

MEMORIAL TO HONOR ARMED FORCES; REQUIREMENTS FOR
NAME ON VIETNAM VETERANS MEMORIAL; MEMORIAL
TO MARTIN LUTHER KING, JR.; AND CENTER FOR VIETNAM
VETERANS MEMORIAL

HEARING
BEFORE THE
SUBCOMMITTEE ON NATIONAL PARKS
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON

S. 268

S. 470

S. 296

S. 1076

JUNE 3, 2003



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TUESDAY, JUNE 3, 2003

U.S. SENATE,
SUBCOMMITTEE ON NATIONAL PARKS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:30 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Craig Thomas presiding.

**OPENING STATEMENT OF HON. CRAIG THOMAS,
U.S. SENATOR FROM WYOMING**

Senator THOMAS. Welcome. 2:30, I think we will begin.

This of course is a hearing on several bills that pertain largely to monuments here on the Mall. I want to welcome representatives of the Departments of the Interior and Defense and other witnesses to today's subcommittee hearing. The purpose of the hearing is to receive testimony on the following bills:

S. 268 authorizes the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia and its environs to honor members of the armed forces of the United States who lost their lives during peacekeeping operations, humanitarian efforts, training, terrorism, covert operations;

S. 296, to require the Secretary of Defense to report to Congress regarding requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial;

S. 470, to extend the authority for the construction of a memorial to Martin Luther King, Jr.;

And S. 1076, to authorize construction of an education center at or near the Vietnam Veterans Memorial.

We have a number of things to talk about and I hope, of course, as we go through this we consider the merits of each of these proposals, of each of these memorials that are being suggested, and at the same time we try to also get a little vision of what we want the Mall and the ceremonial areas of Washington, D.C. to look like over time.

We have brought up a couple of charts over there that show the Area I on the left in the green and Area II, and then in the other

one on the right side there is a reserve down the Mall, which was what we talked about last year and that Mall then could be treated a little differently than the rest of Area I or Area II. So this is not a new idea to deal, of course, with the future of the Mall, but it is an ongoing one, and we are glad to do that.

Let me call on a member of the committee, Senator Campbell.

[The prepared statements of Senators Hagel, Voinovich, and Daschle follow:]

PREPARED STATEMENT OF HON. CHUCK HAGEL, U.S. SENATOR FROM NEBRASKA

Mr. Chairman, last month I joined my colleagues and fellow Vietnam veterans, Senators McCain and Kerry in introducing the Vietnam Veterans Memorial Education Center Bill (S. 1076). Today, we are joined by Senators Warner, Daschle, Clinton, Durbin, Bunning and Bill Nelson as cosponsors. If passed, the bill would authorize the construction of an underground Education Center near the site of the Vietnam Veterans Memorial. The bill is similar to legislation passed by this Committee last year.

Twenty-one years ago, the Vietnam Veterans Memorial was built as a permanent testament to the sacrifice of over 58,000 veterans who died during the Vietnam War. It is a place of remembrance for Vietnam veterans and their families.

As the Vietnam War draws further into America's past, it is important for future generations to remember the sacrifices of those who gave their lives in Vietnam, and to understand the lessons learned in Vietnam.

Most visitors to the Wall today were not alive during the Vietnam War. The Education Center would serve as an access point for the next generation. By collecting historic documents, artifacts and the testimony of Vietnam veterans, the Education Center would provide visitors with a better understanding of the Memorial.

The Memorial was designed to accommodate expansion. Over the last two decades, the Wall's reach has extended; names of fallen soldiers have been added to the black granite. Building the Education Center underground would expand the memorial in a new direction—one that does not distract from the natural beauty of the Mall.

The names on the Wall must never become simple, empty etchings. Their individual and collective power must remain connected to the real human sacrifices of war. The Education Center would help preserve this bond. It would affirm the meaning of the Wall, not just as an acknowledgment of a war or a date to be remembered, but as a living memorial with lessons to offer those who come to learn.

Many educators, veterans, lawmakers and organizations have voiced strong support for the proposed Education Center. Like the Wall, the Center would be funded entirely by private donations—evidence of its broad-based public support. There would be no taxpayer money involved in building the Center.

Building an Education Center at the Vietnam Veterans Memorial would affirm the belief that we can inspire peace by educating our young people about the consequences of war. For there is no stronger advocate for peace than one who knows war.

I am proud to sponsor this bill authorizing the construction of the Vietnam Veterans Memorial Education Center. I ask my colleagues on the Energy Committee to support this effort and pass the Vietnam Memorial Education Center Bill out of the Senate Energy Committee.

Thank you, Mister Chairman.

PREPARED STATEMENT OF HON. GEORGE V. VOINOVICH,
U.S. SENATOR FROM OHIO

Thank you, Mr. Chairman. I would like to thank you for convening this hearing today to examine S. 268, legislation that would authorize the creation of the Pyramid of Remembrance, a memorial to honor U.S. service men and women who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations.

Such a memorial is long overdue in our nation's capital, and I am glad to have the chance to testify in strong support of this important legislation. I am also pleased to welcome from my home state of Ohio Mr. Dave Enzerra, who serves as a Trustee of the Pyramid of Remembrance Foundation and General Manager of the Lubrizol Corporation in Painesville, Ohio. I look forward to his testimony and thank

him for taking the time to travel to Washington to appear before the Subcommittee this afternoon.

As my colleagues may be aware, this legislation is the product of work done by motivated young people at Riverside High School in Painesville, Ohio. Ten years ago, in October 1993, these high school students watched in horror as a U.S. soldier in Somalia was dragged through the streets of Mogadishu. The students—concerned that there was not a memorial in our nation’s capital to honor members of the armed forces who lost their lives during peacekeeping missions such as the one in Somalia felt compelled to take action.

They spearheaded a campaign to establish a Pyramid of Remembrance in Washington, DC. The students not only proposed the memorial, they also created a private non-profit foundation to raise the money to construct the memorial. The community in Painesville, Ohio really pulled together, providing legal counsel for the students and private donations to help fund the project. Today, members of the community, such as Dave Enzerra, remain an integral part of this process. The community in Painesville, Ohio has been very generous with their time and support, and their dedication to this project has helped it come to fruition. Due in part to the strong support of this Ohio community, the proposed national Pyramid of Remembrance would be built at no cost to the taxpayers.

There has been considerable discussion regarding the Pyramid of Remembrance since it was proposed by the students of Riverside High School and first introduced in the House of Representatives by my colleague, Representative Steven LaTourette, on May 14, 1997. Last September, the House Resources Committee’s Subcommittee on National Parks, Recreation, and Public Lands conducted a hearing to examine the proposed Pyramid of Remembrance.

On October 17, 2002, Senator Mike DeWine joined me in introducing legislation in the Senate for the first time to authorize the creation of the Pyramid of Remembrance. We re-introduced this legislation on January 30, 2003, taking into account recommendations made by the National Park Service, and I am pleased that today’s hearing marks the first time that this legislation will be considered by the Senate Committee on Energy and Natural Resources.

In addition to consideration in the United States Congress, the National Capital Memorial Commission which is charged with overseeing monument construction in Washington, DC, conducted hearings about the proposed Pyramid of Remembrance in April 2001. The Commission recommended that the memorial be constructed on Defense Department land, possibly at Fort McNair. The commissioners also noted that such a memorial would indeed fill a void in our nation’s military monuments.

