of the Department of the Navy. This section also provides for the order of succession to the Office of Secretary of the Navy in the event of his temporary absence.

Section 3 (a) amends the Air Force Organization Act of 1951 (5 U. S. C. 626–1 and 626–2) to authorize four Assistant Secretaries of the Air Force in lieu of two such Secretaries as is now provided by law, and also provides that one of the Assistant Secretaries shall be designated Assistant Secretary for Financial Management. The Assistant Secretary for Financial Management may also, at the discretion of the Secretary of the Air Force, be designated as the Comptroller of the Department of the Air Force.

(b) is a technical amendment to section 207 of the National Security Act to conform it to this legislation. That section authorizes the establishment of two Assistant Secretaries and this amendment would provide for four.

(c) is a technical amendment to subsections (b) and (c) of section 101 of the Air Force Organization Act of 1951 to reflect that there will be more than two Assistant Secretaries of the Air Force.

INDEPENDENT OFFICES APPROPRIATIONS, 1955—AMENDMENT

Mr. GORE (for Mr. DOUGLAS) submitted an amendment intended to be proposed by Mr. DOUGLAS to the bill (H. R. 8583) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, corporations, agencies, and offices, for the fiscal year ending June 30, 1955, and for other purposes, which was ordered to lie on the table and to be printed.

CREATION OF CERTAIN UNITED STATES JUDGESHIPS—AMENDMENTS

Mr. HUNT. Mr. President, I submit amendments intended to be proposed by me to the bill (S. 2910) providing for the creation of certain United States judgeships, and for other purposes.

A similar bill was introduced in 1951 and, having been so thoroughly familiar with court conditions in Wyoming, I doubted the necessity of an additional Federal judge in our State. I therefore contacted our United States district judge, T. Blake Kennedy, and on January 26 of 1951 I received from him a letter from which I quote in part:

As to any additional judgeships in the district of Wyoming I could not answer otherwise truthfully than to say that I consider no additional judges are needed at this time in this district. One judge I feel can comfortably take care of the business in the district and perhaps have some additional time to spare to relieve congested other districts.

As you perhaps know, during my nearly 30 years service on the bench I have contributed judicial services to outside districts, as well as on the circuit court of appeals, upon many occasions and do not feel that I have been overworked.

Therefore, Mr. President, when S. 2910 was introduced, I again contacted our United States district judge for Wyoming to see if there had been any material change in the volume of court business since 1951 that indicated at this time an additional judge.

Again I was advised and I quote from a letter by Judge T. Blake Kennedy, addressed to me on May 11 in part as follows:

So far as the judicial business of the Wyoming district is concerned the situation at present would seem to be that one judge is able to take care of all the business of the district even without his time being fully devoted to the task. As a matter of fact, during my tenure of office, which is approaching 33 years, I have been assigned to other districts and to the circuit court of appeals around 75 to 80 times, which outside service has not jeopardized the dispatch of business in my district.

I think it would be the concensus of opinion of the Wyoming State bar that there has been no appreciable delay in the dispatch of the business found upon the dockets of the court.

As a matter of fact, my dockets at the present time, it seems to me, are considerably lighter than they have been at any time since I have been upon the bench. As a matter of fact, there has scarcely been a year in my tenure of office that I have not held court in the Colorado district for at least from one to half a dozen times. On the other hand, the occasions have been few indeed where it has been necessary to send any judge into the Wyoming district and these occasions have occurred usually on account of my decision to withdraw from the trial of a case where I have felt that I might perhaps subconsciously be biased or in litigation where I was interested previous to my appointment to the bench.

I certainly have no personal objections to the appointment of another judge in Wyoming if the Congress in its wisdom feels that it is expedient, but I think it should be fully considered that it is not placed upon the basis of congested dockets which require more judge power in the district.

