

FOR MR. FORD

EXECUTIVE PRIVILEGE



1970

1. Request for FBI Security Investigation files for some HEW appointees.

No formal Presidential statement put out, but John Ehrlichman conveyed to the Congress the fact that the President directed that the files not be turned over.

30 August 1971

2. Foreign Relations Committee Chairman requested MPA studies (5 year plans).

Formal Presidential statement invoked in accordance with Sect. 634 C of the Foreign Assistance Act.

15 March 72

3. Rep. Moorhead and Senator Fulbright requested State and USIA Country Planning Memoranda and Position papers.

Formal Presidential Memorandum to Secretary of State and Director, USIA based on previous (Aug. 31, 1971) document invoking executive privilege. (Copy Attached).

Policy Statement dated 24 March 1969 to Heads of Departments and Agencies. (Copy Attached).

THE WHITE HOUSE

WASHINGTON

March 15, 1972

MEMORANDUM FOR

THE SECRETARY OF STATE
THE DIRECTOR, UNITED STATES
INFORMATION AGENCY



As you know, by a memorandum of August 30, 1971 to the Secretary of State and the Secretary of Defense, I directed "not to make available to the Congress any internal working documents which would disclose tentative planning data on future years of the military assistance program which are not approved Executive Branch positions." In that memorandum, I fully explained why I considered that the disclosure of such internal working papers to the Congress would not be in the public interest.

I have now been informed that the Senate Foreign Relations Committee and the House Foreign Operations and Government Information Subcommittee have requested basic planning documents submitted by the country field teams to the United States Information Agency and the Agency for International Development, and other similar papers. These documents include all USIA Country Program Memoranda and the AID fiscal year 1973 Country Field Submission for Cambodia, which are prepared in the field for the benefit of the agencies and the Department of State and contain recommendations for the future.

Due to these new requests for documents of a similar nature to those covered by my August 30, 1971 directive, I hereby reiterate the position of this Administration so that there can be no misunderstanding on this point.

My memorandum for the Heads of Executive Departments and Agencies, dated March 24, 1969, set forth our basic policy which is to comply to the fullest extent possible with Congressional requests for information. In pursuance of this policy, the Executive Departments and Agencies



have provided to the Congress an unprecedented volume of information. In addition, Administration witnesses have appeared almost continuously before appropriate Committees of the Congress to present pertinent facts and information to satisfy Congressional needs in its oversight function and to present the views of the Administration on proposed legislation.

The precedents on separation of powers established by my predecessors from first to last clearly demonstrate, however, that the President has the responsibility not to make available any information and material which would impair the orderly function of the Executive Branch of Government, since to do so would not be in the public interest. As indicated in my memorandum of March 24, 1969, this Administration will invoke Executive Privilege to withhold information only in the most compelling circumstances and only after a rigorous inquiry into the actual need for its exercise.

In accordance with the procedures established in my memorandum of March 24, 1969, I have conducted an inquiry with regard to the Congressional requests brought to my attention in this instance. The basic planning data and the various internal staff papers requested by the Senate Foreign Relations Committee and the House Foreign Operations and Government Information Subcommittee do not, insofar as they deal with future years, reflect any approved program of this Administration, but only proposals that are under consideration. Furthermore, the basic planning data requested reflect only tentative intermediate staff level thinking, which is but one step in the process of preparing recommendations to the Department Heads, and thereafter to me.

I repeat my deep concern, shared by my predecessors, that unless privacy of preliminary exchange of views between personnel of the Executive Branch can be maintained, the full frank and healthy expression of opinion which is essential for the successful administration of Government would be muted.

Due to these facts and considerations, it is my determination that these documents fall within the conceptual scope of my directive of



August 30, 1971 and that their disclosure to the Congress would also, as in that instance, not be in the public interest.

I, therefore, direct you not to make available to the Congress any internal working documents concerning the foreign assistance program or international information activities, which would disclose tentative planning data, such as is found in the Country Program Memoranda and the Country Field Submissions, and which are not approved positions.