I agree with the commissioners’ findings. I, too, believe that this memorial would be an important addition to our nation’s capital to honor those who have lost their lives while serving in the United States military.

On May 6, 1999, I spoke on the Senate floor in honor of two brave American soldiers—Chief Warrant Officer Kevin L. Reichert and Chief Warrant Officer David A. Gibbs—who lost their lives when their Apache helicopter crashed into the Albanian mountains during a routine training exercise on May 5, 1999, as U.S. troops joined with our NATO allies in a military campaign against Slobodan Milosevic. As I remarked at the time, the United States owes Kevin, David and so many other service members a debt of gratitude that we will never be able to repay, for they have paid the ultimate sacrifice. As the Bible says in John chapter 15:13, “Greater love has no man than this, that a man lay down his life for his friends.”

The Pyramid of Remembrance would honor individuals such as David Gibbs and Kevin Reichert. It would also honor the memory of the 17 service members who lost their lives when the *U.S.S. Cole* was attacked on October 12, 2000, and the men and women who lost their lives during the terrorist attacks against the Pentagon on September 11, 2001.

As we continue the global campaign against terrorism, we must always remember and honor the brave men and women who have lost their lives while defending our freedom. Tragically, ten service members, including three men from the State of Ohio, lost their lives on February 21, 2002, when a CH-47 Chinook helicopter crashed in the Philippines. They are Army Captain Bartt Owens of Franklin, Ohio; Army Chief Warrant Officer Jody Egnor of Middletown, Ohio; and Air Force Master Sgt. William McDaniel of Fort Jefferson, Ohio.

More lives were lost on March 11, 2003, when a UH-60 Black Hawk helicopter crashed in New York. Eleven service members were killed, including Captain Christopher E. Britton of Mansfield, Ohio. We must remember and honor the sacrifice that these men—and all who have died serving our country—made to protect and ensure the freedom of all Americans.

The patriotism, dedication, and vision of the students at Riverside High School are commendable. Their action shows maturity, leadership and passion for their

country that Americans of all ages should emulate. I support and applaud the work these students have done to establish the Pyramid of Remembrance, as well as the efforts of community members who have provided ongoing guidance and support to help the students turn their vision into reality.

I believe it is our duty to honor American men and women in uniform who have lost their lives while serving their country, whether in peacetime or during war, and this memorial will ensure that the sacrifice made by so many is always remembered by our grateful nation.

Again, thank you, Mr. Chairman, for convening this hearing today. I am hopeful that the Committee will soon vote in support of S. 268 and send it to the floor for consideration by the full Senate.

PREPARED STATEMENT OF HON. TOM DASCHLE, U.S. SENATOR FROM SOUTH DAKOTA

Thank you, Mr. Chairman, for allowing me to present testimony in favor of S. 1076, legislation to authorize the design and construction of an education center at the Vietnam Veterans Memorial. As a co-sponsor of this legislation since the 106th Congress, I appreciate the committee's continuing interest in making this project a reality.

As co-chair of the Vietnam-era Veterans in Congress, I have worked closely with Senator Hagel to educate our colleagues and build support for a new education center, which would do so much to educate future generations about The Wall and its place in American history. This committee did its part in the 107th Congress, holding a hearing and reporting the bill to the floor. Unfortunately, the Senate was never allowed to consider the legislation, due to disagreements over a provision precluding future development on the core area of the National Mall.

For the sake of veterans, for the sake of generations who came of age after the Vietnam War, indeed, for the sake of the country, I hope this Congress is different. We need this education center.

In my lifetime, the Vietnam conflict stands out as one of our most wrenching national experiences. Over the years, The Wall has proven to be an amazing instrument for healing. It has converted discord and turmoil into unity and calm. It carries special meaning for thousands of veterans, their families, and their friends. This center would educate visitors about the more than 58,000 men and women whose names appear on The Wall. It would display photographs of those killed or missing, as well as some of the more than 60,000 items that have been left by visitors to The Wall. Among other themes, an education center would explore the memorial's place in history and why it elicits such powerful emotions from visitors.

As a Vietnam-era veteran myself, the Vietnam War has shaped my efforts as a member of Congress, providing the inspiration for my work to provide disability benefits for Vietnam veterans exposed to Agent Orange and for many other efforts to heal wounds acquired in Southeast Asia. I was introduced to this current effort by Jan C. Scruggs, founder and president of the Vietnam Veterans Memorial Fund, who has spoken personally with many of you on this committee. Due to Jan's persistence and flexibility, this proposal has been refined and improved over the years. Construction would be funded entirely through private donations. The National Park Service has developed a plan to place the center underground, minimizing its impact on sight lines at the National Mall.

Unfortunately, this proposal has been caught in a crossfire between those with aspirations for additional monuments and museums on the Mall and those concerned about over-development. While this is a worthy subject for debate, I am concerned that in recent years it has overshadowed—and needlessly delayed—a worthy project that holds great promise for veterans, youth, and other Americans.

Though the painful memories of the Vietnam era still haunt many Americans, new generations of young people born after the war are already being welcomed into adulthood. To ensure that the essential lessons of this time are never lost, and to ensure that the legacy of bravery and sacrifice honored by the Vietnam Veterans Memorial lives on, let us take this opportunity to construct a Vietnam Veterans Memorial Education Center, a place where the trauma of our past can provide lessons to guide our future.

**STATEMENT OF HON. BEN NIGHORSE CAMPBELL,
U.S. SENATOR FROM COLORADO**

Senator CAMPBELL. Thank you, Mr. Chairman. Thank you for holding this hearing on four bills pending before the Subcommittee

on National Parks that would help our Nation better remember and honor our fellow Americans who have done so much to make the United States the leading country in the world.

I have a complete statement. I would ask your permission to put that in the record—

Senator THOMAS. Without objection.

Senator CAMPBELL [continuing]. And try and abbreviate a little bit.

Mr. Chairman, today we are looking at bills that seek to preserve the memory of those who have done so much for the American people. Three of the bills involve honoring and preserving the memory of those members of the Nation's armed services who have made the ultimate sacrifice. You have heard yourself, I am sure, all gave some and some gave all. These bills really relate to the people that gave all.

Another bill we are looking at today concerns Dr. Martin Luther King, a great American and certainly a personal hero of mine.

Mr. Chairman, these four bills we will be taking a closer look at today include—one of them I introduced earlier in the year, S. 296, the Fairness to All Fallen Vietnam War Service members Act of 2003. This legislation would help us find an appropriate way to recognize and honor the men and women of our Nation's armed services who did give their all in connection to their service in Vietnam, but whose names were not listed on the Vietnam Veterans Memorial wall here in the Nation's capital.

This bill is based on language which I previously introduced toward the end of the 107th Congress. We unfortunately ran out of time before we could deal with it in full measure. We have some outstanding witnesses today, Mr. Chairman. I will not go into their backgrounds. It is a matter of record and I am sure you will be introducing them.