Mr. President, I am also in receipt of a letter from Judge John C. Pickett, United States Court of Appeals, 10th Circuit, Cheyenne, Wyo., with reference to S. 2910, from which I quote in part:

It is rather difficult to understand why Wyoming was included. I have never heard of any agitation for an additional judge in this district. I am reasonably certain that the Judicial Conference would not find that the work in Wyoming is sufficient to warrant another judge. The members of the Court of Appeals of each circuit ordinarily consider such matters and the Chief Judge then presents the attitude of the circuit judges to the Judicial Conference. We have not considered the matter in our circuit.

Very sincerely yours,

JOHN C. PICKETT.

Mr. President, in 1951 the chairman of the committee was kind enough to write me with reference to the appointment of an additional judge in Wyoming. I do not remember—and I cannot find in my files—having received such a letter with reference to S. 2910. I do not know whom the committee consulted from Wyoming, but I am convinced there is no need for an additional judge in the State of Wyoming at this time.

The PRESIDENT pro tempore. The amendments submitted by the Senator from Wyoming will be received and printed, and will lie on the table.

REQUESTS FOR INCREASED TRANSPORTATION RATES BY COMMON CARRIERS—AMENDMENTS

Mr. SMATHERS. Mr. President, last Friday the Senator from Nebraska [Mr. BUTLER] entered a motion to reconsider the vote by which the bill (S. 1461) to amend the Interstate Commerce Act, as amended, concerning requests of common carriers for increased transportation rates, was recommitted to the Committee on Interstate and Foreign Commerce. On behalf of myself and the Senator from Oklahoma [Mr. MONRONEY], I submit amendments in the nature of a substitute intended to be proposed by us, jointly, to the amendment of the Senator from Ohio [Mr. BRICKER] in the nature of a substitute to Senate bill 1461.

The PRESIDENT pro tempore. The amendments will be received and printed, and will lie on the table.

ORDER OF BUSINESS—CALL OF THE CALENDAR

Mr. KNOWLAND. Mr. President, I ask unanimous consent that during the call of the calendar, which will occur following the morning hour, Senate bill 42, Calendar 1152, providing for attorneys' liens in proceedings before the courts or other departments and agencies of the United States; and Senate bill 46, Calendar 1248, for the relief of E. S. Berney, be included, inasmuch as an order to that effect, as I understand, was entered at the time of the last calendar call.

The PRESIDING OFFICER (Mr. PAYNE in the chair). Without objection, it is so ordered.

Mr. KNOWLAND. Mr. President, at the request of the Senator from Nebraska [Mr. BUTLER] who had to leave the Chamber, I also ask unanimous consent that Senate bill 3378, Calendar 1276, to revise the Organic Act of the Virgin Islands of the United States, which is the first bill on the calendar call for today, be considered, instead, at the end of the calendar.

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

Mr. HENDRICKSON. Mr. President, will the Senator from California yield?

Mr. KNOWLAND. I yield.

Mr. HENDRICKSON. It is my understanding that except for the bills to which the Senator from California has just referred, namely, Senate bill 42, Calendar 1152, relating to attorneys' liens, and Senate bill 48, Calendar 1248, for the relief of E. S. Berney, no other bills included in the last call of the calendar will be included in the call of the calendar today.

Mr. KNOWLAND. That is correct; today's call of the calendar will, with the exception of those two bills, be begun at the point where the last call of the calendar ended; namely, with Senate bill 3378, Calendar 1276, except that, upon request of the Senator from Nebraska [Mr. BUTLER], that bill will be called last on the calendar today, instead of first.

Mr. HENDRICKSON. I thank the Senator from California.

TESTIMONY AND PRODUCTION OF DOCUMENTS BEFORE SUBCOMMITTEE OF SENATE COMMITTEE ON GOVERNMENT OPERATIONS—LETTER FROM PRESIDENT OF THE UNITED STATES

Mr. KNOWLAND. Mr. President, I ask unanimous consent to have printed

at this point in the body of the RECORD, as a part of my remarks, a letter written today by the President of the United States, and sent to the Secretary of Defense. I also ask unanimous consent to have printed at this point in the RECORD, as a part of my remarks, a memorandum from the Attorney General of the United States, that accompanied the letter from the President.

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

THE WHITE HOUSE.

The honorable the SECRETARY OF DEFENSE,
Washington, D. C.