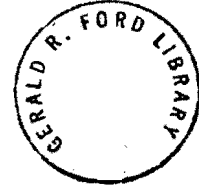
I have again noted that you and your respective Department and Agency have already provided much information and have offered to provide additional information including planning material and factors relating to our foreign assistance programs and international information activities. In implementing my general policy to provide the fullest possible information to the Congress, I will expect you and the other Heads of Departments and Agencies to continue to make available to the Congress all information relating to the foreign assistance program and international information activities not inconsistent with this directive.

A handwritten signature in cursive script, appearing to be "Richard M. Nixon", located at the bottom center of the page.

THE WHITE HOUSE

WASHINGTON

March 24, 1969



MEMORANDUM FOR THE HEADS OF

EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: ESTABLISHING A PROCEDURE TO GOVERN COMPLIANCE
WITH CONGRESSIONAL DEMANDS FOR INFORMATION

The policy of this Administration is to comply to the fullest extent possible with Congressional requests for information. While the Executive branch has the responsibility of withholding certain information the disclosure of which would be incompatible with the public interest, this Administration will invoke this authority only in the most compelling circumstances and after a rigorous inquiry into the actual need for its exercise. For those reasons Executive privilege will not be used without specific Presidential approval. The following procedural steps will govern the invocation of Executive privilege:

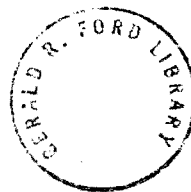
1. If the head of an Executive department or agency (hereafter referred to as "department head") believes that compliance with a request for information from a Congressional agency addressed to his department or agency raises a substantial question as to the need for invoking Executive privilege, he should consult the Attorney General through the Office of Legal Counsel of the Department of Justice.
2. If the department head and the Attorney General agree, in accordance with the policy set forth above, that Executive privilege shall not be invoked in the circumstances, the information shall be released to the inquiring Congressional agency.
3. If the department head and the Attorney General agree that the circumstances justify the invocation of Executive privilege, or if either of them believes that the issue should be submitted to the President, the matter shall be transmitted to the Counsel to the President, who will advise the department head of the President's decision.

4. In the event of a Presidential decision to invoke Executive privilege, the department head should advise the Congressional agency that the claim of Executive privilege is being made with the specific approval of the President.
5. Pending a final determination of the matter, the department head should request the Congressional agency to hold its demand for the information in abeyance until such determination can be made. Care shall be taken to indicate that the purpose of this request is to protect the privilege pending the determination, and that the request does not constitute a claim of privilege.



Richard Nixon

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON



January 8, 1973

I hope you will be interested in this brief summary of the economic picture as it looked at the end of the year.

Sincerely,

A handwritten signature in cursive script that reads "Herbert Stein".

Herbert Stein

Enclosure

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON



Year-end Statement on the Economy
by
The President's Council of Economic Advisers

January 5, 1973

1972 has been a year of strong economic expansion, with a big increase of employment, a substantial reduction of unemployment and a lower rate of inflation. Statistics of production, employment, sales and prices, published during December and mainly relating to November confirm that appraisal. Although final figures are not yet available, the latest reports indicate that the year will meet the Administration's forecast of a \$100 billion increase in the Gross National Product, a 6% increase in real output and a 3-1/4% increase in prices (as measured by the GNP deflator).

The December unemployment rate of 5.2% was within the range of the Administration's forecast that the rate would be in the neighborhood of 5% by the end of 1972.

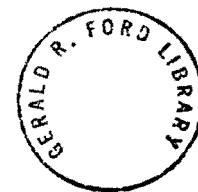
In the nine months from February to November 1972, after the brief price "bulge" that followed the end of the freeze, the Consumer Price Index has risen at an annual rate of 3.1%. This is slightly outside



the Administration's goal to get the inflation rate into the 2 to 3% range, although it is only half the rate of 1969. Other comprehensive measures of prices, such as the deflator for GNP and for private product, have been rising by less than 3% in recent quarters.

There are many signs of continuing economic progress in 1973. The strength of consumer sales, persistent high rates of housing starts and of new orders for manufactured goods, reports of business intentions to invest, the stimulating influence of the Federal budget and the steady rise in the supply of money all point to vigor on the demand side of the economy. This should raise output and employment and reduce unemployment further. On the inflation side, price and wage decisions will be made in a climate of much more confidence in the price level and less need for big wage increases to make good previous lags than has existed for many years. Thus the prospects are good for another year combining rapid expansion and a reduced rate of inflation.