Almost 40 years ago our country started sending a generation of young men to fight in Vietnam, and women too. Over 58,000 American soldiers gave their lives to their country in and around the land, skies, and seas of Vietnam. The ultimate sacrifice of many of these men were honored here on the Vietnam Vets Wall here in Washington, D.C. But some of them, including many who served during the war itself, say that all of the names are not on the wall that should be on the wall because some who rightfully should be along side their American friends for whatever reason were inadvertently left off the wall.

Now is the time, I think, to take a good hard look at that omission, and that is basically what this bill does. I might tell you one example and that is the story of the U.S. destroyer *USS Frank E. Evans*. In the spring of 1969 the *Evans* sailed from the port of Long Beach for the last time, after seeing serious combat off the coast of Vietnam. The *Evans* was sent to the South China Sea to participate in Operation Sea Spirit, a simulated wartime operation at darkened ship maneuvering conditions at night, on zig-zag courses to evade the determined but simulated enemy submarines, with ships for the Southeast Asia Treaty Organization involved, too.

In the early hours of June 3, the crew of the *Evans* awoke to what must have been an absolutely terrifying experience, because they were hit by the Australian aircraft carrier the HMAS Mel-

bourne almost amidships. It slammed into the *Evans*, cutting it in half. The aft section of the *Evans* did stay afloat long enough to secure it to the HMAS Melbourne to prevent it from sinking, but the front section of the *Evans* sank in just nine short, tragic minutes.

My staff tells me that 74 crew members were lost, and of those 74 that were lost, they were not lost to enemy fire, they were involved in—even though they were involved in serious combat just a few days before, but they all lost their lives on that collision. Of the 74, 44 of them come from home States represented by members of this committee.

Unfortunately, the case of the *U.S.S. Evans* does not stand alone. There are many families across the United States whose loved ones have been excluded from proper recognition for too long. All they have got for their lives of their missing airmen, seamen, Army folks was a flag, insurance, and back wages, but not much else. They certainly deserve the same recognition their comrades got, and S. 296 tries to say that.

This bill directs the Secretary of Defense to determine an appropriate manner to recognize and honor the Vietnam veterans who died in service to our Nation. Additionally, the bill asks the Secretary to evaluate the feasibility and equitability of revising eligibility requirements applicable to the inscription of names on the memorial wall to be more inclusive to such veterans. Such revisions are essential to regaining the public trust.

It further asks for input from government agencies and organizations that originally constructed the Vietnam Veterans Memorial wall regarding the feasibility of adding additional names. Finally, it asks for appropriate alternative options for recognizing the veterans whose names should have been on there should it be deemed that there is no logistical way to add the names to the wall.

Whatever the result, it is essential that something appropriate be done to recognize the sacrifice they made. It does not set a precedent, Mr. Chairman. Indeed, 296 names have already been added to the wall since initial construction.

Being a veteran myself, Mr. Chairman, I know the importance of this bill to many of our veterans groups, and with that look forward to the testimony of our guests. Thank you.

[The prepared statement of Senator Campbell follows:]

PREPARED STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL,
U.S. SENATOR FROM COLORADO

Mr. Chairman, thank you for holding this hearing on four bills pending before the Subcommittee on National Parks that would help our nation better remember and honor our fellow Americans who have done so much to make the United States and the world a better place to live.

Our National Parks are not just a way for us to protect and preserve the wonderful natural gifts this nation has been blessed with. Neither are they not just a good way to preserve and protect key places where pivotal events in American history have taken place. While these qualities are important, there is much more to our National Parks. Our National Parks also serve as a vital way to help us remember and honor the brave men and women who have played such an important role in our nation's history. They help ensure that the contributions made will be passed on from generation to generation.

I am pleased that today's hearing will be focusing on four bills that will do just that. Today we are looking at bills which seek to preserve the memory of those who have done so much for the American people and indeed, the world. Three of these bills involve honoring and preserving the memory of those members of our nation's Armed Services who have made the ultimate sacrifice. "All gave some and some

gave all.” Another bill we are looking at today concerns Martin Luther King, another great American who “gave all.”

Mr. Chairman, I am especially pleased that one of the four bills we will be taking a closer look at today is a bill that I introduced earlier this year, S. 296, the Fairness to All Fallen Vietnam War Service Members Act of 2003.

This much-needed legislation would help us find an appropriate way to recognize and honor the men and women of our nation’s Armed Services who “gave all” in connection to their service in Vietnam but whose names are not listed on the Vietnam Veterans Memorial Wall here in our Nation’s Capital. This bill is based on language which I previously introduced toward the end of the 107th Congress.

I would like to take a moment to welcome one of the distinguished witnesses who will be testifying today, Lieutenant Colonel James G. Zumwalt. I also want to recognize four special guests who I understand are with us today in the audience. They are retired Vice Admiral Emmett H. Tidd and his wife Muggs and John C. Campbell (J.C.), and his wife Sylvia. Mr. Chairman, I hope that you would allow me to include some additional highlights about these American’s distinguished careers along with my comments for the Committee’s records.

Almost forty years ago, our country started sending a generation of young men off to fight in Vietnam. Over 58,000 American soldiers gave their lives to their country in and around the lands, skies, and seas of Vietnam. The ultimate sacrifices many of these men have made are honored on the Vietnam Veterans Memorial Wall here in Washington, D.C.

However, there are some very respected Americans, including many who served during the Vietnam War, who say that there are names missing from the Wall that rightfully should be there alongside their fellow fallen Americans. Now is the time to take a good, hard look at seeing what we can do to help correct that omission.

The tragic story of the United States Destroyer, *USS Frank E. Evans*, is an example of just such a case. In the Spring of 1969, the *Evans* sailed from the Port of Long Beach for the last time. After seeing serious combat off the coast of Vietnam, the *Evans* was sent to the South China Sea to participate in Operation Sea Sprit, a simulated war time operation at darkened ship maneuvering conditions at night, on zig-zag courses to evade the determined simulated enemy submarines, with ships for the Southeast Asia Treat Organization (SEATO).

In the early hours of June 3, the crew of the *Evans* awoke to the terrifying sound of their ship being cut in two. An Australian aircraft carrier, *HMAS Melbourne* had slammed into the *Evans*. The force literally split the ship in two. While the aft section of the *Evans* was immediately secured along the side of the *HMAS Melbourne*, the front section of the *Evans* sank in 9 short and tragic minutes. Seventy-four crew members were lost. While these men were not lost due to enemy fire, they were involved in serious combat only days before this tragedy. It may be of some interest for those Senators serving on this committee to know, that of the 74 sailors who perished, 44 of them are from your home states respectively.

Unfortunately, the case of the *USS Evans* does not stand alone. There are many families across the United States whose loved ones have been excluded from proper recognition for far too long. All that these families received was a flag, insurance, back wages owed their loved one, and a plaque from the Navy. They were not deemed eligible for combat benefits.

These men died while serving their country and are due the rights and honors they deserve. At a time when we rightly honor heroes across our country, should we not also take the necessary step to ensure that our past heroes are treated with the same respect? It is vital for us to have fitting places of honor for all of the men and women who have served and died for their country. It is also important for the families of these fallen heroes to have a place in our Nation’s Capital where their loved ones’ sacrifice is honored and recognized for future generations.