DEAR MR. SECRETARY: It has long been recognized that to assist the Congress in achieving its legislative purposes every executive department or agency must, upon the request of a congressional committee, expeditiously furnish information relating to any matter within the jurisdiction of the committee, with certain historical exceptions—some of which are pointed out in the attached memorandum from the Attorney General. This administration has been and will continue to be diligent in following this principle. However, it is essential to the successful working of our system that the persons entrusted with power in any one of the three great branches of Government shall not encroach upon the authority confided to the others. The ultimate responsibility for the conduct of the executive branch rests with the President.

Within this constitutional framework each branch should cooperate fully with each other for the common good. However, throughout our history the President has withheld information whenever he found that what was sought was confidential or its disclosure would be incompatible with the public interest or jeopardize the safety of the Nation.

Because it is essential to efficient and effective administration that employees of the executive branch be in a position to be completely candid in advising with each other on official matters, and because it is not in the public interest that any of their conversations or communications, or any documents or reproductions, concerning such advice be disclosed, you will instruct employees of your Department that in all of their appearances before the subcommittee of the Senate Committee on Government Operations regarding the inquiry now before it they are not to testify to any such conversations or communications or to produce any such documents or reproductions. This principle must be maintained regardless of who would be benefited by such disclosures.

I direct this action so as to maintain the proper separation of powers between the executive and legislative branches of the Government in accordance with my responsibilities and duties under the Constitution. This separation is vital to preclude the exercise of arbitrary power by any branch of the Government.

By this action I am not in any way restricting the testimony of such witnesses as to what occurred regarding any matters where the communication was directly between any of the principals in the controversy within the executive branch on the one hand and a member of the subcommittee or its staff on the other.

Sincerely,

DWIGHT D. EISENHOWER.

MEMORANDUM

For: The President.
From: The Attorney General.

One of the chief merits of the American system of written constitutional law is that all the powers entrusted to the Government are divided into three great departments, the executive, the legislative, and the judicial. It is essential to the successful working of this system that the persons entrusted with power in any one of these branches shall not be permitted to encroach upon the powers confided to the others, but that each shall be limited to the exercise of the powers appropriate to its own department and no other. The doctrine of separation of powers was adopted to preclude the exercise of arbitrary power and to save the people from autocracy.

This fundamental principle was fully recognized by our first President, George Washington, as early as 1796 when he said: "* * * it is essential to the due administration of the Government that the boundaries fixed by the Constitution between the different departments should be preserved. * * *" In his farewell address, President Washington again cautioned strongly against the danger of encroachment by one department into the domain of another as leading to despotism. This principle has received steadfast adherence throughout the many years of our history and growth. More than ever, it is our duty today to heed these words if our country is to retain its place as a leader among the free nations of the world.

For over 150 years—almost from the time that the American form of government was created by the adoption of the Constitution—our Presidents have established, by precedent, that they and members of their Cabinet and other heads of executive departments have an undoubted privilege and discretion to keep confidential, in the public interest, papers and information which require secrecy. American history abounds in countless illustrations of the refusal, on occasion, by the President and heads of departments to furnish papers to Congress, or its committees, for reasons of public policy. The messages of our past Presidents reveal that almost every one of them found it necessary to inform Congress of his constitutional duty to execute the Office of the President, and, in furtherance of that duty, to withhold information and papers for the public good.

Nor are the instances lacking where the aid of a court was sought in vain to obtain information or papers from a President and the heads of departments. Courts have uniformly held that the President and the heads of departments have an uncontrolled discretion to withhold the information and papers in the public interest; they will not interfere with the exercise of that discretion, and that Congress has not the power, as one of the three great branches of the Government, to subject the executive branch to its will any more than the executive branch may impose its unrestrained will upon the Congress.

PRESIDENT WASHINGTON'S ADMINISTRATION

In March 1792 the House of Representatives passed the following resolution:

"Resolved, That a committee be appointed to inquire into the causes of the failure of the late expedition under Major General St. Clair; and that the said committee be empowered to call for such persons, papers, and records, as may be necessary to assist their inquiries." (3 Annals of Congress, p. 493.)

