

ance of my statement be read into the transcript and I would make only one comment in addition to it if that would be satisfactory with you, sir.

Senator LONG. Yes, Mr. Foster. Without objection your prepared statement will be shown in the record as if read, presented by you.

(The remainder of the prepared text of Mr. Foster is as follows:)

Mr. FOSTER. (3) In order to insure that the Chairman can function properly as the Chief Executive of the Conference, certain changes in section 6(c) are essential. At present, it provides that the Chairman shall have the power to:

"(3) Request agency heads to provide information needed by the Conference, which information shall be supplied to the extent permitted by law or agency regulations."

Earlier drafts did not include the words "or agency regulations," and it would appear that they are intended to be broader than the "law."

The effect of adding these words is to provide that the agency shall comply with the request of the Chairman of the Administrative Conference if the agency elects to do so. Whether this result was intended or not, it is the necessary effect of the provision as now drawn.

There is an inherent anomaly in a provision which authorizes the issuance of a mandatory request and simultaneously allows the recipient to negate the mandate. It is, of course, necessary and desirable to provide that the agency shall comply with requests by the Chairman of the Conference for information only "to the extent permitted by law."

It is correspondingly imperative that the words "or agency regulations" be deleted.

The bill also authorizes the Chairman to:

(10) Organize and direct studies ordered by the Assembly or the Council, utilizing from time to time, as appropriate, experts and consultants * * *.

If the Chairman is to function effectively as a Chief Executive, as the bill proposes, he should certainly be authorized to initiate studies for Conference purposes without having to await an order by the Assembly or the Council. The necessity for timely initiation of studies appropriate for Conference purposes should not have to await the next meeting of the Assembly or the Council. Without derogating from the right of the Assembly or the Council to order that studies be undertaken, this apparent impediment to the effectiveness of the Chairman must be removed.

(4) A similar undue limitation appears in the last sentence of the section which provides that the Chairman shall, on behalf of the Conference, transmit to the President, and to the Congress, an annual report and such interim reports as he deems desirable.

Additional provision should be made expressly to authorize the Chairman, between or pending sessions of the Conference, to make supplemental and interim reports to the President, the Congress, the Judicial Conference, or any agency. Perhaps such a power is implicit in the very nature of his position, but there should be no doubt of his authority on this point.