of the free and unlimited use of all said property including any improvements which may be erected by the grantee, but the United States shall pay a fair rental for any improvements made after the date of enactment of this Act and shall be responsible during the period of such use for the entire cost of maintaining said property.

SEC. 3. (a) As a condition of the exchange of land authorized by this Act the Secretary of the Navy shall require the Massachusetts Port Authority to pay an amount of money equal to the amount, if any, by which the fair market value of the property conveyed by the United States exceeds the fair market value of the property conveyed to the United States, as determined by the Secretary of the Navy.

(b) The Secretary of the Navy is authorized, with respect to any amount determined by him to be payable to the United States pursuant to the provisions of subsection (a), to waive such portion thereof, but not to exceed 50 per centum, as he deems equitable in consideration of the rent free use by the Department of the Navy in past years of the land conveyed hereunder by the Massachusetts Port Authority.

Approved July 7, 1960.

[Emphasis supplied.]

To provide for the conveyance of certain lands which are a part of the Des Plaines Public Hunting and Refuge Area and the Joliet Arsenal Military Reservation, located in Will County, Illinois, to the State of Illinois.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) subject to the provisions of subsections (b), (c), and (d) of this section, and section 3, the Administrator of General Services is authorized and directed to convey, by quitclaim deed, to the State of Illinois, for wildlife conservation or recreational purposes, all right, title, and interest of the United States in and to the following described lands, together with all buildings and improvements thereon, situated in Will County, Illinois:

\* \* \* \* \*

(b) The conveyance authorized to be made pursuant to subsection (a) of this section shall be conditional upon the payment by the State of Illinois to the Administrator of General Services as consideration for such conveyance of the sum of \$286,638.

(c) The land authorized to be conveyed pursuant to subsection (a) of this section shall be conveyed subject to such easements for railroad rights-of-way as shall, in the determination of the Administrator of General Services, be necessary or appropriate to provide railroad service for the purchasers of adjoining tracts of land from the United States.

(d) The instrument of conveyance authorized by this section shall expressly require (1) that in the event the property conveyed by such instrument ceases to be used for wildlife conservation or recreational purposes, all right, title, and interest therein shall immediately revert to the United States to be held in the same manner as it was held prior to such conveyance; and (2) that all oil, gas, and mineral rights in the property conveyed shall be reserved to the United States.

(e) The property authorized to be conveyed pursuant to subsection (a) of this Act has been declared to be surplus to the needs of the United States.

SEC. 2. (a) Subject to the acquisition by the State of Illinois of the property described in the first section of this Act, the Secretary of the Army is authorized and directed, notwithstanding the provisions of section 2662 of title 10 of the United States Code, to convey, by quitclaim deed, without consideration, to the State of Illinois, for wildlife conservation or recreational purposes, all right, title, and interest of the United States in and to an area of approximately 1,230 acres of land now or formerly part of Joliet Arsenal, Will County, Illinois, lying generally along the southwestern boundary of the arsenal between the Kankakee River and the Chicago and Alton Railroad, comprised of approximately 317 acres of land previously reported by the Department of the Army to the Administrator of General Services for transfer or disposal as excess real property and

approximately 913 acres of adjacent land determined by the Secretary of the Army to be available for nonmilitary purposes.

(b) The instrument of conveyance authorized by this section shall (1) reserve to the United States all oil, gas, and mineral rights in the property; (2) reserve such improvements, rights-of-way, easements, and other interests as the Secretary of the Army determines should be retained in the public interest; and (3) contain provisions expressly requiring that (A) in the event the property conveyed by such instrument ceases to be used for wildlife conservation or recreational purposes, all right, title, and interest therein shall immediately revert to the United States to be held in the same manner as it was held prior to such conveyance, and (B) ***whenever the Congress of the United States declares a state of war or other national emergency, or the President declares a state of emergency***, and upon the determination by the Secretary of Defense that the property conveyed under this section is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including all buildings and improvements thereon, for a period not to exceed the duration of such state of war or national emergency plus six months, and upon the termination of such use by the United States, the property shall be returned to the State of Illinois, together with all buildings and improvements thereon.

SEC. 3. The authority contained in this Act shall expire one year from the date of enactment of this Act if the State of Illinois has not, during such one year period, made commitments, satisfactory to the Administrator of General Services, with respect to the acquisition by such State of the property authorized to be conveyed under the first section of this Act.

Approved July 12, 1960.

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87TH CONGRESS

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P.L. 328—75 STAT. 688

To create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

\* \* \* \* \*

(c) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President ***in the event of a national emergency***.

[Emphasis supplied.]

(d) Notwithstanding the provisions of Article 2, section 2.2 of the Compact, the member of the Commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President.

(e) Nothing contained in the Compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, or such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the Executive Branch of the Federal Government.

(f) Except to the same extent that state bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws of the United States, nothing contained in the Compact shall be construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the Commission, their transfer, or the income therefrom (including any profits made on the sale thereon):

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Approved September 27, 1961.

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P.L. 654—76 STAT. 530

To amend the Act of June 5, 1952, so as to remove certain restrictions on the real property conveyed to the Territory of Hawaii by the United States under authority of such Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That clause (a) of section 2 of the Act entitled "An Act to authorize the Secretary of the Navy to convey to the Territory of Hawaii certain real property at Kahului, Wailuku, Maui, Territory of Hawaii", approved June 5, 1952 (66 Stat. 128), is amended by striking out "That particular structures or parcels not suitable for airport purposes may be leased for other purposes with the consent of the Secretary of the Navy" and by inserting in lieu thereof the following: "That particular structures and parcels of land not required or used for airport purposes may be sold, exchanged, or leased by the State of Hawaii with the consent of the Secretary of the Navy and the Administrator of the Federal Aviation Agency: *Provided further*, That the proceeds from any sale or lease, or the property received in any exchange, authorized by this section, shall be used for airport purposes".

SEC. 2. Such Act is further amended by adding at the end thereof a new section as follows:

"SEC. 3. In order that the State of Hawaii may convey good and clear title to any parcel of land conveyed by it under the exchange authority prescribed in clause (a) of section 2 of this Act, the Secretary of the Navy is authorized to relinquish to the State of Hawaii any right, title, and interest of the United States in and to such parcel free of any conditions set forth in section 2 on condition that the State of Hawaii agree, with respect to any lands received by

such State in exchange for such parcel, *to convey to the United States rights and interests substantially equal to those held by the United States in the lands originally conveyed by it to such State (then a Territory) under this Act*, and such other rights and interests as the Secretary may deem necessary in the public interest."

SEC. 3. The Secretary of the Navy shall execute such conveyance or other instrument in writing as may be necessary to carry out the amendment made by the first section of this Act.

Approved September 10, 1962.

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P.L. 733—76 STAT. 697

Expressing the determination of the United States with respect to the situation in Cuba.

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "to extend their system to any portion of this hemisphere as dangerous to our peace and safety"; and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations"; and

Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union"; and

Whereas the international Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence; Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the United States is determined—

(a) *to prevent by whatever means may be necessary, including the use of arms*, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

[Emphasis supplied.]

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.  
 Approved October 3, 1962.

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P.L. 794—76 STAT. 877

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SEC. 232. SAFEGUARDING NATIONAL SECURITY

(a) No action shall be taken pursuant to section 201(a) or pursuant to section 350 of the Tariff Act of 1930 to decrease or eliminate the duty or other import restriction on any article ***if the President determines that such reduction or elimination would threaten to impair the national security.***

(b) Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Director of the Office of Emergency Planning (hereinafter in this section referred to as the "Director") shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from other appropriate departments and agencies, to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. If, as a result of such investigation, the Director is of the opinion that the said article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall promptly so advise the President, and unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security as set forth in this section, he shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not so threaten to impair the national security.

(c) For the purposes of this section, the Director and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Director and the President shall further recognize the

[Emphasis supplied.]

close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security.

(d) A report shall be made and published upon the disposition of each request, application, or motion under subsection (b). The Director shall publish procedural regulations to give effect to the authority conferred on him by subsection (b).

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Approved Oct. 11, 1962.

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### 88TH CONGRESS

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### P.L. 228—77 STAT. 470-1

To authorize the Secretary of the Army to convey a certain parcel of land to the State of Delaware, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That the Secretary of the Army is authorized and directed to sell and convey to the State of Delaware, by quitclaim deed, all right, title, and interest of the United States in and to such federally owned lands of the Fort Miles Military Reservation, Delaware, which are now declared to be excess to the needs of the United States, excluding, however, approximately ten acres located within the town of Lewes, Delaware, known as the offpost housing area.

SEC. 2. The conveyance authorized herein shall be upon the following terms and conditions:

(a) That portion of the presently excess lands comprising approximately one hundred and fifty-five acres, more or less, which was ceded to the Federal Government by the State of Delaware without cost, shall be conveyed with the improvements thereon to the State of Delaware without monetary payment.

(b) Such lands, other than described in (a) above, as are presently excess shall be conveyed with the improvements thereon to the State of Delaware upon payment to the United States by the State of Delaware of the amount of money determined by the Secretary of the Army to have been paid by the United States for the acquisition of subject lands.

(c) The lands conveyed shall be used solely for educational and/or public park and recreational purposes, and if such use shall ever cease, title to these lands shall revert to, and become the property of the United States which shall have the right of immediate entry thereon.



(d) The State of Delaware shall pay the cost of such surveys as may be necessary to determine the exact legal description of the real property to be conveyed.

SEC. 3. The Secretary of the Army shall include in the deed of conveyance authorized to be made by this Act a provision authorizing the Secretary of Defense, *in any national emergency declared by the President or the Congress*, to enter upon and use without cost to the United States the lands conveyed by such deed if such lands are considered necessary for national defense purposes by the Secretary of Defense. The Secretary of the Army may also include in the deed of conveyance such additional reservations and conditions he considers to be in the public interest.

Approved December 23, 1963.

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89TH CONGRESS

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P.L. 188—79 STAT. 793

To authorize certain construction at military installations, and for other purposes.

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

TITLE I

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including site preparations, appurtenances, utilities and equipment for the following projects:

\* \* \* \* \*

(s) community facilities in the amount of \$550,000 for Camp Smedley D. Butler, Okinawa, that is contained in title II, section 201, under the heading "Outside the United States" and subheading "Marine Corps Facilities" of the Act of November 7, 1963 (77 Stat. 315).

(b) Effective fifteen months from the date of enactment of this Act, all authorizations for construction of family housing which are contained in this Act or any Act approved prior to August 2, 1964, are repealed except (1) the authorization for family housing projects as to which appropriated funds have been obligated for construction contracts or land acquisitions or manufactured structural component contracts in whole or in part before such date, (2) the authorization for two hundred family housing units at a classified location contained in the Act of August 1, 1964 (78 Stat. 341,359), and the authorization for 180 units at Site 4-S contained in the Act of August 1, 1964 (78 Stat. 341, 360).

[Emphasis supplied.]