This was the first time that a committee of Congress was appointed to look into a matter which involved the executive branch of the Government. The expedition of General St. Clair was under the direction of the Secretary of War. The expenditures connected therewith came under the Secretary of the Treasury. The House based its right to investigate on its control of the expenditures of public moneys. It appears that the Secretaries of War and the Treasury appeared before the committee. However when the committee was bold enough to ask the President for the papers pertaining to the General St. Clair campaign, President Washington called a meeting of his Cabinet. (Binkley, President and Congress, pp. 40–41.)

Thomas Jefferson, as Secretary of State, reports what took place at that meeting. Besides Jefferson, Alexander Hamilton, Henry Knox, Secretary of War, and Edmond Randolph, the Attorney General, were present. The committee had first written to Knox for the original letters, instructions, etc., to General St. Clair. President Washington stated that he had called his Cabinet members together, because it was the first example of a demand on the executive for papers, and he wished that so far as it should become a precedent, it should be rightly conducted. The President readily admitted that he did not doubt the propriety of what the House was doing, but he could conceive that there might be papers of so secret a nature, that they ought not to be given up. Washington and his Cabinet came to the unanimous conclusion:

"First, that the House was an inquest, and therefore might institute inquiries. Second, that it might call for papers generally. Third, that the Executive ought to communicate such papers as the public good would permit, and ought to refuse those, the disclosure of which would injure the public; consequently were to exercise a discretion. Fourth, that neither the committee nor House had a right to call on the head of a Department, who and whose papers were under the President alone; but that the committee should instruct their chairman to move the House to address the President."

The precedent thus set by our first President and his Cabinet was followed in 1796, when President Washington was presented with a resolution of the House of Representatives which requested him to lay before the House a copy of the instructions to the Minister of the United States who negotiated the treaty with the King of Great Britain, together with the correspondence and documents relative to that treaty. Apparently it was necessary to implement the treaty with an appropriation which the House was called upon to vote. The House insisted on its right to the papers requested, as a condition to appropriating the required funds. (President and Congress, Wilfred E. Binkley (1947), p. 44.)

President Washington's classic reply was, in part, as follows:

"I trust that no part of my conduct has ever indicated a disposition to withhold any information which the Constitution has enjoined upon the President as a duty to give, or which could be required of him by either House of Congress as a right; and with truth I affirm that it has been, as it will continue to be while I have the honor to preside in the Government, my constant endeavor to harmonize with the other branches thereof so far as the trust delegated to me by the people of the United States and my sense of the obligation it imposes to 'preserve, protect, and defend the Constitution' will permit." (Richardson's Messages and Papers of the Presidents, vol. 1, p. 194.)

Washington then went on to discuss the secrecy required in negotiations with foreign governments, and cited that as a reason for vesting the power of making treaties in the President, with the advice and consent of the Senate. He felt that to admit the House of Representatives into the treaty-making power, by reason of its constitutional duty to appropriate moneys to carry out a treaty, would be to establish a dangerous precedent. He closed his message to the House as follows:

"As, therefore, it is perfectly clear to my understanding that the assent of the House of Representatives is not necessary to the validity of a treaty; * * * and as it is essential to the due administration of the Government that the boundaries fixed by the Constitution between the different departments should be preserved, a just regard for the Constitution and to the duty of my office, under all the circumstances of this case, forbids a compliance with your request." (Richardson's Messages and Papers of the Presidents, vol. 1, p. 196.)

PRESIDENT JEFFERSON'S ADMINISTRATION

In January 1807, Representative Randolph introduced a resolution, as follows:

"*Resolved*, That the President of the United States be, and he hereby is, requested to lay before this House any information in possession of the Executive, except such as he may deem the public welfare to require not to be disclosed, touching any illegal combination of private individuals against the peace and safety of the Union, or any military expedition planned by such individuals against the territories of any power in amity with the United States; together with the measures which the Executive has pursued and proposes to take for suppressing or defeating the same." (16 Annals of Congress (1806–1807), p. 336.)