While the prospects are good they are not assured, and the outcome will be greatly influenced by how well we as a nation perform some difficult tasks. Restraint in Federal budget policy will be required to prevent the current healthy expansion from blowing off in an inflationary boom. The determination of the Administration in this respect is well



known; cooperation of the Congress and of the public will be needed to achieve the result. The price-wage control system needs to be adapted to get the maximum benefit from it without allowing it to become a drag on economic efficiency and vitality as we go through 1973. The Administration has been consulting intensively with all sectors of the community about the necessary changes. The Administration's recommendations on this subject are still being developed; it is clear that in this area also cooperation of Congress and the public will be essential. Undoubtedly other problems not now foreseen will arise. But the excellent results achieved in 1972 by the combined efforts of Americans in and out of government provide the basis for confidence that the problems of 1973 will also be met.

End-of-year Indicators

Production & Sales

All the major economic statistics for November reflect the broad-based economic expansion that is underway. The industrial production index increased 1.1% in November and has accelerated to a 12.7% annual rate over the last three months. Private housing turned in another good month with starts at an annual rate of 2.45 million units, about the same as October. Through the first 11 months of 1972, housing starts have



averaged 19% above the same period of 1971. New orders received by producers of durable goods showed an unusually large increase of 3.1% in November, and were 21% above a year earlier. Sales of durable goods were up 2% and the backlog of unfilled orders rose for the fourteenth consecutive month in November. A slight decline of 0.2% in November retail sales followed an exceptionally large 3.6% increase in October. The two months combined indicate that consumer spending should be strong in the fourth quarter of this year.

Employment

The economic expansion has been accompanied by a large increase in the number of jobs. Civilian employment in December was 2.4 million above a year earlier, and employment for the full year was 2.3 million more than 1971. In November and December, the unemployment rate registered a sharp decline to 5.2% from the 5-1/2% rate that had prevailed since June. The substantial increases in employment and production recorded this year had signalled a reduction from the 5-1/2% range.

Wages and Income

Another unusually large gain in personal income was reported for November which was due partly to a speedup in payments of veterans'



benefits. The most important component of personal income -- wages and salaries -- increased \$4.6 billion which is about the average monthly gain of the past six months. Compared with a year earlier, personal income in November was up 10.6%, and the wage and salary component was 11.0% higher.

Hourly wage rates were unchanged in November and gross weekly earnings of production workers were down slightly due to a small decline in hours worked. Hourly and gross weekly earnings in November increased 6.9% and 7.2%, respectively, above a year earlier. With a much slower increase in the consumer price index, hourly and gross weekly earnings adjusted for inflation advanced 3.2% and 3.5%, respectively, in the 12 months ending in November.

Prices

The price performance in November, like October, was mixed. Wholesale prices increased 0.6% following relatively small increases in the two preceding months. Farm and food prices led the November increase as they have over the past 12 months. The consumer price index rose 0.3% in November. Much of this moderate rise was accounted for by a large jump (1.1%) in food prices; nonfood commodities increased only 0.1% and services were up 0.2%.



Annual Developments *

Statistics are now available on the performance of the economy for most of 1972. It is appropriate to review the available information at the end of 1972. Tables 1 and 2 report annual statistics to date in two different ways.

Table 1 gives year-over-year changes for the most recent reporting period -- either the third quarter compared with the third quarter of 1971, or November 1972 compared with the same month a year earlier. For instance, real GNP in the third quarter was 7.2% above the third quarter of 1971. Table 1 also reports the same year-over-year changes going back to 1968 so that performance in recent years can be compared with 1972.

The changes displayed in Table 2 cover the first three full quarters (or 11 months) of 1972 compared with the same period of 1971. When fourth quarter (and December) statistics are available to be incorporated, the comparison will give the performance of 1972 as a whole relative to 1971. Table 2 also shows full-year changes going back to 1968, as well as the average annual changes from 1960 to 1970.