This bill directs the Secretary of Defense to determine an appropriate manner to recognize and honor Vietnam Veterans who died in service to our nation, but whose names were excluded from the Vietnam Veterans Memorial Wall. Additionally, the bill asks the Secretary to evaluate the feasibility and equatability of revising the eligibility requirements applicable to the inscription of names on the memorial wall to be more inclusive of such veterans. Such revisions are essential to regaining the public trust.

It further asks for input from government agencies and organizations that originally constructed the Vietnam Veterans Memorial Wall regarding the feasibility of adding additional names. Finally, the bill asks for appropriate alternative options for recognizing these veterans should it be deemed that there is no logistical way to add these names. Whatever the result, is essential that something appropriate is done to recognize the ultimate sacrifice they have made. It is important to their families and shipmates that they are not forgotten.

Mr. Chairman, as a veteran of the Korean War, I personally understand the ultimate sacrifice many of our brave men and women have made for the price of freedom. This recognition should not be taken lightly.

In closing, Mr. Chairman, I want to thank you for holding this timely and important hearing. I look forward to hearing from our distinguished panel of witnesses.

Senator THOMAS. Thank you, Senator.
Senator Akaka.

**STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR
FROM HAWAII**

Senator AKAKA. Thank you, Mr. Chairman, for having this hearing to consider several proposals related to monuments. Many of the bills on this afternoon's schedule cover issues which the committee has considered previously. Each of these bills seeks to honor individuals or events that are worthy of recognition. However, if our previous hearings on bills involving memorials and the National Mall are any indication, these issues are rarely without controversy.

It is never an easy matter to balance the desired recognition of an important historical event or person with the equally strong desire to conserve open space on the Mall. Last year the committee was able to reach a compromise on Senator Hagel's bill to authorize construction of an education center for the Vietnam Veterans Memorial. I supported that compromise. I am pleased that with respect to the authorization of the education center the new bill reflects that compromise.

I know that both Senator Thomas and Senator Bingaman worked very hard last year to enact legislation recommended by the National Park Service and National Capital Planning Commission to protect the Mall from future development, and I look forward to working with both of them as we address this very important issue.

Several years ago, this committee passed legislation authorizing construction of a memorial to honor Dr. Martin Luther King, Jr. S. 470 extends the authority to begin construction of the memorial for an additional 3 years. I supported the authorization of the memorial, and I believe the extension of its authorization is also warranted.

We have a distinguished panel of witnesses testifying today and I would like to welcome each of you to the subcommittee. I look forward to hearing your testimony and learning more about each of the proposals.

Thank you very much, Mr. Chairman.

Senator THOMAS. Thank you, Senator. Glad that you are here.

Senator Sarbanes is with us. Welcome, sir.

**STATEMENT OF HON. PAUL S. SARBANES, U.S. SENATOR
FROM MARYLAND**

Senator SARBANES. Thank you very much, Chairman Thomas, ranking member Akaka, and Senator Campbell.

I am pleased to come before the Subcommittee on National Parks on behalf of S. 470 that Senator Akaka just made reference to. This legislation does a very simple thing. It extends the legislative authority for constructing a memorial to Dr. Martin Luther King for an additional 3 years.

Let me just quickly recount. I have submitted a statement and I hope it will be included in the record.

Senator THOMAS. It will be in the record, Senator.

Senator SARBANES. I know the press of time on the committee and I will just try to summarize very quickly.

In November 1996, we enacted legislation authorizing the construction of the Martin Luther King memorial. It then took a couple of years before Congress was able to pass legislation authorizing the placement of the memorial in Area I of the capital. The foundation then worked with the National Capital Planning Commission and the Commission for Fine Arts for over a year to locate an appropriate site for the memorial within Area I. That has all been through the process.

A design has now been selected for the memorial and the foundation, the Martin Luther King Foundation, is in the process of getting that design approved by the Department of the Interior.

The Commemorative Works Act provides there is a 7-year period of legislative authority in which to acquire a construction permit for the memorial. To have the construction permit you must have raised the money. The burden for raising this money is going to be completely private on the Alpha Phi Alpha fraternity, of which Dr. King was a member.

We are now at the point where we need an extension of time in order to carry through on this final approval of the design and the money raising. Senator Warner and I have joined along with—we have about half of the Senators who have co-sponsored this bill and more are joining day by day. The legislation has also been offered on the House side to extend the period of legislative authority for an additional 3 years.

This has been done before in a number of instances with respect to other memorials, so it is not as though we are seeking an unprecedented action, and usually on these more difficult memorials in terms of siting, design, and money-raising it has been necessary to extend the time period.

We are deeply appreciative to the subcommittee for moving so expeditiously in order to hold this hearing. I very strongly believe that a memorial to Dr. King erected here in the Nation's capital will be an inspiration to all and particularly to the thousands of students and young people who visit Washington every year.

Dr. King, as of course we well know, dedicated his life to achieving equal treatment and enfranchisement for all Americans. He really emphasized two extraordinarily important principles of our national life: one, the reconciliation of the races and the inclusion into the mainstream of American life of all of its people as being fundamental to the health of our Nation; and secondly, that change, even very fundamental change, is to be achieved through nonviolent means, and that this is the path down which we should go as a Nation in resolving some of our most difficult problems.

Again, I urge the committee to move favorably on S. 470 so that we can provide this framework within which the foundation will be seeking to raise the money. I believe you are going to be hearing from Mr. Harry Johnson later in your proceedings, who will be speaking in effect for Alpha Phi Alpha, the general president of

Alpha Phi Alpha and thousands of interested citizens across the country.

It is now coming close to being realized, but we need this additional time period in which to achieve that, and I urge the committee's favorable action.

[The prepared statement of Senator Sarbanes follows:]

PREPARED STATEMENT OF HON. PAUL S. SARBANES, U.S. SENATOR
FROM MARYLAND

Chairman Thomas, Ranking Member Akaka, and members of the Subcommittee on National Parks, it is a pleasure to appear before you today with Senator Warner and Mr. Harry Johnson of the Martin Luther King National Memorial Project Foundation on behalf of S. 470, a bill I introduced on February 27, 2003, to extend the legislative authority for the memorial to Dr. Martin Luther King, Jr., in the District of Columbia. I would like to thank the Subcommittee for moving so expeditiously on S. 470—legislation that is crucial to ensure a fitting tribute to our Nation's greatest civil rights leader.

In the 104th Congress, Congress passed a bill that I sponsored authorizing the creation of a memorial to Dr. King as part of the Omnibus Parks legislation. The Alpha Phi Alpha Fraternity, of which Dr. King was a member, was designated to coordinate the design and funding of the memorial. The legislation provides that the monument be established entirely with private contributions at no cost to the Federal Government. The Department of Interior, in consultation with the National Capital Park and Planning Commission and the Commission on Fine Arts, has approved the site of the memorial pursuant to this legislation. A design has been selected and the Alpha Phi Alpha National Memorial Project Foundation is in the process of getting that design approved by the Department of the Interior.

Pursuant to the Commemorative Works Act, there is a seven-year period of legislative authority in which the National Memorial Project Foundation must acquire a construction permit for the memorial. This seven-year period will expire in November of this year. Despite the enormous dedication of the National Memorial Project Foundation additional time is necessary for the Foundation to erect a fitting tribute to Dr. King. Meeting the administrative procedures and fundraising requirements of the Act has been a slow process. Therefore, the Foundation requires more time in which to complete the process and acquire a construction permit.