The resolution was overwhelmingly passed. The Burr conspiracy was then stirring the country. Jefferson had made it the object of a special message to Congress wherein he referred to a military expedition headed by Burr. Jefferson's reply to the resolution was a message to the Senate and House of Representatives. Jefferson brought the Congress up to date on the news which he had been receiving concerning the illegal combination of private individuals against the peace and safety of the Union. He pointed out that he had recently received a mass of data, most of which had been obtained without the sanction of an oath so as to constitute formal and legal evidence. "It is chiefly in the form of letters, often containing such a mixture of rumors, conjectures, and suspicions as renders it difficult to sift out the real facts and unadvisable to hazard more than general outlines, strengthened by concurrent information or the particular credibility of the relator. In this state of the evidence, delivered sometimes, too, under the restriction of private confidence, neither safety nor justice will permit the exposing names, except that of the principal actor, whose guilt is placed beyond question." (Richardson's Messages and Papers of the Presidents, vol. 1, p. 412, dated Jan. 22, 1807.)

SIMILAR ACTIONS BY PRESIDENTS JACKSON, TYLER, BUCHANAN, AND GRANT

On February 10, 1835, President Jackson sent a message to the Senate wherein he declined to comply with the Speaker's resolution requesting him to communicate copies of charges which had been made to the President against the official conduct of Gideon Fitz, late Surveyor General, which caused his removal from office. The resolution stated that the information requested was necessary both in the action which it proposed to take on the nomination of a successor to Fitz, and in connection with the investigation which was then in progress by the Senate respecting the frauds in the sales of public lands.

The President declined to furnish the information. He stated that in his judgment the information related to subjects exclusively belonging to the executive department. The request therefore encroached on the constitutional powers of the Executive.

The President's message referred to many previous similar requests, which he deemed unconstitutional demands by the Senate:

"Their continued repetition imposes on me, as the representative and trustee of the American people, the painful but imperious duty of resisting to the utmost any further encroachment on the rights of the Executive" (ibid., p. 133).

The President next took up the fact that the Senate resolution had been passed in executive session, from which he was bound to presume that if the information requested by the resolution were communicated, it would be applied in secret session to the investigation of frauds in the sales of public lands. The President said that, if he were to furnish the information, the citizen whose conduct the Senate sought to impeach would lose one of his basic rights, namely, that of a public investigation in the presence of his accusers and of the witnesses against him. In addition, compliance with the resolution would subject the motives of the President, in the case of Mr. Fitz, to the review of the Senate when not sitting as judges on an impeachment; and even if such a consequence did not follow in the present case, the President feared that compliance by the Executive might thereafter be quoted as a precedent for similar and repeated applications.

"Such a result, if acquiesced in, would ultimately subject the independent constitutional action of the Executive in a matter of great national concernment to the domination and control of the Senate. * * *

"I therefore decline a comliance with so much of the resolution of the Senate as requests 'copies of the charges, if any,' in relation to Mr. Fitz, and in doing so must be distinctly understood as neither affirming nor denying that any such charges were made" (ibid., p. 134).

One of the best reasoned precedents of a President's refusal to permit the head of a department to disclose confidential information to the House of Representatives is President Tyler's refusal to communicate to the House of Representatives the reports relative to the affairs of the Cherokee Indians and to the frauds which were alleged to have been practiced upon them. A resolution of the House of Representatives had called upon the Secretary of War to communicate to the House the reports made to the Department of War by Lieutenant Colonel Hitchcock relative to the affairs of the Cherokee Indians together with all information communicated by him concerning the frauds he was charged to investigate; also all facts in the possession of the Executive relating to the subject. The Secretary of War consulted with the President and under the latter's direction informed the House that negotiations were then pending with the Indians for settlement of their claims; in the opinion of the President and the Department, therefore, publication of the report at that time would be inconsistent with the public interest. The Secretary of War further stated in his answer to the resolution that the report sought by the House, dealing with alleged frauds which Lieutenant Colonel Hitchcock was charged to investigate, contained information which was obtained by Colonel Hitchcock by ex parte inquiries of persons whose statements were without the sanction of an oath, and which the persons implicated had had no opportunity to contradict or explain. The Secretary of War expressed the opinion that to promulgate those statements at that time would be grossly unjust to those persons and would defeat the object of the inquiry. He also remarked that the Department had not been given at that time sufficient opportunity to pursue the investigation, to call the parties affected for explanations, or to determine on the measures proper to be taken.