* After the original preparation and release of this summary on December 27, 1972, the December employment statistics became available and have been included in the tables.



Economic Indicators
(based on seasonally adjusted data)

Table 1: Year-over-year percentage changes in selected economic indicators, 1968 to 1972

	1972	1971	1970	1969	1968
<u>Quarterly Data</u> (changes based on third quarter of one year to third quarter of following year)					
GNP	10.1	7.2	4.7	7.6	9.3
Real GNP	7.2	2.2	-.3	2.4	4.9
Implicit deflator	2.7	4.9	5.1	5.1	4.1
Compensation per man-hour ^{2/}	6.1	6.6	7.8	6.7	7.4
Real compensation per man-hour ^{2/}	2.9	2.2	1.9	1.1	2.9
Output per man-hour ^{3/}	5.4	2.4	2.0	-.4	2.5
<u>Monthly Data</u> (changes based on November of one year to November of the following year)					
Industrial production	10.3	4.5	-6.8	2.4	5.9
Civilian employment (December)	3.0	1.9	0	2.8	1.8
Consumer price index	3.5	3.5	5.6	5.7	4.7
Less food	2.9	3.4	6.3	5.6	4.8
Wholesale price index	5.4	3.2	2.6	4.6	3.2
Industrials	3.7	3.2	3.6	3.9	2.6
Real weekly spendable earnings ^{4/}	4.2	3.9	-1.3	-.5	-.2
	(increase in millions)				
Civilian employment (December)	2.41	1.47	.01	2.13	1.37
	(actual level)				
Unemployment rate (December)	5.2	6.0	5.8	3.5	3.4

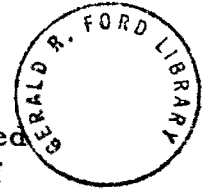


Table 2: Percentage changes in yearly averages of selected economic indicators, 1968 to 1972, and compound rate of change for 1960 to 1970

	1972 ^{1/}	1971	1970	1969	1968	1960 to 1970
<u>Quarterly Data</u>						
GNP	9.3	7.6	5.0	7.6	8.9	6.8
Real GNP	6.1	2.7	-.5	2.7	4.7	4.0
Implicit deflator	3.0	4.7	5.5	4.8	4.0	2.7
Compensation per man-hour ^{2/}	6.2	7.1	7.2	6.7	7.5	5.2
Real compensation per man-hour ^{2/}	2.9	2.7	1.2	1.3	3.2	2.3
Output per man-hour ^{3/}	4.5	3.6	.6	-.1	2.9	2.6
<u>Monthly Data</u>						
Industrial production	6.6	.2	-3.7	4.7	5.7	4.9
Civilian employment (through December)	2.9	.6	.9	2.6	2.1	1.8
Consumer price index	3.3	4.3	5.9	5.4	4.2	2.7
Less food	3.0	4.6	6.0	5.5	4.4	2.8
Wholesale price index	4.3	3.2	3.7	3.9	2.5	1.5
Industrials	3.4	3.6	3.8	3.4	2.5	1.4
Real weekly spendable earnings ^{4/}	4.2	2.8	-1.2	-.4	.6	.9
	(increase in millions)					
Civilian employment (through December)	2.29	.49	.73	1.98	1.55	1.29
	(actual level)					
Unemployment rate (through December)	5.6	5.9	4.9	3.5	3.6	<u>5/4.7</u>

Footnotes

- 1/ First 3 quarters (or 11 months) of 1972 compared to same period of 1971.
- 2/ Private, nonfarm economy; all employees.
- 3/ Private, nonfarm economy; all persons.
- 4/ Private nonfarm production worker with three dependents.
- 5/ Average of ten annual rates.

THE WHITE HOUSE
WASHINGTON

January 12, 1973



Dear Chuck:

I noticed a newspaper story the day before yesterday describing your advocacy of required senatorial confirmation for a number of people in the roles of presidential advisor. The story suggested that you and I were having a series of conversations about this subject.

Since, of course, we are not having such conversations I thought I should write to tender to you my availability and to express my concern about your suggestion.