SEC. 607. (a) It is the sense of Congress that all the land comprising the Bolling-Anacostia complex *will be required for military purposes within the foreseeable future and should be retained by the Department of Defense for such use.*

(b) Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), the Housing Act of 1949, as amended (42 U.S.C. 1441 et seq.), the Act of June 8, 1960 (40 U.S.C. 2662), or any other law, no portion of the Bolling Air Force Base or the Anacostia Naval Air Station shall be determined excess to the needs of the holding agency or transferred, reassigned, or otherwise disposed of by such agency prior to July 1, 1967.

SEC. 608. (a) All construction under this Act shall be designed using techniques developed by the Office of Civil Defense to maximize fallout protection, where such can be done without impairing the purpose for which the construction is authorized or the effectiveness of the structure, unless exempted from this requirement under regulations prescribed by the Secretary of Defense or his designee.

(b) The Secretary of Defense shall make appropriate provision for the utilization of technical design and construction methods in the preparation of design and construction plans and in construction under this Act, to assure carrying out the purposes of this section; and for such purposes expenditures on individual projects shall not exceed one per centum of the amount authorized for that project.

SEC. 609. Every contract between the Secretary of the Air Force and the Aerospace Corporation shall prohibit the construction of any facility or the acquisition of any real property by the Aerospace Corporation unless such construction or acquisition has first been authorized to the Air Force by the Congress.

SEC. 610. Except in the case of hospitals authorized for construction under this or any previous Act, any military hospital hereafter constructed in the United States or its possessions shall include facilities for obstetrical care unless sound and specific justification is made by the Secretary concerned for omitting such facilities in any hospital authorized.

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## P.L. 257—79 STAT. 982

To authorize certain members of the Armed Forces to accept and wear decorations of certain foreign nations.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, subject to such regulations as may be prescribed by the Secretaries of the Army, Navy, Air Force, and Treasury, members and former members of the Armed Forces of the United States holding any office of profit or trust under the United States, who have served, subsequent to February 28, 1961, in Vietnam and such of the waters or lands adjacent thereto as may be designated by the respective Secretaries, are authorized, *during any period in which members of the Armed*

[Emphasis supplied.]

***Forces of the United States are serving with friendly foreign forces engaged in an armed conflict in Vietnam against an opposing armed force in which the United States is not a belligerent party, or during any period of hostilities in Vietnam in which the United States may be engaged,*** and for one year thereafter, to accept from the Government of the Republic of Vietnam or from the government of any other foreign nation whose personnel are serving in Vietnam in the cause of the Government of the Republic of Vietnam such decorations, orders, and emblems as may be tendered them for such service, and which are conferred by such governments upon members of their own military forces. For purposes of this Act the consent of Congress required in accordance with clause 8 of section 9, article I of the Constitution is hereby granted. Subject to such regulations as may be prescribed by the Secretary concerned, any such member or former member holding any office of profit or trust under the United States is authorized to wear any decoration, order, or emblem accepted pursuant to authority contained in this Act.

Approved October 19, 1965.

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P.L. 568—80 STAT. 739

To authorize certain construction at military installations, and for other purposes.

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

## TITLE I

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including site preparations, appurtenances, utilities, and equipment for the following projects:

\* \* \* \* \*

SEC. 611. Section 607(b) of Public Law 89-188 is amended by deleting the words "July 1, 1967" and inserting in lieu thereof the words "December 31, 1970" and adding at the end thereof "nor shall any of this land be set aside or committed by the Department of Defense for use by any other agency of the Federal Government other than the Department of Defense. However, the Department of Defense may, ***if and when directed by the President,*** enter into a leasing arrangement with the Federal Aviation Agency for a period not to extend beyond December 31, 1970, and subject to a one-year revocation provision whereby the Federal Aviation Agency or its designee may operate the runways, taxiways, hangars, parking aprons, and other related facilities at the Bolling-Anacostia complex for appropriate aviation purposes. The said lease shall not include facilities which are required for military activities. Such leasing arrangements shall be reported to the Committees on Armed Services of the Senate and the House of Representatives."

\* \* \* \* \*

[Emphasis supplied.]

P.L. 142—83 STAT. 293

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SEC. 805. (a) The Secretary of the Army is authorized to convey by quitclaim deed to the State of Washington all right, title, and interest of the United States, except as retained in this section, in and to a certain parcel of land located in the city of Seattle, King County, Washington, containing fifteen acres, or less, together with all buildings and improvements thereon, being part of the property known as the National Guard facility, pier 91, Seattle, Washington, as shown more particularly on a map on file in the office of the district engineer, United States Army Engineer District, Seattle, Washington.

(b) The conveyance authorized by this section shall be inconsideration of and subject to the following terms and conditions:

(1) The property to be conveyed shall be used primarily as a site for the construction of a nine-unit or larger National Guard Armory and related facilities for National Guard training and other military purposes, and in the event construction of the armory is not completed within five years from the date of the conveyance, or if, thereafter, the property conveyed hereby ceases to be used for National Guard purposes during the period of twenty-five years from the date of the acceptance of the completed armory, title thereto shall immediately revert to the United States and all improvements made by the State of Washington during its occupancy shall vest in the United States without payment of compensation therefor.

(2) All mineral rights, including gas and oil, in the lands authorized to be conveyed by this section shall be reserved to the United States.

(3) The Secretary of the Army shall reserve from the conveyance such easements and rights-of-way for roads and utilities as he considers necessary for the operations of the military facilities in the vicinity.

(4) ***In time of war or national emergency declared by the Congress, or national emergency declared by the President***, and upon a determination by the Secretary of Defense that the property, or any part thereof, is useful or necessary for national defense and security, the Secretary of the Army on behalf of the United States shall have the right to enter upon and use the property or part thereof, including any and all improvements made thereon by the State, for a period not to exceed the duration of such war or emergency and six months. Upon termination of such use, the property shall revert to the State, in equally good condition less wear and tear, together with all improvements placed thereon by the United States and subject to the terms, conditions, and limitations on use and disposition previously imposed. Such use by the United States under this provision shall be without obligation or payment on the part of the United States.

[Emphasis supplied.]

(5) The Secretary of the Army is also authorized to include in the conveyance such other terms and conditions as he may deem necessary to protect the interests of the United States.

(c) Notwithstanding the provisions of section 2233 of title 10, United States Code, the State of Washington shall construct an armory on the property to be conveyed under this section without contribution of Federal funds therefore, in lieu of paying monetary consideration for said conveyance.

(d) The cost of any surveys necessary as an incident of the conveyance authorized herein shall be borne by the grantee.

(e) The Secretary of the Army is authorized to determine and enforce compliance with the conditions, reservations, and restrictions contained in this section and any relate documents.

SEC. 806. This title may be cited as the "Reserve Forces Facilities Authorization Act, 1970".

Approved December 5, 1969.

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P.L. 202—84 STAT. 20

To authorize the Secretary of the Army to release certain restrictions on a tract of land heretofore conveyed to the State of Texas in order that such land may be used for the City of El Paso North-South Freeway.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army is authorized and directed to release or modify on behalf of the United States the land use restrictions and reservations applicable to a tract of land, constituting a portion of a 24.25-acre parcel of land in El Paso, Texas, heretofore conveyed for National Guard and military purposes by the United States to the State of Texas by deed dated November 4, 1954 pursuant to the Act of August 30, 1954 (68 Stat. 974), so that such tract, described in section 2 of this Act may be conveyed by the State of Texas to the city of El Paso as a right-of-way for the construction of the El Paso North-South Freeway.

SEC. 2. (a) The land referred to in section 1 of this Act is located in El Paso County, Texas, being 5.975 acres of land, more or less, out of and a part of section 21, block 81, township 2, Texas and Pacific Railroad Company Survey, in El Paso County, Texas, and being a portion of the same land described in a Quitclaim Deed from the United States of America to State of Texas dated November 4, 1954, recorded in volume 1206, page 369, deed records of El Paso County, Texas, said 5.975 acres of land being more particularly described by metes and bounds as follows:

\* \* \* \* \*

(b) The above legal description may be modified, as agreed upon by the Secretary, the State and the city, consistent with any changes in the right-of-way alinement for the freeway, but in no event shall the total area of this tract exceed six acres.

SEC. 3. The release and conveyance authorized herein shall be upon the following terms and conditions:

(a) That the lands described in section 2 above shall be used only for public highway and related purposes, and if such property shall ever cease to be used for such purposes, all right, title, and interest to such property shall revert to the United States, which shall have the immediate right to entry thereon.

(b) That the structures and improvements presently located on, or adversely affected by, the property to be conveyed, shall be replaced in kind and constructed, at the expense of the city of El Paso, on the adjacent remaining lands of the State of Texas: *Provided*, That the plans for such replacement facilities shall first be approved by the State and the Secretary of the Army, and that no structure shall be removed until satisfactory replacement of the same has been made available.

(c) That the relocated replacement structures and facilities *shall be subject to the same restrictions, use limitations and reversionary rights of the United States as set forth in the deed of November 4, 1954, to the State of Texas of the lands involved herein.*

SEC. 4. The Secretary of the Army is authorized to impose such additional terms and conditions on the release authorized by this Act as he deems appropriate to protect the interests of the United States. All expenses for surveys and the preparation and execution of legal documents necessary or appropriate to carry out the provisions of this Act shall be borne by the city of El Paso.

Approved March 4, 1970.

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92D CONGRESS

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P.L. 145—85 STAT. 394

To authorize certain construction at military installations, and for other purposes.

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

TITLE I

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction:

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SEC. 708. (a) The Secretary of the Army, or his designee, is authorized to convey to the State of Texas, subject to such terms and conditions as the Secretary of the Army, or his designee, may deem to be in the public interest, all right, title and interest of the United States, except as retained in this section, in and to a certain

[Emphasis supplied.]

parcel of land containing 20 acres, more or less, out of and a part of section 2, block 81, township 2, Texas and Pacific Railroad Company Survey, El Paso County, Texas, within the Castner Range area of the Fort Bliss Military Reservation, being more particularly described as follows:

\* \* \* \* \*

(b) In consideration for the conveyance by the United States of the property described in subsection (a), the State of Texas shall convey to the United States a parcel of land containing 18.3106 acres, more or less, out of and part of section 21, block 81, township 2, El Paso County, Texas, said parcel being a portion of a 24.25-acre parcel of land heretofore conveyed by the United States to the State of Texas for National Guard and military use by deed dated November 4, 1954, pursuant to the Act of August 30, 1954 (68 Stat. 974), said 18.3106-acre parcel being more particularly described as follows:

\* \* \* \* \*





# CITATION OF STATUTES IN ACCORDANCE WITH COMMITTEE JURISDICTION

## AGRICULTURE AND FORESTRY

7 U.S.C.----- 1158, 1332, 1371, 1743, 1903

## ARMED SERVICES

10 U.S.C. 123, 125, 142, 143, 262, 263 note, 269, 271, 331, 332, 333, 334,  
351, 511, 519, 671a, 671b, 672, 673, 674, 675, 679, 681, 687,  
712, 802 Art. 2, 843, 871 Art. 71, 1035, 1161, 2231, 2233,  
2235, 2236, 2304, 2602, 2604, 2631, 2632, 2663, 2664, 2667,  
2674 note, 2733, 2734, 3031, 3034, 3062, 3063, 3201, 3202,  
3212, 3254, 3313, 3444, 3445, 3450, 3741, 3742, 3746, 3750,  
3815, 4025, 4141, 4501, 4502, 4742, 4776, 4780, 5081, 5201,  
5231, 5232, 5234, 5402, 5447, 5448, 5449, 5450, 5451, 5457,  
5538, 5597, 5599, 5662, 5701, 5711, 5785, 5787, 5789,  
5982, 6241, 6242, 6244, 6246, 6296, 6386, 6408, 6481, 6482,  
6485, 6486, 6487, 6911, 7224, 7722, 7724, 7727, 8031, 8034,  
8202, 8212, 8254, 8257, 8313, 8395, 8444, 8445, 8450, 8741,  
8742, 8746, 8750, 8815, 9022, 9025, 9441, 9501, 9502, 9591,  
9742, 9773, 9776, 9780

14 U.S.C.----- 3, 214, 275, 331, 359, 367, 371, 491, 493, 652, 778

16 U.S.C.----- 440

31 U.S.C.----- 80

32 U.S.C.----- 104, 302, 310, 715

33 U.S.C.----- 854a-1, 855

37 U.S.C.----- 202, 310, 407, 427, 901

50 U.S.C.----- 82, 98d, 451-462, 1511-1513, 1515-1518

50 U.S.C. App----- 785, 1211-1224, 1744, 1878e, s, vv, 2293

## NONCODIFIED

43 Stat.----- 959, 984, 1129

46 Stat.----- 332, 479

47 Stat.----- 1368

|          |  |
|----------|--|
| 49 Stat. | 1278, 1387, 1535, 1557                         |
| 50 Stat. | 696  |
| 60 Stat. | 332  |
| 62 Stat. | 1230   |
| 64 Stat. | 311, 591, 658                                  |
| 66 Stat. | 128, 727                                       |
| 67 Stat. | 38, 120  |
| 68 Stat. | 51, 475, 538, 975, 977                         |
| 69 Stat. | 70, 71, 79, 294, 300, 301                      |
| 70 Stat. | 18, 21, 156, 296, 537, 551, 577, 590, 698, 793 |
| 71 Stat. | 467, 473, 479, 583, 585                        |
| 72 Stat. | 401, 404, 965                                  |
| 73 Stat. | 595  |
| 74 Stat. | 356, 370                                       |
| 75 Stat. | 242  |
| 77 Stat. | 470  |
| 79 Stat. | 982  |
| 80 Stat. | 739  |
| 83 Stat. | 319  |
| 85 Stat. | 412  |

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### BANKING, HOUSING, AND URBAN AFFAIRS

---

|                |  |
|----------------|--|
| 12 U.S.C.      | 95, 249, 635, 1425, 1703, 1705, 1748b(a) |
| 50 U.S.C. App. | 2093, 2071-2073, 2151-2163, 2166         |

---

### COMMERCE

---

|   |                         |
|---|-------------------------|
| 15 U.S.C.   | 76, 77                  |
| 16 U.S.C.   | 824                     |
| 33 U.S.C.   | 853                     |
| 42 U.S.C.   | 210-1, 211, 217, 228c-1 |
| 46 U.S.C. 133, 134, 249a, 835, 1132, 1151, 1202, 1241, 1242, 1294, 1402, 1406 |                         |
| 47 U.S.C.   | 308, 606                |
| 49 U.S.C.   | 1, 6, 1020, 1343, 1348  |
| 50 U.S.C.   | 196, 197, 198           |
| 50 U.S.C. App.  | 2151-2163               |

## NONCODIFIED

|              |     |
|--------------|-----|
| 52 Stat..... | 834 |
| 67 Stat..... | 244 |
| 68 Stat..... | 586 |
| 70 Stat..... | 335 |
| 74 Stat..... | 143 |

## DISTRICT OF COLUMBIA

|               |     |
|---------------|-----|
| 40 U.S.C..... | 71d |
|---------------|-----|

## NONCODIFIED

|              |         |
|--------------|---------|
| 71 Stat..... | 47, 393 |
|--------------|---------|

## FINANCE

|                    |                        |
|--------------------|------------------------|
| 19 U.S.C.....      | 1318, 1351, 1352, 1862 |
| 26 U.S.C.....      | 168, 7508              |
| 31 U.S.C.....      | 203, 241               |
| 42 U.S.C.....      | 1313                   |
| 50 U.S.C. App..... | 1212 note, 2401-2413   |

## FOREIGN RELATIONS

|   |                |
|---|----------------|
| 22 U.S.C. 401, 441, 444, 447, 450, 451, 461, 464, 1611, 1962, 1963, 1965,<br>2370, 2410 |                |
| 35 U.S.C.....   | 181            |
| 41 U.S.C.....   | 15             |
| 43 U.S.C.....   | 1341           |
| 50 U.S.C.....   | 191, 812, 1435 |

## NONCODIFIED

|              |     |
|--------------|-----|
| 75 Stat..... | 714 |
| 76 Stat..... | 697 |

## GOVERNMENT OPERATIONS

|                    |                                  |
|--------------------|----------------------------------|
| 40 U.S.C.....      | 71d, 276a-5, 278b, 314, 484, 534 |
| 41 U.S.C.....      | 252                              |
| 50 U.S.C. App..... | 1622                             |

## NONCODIFIED

|              |          |
|--------------|----------|
| 68 Stat----- | 172, 981 |
| 69 Stat----- | 592      |
| 70 Stat----- | 337      |

---

 INTERIOR AND INSULAR AFFAIRS
 

---

|               |                                 |
|---------------|---------------------------------|
| 16 U.S.C----- | 590p                            |
| 25 U.S.C----- | 72                              |
| 43 U.S.C----- | 155, 315q, 616 <i>ll</i> , 1314 |
| 48 U.S.C----- | 455c(b)                         |
| 50 U.S.C----- | 142, 167c(d)                    |

## NONCODIFIED

|              |          |
|--------------|----------|
| 44 Stat----- | 241, 677 |
| 69 Stat----- | 140      |

---

 THE JUDICIARY
 

---

|   |   |
|---|---|
| 8 U.S.C-----  | 1182(a) (22), 1185, 1440, 1440e, 1442, 1481(a) (10) |
| 10 U.S.C-----   | 2304  |
| 18 U.S.C. 793, 794, 795, 798, 963, 967, 2153, 2154, 2157, 2391, 2511, 3287                    |   |
| 22 U.S.C-----   | 401   |
| 31 U.S.C-----   | 203   |
| 41 U.S.C-----   | 15  |
| 50 U.S.C-----   | 21, 205, 206, 207, 208, 212, 223, 403(c), 1431      |
| 50 U.S.C. App. 3, 4, 6, 7, 8, 9, 10, 11, 12, 14, 19, 32, 38, 40, 2291, 2292, 2294, 2295, 2297 |   |

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 LABOR AND PUBLIC WELFARE
 

---

|               |  |
|---------------|--|
| 20 U.S.C----- | 79, 241-1, 633, 646                                      |
| 29 U.S.C----- | 176, 178   |
| 42 U.S.C----- | 204, 266, 1477, 1541, 1592, 1711, 1712, 2138, 2165, 2201 |

---

 POST OFFICE AND CIVIL SERVICE
 

---

|               |   |
|---------------|---|
| 5 U.S.C-----  | 701, 702, 3101, 3326, 5305, 5335, 5532, 5564, 8332f |
| 50 U.S.C----- | 832   |

## PUBLIC WORKS

---

|               |  |
|---------------|--|
| 16 U.S.C..... | 809, 831d, 831s, 831n-4(a), 832g, 833f |
| 42 U.S.C..... | 1575                                   |
| NONCODIFIED   |  |
| 68 Stat.....  | 32                                     |

---

## RULES AND ADMINISTRATION

---

|               |            |
|---------------|------------|
| 2 U.S.C.....  | 198        |
| 44 U.S.C..... | 1505, 3311 |

---

## VETERANS' AFFAIRS

---

|                    |                               |
|--------------------|-------------------------------|
| 38 U.S.C.....      | 101, 521, 541, 542, 602, 1901 |
| 50 U.S.C. App..... | 2005                          |
| NONCODIFIED        |                               |
| 67 Stat.....       | 54                            |
| 69 Stat.....       | 376                           |
| 71 Stat.....       | 517                           |

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## JOINT COMMITTEE ON ATOMIC ENERGY

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|               |                  |
|---------------|------------------|
| 42 U.S.C..... | 2138, 2165, 2201 |
|---------------|------------------|



## APPENDIX

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### TABLES

---

1. Provisions of the United States Code that refer to Truman Emergency Proclamation *eo nomine* or by date.

- a. 5 U.S.C. 3101 note
  - b. 8 U.S.C. 1440
  - c. 16 U.S.C. 831d
  - d. 18 U.S.C. 798, 2157, 2391
  - e. 31 U.S.C. 203
  - f. 50 U.S.C. App. 785
- 

2. Provisions of the United States Code that refer to Presidential declaration or proclamation of national emergency that may be affected by termination of Truman Emergency Proclamation.

- a. 5 U.S.C. 3326, 5305, 5335, 8332
  - b. 8 U.S.C. 1182(a) (22), 1185, 1481
  - c. 10 U.S.C. 123, 871, 2304, 2632, 2667, 2733, 3313, 3444, 3445, 3741, 3742, 3746, 4025, 5231, 5232, 5234, 5447, 5448, 5449, 5451, 5597, 5598, 5599, 5662, 5711, 5785, 5787, 6241, 6242, 6386, 6444, 6481, 6487, 7224, 8313, 8444, 8741, 8742, 8746, 9025
  - d. 12 U.S.C. 95, 95(a), 249
  - e. 14 U.S.C. 275, 367, 491, 652
  - f. 18 U.S.C. 2153, 2154
  - g. 33 U.S.C. 853i
  - h. 40 U.S.C. 267a-5, 484, 534
  - i. 41 U.S.C. 252
  - j. 42 U.S.C. 211, 217, 1711
  - k. 45 U.S.C. 228c-1
  - l. 46 U.S.C. 249a, 835, 1132, 1202, 1241, 1242
  - m. 50 U.S.C. 191
  - n. 50 U.S.C. App. 9, 1213
- 

3. Provisions of the United States Code that empower the President to declare a national emergency (the President alone or the President or the Congress in the alternative) or refer to a presidentially declared emergency.