The answer of the Secretary of War was not satisfactory to the Committee on Indian Affairs of the House, which claimed the right to demand from the Executive and heads of departments such information as may be in their possession relating to subjects of the deliberations of the House.

President Tyler in a message dated January 31, 1843, vigorously asserted that the House of Representatives could not exercise a right to call upon the Executive for information, even though it related to a subject of the deliberations of the House, if, by so doing, it attempted to interfere with the discretion of the Executive.

The same course of action was taken by President James Buchanan in 1860 in resisting a resolution of the House to investigate whether the President or any other officer of the Government had, by money, patronage, or other improper means, sought to influence the action of Congress for or against the passage of any law relating to the rights of any State or Territory. (See Richardson, Messages and Papers of the Presidents, vol. 5, pp. 618–619.)

In the administration of President Ulysses S. Grant the House requested the President to inform it whether any executive officer, acts, or duties, and, if any, what, have been performed at a distance from the seat of government established by law. It appears that the purpose of this inquiry was to embarrass the President by reason of his having spent some of the hot months at Long Branch. President Grant replied that he failed to find in the Constitution the authority given to the House of Representatives and that the inquiry had nothing to do with legislation. (Richardson, Messages and Papers of the Presidents, vol. VII, pp. 362–363.)

PRESIDENT CLEVELAND'S ADMINISTRATION

In 1886, during President Cleveland's administration, there was an extended discussion in the Senate with reference to its relations to the Executive caused by the refusal of the Attorney General to transmit to the Senate certain documents concerning the administration of the office of the district attorney for the southern district of south Alabama, and suspension of George W. Durkin, the late incumbent. The majority of the Senate Committee on the Judiciary concluded it was entitled to know all that officially exists or takes place in any of the departments of government and that neither the President nor the head of a department could withhold official facts and information as distinguished from private and unofficial papers.

In his reply President Cleveland disclaimed any intention to withhold official papers, but he denied that papers and documents inherently private or confidential, addressed to the President or a head of a department, having reference to an act entirely executive, such as the suspension of an official, were changed in the nature and became official when placed for convenience in the custody of a public department. (Richardson, Messages and Papers of the Presidents, vol. 8, pp. 378–379, 381.)

Challenging the attitude that because the executive departments were created by Congress the latter had any supervisory power over them, President Cleveland declared (Eberling, congressional investigation, page 258):

"I do not suppose that the public offices of the United States are regulated or controlled in their relations to either House of Congress by the fact that they were created by laws enacted by themselves. It must be that these instrumentalities were created for the benefit of the people and to answer the general purposes of government under the Constitution and the laws, and that they are unencumbered by any lien in favor of either branch of Congress growing out of their construction, and unembarrassed by any obligation to the Senate as the price of their creation."

PRESIDENT THEODORE ROOSEVELT'S ADMINISTRATION

In 1909, during the administration of President Theodore Roosevelt, the question of the right of the President to exercise complete direction and control over heads of executive departments was raised again. At that time the Senate passed a resolution directing the Attorney General to inform the Senate whether certain legal proceedings had been instituted against the United States Steel Corp., and if not, the reasons for its nonaction. Request was also made for any opinion of the Attorney General, if one was written. President Theodore Roosevelt replied refusing to honor this request upon the ground that "Heads of the Executive Departments are subject to the Constitution, and to the laws passed by the

Congress in pursuance of the Constitution, and to the directions of the President of the United States, but to no other direction whatever." (CONGRESSIONAL RECORD, vol. 43, pt. 1, 60th Cong., 2d sess., pp. 527–528.)