That is why I, and Congresswoman Diane Watson in the House of Representatives, have offered legislation to extend the period of legislative authority for an additional three years. This legislation would give the Foundation additional time to raise the necessary funds to obtain the construction permit, and would ensure that work on the memorial is completed. This extension of legislative authority has been done before for numerous other memorials, such as the World War II Memorial and the U.S. Air Force Memorial, given the length of time it usually takes to embark on a project of this magnitude, and it should be done for the Martin Luther King, Jr. Memorial.

On May 22nd, the National Capital Memorial Commission met to consider S. 470 and H.R. 1209, the House version sponsored by Representative Diane Watson. Dr. Henry Jackson, the Executive Architect for the Martin Luther King National Memorial Project Foundation, testified before the Commission. He gave a brief overview of the progress that has been made on the memorial since 1996, and an update on current efforts to raise funds, increase public awareness and continue with the design and construction of the memorial. The Commission unanimously approved a motion to recommend that the three-year extension be granted.

Since 1955, when in Montgomery, Alabama, Dr. King became a national hero and an acknowledged leader in the civil rights struggle, until his tragic death in Memphis, Tennessee in 1968, Martin Luther King, Jr. made an extraordinary contribution to the evolving history of our Nation.

His courageous stands and unyielding belief in the tenet of nonviolence reawakened our Nation to the injustice and discrimination that continued to exist 100 years after the Emancipation Proclamation and the enactment of the guarantees of the 13th, 14th and 15th amendments to the Constitution.

A memorial to Dr. King erected in the Nation's Capital will provide continuing inspiration to all who view it, and particularly to the thousands of students and young people who visit Washington, D.C. every year. While these young people may have no personal memory of the condition of civil rights in America before Dr. King, nor of the struggle in which he was the major figure, they do understand that there is more that needs to be done in this critical area.

Martin Luther King, Jr. dedicated his life to achieving equal treatment and enfranchisement for all Americans through nonviolent means. It is my hope that the young people who visit this monument will come to understand that it represents not only the enormous contribution of this great leader, but also two very basic principles necessary for the effective functioning of our society. The first is that change, even very fundamental change, is to be achieved through nonviolent means; that this is the path down which we should go as a Nation in resolving some of our most difficult problems. The other basic principle is that the reconciliation of the races, the inclusion into the mainstream of American life of all its people, is essential to the fundamental health of our Nation.

I very much appreciate the Subcommittee on National Parks' consideration of this important legislation and strongly urge Committee passage of S. 470 so that we may move it through the Congress as expeditiously as possible.

Senator THOMAS. Thank you, Senator.
Senator Warner, glad to have you, sir.

**STATEMENT OF HON. JOHN WARNER, U.S. SENATOR
FROM VIRGINIA**

Senator WARNER. Thank you, Mr. Chairman. I am privileged to be in this committee room, having been a member of this committee for many, many years, and especially to be joined by my distinguished senior colleague, the senior Senator from Maryland. We have worked together on many projects through the years. His thoroughness and preparation and commitment is invaluable to achieving these goals, and particularly this one, Mr. Chairman.

I feel very strongly about this. I think it interesting that we share a common experience. The two of us were at the memorial when Dr. King delivered his most famous address. I was a bystander. I was attracted to go down and see, I am not sure what the motivation; and it was a day I shall not forget.

Then later, when I was a trustee of the Washington Cathedral, I participated in the deliberations which led eventually to Dr. King receiving the invitation to go into the pulpit and give a historic sermon, which was his last sermon, at the Washington Cathedral.

We both have a strong background and we have worked with the distinguished members of this organization through the years. As I go back through the record and as I hope that you have the time to do, Mr. Chairman and members of the committee, it is very clear that they have, the proponents and those who are laboring for this, worked diligently. It is just that here in the Nation's capital processes move very slowly. You need only look at the World War II Memorial and how slow that has been.

There is a precedent for the extension of the statutory period. Had they been dilatory or just been neglectful, we would not be here. But we are here to authenticate how hard this group has worked and will continue to work, and this goal will be achieved.

I would like to submit the balance of my statement for the record and thank the chairman and the members of the committee for their indulgence.

Senator THOMAS. We will include it in the record.

Thank you, Senators, and we will hear later from another. We appreciate your service, Senator Warner, on this committee. We are thinking of a memorial over here in the corner.

Senator THOMAS. Actually, it was way down here I sat as a freshman.

Senator WARNER. Mr. Chairman, I am also here today on behalf of the Vietnam Veterans Memorial. Would it be appropriate for me just to address the committee for a few minutes on this, and then I have to go to the Intelligence Committee hearing.

Senator THOMAS. Certainly, please go ahead.

Senator WARNER. I will submit my statement. But I have had, together with my good friend here, just an almost—this is my 25th year in the U.S. Senate. Twenty of them, I think, have been devoted to this memorial one way or another practically, in getting the legislation through with your former colleague, our former colleague, Senator Mathias and others, in which you helped us, Senator Sarbanes.

Now I think this request is very modest, simply to put beneath the ground level an educational center of modest proportions compared to what we are doing in the front of the U.S. Capitol to again have a visitor type center. Those of us that have been involved, when I was on the Rules Committee with regard to the Capitol construction, it is the same basic justification. People come from all over the United States and indeed from all over the world to see this historic institution. And if they have the opportunity to receive some basic education before they actually visit the site, the Capitol in this case, the Vietnam Veterans Memorial in this legislation, they benefit from it.

So this is simply to house a modest collection of artifacts that have been collected through the years as an educational process, so when that individual stands before that wall and receives the emotional experience that all of us experience to this day when we are present there it is far more meaningful.

It seems to me that this committee will see its way towards having hopefully a free-standing piece of legislation. I fully recognize and I laud the committee for their desire to protect the future of this parcel of land, which is fast being absorbed by I think very important memorials. But on the other hand, this one I think should be allowed to move forward apart from the consideration on the desire to have a sort of a moratorium, which I happen to support independently.

I would like to put my statement on the record. But bear in mind as you look at this what we are doing right here at the U.S. Capitol and we are doing it on a far smaller scale. Yet, the visitation at the Capitol in terms of numbers and the visitation at this memorial in terms of numbers of people are comparable. It is extraordinary.

I thank the distinguished members of the committee and I submit the two statements.

[The prepared statements of Senator Warner on S. 470 and S. 1076 follow:]

PREPARED STATEMENTS OF HON. JOHN WARNER, U.S. SENATOR FROM VIRGINIA

S. 470

Mr. Chairman, members of the Committee, thank you for holding this hearing today on a matter that I consider so important.

I always enjoy returning to this hearing room where I had the pleasure of serving previously as a member of this Committee. Thank you for allowing me to be here today.

The fact that you have chosen to discuss our bill, at a time when the Energy Policy Act is on the floor of the United States Senate, shows me the value that you place on memorializing the legacy of Dr. Martin Luther King.

Dr. King's dream is the fulfillment of the revolutionary words of great American patriots such as Thomas Jefferson and it is fitting that the two monuments will rest across from each other.