- a. 5 U.S.C. 8332
- b. 7 U.S.C. 1158, 1743, 1903
- c. 8 U.S.C. 1182(a) (22), 1185, 1481

- d. 10 U.S.C. 123, 125, 565, 599, 673, 679, 681, 2304, 2632, 2667, 3031, 3202, 3313, 3444, 3445, 4025, 5402, 5597, 5598, 5787, 6481, 6486, 6911, 8031, 8202, 8313, 8444, 8445, 9025, 9441
  - e. 12 U.S.C. 95, 95(a), 249
  - f. 14 U.S.C. 275, 367, 652
  - g. 18 U.S.C. 2153, 2154
  - h. 19 U.S.C. 1318
  - i. 31 U.S.C. 80a, 203
  - j. 33 U.S.C. 853i, 855
  - k. 35 U.S.C. 181
  - l. 40 U.S.C. 278b, 484, 534
  - m. 41 U.S.C. 15, 252
  - n. 42 U.S.C. 211, 217
  - o. 43 U.S.C. 155, 134
  - p. 46 U.S.C. 249a, 835, 1132, 1202, 1241, 1242
  - q. 47 U.S.C. 308, 606
  - r. 50 U.S.C. 98d, 167c, 191, 196, 197, 205, 208, 212, 223, 1431, 1435, 1512, 1515
  - s. 50 U.S.C. App. 5, 9, 1216, 1622, 2291
- 

**4. Provisions of the United States Code that provide for a congressional declaration of national emergency (the Congress alone or the Congress or the President in the alternative) or refer to a congressionally declared emergency.**

- a. 5 U.S.C. 8332(d), (g).
  - b. 7 U.S.C. 1903.
  - c. 10 U.S.C. 123, 142, 269, 511, 519, 563, 599, 671, 679, 681, 687, 2304, 2632, 3034, 3063, 3202, 3313, 3444, 5081, 5201, 5598, 6486, 8031, 8034, 8202, 8257, 8313, 8444, 9441.
  - d. 14 U.S.C. 275, 371, 652.
  - e. 15 U.S.C. 831s.
  - f. 18 U.S.C. 2153.
  - g. 31 U.S.C. 80a, 80c.
  - h. 32 U.S.C. 111, 209, 302.
  - i. 33 U.S.C. 853i.
  - j. 37 U.S.C. 427.
  - k. 40 U.S.C. 278b, 484.
  - l. 41 U.S.C. 251.
  - m. 42 U.S.C. 2138.
  - n. 43 U.S.C. 155, 1341.
  - o. 46 U.S.C. 249a.
  - p. 47 U.S.C. 308.
  - q. 50 U.S.C. 167c, 1435, 1515.
  - r. 50 U.S.C. App. 1216, 1622, 2291.
- 

**5. Provisions of the United States Code that refer to a declaration of national emergency without reference to any declarant.**

- a. 5 U.S.C. 3326, 5305, 5532.
- b. 7 U.S.C. 1371.



c. 10 U.S.C. 262, 674, 712, 2231, 2235, 2236, 4776, 5231, 5232, 5234, 5447, 5448, 5449, 5450, 5451, 5599, 5711, 5785, 5787, 6386, 6482, 6487, 7224, 9022, 9776.

d. 14 U.S.C. 331, 359.

e. 18 U.S.C. 793.

f. 20 U.S.C. 79.

g. 31 U.S.C. 80b.

h. 32 U.S.C. 104.

i. 33 U.S.C. 854a-1.

j. 37 U.S.C. 202, 407.

k. 40 U.S.C. 71d, 276a-5.

l. 42 U.S.C. 204.

m. 45 U.S.C. 228c-1.

n. 46 U.S.C. 361, 1151, 1161, 1402, 1406.

#### 6. Provisions of the United States Code that specify emergency authority applicable in "time of war" or "during a war".

a. 8 U.S.C. 1182(a) (22), 1185, 1481.

b. 10 U.S.C. 143, 262, 351, 506, 511, 519, 565, 599, 671, 802, 843, 871, 1161, 7231, 2542, 2663, 2664, 2733, 3031, 3034, 3063, 3445, 4501, 4742, 4780, 5081, 5201, 5231, 5232, 5402, 5447, 5448, 5449, 5450, 5451, 5599, 5662, 5711, 5785, 5787, 5982, 6386, 6408, 6481, 6482, 6485, 6486, 6487, 6911, 7224, 7722, 7724, 8031, 8034-8202, 8257, 8313, 8395, 8445, 9441, 9501, 9742, 9780.

c. 12 U.S.C. 95a, 249

d. 14 U.S.C. 275, 331, 359, 367, 371, 652

e. 15 U.S.C. 76, 77, 831s

f. 18 U.S.C. 793, 794, 2153, 2154

g. 31 U.S.C. 80a, 80b, 80c, 203, 241

h. 32 U.S.C. 104, 111, 209, 715

i. 33 U.S.C. 8531, 854a-1

j. 37 U.S.C. 202, 407, 427, 901

k. 40 U.S.C. 71d

l. 41 U.S.C. 15

m. 42 U.S.C. 211, 217, 266

n. 43 U.S.C. 155, 1314, 1341

o. 46 U.S.C. 133-134, 361, 1151, 1161, 1402, 1406

p. 47 U.S.C. 707

q. 49 U.S.C. 6, 1020, 1343

r. 50 U.S.C. 82, 98d

s. 50 U.S.C. App. 3, 4, 5, 7, 9, 11, 12, 19, 32

#### 7. Provisions of the United States Code that refer to a state of war or war declared by the Congress.

a. 2 U.S.C. 198

b. 14 U.S.C. 3

c. 37 U.S.C. 310

d. 42 U.S.C. 2138

e. 50 U.S.C. 21, 832, 1515

## PROCLAMATIONS OF NATIONAL EMERGENCY STILL IN EFFECT

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EXCERPT FROM PUBLIC LAW 1  
73D CONG., 1ST SESS. (1933)

[CHAPTER 1.]

### AN ACT

To provide relief in the existing national emergency in banking, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress hereby declares that a serious emergency exists and that it is imperatively necessary speedily to put into effect remedies of uniform national application.

### TITLE I

SECTION 1. The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the Act of October 6, 1917, as amended, are hereby approved and confirmed.

\* \* \* \* \*

### —NOTE—

President Roosevelt had declared the state of emergency immediately after his inauguration on March 4, 1933. This act of Congress ratified that decision and promulgations made thereunder.

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### PROCLAMATION NUMBER 2914

[Dec. 16, 1950, 15 F. R. 9029]

### PROCLAIMING THE EXISTENCE OF A NATIONAL EMERGENCY

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

### A PROCLAMATION

WHEREAS, recent events in Korea and elsewhere constitute a grave threat to the peace of the world and imperil the efforts of this country and those of the United Nations to prevent aggression and armed conflict; and

WHEREAS, world conquest by communist imperialism is the goal of the forces of aggression that have been loosed upon the world; and

WHEREAS, if the goal of communist imperialism were to be achieved, the people of this country would no longer enjoy the full and rich life they have with God's help built for themselves and their children; they would no longer enjoy the blessings of the freedom of worshipping as they severally choose, the freedom of reading and listening to what they choose, the right of free speech including the right to criticize their Government, the right to choose those who conduct their Government, the right to engage freely in collective bargaining, the right to engage freely in their own business enterprises, and the many other freedoms and rights which are a part of our way of life; and

WHEREAS, the increasing menace of the forces of communist aggression requires that the national defense of the United States be strengthened as speedily as possible:

NOW, THEREFORE, I HARRY S. TRUMAN, President of the United States of America, do proclaim the existence of a national emergency, which requires that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible to the end that we may be able to repel any and all threats against our national security and to fulfill our responsibilities in the efforts being made through the United Nations and otherwise to bring about lasting peace.

I summon all citizens to make a united effort for the security and well-being of our beloved country and to place its needs foremost in thought and action that the full moral and material strength of the Nation may be readied for the dangers which threaten us.

I summon our farmers, our workers in industry, and our businessmen to make a mighty production effort to meet the defense requirements of the Nation and to this end to eliminate all waste and inefficiency and to subordinate all lesser interests to the common good.

I summon every person and every community to make, with a spirit of neighborliness, whatever sacrifices are necessary for the welfare of the Nation.

I summon all State and local leaders and officials to cooperate fully with the military and civilian defense agencies of the United States in the national defense program.

I summon all citizens to be loyal to the principles upon which our Nation is founded, to keep faith with our friends and allies, and to be firm in our devotion to the peaceful purposes for which the United Nations was founded.

I am confident that we will meet the dangers that confront us with courage and determination, strong in the faith that we can thereby "secure the Blessings of Liberty to ourselves and our Posterity."

In witness whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the City of Washington this 16th day of December (10:20 a.m.) in the year of our Lord nineteen hundred and fifty, and of the Independence of the United States of America the one hundred and seventy-fifth.

[SEAL]

HARRY S. TRUMAN.

By the President:

DEAN ACHESON.

Secretary of State.

## PROCLAMATION NUMBER 3972

[Mar. 23, 1970]

## DECLARING A NATIONAL EMERGENCY

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

## A PROCLAMATION

WHEREAS, certain employees of the Postal Service are engaged in an unlawful work stoppage which has prevented the delivery of the mails and the discharge of other postal functions in various parts of the United States; and

WHEREAS, as a result of such unlawful work stoppage the performance of critical governmental and private functions, such as the processing of men into the Armed Forces of the United States, the transmission of tax refunds and the receipt of tax collections, the transmission of Social Security and welfare payments, and the conduct of numerous and important commercial transactions, has wholly ceased or is seriously impeded; and

WHEREAS, the continuance of such work stoppage with its attendant consequences will impair the ability of this Nation to carry out its obligations abroad, and will cripple or halt the official and commercial intercourse which is essential to the conduct of its domestic business:

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, pursuant to the powers vested in me by the Constitution and laws of the United States and more particularly by the provisions of Section 673 of Title 10 of the United States Code, do hereby declare a state of national emergency, and direct the Secretary of Defense to take such action as he deems necessary to carry out the provisions of said Section 673 in order that the laws of the United States pertaining to the Post Office Department may be executed in accordance with their terms.

IN WITNESS WHEREOF, I have hereunto set my hand this 23d day of March in the year of our Lord nineteen hundred and seventy, and of the Independence of the United States of America the one hundred and ninety-fourth.

RICHARD NIXON.

## —NOTE—

Proclamation 3972 is a recent example of a limited national emergency. Many similar emergencies have taken place in the past in which proclamations are declared to inform the public that emergency action to meet that particular crisis will be taken. As a general practice, these proclamations have seldom been terminated. Nonetheless, the statutory authority which is triggered by the declaration of a national emergency is not clearly limited by the language of the declaration. It could be argued that even though a particular provision is stressed all the other provisions brought into force by a proclamation of a national emergency could be used.

## PROCLAMATION NUMBER 4074

[Aug. 15, 1971]

IMPOSITION OF SUPPLEMENTAL DUTY FOR BALANCE OF PAYMENTS  
PURPOSES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

## A PROCLAMATION

WHEREAS, there has been a prolonged decline in the international monetary reserves of the United States, and our trade and international competitive position is seriously threatened and, as a result, our continued ability to assure our security could be impaired;

WHEREAS, the balance of payments position of the United States requires the imposition of a surcharge on dutiable imports;

WHEREAS, pursuant to the authority vested in him by the Constitution and the statutes, including, but not limited to, the Tariff Act of 1930, as amended (hereinafter referred to as "the Tariff Act"), and the Trade Expansion Act of 1962 (hereinafter referred to as "the TEA"), the President entered into, and proclaimed tariff rates under, trade agreements with foreign countries;

WHEREAS, under the Tariff Act, the TEA, and other provisions of law, the President may, at any time, modify or terminate, in whole or in part, any proclamation made under his authority;

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes, including, but not limited to, the Tariff Act, and the TEA, respectively, do proclaim as follows:

A. I hereby declare a national emergency during which I call upon the public and private sector to make the efforts necessary to strengthen the international economic position of the United States.