I seriously question whether senatorial confirmation of the five or six individuals mentioned in the newspaper story would affirmatively contribute to better government. Under existing statutes, and by reason of his Constitutional powers, the President is required to perform literally thousands of different functions and is presented with many, many decisions for resolution every day. The Director of the Domestic Council staff, the Director of the Office of Management and Budget, the Director of the Council on International Economic Policy and those in similar positions have really only one primary function: to organize material and available information to facilitate the President's discharge of his functions.

There's a great deal of newspaper mythology built up around the positions and people who do this kind of work. Your comments at breakfast the other morning suggested that they were vested with great "power". Obviously, that is only so in a derivative sense, if at all. They are delegated functions and responsibilities only to the extent that the President in his total and complete discretion determines that they should be. Thus in one Administration they may be ministerial functionaries and in another they may have broad discretionary powers but if they do have such powers they are the President's powers merely temporarily delegated to such an individual for the convenience of the President.



From the standpoint of pure governmental theory, therefore, since their powers are entirely derivative and entirely Presidential, their capacity comes from the people, the nation as a whole, in the election of the President. They are not powers derived from any congressional action, or any law passed by the Congress nor do they act in execution of any congressional law except as alter-egos of the President in his execution of those laws as the Executive.

Thus from a purely technical standpoint I have great difficulty with the concept that these individuals should be subject to senatorial confirmation since they have no governmental role apart from the President and he surely should not be subject to senatorial confirmation in the strict sense of the word.

Additionally, I can anticipate a problem of mixed commitments and mixed obligations stemming from a confirmation process. The papers are carrying stories today of the action of the Democratic caucus in resolving to extort from each Cabinet officer a prior commitment to make himself available to any committee chairman or subcommittee chairman who may, at any time, for any reason, however reasonable or unreasonable, decide to summon the Cabinet officer to a meeting of the committee or subcommittee.

I could foresee a set of circumstances where a presidential assistant had demanded of him a commitment to make himself available on call to committees of the Congress as a condition precedent to his confirmation. Were such a commitment demanded and made, such an individual could become virtually useless to the President because one of the essential requirements must be total availability to the requirements of the President and his schedule. If I were subject to the call of the Congress, continually faced with the necessity of testimony before committees, etc., it would be impossible for me to discharge my obligations to the President in the way that I now must do. We see in the Director of the Office of Management and Budget, who does make himself available to only a few committees for testimony on economic and fiscal matters, a good example of what can happen. The Director of the OMB now finds his time considerably occupied with congressional testimony. It makes his position doubly difficult and reduces his utility to the President.

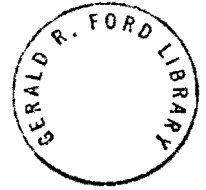


I would be willing to predict that were the five or six people mentioned made subject to senatorial confirmation it would be a relatively short time before new positions were created, new assistants appointed for the President, not subject to senatorial confirmation, to perform the functions necessary to the operation of the Office of the President now performed by those named. It would be necessary simply to get the work done. As I'm sure you know, most of us put in a 14-hour day around here. This time is spent entirely in meeting the requirements of the President. Were hours to be subtracted from that day for congressional purposes, then there has to be a substitution of effort for that time lost. And were the confidential relationship between the President and certain of his assistants to be exposed to congressional scrutiny, then the President necessarily would have to develop new confidential relationships to take their place.

I'll be happy to talk with you in person about this at your convenience, if that's your desire. I personally deplore efforts on the part of a few individuals in the Congress and in the press to drive a wedge between the Legislative and Executive branches of the Government. I don't think that it is dictated by the issues which confront the country, nor by the natural desires of a majority of those in either branch. On the contrary, I think if jealousy of prerogatives and territorial imperative are permitted to enter into deliberation on the issues, we will get a bad result for the country.

There is plenty of work to be done. And there are few enough people to do it. The question ought not to be who will do the work or make the decisions, it seems to me. For my part I'm more than happy if good work can be done by a congressional committee because that'll leave more time for us to do the remaining work that needs to be done. I am concerned that some Members of the Congress will become so jealous of their congressional prerogatives that their efforts will actually impede our work and in the net sum we will fail to do those things which must be done this year.