The idea that all men are created equal is not a novel one. However, the actual practice of that equality was dependent upon Dr. King's distinct voice and vigorous leadership.

I have worked with my friend and colleague, Senator Sarbanes, for more than 10 years to secure a site on the national mall. I am proud of our humble contributions to this project and look forward—with great expectation and excitement to the day that we can visit Dr. King's memorial in its rightful place—among the truest giants of American history and liberty.

In 1996, we were successful in passing legislation authorizing the construction of a memorial. Two years later we were able to authorize the location. It then took more time to finalize the actual site with the National Capitol Planning Commission and the Commission for Fine Arts.

As the members of this Committee are aware, the Commemorative Works Act requires that construction of the Memorial begin by November 2003. However, the magnitude of a project like this requires an immense amount of time working, planning, and fund-raising.

Construction costs alone could top \$60 million and while we have now finalized a site and the Foundation has been successful in its fund-raising efforts, it is unlikely that they will have raised the necessary funds to receive a construction permit by the end of this November.

We have introduced S. 470 with 42 cosponsors to allow a three year extension of the deadline for the construction of Dr. King's memorial. The extension will account for the delays in site selection and enable the Foundation time to raise the millions of dollars to begin construction.

I had the opportunity to participate in the launch of the Foundation's new fund-raising campaign a couple of weeks ago and can say that this is a well run operation that will be highly successful. This bill is essential for the Foundation to continue its work to bring Dr. King's message, legacy, and memory to its rightful home—on the National Mall.

I thank you all for your time and attention to this matter and look forward to moving this bill through the process quickly so that we may all soon visit this fitting memorial for Dr. King.

S. 1076

Mr. Chairman, Ranking Member Bingaman, and members of the Subcommittee, thank you for allowing me to join you today on behalf of two bills before the Subcommittee. Both of these bills concern memorials on the Mall area, and I have been privileged to be associated with each of them for many years.

I recall vividly the first time I met Jan Scruggs and a couple other Vietnam Veterans in 1980 to discuss their idea of creating a national memorial to the fallen soldiers of the Vietnam War. They later formed the Vietnam Veterans Memorial Fund and became devoted to raising private funds to construct a memorial to those 58,000 men and women who sacrificed their lives in the Vietnam War. The project's sole mission was to create a lasting memorial to pay tribute to American service personnel who lost their lives, without regard to the political turmoil that surrounded our involvement in Vietnam.

By 1980, Vietnam has become the forgotten war for most Americans, but not for those who were fortunate enough to return home, or for the families who had lost loved ones in the war.

It was a privilege to work with the veterans of the Memorial Fund and our former colleague, Senator Mathias, to witness the birth of an idea from a few veterans and how it transformed into a national commitment to construct this memorial.

Today, the Vietnam Memorial has exceeded everyone's expectation in its silent power and unspoken majesty to heal the emotional scars of war, to bring dignity to the sacrifices of so many, and to be our national symbol to those surviving veterans and the families who lost brothers and sisters that we are a grateful nation.

The strongest feature of the Wall has been its unexpected power to educate. Over these 30 years, the Wall has been the resting place for thousands of artifacts brought by fellow Veterans and family members. These personal treasures are a living history and evidence of the personal struggles and valuable contributions of these 58,000 service members and nurses.

As time moves on minds fade with the facts. Personal stories of heroism, bravery and sacrifice will only be with us as long as the Vietnam Veteran is with us. This Education Center will be a repository for those treasured recollections, pictures and personal memorabilia.

Mr. Chairman, now is the time to move forward with this Education Center. I had every expectation that this legislation would be approved last Congress, but we all know how unforeseen events in the last days of the session can thwart the best of ideas. Now, we have an early opportunity to move forward and I respectfully urge the Committee to withhold from expanding the purposes of this legislation.

I realize that the Committee has concerns about the future of Area I of the Mall. I would, however, urge my colleagues to address this issue in a separate, free-standing bill so that all of our colleagues can consider the facts directly related to this important matter. It deserves our full review and debate.

The question before the Committee should be only the merits of enhancing the Vietnam Veterans Memorial with an Education Center that is fully financed with private funds. As with our earlier additions to The Wall of the Three Servicemen Statue and the Vietnam Women's Memorial, the Education Center will significantly further the purposes of the Memorial to honor, heal and preserve the memory of the sacrifices of service members and nurses of the Vietnam War.

Senator THOMAS. Thank you, Senator, and Senator Sarbanes. I appreciate your being here.

Okay, we will go on then with our first panel, which is made up of Daniel Smith, Special Assistant to the Director of the National Park Service, and Mr. Raymond DuBois, Director, Administration and Management, Department of Defense. Gentlemen, thank you. Your full statements will be put in the record.

Senator CAMPBELL. Mr. Chairman, before Senator Warner leaves may I just add one comment?

Senator THOMAS. Let us get his attention first, shall we.

Senator CAMPBELL. Senator Warner.

Senator THOMAS. Senator Warner.

Senator CAMPBELL. Before you leave, I would just like to make a point for the record, how honored many of us are to serve with you in your distinguished career, not only in the administration and here in the U.S. Senate, but as a military man, too.

Mr. Chairman, Senator Warner and I are I guess the only two veterans in the U.S. Senate from the combat era of Vietnam. We were just last year at the 50th anniversary of the—excuse me, of Korea—50th anniversary of the Korean War. The Republic of Korea made a trip over here and there was one staff member and two of us that were given a little award for our service over there.

At the time, of course, I did not know Senator Warner. I was a young, 18- and 19-year-old and I think he was maybe just a little bit older than me. But I look back at that time when there were so many of us, regardless of branch of service, that were over there, and we come back and do not know a thing about each other and maybe meet in later life and we have that very, very strong bond of having served together. I just wanted to always make sure that people knew how proud I am to serve with Senator Warner.

Thank you.

Senator THOMAS. That is very nice.

Senator WARNER. Well, I thank my distinguished colleague. Of course, you realize how many years it took to get a memorial to the Korean veterans down on this very piece of land. It is a long struggle. Possibly it required an extension of time within which to do that.

But I thank my colleague. I respect you more than you can imagine.

Senator THOMAS. He was also in the Marine Corps. That is a good sign.

[Laughter.]

Senator THOMAS. Okay. Mr. Smith, if you could kind of keep your statement to 5 or 6 minutes we would appreciate it, and it will all be in the record.

**STATEMENT OF P. DANIEL SMITH, SPECIAL ASSISTANT
TO THE DIRECTOR, NATIONAL PARK SERVICE**

Mr. SMITH. I will try to do that. I will do each of the bills in the order in which you introduced them, Mr. Chairman.

Senator THOMAS. Fine, sir. Thank you.

Mr. SMITH. Thank you for the opportunity to present the views of the National Park Service on S. 268, a bill to authorize the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia or its environs to honor members of the armed forces of the United States who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations.

The National Park Service commends the idea of establishing a memorial to honor these brave men and women and we believe it would be an appropriate way of recognizing the sacrifice of those who lost their lives in events that are not formally declared wars. However, we recommend that the sponsors of the bill work with the Departments of Defense and the Interior to provide an amendment to consider that such a memorial might be established at an appropriate location consistent with the Commemorative Works Act.