B. (1) I hereby terminate in part for such period as may be necessary and modify prior Presidential Proclamations which carry out trade agreements insofar as such proclamations are inconsistent with, or proclaim duties different from, those made effective pursuant to the terms of this Proclamation.

(2) Such Proclamations are suspended only insofar as is required to assess a surcharge in the form of a supplemental duty amounting to 10 percent ad valorem. Such supplemental duty shall be imposed on all dutiable articles imported into the customs territory of the United States from outside thereof, which are entered, or withdrawn from warehouse, for consumption after 12:01 a.m., August 16, 1971, provided, however, that if the imposition of an additional duty of 10 percent ad valorem would cause the total duty or charge payable to exceed the total duty or charge payable at the rate prescribed in column 2 of the Tariff Schedules of the United States, then the column 2 rate shall apply.

\* \* \* \* \*

## SUBJECT INDEX

—A—

|  |                                      |
|--|--------------------------------------|
| <b>Accounts:</b>   |                                      |
| of defense contractors.....  | 67 Stat. 120                         |
| of disbursing officers.....  | 31 U.S.C. 80a, 80b                   |
| <b>Agriculture:</b>  |                                      |
| Commodity set-asides.....  | 7 U.S.C. 1743                        |
| Excess basic commodities.....  | 43 U.S.C. 616 <i>u</i>               |
| Livestock products.....  | 7 U.S.C. 1903                        |
| Marketing quotas.....  | 7 U.S.C. 1332, 1371                  |
| <b>Air Force (see also, Armed Forces):</b>                               |                                      |
| Acquisition of buildings.....  | 10 U.S.C. 9780                       |
| Appointment of Chief of Staff.....                                       | 10 U.S.C. 8034                       |
| Aviation cadets: number.....   | 10 U.S.C. 8257(d)                    |
| Employment of contract surgeons.....                                     | 10 U.S.C. 9022                       |
| Enlistment periods.....  | 10 U.S.C. 8254(1)                    |
| Officers: appointments.....  | 10 U.S.C. 8444(a), 8445(a)           |
| Officers: authorized strength.....                                       | 10 U.S.C. 8202, 8212                 |
| Officers: promotion, retirement, separation.....                         | 10 U.S.C. 687, 8313                  |
| Officers: in status of missing.....                                      | 67 Stat. 38                          |
| Officers detailed to Department: limit on number.....                    | 10 U.S.C. 8031                       |
| Officers detailed to Department: tour of duty.....                       | 10 U.S.C. 8031                       |
| Reserve grades: increases.....   | 10 U.S.C. 8212 note                  |
| Reserve Officers: appointment.....                                       | 10 U.S.C. 8395                       |
| Warrant Officers: promotion, retirement, etc.....                        | 10 U.S.C. 8445                       |
| <b>Air Force, Department of the:</b>                                     |                                      |
| Hours of labor for laborers and mechanics.....                           | 10 U.S.C. 9025                       |
| Officers assigned to: number.....  | 10 U.S.C. 8031                       |
| Officers assigned to: tour of duty.....                                  | 10 U.S.C. 8031                       |
| <b>Airbases, acquisition and construction.....</b>                       | 10 U.S.C. 9773, 9776                 |
| <b>Aircraft, arming of.....</b>  | 10 U.S.C. 351                        |
| <b>Airports; disposed of as surplus, repossession by Government.....</b> | 50 U.S.C. App. 1622(g)               |
| <b>Alien Enemies:</b>  |                                      |
| Officers, directors, and stockbrokers of corporations in the             |                                      |
| United States.....   | 50 U.S.C. App. 7                     |
| Property owned by.....   | 50 U.S.C. App. 9, 12, 32, 40         |
| Restraint, regulation, and removal.....                                  | 50 U.S.C. 21                         |
| <b>American National Red Cross.....</b>                                  | 10 U.S.C. 2602; 22 U.S.C. 444        |
| <b>Anastasia Island, Fla.: repossession of certain land....</b>          | 45 Stat. 959, 70 Stat. 335           |
| <b>Arlington County, Va.: repossession of certain land.....</b>          | 47 Stat. 1368                        |
| <b>Armed Forces:</b>   |                                      |
| Active duty service.....   | 10 U.S.C. 671a, 671b, 673            |
| Appointments to Joint Chiefs of Staff.....                               | 10 U.S.C. 142, 143, 3034, 5081, 8034 |
| Appointments to temporary commissioned graded.....                       | 10 U.S.C. 3444                       |
| Authorized strength.....   | 10 U.S.C. 3201 note                  |
| Claims against the United States arising from activities of.....         | 10 U.S.C. 2733, 2734; 31 U.S.C. 241  |
| Details to foreign governments.....                                      | 10 U.S.C. 712                        |
| Dislocation allowances.....  | 10 U.S.C. 253, 407                   |
| Enlistment periods.....  | 10 U.S.C. 263 note, 506, 519         |
| Family separation allowances.....  | 37 U.S.C. 427                        |
| Functions, powers, and duties, etc.....                                  | 10 U.S.C. 125                        |

|  |                             |
|--|-----------------------------|
| Officers: promotion, retirement, separation.....                                   | 10 U.S.C. 1161, 3445        |
| Military Justice: court martial, statute of limitations.....                       | 10 U.S.C. 802, 843          |
| Ready Reserves: program of continuous screening.....                               | 10 U.S.C. 271               |
| Reserve commissioned officers: suspension of certain laws.....                     | 10 U.S.C. 123               |
| Reserve components: compensation or pension pay.....                               | 69 Stat. 300, 301           |
| Reserve components: enlistment periods.....  | 10 U.S.C. 511               |
| Reserve components: facilities.....  | 10 U.S.C. 2231, 2233, 2236  |
| Reserve components: order to active duty.....                                      | 10 U.S.C. 672               |
| Reserve components: purpose.....   | 10 U.S.C. 262               |
| Reserve components: release from active duty.....                                  | 10 U.S.C. 681, 687          |
| Reserve components: transfer to Standby Reserves.....                              | 10 U.S.C. 269               |
| Reservists active duty agreements.....   | 10 U.S.C. 679               |
| Retired members: appointment to the Department of Defense.....                     | 5 U.S.C. 3326               |
| Retired officers: reduction in pay.....  | 5 U.S.C. 5532               |
| Retired reserves: order to active duty.....  | 10 U.S.C. 672(a), 675       |
| Savings deposits of members.....   | 10 U.S.C. 1035              |
| Sentence of dismissal commuted to reduction in grade.....                          | 10 U.S.C. 871               |
| Special or extraordinary pay.....  | 37 U.S.C. 310, 901          |
| Standby Reserves: order to active duty.....  | 10 U.S.C. 674               |
| Use of defense facilities.....   | 10 U.S.C. 2235              |
| Warrant officers: promotion, retirement, separation.....                           | 10 U.S.C. 505, 599, 6408    |
| Arms and munitions of war shipped out of the country: seizure.....                 | 22 U.S.C. 401               |
| Army (see also Armed Forces):  |                             |
| Appointment of Chief of Staff.....   | 10 U.S.C. 3034              |
| Aviation cadets: number.....   | 10 U.S.C. 8257(d)           |
| Basic branches: discontinuance or consolidation.....                               | 10 U.S.C. 3063(a)           |
| Enlistments on career basis.....   | 10 U.S.C. 3815              |
| Officers: promotion, retirement, separation.....                                   | 10 U.S.C. 687, 3313         |
| Officers: in status of missing.....  | 67 Stat. 38                 |
| Officers detailed to Department: limit on number.....                              | 10 U.S.C. 3031              |
| Officers in commissioned grades: suspension of laws.....                           | 10 U.S.C. 3002(d)           |
| Organized peace establishment.....   | 10 U.S.C. 3062(d)           |
| Reserve grades: increases.....   | 10 U.S.C. 8212              |
| Warrant officers: promotion, retirement, separation.....                           | 10 U.S.C. 3450              |
| Army, Department of the:   |                             |
| Hours of labor for laborers and mechanics.....                                     | 10 U.S.C. 4025              |
| Officers assigned to: number.....  | 10 U.S.C. 3031              |
| Purchase of supplies and services.....   | 16 U.S.C. 832g, 833f        |
| Assignment of Claims Act.....  | 31 U.S.C. 203; 41 U.S.C. 15 |
| Atomic Energy Act: licenses granted.....   | 42 U.S.C. 2138              |
| Atomic Energy Commission: employment of personnel: succession<br>of authority..... | 42 U.S.C. 2165(g), 2201(f)  |
| Austin, Tex., reuse of property in Travis County.....                              | 66 Stat., 727; 69 Stat. 70  |
| Aviation Cadets:   |                             |
| from Regular Air Force.....  | 10 U.S.C. 8257(d)           |
| from Regular Navy and Regular Marine Corps.....                                    | 10 U.S.C. 6911(b)           |

## —B—

|  |              |
|--|--------------|
| Boston, Mass., Army Base, suspension of lease..... | 68 Stat. 538 |
| Boston, Mass., Naval Shipyard, repossession.....   | 74 Stat. 356 |
| Boston Neck, Narragansett, R.I., repossession..... | 72 Stat. 404 |