When the Senate was unable to get the documents from the Attorney General, it summoned Herbert K. Smith, the Head of the Bureau of Corporations, and requested the papers and documents on penalty of imprisonment for contempt. Mr. Smith reported the request to the President, who directed him to turn over to the President all the papers in the case "so that I could assist the Senate in the prosecution of its investigation." President Roosevelt then informed Senator Clark of the Judiciary Committee what had been done, that he had the papers and the only way the Senate could get them was through his impeachment. President Roosevelt also explained that some of the facts were given to the Government under the seal of secrecy and cannot be divulged, "and I will see to it that the word of this Government to the individual is kept sacred." (Corwin, The President—Office and Powers, pp. 281, 428; Abbott, The Letters of Archie Butt, Personal Aide to President Roosevelt, pp. 305–306.)

PRESIDENT COOLIDGE'S ADMINISTRATION

In 1924, during the administration of President Coolidge, the latter objected to the action of a special investigating committee appointed by the Senate to investigate the Bureau of Internal Revenue. Request was made by the committee for a list of the companies in which the Secretary of the Treasury was alleged to be interested for the purpose of investigating their tax returns. Calling this exercise of power an unwarranted intrusion, President Coolidge said:

"Whatever may be necessary for the information of the Senate or any of its committee in order to better enable them to perform their legislative or other constitutional functions ought always to be furnished willingly and expeditiously by any department. But it is recognized both by law and custom that there is certain confidential information which it would be detrimental to the public service to reveal." (68th Cong., 1st sess., CONGRESSIONAL RECORD, April 11, 1924, p. 6087.)

PRESIDENT HOOVER'S ADMINISTRATION

A similar question arose in 1930 during the administration of President Hoover. Secretary of State Stimson refused to dislose to the chairman of the Senate Foreign Relations Committee certain confidential telegrams and letters leading up to the London Conference and the London treaty. The committee asserted its right to have full and free access to all records touching the negotiations of the treaty, basing its right on the constitutional prerogative of the Senate in the treaty-making process. In his message to the Senate, President Hoover pointed out that there were a great many informal statements and reports which were given to the Government in confidence. The Executive was under a duty, in order to maintain amicable relations with other nations, not to publicize all the negotiations and statements which went into the making of the treaty. He further declared that the Executive must not be guilty of a breach of trust, nor violate the invariable practice of nations. "In view of this, I believe that to further comply with the above resolution would be incompatible with the public interest." (S. Doc. No. 216, 71st Cong., special sess., p. 2.)

PRESIDENT FRANKLIN D. ROOSEVELT'S ADMINISTRATION

The position was followed during the administration of President Franklin D. Roosevelt. There were many instances in which the President and his executive heads refused to make available certain information to Congress the disclosure of which was deemed to be confidential or contrary to the public interest. Merely a few need be cited.

1. Federal Bureau of Investigation records and reports were refused to congressional committees, in the public interest. (40 Op. A. G. No. 8, April 30, 1941.)

2. The Director of the Federal Bureau of Investigation refused to give testimony or to exhibit a copy of the President's directive requiring him, in the interests of national security, to refrain from testifying or from disclosing the contents of the bureau's reports and activities. (Hearings, vol. 2, House, 78th Cong., Select Committee To Investigate the Federal Communications Commission (1944) p. 2337.)

3. Communications between the President and the heads of departments were held to be confidential and privileged and not subject to inquiry by a committee of one of the Houses of Congress. (Letter dated January 22, 1944, signed Francis Biddle, Attorney General to Select Committee, etc.)

4. The Director of the Bureau of the Budget refused to testify and to produce the Bureau's files, pursuant to subpena which had been served upon him, because the President had instructed him not to make public the records of the Bureau due to their confidential nature. Public interest was again invoked to prevent disclosure. (Reliance placed on Attorney General's opinion in 40 Op. A. G. No. 8, April 30, 1941.)

5. The Secretaries of War and Navy were directed not to deliver documents which the committee had requested, on grounds of public interest. The Secretaries in their own judgment, refused permission to Army and Navy officers to appear and testify because they felt that it would be contrary to the public interests. (Hearings, Select Committee To Investigate the Federal Communications Commission, vol. 1, pp. 46, 48–68.)