The National Capital Memorial Commission, which is responsible for advising Congress on legislation authorizing memorials within the District of Columbia and its environs under the Commemorative Works Act, has taken a position on this bill. The Commemorative Works Act provides that a military commemorative work may only be authorized in areas administered by the National Park Service or the General Services Administration in the District of Columbia to commemorate a war or similar major military conflict or to commemorate a branch of the armed services. Because authorizing this type of memorial in these areas is inconsistent with this section of the act, the commission has advised that the most appropriate placement for it would be on a military property. The National Park Service concurs with the commission on that matter.

Mr. Chairman, that concludes my remarks on S. 268 and we will be happy to answer questions later.

Mr. Chairman, the second bill that the Department would like to comment on is S. 296, a bill to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial. Because the legislation authorizes a study that would be undertaken by the Department of Defense, the Department of the Interior has not taken a position on this bill. However, as the agency that serves as the steward of the Vietnam Veterans

Memorial, we have some brief comments about the subject of the study.

As we understand it, a primary impetus for S. 296 is to provide recognition for the 74 service members who died aboard the *U.S.S. Frank E. Evans* in June 1969 as a result of a training accident while outside the combat zone. However, there could be hundreds of other veterans whose deaths were closely associated with military operations in Southeast Asia during the Vietnam era who do not meet the Department of Defense's current eligibility requirements for inscription on the memorial wall, and that is of a concern to the Department, Mr. Chairman.

We are sympathetic to the desire to recognize the sacrifices of men and women who gave their lives while serving their country during the Vietnam era, but whose names do not meet the eligibility requirement that was established by the Department of Defense 20 years ago when the memorial was built. We are concerned that adding a large number of new names to the memorial wall would detract from the power and beauty of the simple black granite wall that evokes such a strong emotional response in visitors.

There are currently 58,235 names on the wall that are inscribed in close chronological order of the date of casualty. At the direction of the Secretary of Defense, the National Park Service permits additions to the memorial wall from time to time. Over 200 names have been added since 1982. But, Mr. Chairman, the truth of the matter is there is so limited space left on the wall we are talking about possibly only 24 names, 24, 25 names that could be added to the wall as it exists today.

To add more than a few more names, the wall would need to be significantly redesigned. Any potential changes to the wall may carry a substantial risk of diminishing the power of the memorial.

We are also concerned about possible alternative means of providing recognition for veterans whose names are not eligible for the wall. Several design elements have been added to the Vietnam Veterans Memorial since the original wall was built. Each addition increases the risk that the original work, the simple black granite wall, will be diminished. We are therefore cautious about embarking on a path that could lead to the addition of yet another design element at the memorial.

We are pleased that the study authorized by S. 296 would require consultation with the Secretary of the Interior, among others, so that if this legislation is enacted we would have the opportunity to express our concerns. We would also suggest that another entity that should be included is consultation with the Commission of Fine Arts. As one of the commissions that reviews proposals for structures to be added to the monumental core, their views on the feasibility of providing recognition for an additional group of veterans at the Vietnam Veterans Memorial are critical.

That concludes my testimony and we look forward to answering questions, Mr. Chairman.

The third bill, Mr. Chairman, is to present the views of the Department of the Interior on S. 470, a bill that would grant a 3-year extension of the legislative authority for construction of the memorial to Martin Luther King, Jr., in Washington, D.C. Mr. Chairman, the Department supports this legislation. We believe it wholly

appropriate for Congress to grant more time to the Martin Luther King, Jr., National Memorial Project Foundation, Inc., the organization responsible for establishing the memorial, to raise the funds necessary to build what we believe will be a fitting tribute to the man who is recognized as the preeminent leader of the American civil rights movement of the 20th century.

Senator Sarbanes recapped that this authorization for this memorial has moved forward over the past 5 or 6 years, Mr. Chairman. Since passage in 1996, in 1998 Area I authorization was enacted. In 1999, a site for the memorial on the northwest side of the Tidal Basin was approved by the Secretary of the Interior, the National Capital Planning Commission, and the Commission of Fine Arts.

A wonderful, far-reaching competition was held and a design has been selected and the foundation is preparing an environmental assessment now which is necessary for final approval of the design. The National Park Service looks forward to working with them on that final approval. And the foundation is actively raising funds.

Extensions of legislative authority have been granted before under the Commemorative Works Act for other memorials. This sets no precedent and, again, the Department supports this very worthwhile legislation.

Mr. Chairman, that concludes my testimony on this bill.

On the fourth bill, Mr. Chairman, the Department of the Interior's views on S. 1076, which would authorize the Vietnam Veterans Memorial Fund to construct an education center to provide information to the public on the Vietnam Veterans Memorial. We are deeply appreciative of the sacrifices made by the men and women who bravely served our country in Vietnam. The Park Service shares the interest of the congressional sponsors of S. 1076 in having the American public, particularly younger generations, to better understand and appreciate the extraordinary burden borne by those who fought for our country during a most difficult, divisive, and painful time in our Nation's history.

The veterans who served our Nation in Vietnam are honored here in the Nation's capital in what many view as one of the most emotionally moving memorials ever created. We are privileged to be the stewards of this memorial. In that role we are well aware of the deeply emotional experience visitors have when they see the wall. We believe it is extremely important that nothing detract from the powerful emotion that the memorial evokes as it is that emotion that helps keep alive the public's appreciation of those who served in Vietnam.

The Department wants to ensure that a structure on or adjacent to the Vietnam Veterans Memorial, as envisioned by S. 1076, will not detract from visitors' experience at the Vietnam Veterans Memorial and the nearby Lincoln Memorial. We believe there may be other more suitable alternatives to the proposed visitors center that should be explored and we would like to work with this committee, the Vietnam Veterans Memorial Fund, and the commissions that view these memorials to find an alternative way of fulfilling the goal of this legislation.

Mr. Chairman, the goal of building what was called a visitors center and is now called an educational center at the Vietnam Vet-

erans Memorial has been the subject of hearings and news accounts over the past three years. We have gone from a 1,200 square foot above-ground facility located very near the current 168 square foot kiosk, and that was reviewed by the commissions that are so active in dealing with the Commemorative Works Act and they opposed that proposal, and the Department testified in opposition to it in testimony before this Senate subcommittee in 2001.

The second publicized design concept was an 8,000 square foot underground facility which would include a substantial above-ground entrance. The Director of the National Park Service in a letter to the president of Vietnam Veterans Memorial Fund indicated Park Service support for a concept of an underground facility so long as it was appropriately sized and sited, acceptable visually, and had a minimum of distracting qualities to the visitor experience. The Director committed the National Park Service to consult with the fund as well as the National Capital Memorial Commission, the Commission of Fine Arts, and the National Capital Planning Commission on the options available to enhance the interpretation of the memorial.

At the time that letter was written we believed it might be possible to design an underground facility for the memorial that in fact was appropriately sized and sited for the memorial. Since that time, however, the National Park Service and representatives of the three commissions have expressed serious concerns about that design.

The third design concept was discussed at a hearing on H.R. 1442, very similar to S. 1076, held 2 weeks ago by the House Resources Subcommittee on National Parks, Recreation and Public Lands. At that hearing the Vietnam Veterans Memorial Fund discussed plans for a 10,000 square foot underground facility with an entrance located at the site where the information kiosk stands.