## —C—

|  |  |
|--|--|
| Camp Beauregard, La., repossession.....  | 70 Stat. 156, as amended; 71 Stat. 479 |
| Camp Blanding Military Reservation, Fla., reuse of land conveyed to Armory<br>Board..... | 68 Stat. 475, 476                      |
| Camp Butler Military Reservation, N.C., use.....   | 68 Stat. 51                            |
| Camp Dodge and Polk County Target Range, Iowa, repossession.....                         | 69 Stat. 71                            |
| Camp Guernsey, Wyo., repossession.....   | 69 Stat. 140                           |
| Camp Joseph T. Robinson, Ark., reuse.....  | 64 Stat. 311                           |
| Camp Livingston, La., repossession.....  | 70 Stat. 156, as amended; 71 Stat. 479 |

|  |  |
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| Camp Peary, Va., reuse of property conveyed to state           | 70 Stat. 551; 72 Stat. 401                               |
| Canal Zone, preservation of certain areas                      | 20 U.S.C. 79   |
| Capitol grounds, exempt from certain redevelopment procedures  | 40 U.S.C. 71d  |
| Castle Island Terminal Facility, South Boston, reuse           | 65 Stat. 658   |
| Central Intelligence Agency, contracts for supplies            | 10 U.S.C. 2304; 50 U.S.C. 403c                           |
| Charleston Army Base Terminal, S.C., repossession              | 49 Stat. 1387  |
| Chemical and Biological Warfare program                        | 50 U.S.C. 1511-1518                                      |
| China, vessels sold to conditionally                           | 74 Stat. 143   |
| Citizens:  |  |
| Assistance to needy citizens returned to United States         | 42 U.S.C. 1313   |
| Exceptions from alien classification                           | 8 U.S.C. 1442  |
| Expatriation for avoiding military service                     | 8 U.S.C. 1182a, 1185, 1481(a) (10)                       |
| Naturalization through active duty service                     | 8 U.S.C. 1440, 1440o                                     |
| Officers and crews of vessels                                  | 46 U.S.C. 1132(h)  |
| Civil Air Patrol, travel expenses and allowances               | 10 U.S.C. 9441, 9501                                     |
| Civil and Defense Mobilization Office (see Emergency Planning) |  |
| Civil Service:   |  |
| Annual pay reports and adjustments                             | 5 U.S.C. 5305  |
| Appointment on temporary basis                                 | 5 U.S.C. 3101 note                                       |
| Employment of retired military officers                        | 5 U.S.C. 5532  |
| Periodic step increases  | 5 U.S.C. 5335  |
| Retirement: credit for military service                        | 5 U.S.C. 8332 (f), (g)                                   |
| Review of agency action  | 5 U.S.C. 701-702   |
| Sale of household and personal effects of employees            | 5 U.S.C. 5564  |
| Clackamas County, Oreg., repossession                          | 70 Stat. 793   |
| Coast and Geodetic Survey:                                     |  |
| Commissioned officers, promotion                               | 33 U.S.C. 853i   |
| Transfer of vessels, etc.                                      | 33 U.S.C. 855  |
| Coast Guard:   |  |
| Appointment of temporary officers                              | 14 U.S.C. 214  |
| Aviation cadets: procurement                                   | 14 U.S.C. 371  |
| Enlistment periods   | 14 U.S.C. 367  |
| Officers: promotion, retirement, separation                    | 14 U.S.C. 275  |
| Purchase contracts by  | 14 U.S.C. 652  |
| Relation to Navy Department                                    | 14 U.S.C. 3  |
| Reserve commissioned officers: suspension of certain laws      | 14 U.S.C. 778  |
| Retired enlisted men: recall to active duty                    | 14 U.S.C. 359  |
| Retired officers: recall to active duty                        | 14 U.S.C. 331  |
| Commodity set-asides, use for relief                           | 7 U.S.C. 1743  |
| Communications:  |  |
| Foreign states and governments                                 | 50 U.S.C. App. 3   |
| Priorities   | 47 U.S.C. 606  |
| Congress, adjournment date                                     | 2 U.S.C. 198   |
| Contracts:   |  |
| Advertising requirements waived                                | 10 U.S.C. 2304; 50 U.S.C. 1435                           |
| Defense contracts:   |  |
| Audit of books   | 67 Stat. 120   |
| Authorizations and restrictions                                | 50 U.S.C. 1431   |
| Financing  | 41 U.S.C. 15   |
| Under Federal Property and Administrative Services Act         | 41 U.S.C. 252  |
| Priorities and allocations of materials                        | 50 U.S.C. App. 2071-73, 2151-63, 2160 note, 2166(a), (b) |
| Renegotiation of contracts                                     | 50 U.S.C. App. 1211, 1213, 1216                          |
| Supplies, etc. for:  |  |
| Central Intelligence Agency                                    | 10 U.S.C. 2304; 50 U.S.C. 403o                           |
| Coast Guard  | 14 U.S.C. 652  |
| Department of the Air Force                                    | 10 U.S.C. 2304   |
| Department of the Army   | 10 U.S.C. 2304; 16 U.S.C. 832g, 833f                     |
| Department of the Navy   | 10 U.S.C. 2304   |
| Court proceeding, stays  | 10 U.S.C. 7722, 7724, 7727                               |



**Crimes and offenses:**

|  |                           |
|--|---------------------------|
| Departure of vessels forbidden in aid of neutrality.....                   | 18 U.S.C. 967             |
| Detention of armed vessels.....  | 18 U.S.C. 963             |
| Espionage and sabotage.....  | 18 U.S.C. 798, 2157, 2391 |
| Gathering or delivering defense information to aid foreign government..... | 18 U.S.C. 794             |
| Gathering, transmitting, or losing defense information.....                | 18 U.S.C. 793             |
| Injury to or defective production of war material.....                     | 18 U.S.C. 2153, 2154      |
| Interception and disclosure of wire or oral communications....             | 18 U.S.C. 2511            |
| Photographing and sketching defense installations.....                     | 18 U.S.C. 795             |
| Suspension of Statute of Limitations.....                                  | 18 U.S.C. 3287            |
| Cuba .....   | 76 Stat. 697              |

**—D—****Decorations:**

|   |                                     |
|---|-------------------------------------|
| Air Force Cross.....  | 10 U.S.C. 8742                      |
| Airman's Medal.....   | 10 U.S.C. 8750                      |
| Coast Guard Medal.....  | 14 U.S.C. 493                       |
| Distinguished Service Cross.....  | 10 U.S.C. 3742, 6241                |
| Foreign states and governments.....                                     | 79 Stat. 982                        |
| Medal of Honor.....   | 10 U.S.C. 3741; 8741; 14 U.S.C. 491 |
| Merchant Marine Distinguished Service.....                              | 46 U.S.C. 249a                      |
| Navy Cross.....   | 10 U.S.C. 6242                      |
| Navy and Marine Corps Medal.....  | 10 U.S.C. 6246                      |
| Silver Star.....  | 10 U.S.C. 3746, 6244, 8746          |
| Soldier's Medal.....  | 10 U.S.C. 3750                      |
| <b>Defense facilities:</b>  |                                     |
| For Reserve components.....   | 10 U.S.C. 2236                      |
| Use of.....   | 10 U.S.C. 2235                      |
| Defense housing and public works.....                                   | 42 U.S.C. 1541, 1592, 1592c         |
| Delaware River Basin Compact.....                                       | 75 Stat. 714                        |
| Des Plaines Public Hunting and Refuge Area, Ill., repossession.....     | 74 Stat. 370                        |
| Disbursing officers' accounts.....                                      | 31 U.S.C. 80a, 80b                  |
| Dismissal sentence commuted to reduction in grade.....                  | 10 U.S.C. 871                       |
| <b>District of Columbia:</b>  |                                     |
| Acquisition of buildings in.....  | 10 U.S.C. 4780, 9780                |
| Metropolitan Police force, Fire Department, etc., military service..... | 71 Stat. 393                        |
| Teachers, credit for military service.....                              | 71 Stat. 47                         |
| Douglas, Wyo., repossession of portion of former POW camp.....          | 70 Stat. 337                        |

**—E—**

|  |   |
|--|---|
| <b>Eagle Mountain Lake, Tex., repossession of former Marine Corps Air Station:</b> | 71 Stat. 583  |
| Electric energy, prevention of shortage.....                                       | 16 U.S.C. 824a (d)  |
| Electric power, sale by TVA.....   | 16 U.S.C. 831n-4a   |
| Emergency planning.....  | 50 U.S.C. App. 2291-95, 2297                                |
| Esler Field, La., repossession.....  | 71 Stat. 479  |
| Espionage, penalties for.....  | 18 U.S.C. 798, 2157, 2393                                   |
| Ethan Allen Air Force Base, Vt., repossession.....                                 | 70 Stat. 537  |
| Expatriation of citizens avoiding military service.....                            | 8 U.S.C. 1182a (22),<br>1185, 1481 (a) (10)                 |
| <b>Experts and consultants: employment of.....</b>                                 | 50 U.S.C. App. 2071-73,<br>2151-63, 2160 note, 2166 (a) (b) |
| <b>Export Administration Act.....</b>  | 50 U.S.C. App. 2401-13                                      |
| Exportation of gold or silver.....   | 50 U.S.C. App. 14   |
| Export-Import Bank of Washington.....  | 12 U.S.C. 635   |

**—F—****Factories:**

|   |   |
|---|---|
| manufacture of products at private plants.....                | 10 U.S.C. 4501 (a), (c), (d);<br>4502 (b); 9501 (a), (c), (d); 9502 (b) |
| production of fertilizers and power.....                      | 16 U.S.C. 831d, 831s  |
| Federal Aviation Administration.....                          | 49 U.S.C. 1343, 1348  |
| Federal Communications Commission, radio station permits..... | 47 U.S.C. 308   |

**Federal Maritime Board:**

|  |  |
|--|--|
| Construction-differential subsidies.....   | 46 U.S.C. 1151(a)                        |
| Terminate charters of vessels.....   | 46 U.S.C. 1202, 1242                     |
| Transfer of American vessels to foreign registry.....                            | 46 U.S.C. 835                            |
| Federal Power Commission, electric power shortage.....                           | 16 U.S.C. 824                            |
| Federal Property and Administrative Services, contracts.....                     | 41 U.S.C. 252                            |
| Federal Register, documents for publication in.....                              | 44 U.S.C. 1505                           |
| Federal Reserve System, foreign transactions by member banks.....                | 12 U.S.C. 95,<br>95a; 50 U.S.C. App. 5   |
| Federal Water Power Act, requisitioning of nitrate plants<br>licensed under..... | 16 U.S.C. 809                            |
| Feed and Forage Act.....   | 41 U.S.C. 11                             |
| Fishing industry, subsidies for construction of vessels.....                     | 46 U.S.C. 1406                           |
| Fleet Marine Corps Reserves:   |  |
| Call to active duty.....   | 10 U.S.C. 6485(a)                        |
| Release from active duty.....  | 10 U.S.C. 6486                           |
| Fleet Reserves:  |  |
| Call to active duty.....   | 10 U.S.C. 6485(a)                        |
| Release from active duty.....  | 10 U.S.C. 6486                           |
| Florida Board of Education, repossession of certain land.....                    | 72 Stat. 965                             |
| Foreign exchange, regulation of transactions.....                                | 50 U.S.C. App. 5                         |
| Foreign governments, detail of military personnel to.....                        | 10 U.S.C. 712                            |
| Fort Bliss, Tex., reuse.....   | 68 Stat. 975; 85 Stat. 412               |
| Fort Devens, Mass., repossession.....  | 69 Stat. 294                             |
| Fort McHenry, Md., closing of.....   | 16 U.S.C. 440                            |
| Fort Miles Military Reservation, Del.....  | 77 Stat. 470                             |
| Fort Morgan, Ala., reentry.....  | 60 Stat. 332                             |
| Fort Proble, Me., repossession.....  | 71 Stat. 467                             |
| Fort Schuyler, N.Y., repossession.....   | 50 Stat. 696; 64 Stat. 591; 71 Stat. 585 |
| Ports, erection on private land.....   | 10 U.S.C. 4776                           |

**—G—****General Services Administration:**

|  |                      |
|--|----------------------|
| Acquisition of real property by.....   | 40 U.S.C. 534        |
| Disposal of surplus property.....  | 40 U.S.C. 484(e) (3) |
| Great Plains Conservation Program, termination of modification<br>of agreements..... | 16 U.S.C. 590p       |

