

AUTHORIZE APPROPRIATIONS FOR THE
UNITED STATES INFORMATION AGENCY

VETO MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

RETURNING

WITHOUT APPROVAL THE BILL (S. 1317) ENTITLED
"THE UNITED STATES INFORMATION AGENCY APPROPRIATIONS AUTHORIZATION ACT OF 1973"



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To the Senate of the United States:

I am returning today without my approval S. 1317, the United States Information Agency Appropriations Authorization Act of 1973.

The major purpose of this bill is to authorize appropriations for operation of the USIA during fiscal year 1974. Unfortunately, however, the Congress has injected a separate issue which, in good conscience, I must oppose.

Traditionally, when it is deemed necessary for a Department or Agency to withhold certain confidential information that has been requested by the Congress, the President issues a directive or statement prohibiting the disclosure of such information and explaining the reasons for his action. The two branches then explore means of compromise by which data can be supplied in a way that is consistent with the constitutional obligations of each branch.

Section 4 of S. 1317 ignores this precedent. Instead, it would penalize the USIA with a possible cut-off of funds if it failed to meet a demand for confidential internal information made by the Senate Committee on Foreign Relations or the House Committee on Foreign Affairs—however unreasonable that demand might be.

The Justice Department has advised me that section 4 is an unconstitutional attempt on the part of the Congress to undermine the President's constitutional responsibility to withhold the disclosure of information when, in his judgment, such disclosure would be contrary to the public interest. From George Washington on, my predecessors have defended this Presidential responsibility, recognizing that the traditional division of powers and comity between the executive and legislative branches must be maintained. I intend to do no less.

A practical effect of section 4 would be to restrict the USIA access to sensitive foreign policy information essential to carrying out its mission. The Agency could also be forced to disclose internal documents and working papers which do not represent approved policy. Failure of the Congress to respect the confidentiality of such papers would prevent a free and frank exchange of views within the USIA and between it and other parts of the executive branch—an exchange that is vital if the USIA is to function as an effective arm of American foreign policy.

This Administration has invoked Executive privilege to withhold information only in the most compelling circumstances and only after thorough, thoughtful evaluation of the facts. As evidence of our good faith, the USIA has complied as fully as possible with every Congressional request for information during the authorization and appropriations hearings this year, and will continue to do so. For example, it provided the Senate Foreign Relations Committee alone with detailed answers to more than one hundred substantive questions prior to this year's authorization hearings.

If a President failed to take a stand in this instance to protect the division of powers and uphold the doctrine of Executive privilege, the

door would be opened to even more serious encroachments on the constitutional system. Already, provisions similar to those in section 4 are contained in two vital bills at very advanced stages in the legislative process—S. 2335, the economic foreign assistance authorization bill, and S. 1443, the security assistance authorization bill.

The issue at stake is simple. It involves far more than the confidential documents of the USIA or our other foreign affairs and national security agencies. Rather, it involves the preservation of the basic ability of the executive branch to continue to function and perform the responsibilities assigned to it by the Constitution. Unless privacy in the preliminary exchange of views between personnel of the Executive agencies can be maintained, the healthy expression of opinion and the frank, forthright interplay of ideas that are essential to sound policy and effective administration cannot survive.

RICHARD NIXON.

THE WHITE HOUSE, *October 23, 1973.*