All of the foregoing is said in recognition of the necessity of the Congress to have all of the information that it should have to make proper decisions. I don't think anyone here believes that any committee or subcommittee of the Congress should be stunted in the provision of facts, advice and opinion on any domestic issue. Foreign affairs, on the other hand, are beyond my scope and ken. I'm sure there are some very different considerations that enter in where delicate negotiations are under way, for instance. Executive Privilege applies in a narrow range of cases on the domestic side, and I am asking that you be furnished with our statement of policy on that subject because I know that it does play a part in your view of this total matter.



Please let me know if you wish to discuss this further -- I'm happy to do so.

Yours sincerely,

John D. Ehrlichman
Assistant to the President

Honorable Charles Percy
United States Senate
Washington, D. C. 20510

1/16/73 WH meeting (Scott & Ford)

\$ 210 frozen

for in the Press

Wanzenberger / Ash -

40 only available.

April 3

F.Y. 1973 - \$ 250 will meet.

74 - working to meet goal of full employment revenues.



Budget - up Jan. 29

Impoundment - have reported } about 6 to 7
will report } per-cent
\$ 11 billion

Every Pres. since Jefferson.

Only way for Pres. to NOT ask for
taxes.

Only way to avoid Debt Ceiling
increase.

Joint Committee - Feb. 15, 1973.

1) Housing moratorium - pipeline

2) Agriculture - R.E.A. - 2% out

5% in - loan guarantee.

ACP -

3) NASA - delays -
cancellations -

} 300 million - cut
83 billion

Schultz - Colickman

Step up - food

- health costs



Maintain effort - construction

interests + dividends.

Beginning to hear more than help in
some areas,

More voluntarism

Most effective use of law.

Before - application & get approval

Now - after fact regulatory
effort.

Court of Living Council

staff 1 - Wage / Price.

2 P.S. - 1500 people - (3000)

"measurable standards of performance"

RN - budget discipline

McClellan (difference)

no discipline in his budget plans.

Private Pensions -

Administration will re-introduce.



Veterans - 11 in 1972

budget crunch worse now than before
alternative / more inflation or tax increase.

"take-home pay"

Health Insurance

Welfare reform - modifications

Special Revenue

Govt Reciprocity -

Trade -

Energy -

Environment - 12 not acted on.

^{more}
no₁ restrictive regulations.

Housing -

235/236 - not working. (Executive & Congress)

new options - not leg.

Tax Reform -

{ get control of spending
keep taxes down.



Non public schools
tax relief for elderly (property)

Simplification of tax system -
Equity -

1969 Act -
9 million off tax rolls.

Digest what we've done.

Don't defend status quo.

Executive Privilege -



Neon Admin - 3 times in 4 yrs.
2 RS - return
Symington

None a White House assistance.
Only RN. decides in writing.

Cabinet - testifying (reasonable time)
Rogers - out of country / old Congress.
rule of reason
confidential information.

President reluctant - no

Watergate - { most intensive investigation
trial on { let chips fall where they may.
defendants have rights.

Executive Office of President

50% cut.

no added layer between Pres. + people.

Vietnam

Bombing - unanimous of Jt. Chief to
NSC.

continuation of May 8th policy.

suspended in Oct because of
meaningful negotiations.

Bombing brought back to table
won't speculate.



Talks NOW - serious
Dec. -

Bombing - future
unproductive & harmful to
speculate

In 1968 - Nixon wouldn't comment
during negotiations - shape
of table.

While negotiations in progress -
firm agreement not to discuss.

President - will report as soon
as it will not endanger
negotiations.

Dick Kennedy

Fair - Vietnamization success.