**—H—****Hawaii:**

|   |   |
|---|---|
| Repossession of certain land.....                                   | 49 Stat. 1535                           |
| Reuse of Naval Air Station.....                                     | 66 Stat. 128                            |
| Helium, licenses for sale, etc.....                                 | 50 U.S.C. 167o                          |
| Hoboken Manufacturer's Railroad.....                                | 43 Stat. 984                            |
| Hoboken Pier Terminals, N.J., reuse.....                            | 52 Stat. 834                            |
| Hog Island, Pa., repossession of land conveyed to Philadelphia..... | 68 Stat. 596                            |
| Hospitals, construction.....  | 12 U.S.C. 1703(b); 42 U.S.C. 1592c note |
| Hot Springs National Park, Ark., repossession of property.....      | 73 Stat. 595                            |

**Housing:**

|  |  |
|--|--|
| Insurance of certain mortgages.....  | 12 U.S.C. 1748b(a)                               |
| Insurance of financial institutions making loans.....                      | 12 U.S.C. 1703(h), 1705;<br>42 U.S.C. 1592c note |
| Leasing of facilities.....   | 10 U.S.C. 2674 note                              |
| Houston, Tex.:   |  |
| Repossession of certain land conveyed to city.....                         | 68 Stat. 977                                     |
| Repossession of land in Harris County conveyed to state.....               | 70 Stat. 18                                      |
| Howard University, District of Columbia, repossession of certain land..... | 42<br>U.S.C. 1575                                |

**—I—****Imports:**

|  |                              |
|--|------------------------------|
| Modification of restrictions on.....   | 76 Stat. 877; 19 U.S.C. 1351 |
| Prevention of unfair methods of competition.....                                 | 15 U.S.C. 76, 77             |
| Prohibitions on.....   | 50 U.S.C. App. 11            |
| Report on investigations by Director of Office of Emergency<br>Preparedness..... | 19 U.S.C. 1862               |

|   |                               |
|---|-------------------------------|
| Indian tribes, abrogation of treaties.....                    | 25 U.S.C. 72                  |
| Industrial Mobilization.....                                  | 10 U.S.C. 9502                |
| Insurance:  |                               |
| Licensure of companies dealing in.....                        | 50 U.S.C. App. 4              |
| of certain mortgages under the Housing Act.....               | 12 U.S.C. 1748b(a)            |
| of financial institutions making loans under Housing Act..... | 12 U.S.C. 1703                |
| (b), 1705; 42 U.S.C. 1592c note                               |                               |
| of Waterborne commerce, etc.....                              | 46 U.S.C. 1294                |
| Insurrection:   |                               |
| Confiscation of property employed to aid.....                 | 50 U.S.C. 212                 |
| Federal aid for State governments.....                        | 10 U.S.C. 331                 |
| Forfeiture of vessels owned by citizens.....                  | 50 U.S.C. 223                 |
| Suspension of commercial intercourse with a State in.....     | 50 U.S.C. 205-208             |
| Use of militia and armed forces.....                          | 10 U.S.C. 332-334             |
| Internal Revenue:   |                               |
| Adjusted basis for emergency facilities.....                  | 26 U.S.C. 168                 |
| Postponement of time for performing certain acts.....         | 26 U.S.C. 7508                |
| Internal security emergency.....                              | 50 U.S.C. 812                 |
| Interstate commerce, preferences and priorities.....          | 67 Stat. 244; 49 U.S.C. 1, 6; |
|   | 1020 note                     |

## —J—

|  |              |
|--|--------------|
| Jackson Barracks, La., repossession..... | 69 Stat. 79  |
| Johnson City, Tenn., repossession.....   | 67 Stat. 54  |
| Joliet Arsenal, Ill., repossession.....  | 74 Stat. 370 |

## —K—

|  |              |
|--|--------------|
| Klamath County, Oreg., repossession of certain land..... | 68 Stat. 981 |
|--|--------------|

## —L—

|   |                      |
|---|----------------------|
| LaCrosse National Guard Target Range, Wisc., repossession.....    | 70 Stat. 577         |
| Labor:  |                      |
| Appointment of board of inquiry by the President.....             | 29 U.S.C. 176        |
| Hours of labor for certain persons employed by the Air Force..... | 10 U.S.C. 9025       |
| Hours of labor for certain persons employed by the Army.....      | 10 U.S.C. 4025       |
| Strikes subject to injunction.....                                | 29 U.S.C. 178        |
| Wages of laborers and mechanics employed on public buildings..... | 40 U.S.C. 276a-5     |
| Leases:   |                      |
| Acquisition of buildings in the District of Columbia.....         | 10 U.S.C. 4780, 9780 |
| Boston Army Base: suspension.....                                 | 68 Stat. 538         |
| of Housing facilities.....  | 10 U.S.C. 2674 note  |
| under Outer Continental Shelf Lands Act: suspension.....          | 43 U.S.C. 1341(c)    |
| Rental on buildings leased to Government.....                     | 40 U.S.C. 278b       |
| Revocable.....  | 10 U.S.C. 2667       |
| Lee Boulevard, repossession of certain land.....                  | 47 Stat. 1368        |
| Licenses under Atomic Energy Act.....                             | 42 U.S.C. 2138       |
| Little Rock, Ark., property conveyed to city.....                 | 49 Stat. 1292        |
| Livestock products, procurement of.....                           | 7 U.S.C. 1903        |

## —M—

|  |                      |
|--|----------------------|
| Marine Corps (see also Armed Forces):                      |                      |
| Appointments.....  | 10 U.S.C. 5201, 5597 |
| Authorized strength.....                                   | 10 U.S.C. 5402       |
| Aviation cadets: number.....                               | 10 U.S.C. 6911(b)    |
| Brigadier generals: number designated for supply duty..... | 10 U.S.C. 5448(f)    |
| Enlisted men (retired): order to active duty.....          | 10 U.S.C. 6482       |
| Enlistments extended.....                                  | 10 U.S.C. 5538       |
| Major Generals and Brigadier Generals; number.....         | 10 U.S.C. 5448(a)    |

## Marine Corps—Continued

|  |                                      |
|--|--------------------------------------|
| Officers: appointments to higher commands.....                             | 10 U.S.C. 5232                       |
| Officers: detail for supply duty.....                                      | 10 U.S.C. 5448(f)                    |
| Officers: distribution in grades.....                                      | 10 U.S.C. 5234, 5451, 5451(b)        |
| Officers: promotion, retirement, separation.....                           | 10 U.S.C. 5785, 5787, 6386(c)        |
| Officers (retired): recall to active duty.....                             | 10 U.S.C. 6481                       |
| Selection boards, etc.....   | 10 U.S.C. 5711                       |
| Warrant officers, dismissal.....   | 10 U.S.C. 6408                       |
| Marine Corps Reserve: appointment.....                                     | 10 U.S.C. 5598                       |
| Marian County, Ind., repossession of certain land.....                     | 68 Stat. 172(2), 173(2)              |
| Maritime Commission. (See Federal Maritime Board.)                         |                                      |
| Marketing quotas.....  | 7 U.S.C. 1332, 1371                  |
| Massachusetts Port Authority, repossession of Boston Naval Shipyard..      | 74 Stat. 356(2)                      |
| <b>Military and Foreign Assistance:</b>                                    |                                      |
| Middle East.....   | 22 U.S.C. 1962, 1965                 |
| Prohibition against furnishing.....  | 22 U.S.C. 2370                       |
| Sale of supersonic planes to Israel.....                                   | 22 U.S.C. 2410                       |
| United Nations Emergency Force.....  | 22 U.S.C. 1963                       |
| Military Department: transportation of employees.....                      | 10 U.S.C. 2632                       |
| Military installations: photographing and sketching.....                   | 18 U.S.C. 795;<br>50 U.S.C. App. 785 |
| Missing Persons Act: Army and Air Force Officers in status of missing..... | 67 Stat. 38                          |
| Montgomery, W. Va., reuse of land granted to city.....                     | 70 Stat. 590                         |
| Mortgages: insurance.....  | 12 U.S.C. 1705, 1748b(a)             |

## —N—

|  |   |
|--|---|
| National Defense Production Act.....   | 50 U.S.C. App. 2071-73, 2151-63,<br>2160 note, 2166(a), (b) |
| <b>National Guard:</b>   |   |
| Call to Federal service.....   | 10 U.S.C. 3500  |
| Claims of members against the United States.....   | 32 U.S.C. 715   |
| Enlistment periods.....  | 10 U.S.C. 263 note; 32 U.S.C. 302                           |
| Officers: promotion, retirement, separation.....   | 32 U.S.C. 111   |
| Organization and composition of the Army National Guard.....                                     | 32 U.S.C. 104   |
| National Housing Act: insurance of financial institutions.....                                   | 42 U.S.C. 1592c note  |
| National Industrial Reserve Act.....   | 50 U.S.C. 451-462   |
| National Oceanic and Atmospheric Administration: appointment and<br>advancement of officers..... | 33 U.S.C. 854a-1  |
| National Security Agency: personnel security procedures.....                                     | 50 U.S.C. 832   |
| Natural resources: lands and navigable waters.....   | 43 U.S.C. 1314  |
| Naval Air Station, Kahului, Wailuku, Maui, Hawaii, reuse.....                                    | 66 Stat. 128  |
| Naval Reserve: appointments.....   | 10 U.S.C. 5598  |
| Naval vessels. (See Vessels.)  |   |
| <b>Navy (see also Armed Forces):</b>   |   |
| Administrative examination of accounts of expenditures.....                                      | 31 U.S.C. 80c   |
| Admirals and vice admirals: number.....  | 10 U.S.C. 5231  |
| Appointments.....  | 10 U.S.C. 5081, 5597  |
| Aviation cadets; numbers.....  | 10 U.S.C. 6911(b)   |
| Detail of retired officers to command.....   | 10 U.S.C. 5982  |
| Enlisted men (on furlough): recall to active duty.....   | 10 U.S.C. 6296  |
| Enlisted men (retired): order to active duty.....  | 10 U.S.C. 6482  |
| Enlistments extended.....  | 10 U.S.C. 5538  |
| Medical Corps: increase in number of appointments.....   | 10 U.S.C. 5599  |
| Officers: distribution in grades.....  | 10 U.S.C. 5234, 5451, 8444(a)                               |
| Officers: promotion, retirement, separation.....   | 10 U.S.C. 5785, 5787, 6386(c)                               |
| Officers (retired): order to active duty.....  | 10 U.S.C. 6481  |
| Rear admirals: number in certain corps.....  | 10 U.S.C. 5449(a)   |
| Rear admirals: number in the line.....   | 10 U.S.C. 5447(c)   |
| Rear admirals: pay.....  | 10 U.S.C. 6487; 37 U.S.C. 202                               |
| Rear admirals and above (retired): number on active duty.....                                    | 10 U.S.C. 5450  |
| Running mates.....   | 10 U.S.C. 5662  |
| Selection boards, etc.....   | 10 U.S.C. 5711  |
| Warrant officers: dismissal.....   | 10 U.S.C. 6408  |