PRESIDENT TRUMAN'S ADMINISTRATION

During the Truman administration also the President adhered to the traditional executive view that the President's discretion must govern the surrender of executive files. Some of the major incidents during the administration of President Truman in which information, records and files were denied to congressional committees were as follows:

Date and type of document refused

March 4, 1948: FBI letter-report on Dr. Condon, Director of National Bureau of Standards, refused by Secretary of Commerce.

March 15, 1948: President issued directive forbidding all executive departments and agencies to furnish information or reports concerning loyalty of their employees to any court or committee of Congress, unless President approves.

March 1948: Dr. John R. Steelman, confidential adviser to the President, refused to appear before Committee on Education and Labor of the House, following the service of two subpenas upon him. President directed him not to appear.

August 5, 1948: Attorney General wrote Senator FERGUSON, chairman of Senate investigations subcommittee, that he would not furnish letters, memorandums, and other notices which the Justice Department had furnished to other Government agencies concerning W. W. Remington.

February 22, 1950: Senate Resolution 231, directing Senate subcommittee to procure State Department loyalty files was met with President Truman's refusal, following vigorous opposition of J. Edgar Hoover.

March 27, 1950: Attorney General and Director of FBI appeared before Senate subcommittee. Mr. Hoover's historic statement of reasons for refusing to furnish raw files approved by Attorney General.

May 16, 1951: General Bradley refused to divulge conversations between President and his advisers to combined Senate Foreign Relations and Armed Services Committees.

January 31, 1952: President Truman directed Secretary of State to refuse to Senate Internal Security Subcommittee the reports and views of foreign service officers.

April 22, 1952: Acting Attorney General Perlman laid down procedure for complying with requests for inspection of Department of Justice files by Committee on Judiciary.

Requests on open cases would not be honored. Status report will be furnished. As to closed cases, files would be made available. All FBI reports and confidential information would not be made available. As to personnel files, they are never disclosed.

April 3, 1952: President Truman instructed Secretary of State to withhold from Senate Appropriations Subcommittee files on loyalty and security investigations of employees—policy to apply to all executive agencies. The names of individuals determined to be security risks would not be divulged. The voting record of members of an agency loyalty board would not be divulged.

Thus, you can see that the Presidents of the United States have withheld information of executive departments or agencies whenever it was found that the information sought was confidential or that its disclosure would be incompatible with the public interest or jeopardize the safety of the Nation. The courts, too, have held that the question whether the production of the papers was contrary to the public interest, was a matter for the Executive to determine.

By keeping the lines which separate and divide the three great branches of our Government clearly defined, no one branch has been able to encroach upon the powers of the other.

Upon this firm principle our country's strength, liberty, and democratic form of government will continue to endure.

THE CRISIS IN SOUTHEAST ASIA—ARTICLE BY SENATOR WILEY

Mr. WILEY. Mr. President, the other day the International News Service asked me for a statement with respect to the problem of southeast Asia. I prepared an article, which was printed in the newspapers this morning.

I send to the desk the text of the statement and ask unanimous consent that it be printed at this point in the body of the RECORD.

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

THE CRISIS IN SOUTHEAST ASIA

The crisis in southeast Asia involves a turning point in the history of collective security against Communist aggression.

The crisis must be successfully met if we are to prevent the Soviet Union from swallowing up that entire region of the globe and thereby, tipping the balance on the world scale heavily in communism's favor.

I suggest eight minimum principles as a basis on which we should try to meet this crisis:

1. It is essential that there be joint defensive action by the freedom-loving powers. Unilateral—independent—action on the part of the United States would be suicidal.

2. Southeast Asia cannot be saved by non-southeast Asian powers. It can only be saved by the native peoples themselves, announcing their determination to resist aggression and then backing up that determination with actions.

3. The free native armies in that area—in countries like Thailand and Burma—are comparatively very weak in relation to the Chinese Red army to the north and in relation to the Reds' ability to supply Communist rebel forces. Therefore, the United States must prepare to furnish speedily and