Their - no vets.
President quote -

Resolutions - aid to Hanoi
harmful

North Vietnam atrocities

An Loc } destroyed.
Quang Tri }
Kontum }
Dau Ngai City }

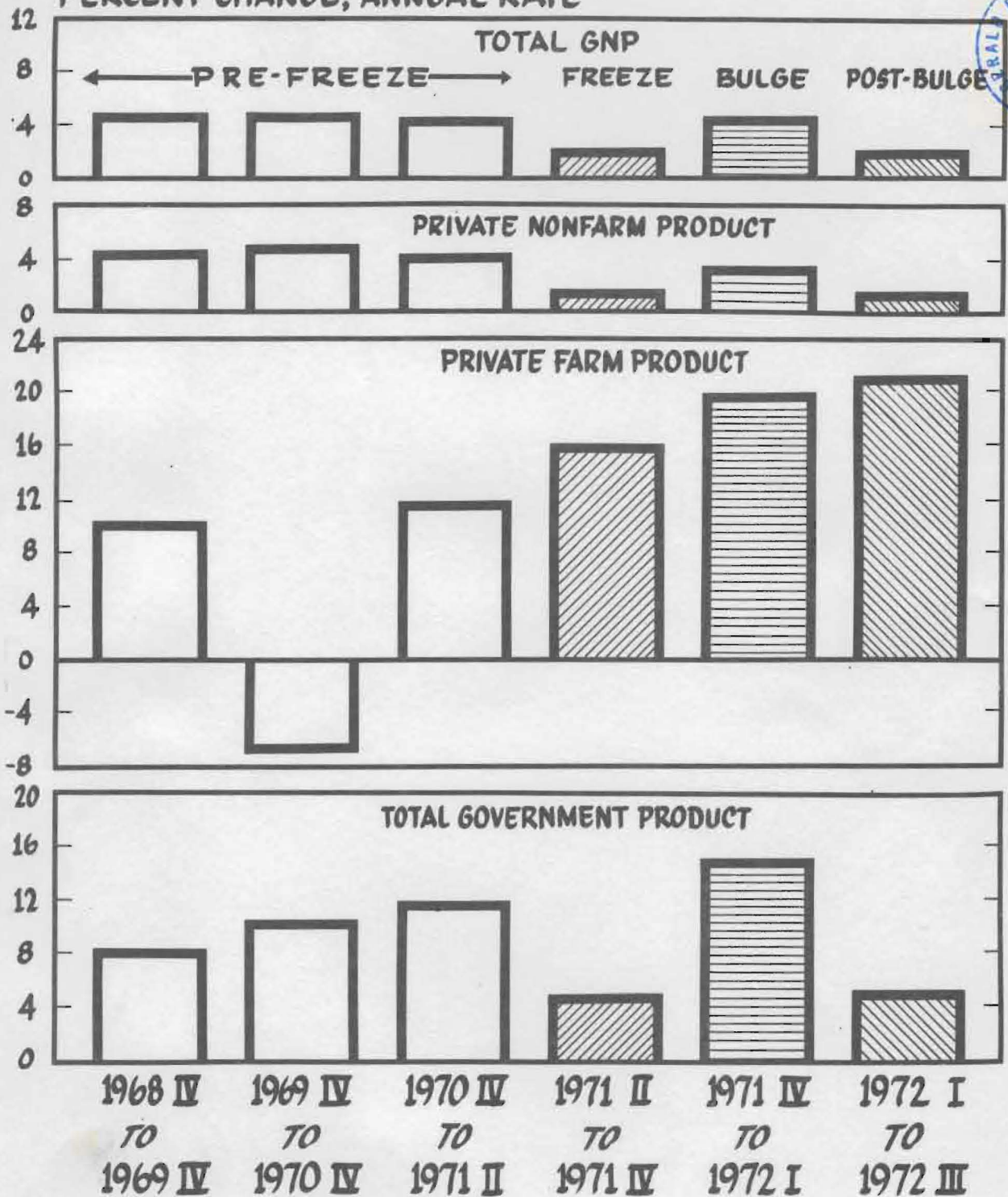


Herman Kahn - Saturday Review.

Bombing - hard military targets.

CHANGES in GNP PRICE INDEXES*

PERCENT CHANGE, ANNUAL RATE †



* IMPLICIT PRICE DEFLATORS

† SEASONALLY ADJUSTED. SOURCE: DEPARTMENT OF COMMERCE.

A great deal has been written in criticism of President Nixon's "excessive" use of the veto.



In fact, in the 92nd Congress the President vetoed 20 measures.

President Eisenhower during the Republican 83rd Congress vetoed 51 measures.