## Neutrality :

|  |               |
|--|---------------|
| American Red Cross vessels.....                                    | 22 U.S.C. 444 |
| Detention of vessels by Collector of Customs.....                  | 22 U.S.C. 464 |
| Enforcement of provisions related to.....                          | 22 U.S.C. 461 |
| Financial transactions.....  | 22 U.S.C. 447 |
| Proclamation of a state of war between foreign states.....         | 22 U.S.C. 441 |
| Restrictions on use of American ports.....                         | 22 U.S.C. 450 |
| Submarines and armed merchant vessels.....                         | 22 U.S.C. 451 |
| New Orleans Naval Station, revocation of lease of drydock.....     | 46 Stat. 332  |
| Nitrates, etc., requisitioning of projects for manufacture of..... | 16 U.S.C. 809 |

## —O—

|   |                   |
|---|-------------------|
| Officer Grade Limitation Act of 1954.....                                 | 10 U.S.C. 4151(b) |
| Officer Personnel Act of 1947.....  | 10 U.S.C. 4151(b) |
| O'Reilly General Hospital, Springfield, Mo., repossession of portion..... | 69 Stat. 592      |
| Outer Continental Shelf Lands Act, leases under.....                      | 43 U.S.C. 1341(c) |

## —P—

|  |  |
|--|--|
| Patents and inventions.....                                | 35 U.S.C. 181; 50 U.S.C. App. 10                             |
| Photographing and sketching military installations..       | 18 U.S.C. 795; 50 U.S.C. App. 785                            |
| Port Newark Army Base, N.J., repossession.....             | 49 Stat. 1557, 70 Stat. 21                                   |
| Port of New York Authority, use of Hoboken Railroad.....   | 43 Stat. 984   |
| Presidio of San Francisco, repossession.....               | 43 Stat. 1129  |
| Priorities and allocations of materials.....               | 50 U.S.C. App. 2071-73, 2151-63,<br>2160 note, 2166 (a), (b) |
| Prisoners of war.....                                      | 50 U.S.C. App. 2005  |
| Public Documents listed in the Federal Register.....       | 44 U.S.C. 1505   |
| Public Health Service:                                     |  |
| Commissioned officer: promotion.....                       | 42 U.S.C. 211(k)   |
| Composition.....   | 42 U.S.C. 204  |
| Officers: annual leave restrictions.....                   | 42 U.S.C. 210-1  |
| Special Quarantine Powers.....                             | 42 U.S.C. 266  |
| Use of.....  | 42 U.S.C. 217  |
| Public lands: withdrawals for defense purposes.....        | 43 U.S.C. 155  |
| Public records at military installations: destruction..... | 44 U.S.C. 3311   |
| Public utilities: proceeds from overseas operations.....   | 10 U.S.C. 9591   |

## —R—

|   |   |
|---|---|
| Radio stations:   |   |
| Permits to construct.....   | 47 U.S.C. 308   |
| Suspension of certain rules.....  | 47 U.S.C. 606(c)  |
| Railroad Retirement Act: eligibility and computations.....                              | 45 U.S.C. 228c-1  |
| Ready Reserves: order to active duty.....   | 10 U.S.C. 263 note  |
| Real property: acquisition by General Services Administration.....                      | 40 U.S.C. 534   |
| Red Cross, use of.....  | 10 U.S.C. 2602  |
| Relief:   |   |
| to citizens returned to the United States on account of war.....                        | 42 U.S.C. 1313  |
| Free importation of food, clothing, etc.....  | 19-U.S.C. 1318  |
| Shipment of supplies to countries with which the United States was formerly at war..... | 50 U.S.C. App. 38   |
| Renegotiation of contracts.....   | 50 U.S.C. 1211, 1213, 1216  |
| Rents on buildings leased to Government.....  | 40 U.S.C. 278b  |
| Requisitioning:   |   |
| of Foreign flag vessels.....  | 50 U.S.C. 196-8   |
| of Plants for manufacture of nitrates.....  | 16 U.S.C. 809   |
| of Plants for war production.....   | 10 U.S.C. 4501 (a), (c), (d), 4502(b),<br>9501 (a), (c), (d), 9502(b) |
| of Property upon filing petition for condemnation.....                                  | 10 U.S.C. 2663, 2664  |

## —S—

|  |  |
|--|--|
| Sabotage, penalties for.....   | 18 U.S.C. 798, 2157, 2301                  |
| San Antonio, Tex., repossession of land in Bexar County.....                       | 70 Stat. 698                               |
| San Antonio, Tex., repossession of property conveyed to State.....                 | 68 Stat. 977                               |
| Sante Fe, N.M., repossession of certain land.....                                  | 70 Stat. 296                               |
| Santa Rosa Island, Fla., repossession of property conveyed to Okaloosa County..... | 62 Stat. 1230                              |
| Savings and Loan Association: liquidity requirements.....                          | 12 U.S.C. 1425a                            |
| Schools: disaster assistance.....  | 20 U.S.C. 241-1, 646                       |
| Seattle, Wash., National Guard facility.....                                       | 83 Stat. 319                               |
| Security measures:   |  |
| Restricts on photographing certain properties.....                                 | 18 U.S.C. 795:                             |
| 50 U.S.C. App. 785   |  |
| Patents and inventions.....  | 35 U.S.C. 181; 50 U.S.C. App. 10           |
| Small Business Enterprises.....  | 50 U.S.C. App. 2071-73, 2151-63, 2160 note |
| 2166 (a), (b)  |  |
| Squantum, Mass., revocation of lease of naval destroyer, etc.....                  | 46 Stat. 479                               |
| State National Guard: Call to Federal service.....                                 | 10 U.S.C. 332, 333, 3500                   |
| Stockpiling Act.....   | 50 U.S.C. 98d                              |
| Strategic and critical materials:  |  |
| Purchase.....  | 50 U.S.C. App. 2093                        |
| Use.....   | 50 U.S.C. 98d                              |
| Sugar, suspension of quotas.....   | 7 U.S.C. 1158                              |
| Supplies and services, contracts for.....  | 10 U.S.C. 2304                             |
| Surplus property: disposal.....  | 40 U.S.C. 484(e) (3)                       |

## —T—

|   |                                      |
|---|--------------------------------------|
| Tariff Act of 1930; imports.....                            | 76 Stat. 877; 19 U.S.C. 1318         |
| TVA: sale of electric power.....                            | 16 U.S.C. 831n-4a                    |
| Transportation:   |                                      |
| of Military Department employees.....                       | 19 U.S.C. 2632                       |
| of Naval vessels.....                                       | 10 U.S.C. 7224                       |
| Possession and control of transport systems.....            | 10 U.S.C. 4742, 9742                 |
| Preferences and priorities.....                             | 67 Stat. 244; 49 U.S.C. 1, 1020 note |
| Travel expenses of Civil Air Patrol.....                    | 10 U.S.C. 9501(c)                    |
| Trading With the Enemy Act:                                 |                                      |
| Appointment of Alien Property Custodian.....                | 50 U.S.C. App. 6                     |
| Control of communications.....                              | 50 U.S.C. App. 3                     |
| Exportation of gold and silver.....                         | 50 U.S.C. App. 14                    |
| Importations prohibited.....                                | 50 U.S.C. App. 11                    |
| Licensure of insurance companies.....                       | 50 U.S.C. App. 4                     |
| Patents, trademarks, copyrights.....                        | 50 U.S.C. App. 10                    |
| Print, newspaper or publication in foreign languages.....   | 50 U.S.C. App. 19                    |
| Property transferred to Alien Property Custodian.....       | 50 U.S.C. App. 9,                    |
| 12, 32, 40  |                                      |
| Regulation of Corporations in the United States.....        | 50 U.S.C. App. 7                     |
| Regulation of foreign exchange transactions.....            | 50 U.S.C. App. 5                     |
| Shipment of relief supplies.....                            | 50 U.S.C. App. 38                    |
| Suspension of limitations on contracts and obligations..... | 50 U.S.C. App. 8                     |
| Tucson, Ariz., repossession of land.....                    | 44 Stat. 241                         |

## —U—

|  |                |
|--|----------------|
| Unemployment compensation under Veterans Readjustment Act..... | 69 Stat. 376   |
| United Seamen's Service: cooperation and assistance.....       | 10 U.S.C. 2804 |
| United Nations Emergency Force, assistance to.....             | 22 U.S.C. 1963 |

## —V—

|  |                                  |
|--|----------------------------------|
| Vessels:                               |                                  |
| Arming of.....                         | 10 U.S.C. 351                    |
| Charters terminated.....               | 46 U.S.C. 1202, 1242             |
| Citizenship of officers and crew.....  | 33 U.S.C. 855, 46 U.S.C. 1132(h) |
| Construction differentials.....        | 46 U.S.C. 1151(a)                |
| Detention by Collector of Customs..... | 22 U.S.C. 464                    |

|   |  |
|---|--|
| Fishing and commercial vessels : subsidies.....             | 46 U.S.C. 1402, 1406, 1161             |
| Foreign flag vessels.....                                   | 50 U.S.C. 191, 196-8                   |
| Hospital ships, designation of.....                         | 46 U.S.C. 133, 134                     |
| Loan of vessels to foreign states and governments.....      | 50 U.S.C. App. 1878e,<br>1878s, 1878vv |
| Naval : transportation on.....                              | 10 U.S.C. 7224                         |
| Procurement of.....   | 50 U.S.C. 82                           |
| Sale to China : conditions.....                             | 74 Stat. 143                           |
| Sale of surplus vessels.....                                | 50 U.S.C. App. 1744                    |
| Transfer to foreign registry.....                           | 46 U.S.C. 835                          |
| Use of ports and territorial waters by foreign vessels..... | 22 U.S.C. 451                          |
| Waterborne cargoes on U.S.-flag vessels.....                | 46 U.S.C. 1241                         |
| Veterans' Center, Los Angeles, Calif., repossession.....    | 71 Stat. 517                           |
| Veterans :  |  |
| Definitions .....   | 38 U.S.C. 101                          |
| Non-service connected disability benefits.....              | 38 U.S.C. 521                          |
| Preferences .....   | 42 U.S.C. 1477                         |

## —W—

|  |                      |
|--|----------------------|
| War material :   |                      |
| Embargo on.....  | 22 U.S.C. 1611       |
| Injury to.....   | 18 U.S.C. 2153, 2154 |
| Procurement of.....  | 50 U.S.C. 82         |
| Sales to foreign states or governments.....                    | 40 U.S.C. 314        |
| War risk : compensation for injury or loss resulting from..... | 42 U.S.C. 1711, 1712 |
| War risk insurance on waterborne commerce, etc.....            | 46 U.S.C. 1294       |
| Will County, Ill., repossession of land conveyed to State..... | 74 Stat. 370         |
| Williamsburg, Va., repossession.....                           | 70 Stat. 550-1       |
| Windsor Locks, Conn., repossession.....                        | 68 Stat. 32          |
| Wyoming National Guard Camp, Guernsey repossession.....        | 69 Stat. 140         |

## —Y—

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|--|--------------|
| York County, Va., repossession.....  | 72 Stat. 401 |
| Yuma, Ariz., repossession of land conveyed to city for aviation field..... | 44 Stat. 677 |