Mr. Chairman, all of these bills that I have testified on today have one thread in common and that is the Commemorative Works Act, which tries to deal very straightforwardly with these issues on the National Mall. This one is viewed as problematic, for lack of a better verb, because, number one, it sets a precedent. The landscape solutions for the Vietnam Veterans Memorial, the Korean War Memorial, and the World War Two Memorial have not allowed visitor/education centers, and we do worry about the precedent that will be set if one is built for Vietnam. We built the memorials in reverse order of the wars; will we do visitor/education centers in the same way?

So these are legitimate concerns as the Park Service hopes to work with the VVMF and the committees to craft a bill that will hopefully address the concerns that the legislation is trying to address. The Department is fully committed to educating the public about the Vietnam Veterans Memorial and the men and women who served our Nation in Vietnam. We have worked closely with the Vietnam Veterans Memorial Fund these past 20 years with the memorial that we share such serious management duties on. In coordination with the committee, we would like to investigate alternatives. We are open to broad discussions of how to address this issue, and I will not go into those in detail, Mr. Chairman. They are in my testimony.

The goal of S. 1076 of educating the public about Vietnam is an admirable one and one that the Department has fully supported and will continue to support. We look forward to working closely with the committee to fulfill the spirit of the legislation. Mr. Chairman, that concludes my remarks and we look forward to questions.

[The prepared statements of Mr. Smith on S. 268, S. 296, S. 470, and S. 1076 follow:]

PREPARED STATEMENTS OF P. DANIEL SMITH, SPECIAL ASSISTANT
TO THE DIRECTOR, NATIONAL PARK SERVICE

S. 268

Mr. Chairman, thank you for the opportunity to present the views of the National Park Service on S. 268, a bill to authorize the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia or its environs to honor members of the Armed Forces of the United States who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations.

The National Park Service commends the idea of establishing a memorial to honor these brave men and women, as we believe it would be an appropriate way of recognizing the sacrifice of those who lost their lives in events that are not formally declared wars. However, we recommend that the sponsors of the bill work with the Departments of Defense and the Interior to provide an amendment to consider that such a memorial might be established at an appropriate location consistent with the Commemorative Works Act.

The National Capital Memorial Commission, which is responsible for advising Congress on legislation authorizing memorials within the District of Columbia and its environs under the Commemorative Works Act of 1986, has considered this proposal and similar ones introduced in previous Congresses several times, most recently on May 22, 2003. Section 8903(b) of the Commemorative Works Act (40 U.S.C., Chapter 89, "National Capital Memorials and Commemorative Works") provides that a military commemorative work may only be authorized in areas administered by the National Park Service or the General Services Administration in the District of Columbia to commemorate a war or similar major military conflict or to commemorate a branch of the Armed Services. Because authorizing this type of memorial in these areas is inconsistent with this section of the Act, the Commission has advised that the most appropriate placement for it would be on a military property. The National Park Service concurs with the Commission on this matter.

S. 296

Mr. Chairman, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 296, a bill to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial.

Because the legislation authorizes a study that would be undertaken by the Department of Defense, the Department of the Interior has not taken a position on this bill. However, as the agency that serves as the steward of the Vietnam Veterans Memorial, we have some brief comments about the subject of the study.

S. 296 would require the Secretary of Defense, with the participation of the Secretary of the Interior and others, to conduct a study to: (1) identify veterans who died in southeast Asia during the Vietnam era and whose names are not eligible for inscription on the memorial wall; (2) evaluate the feasibility and equitability of revising the eligibility requirements for the inscription of names on the memorial wall to be more inclusive of such veterans; and (3) evaluate the feasibility and equitability of creating an appropriate alternative means of recognition for such veterans. As we understand it, a primary impetus for S. 296 is to provide recognition for the 74 service members who died aboard the *U.S.S. Frank E. Evans* in June, 1969 as a result of a training accident while outside the combat zone. However, there could be hundreds of other veterans whose deaths were closely associated with military operations in southeast Asia during the Vietnam era who do not meet the Department of Defense's current eligibility requirements for inscription on the memorial wall.

We are sympathetic to the desire to recognize the sacrifices of men and women who gave their lives while serving our country during the Vietnam era, but whose

names do not meet the eligibility criteria that was established by the Department of Defense 20 years ago when the memorial was first built. However, providing that recognition at the Vietnam Veterans Memorial could diminish the aesthetic qualities that make this memorial, in the view of many, one of the most emotionally moving memorials ever built.

We are concerned that adding a large number of new names to the memorial wall would detract from the power and beauty of the simple black granite wall that evokes such a strong emotional response in visitors. There are currently 58,235 names on the wall that are inscribed in the chronological order of the date of casualty. At the direction of the Secretary of Defense, the National Park Service permits additions to the memorial wall from time to time. Depending on the availability of space and the number of letters in a name to be inscribed, the inscription is placed as close as possible to the chronological order of the date of casualty. Space for additional names is becoming increasingly scarce. To add more than a few more names, the wall would need to be significantly redesigned. Any potential changes to the wall may carry a substantial risk of diminishing the power of this memorial.

We are also concerned about possible alternative means of providing recognition for veterans whose names are not eligible for the wall. Several design elements have been added to the Vietnam Veterans Memorial since the original wall was built. Each addition increases the risk that the original work, the simple black granite wall, will be diminished. We are, therefore, cautious about embarking on a path that could lead to the addition of yet another design element at the memorial, both for its own sake and also because it might encourage more additions in the future.

We are pleased that the study authorized by S. 296 would require consultation with the Secretary of the Interior, among others, so that if this legislation is enacted, we would have the opportunity to express these concerns. We would suggest that another entity that should be included for consultation purposes is the Commission of Fine Arts. As one of the commissions that reviews proposals for structures to be added to the monumental core, their views on the feasibility of providing recognition for an additional group of veterans at the Vietnam Veterans Memorial are critical.

S. 470

Mr. Chairman, thank you for the opportunity to appear before you today to present the views of the Department of the Interior on S. 470, a bill that would grant a three-year extension of the legislative authority for construction of the memorial to Martin Luther King, Jr., in Washington, D.C.

The Department supports this legislation. We believe it is wholly appropriate for Congress to grant more time to the Martin Luther King, Jr. National Memorial Project Foundation, Inc., the organization responsible for establishing the memorial, to raise the funds necessary to build what we believe will be a fitting tribute to the man who is recognized as the preeminent leader of the American civil rights movement of the 20th Century.

The authorization to establish the Martin Luther King, Jr. Memorial was enacted on November 12, 1996, as Public Law 104-333. Under the Commemorative Works Act of 1986, authorizations for memorials expire at the end of the seven-year period after an authorization is enacted, unless a construction permit for the memorial has been issued. The Foundation does not expect to have raised the necessary funds to receive the construction permit by November 12, 2003. Therefore, the authorization for the memorial will expire on that date unless it is extended by law.

Much progress has been made toward establishing the Martin Luther King, Jr. Memorial since it was authorized in 1996. In 1998, an "Area I" authorization was enacted. Area I authorizations are joint resolutions that Congress must pass deeming a subject matter of "preeminent historical and lasting significance to the Nation" in order for a memorial to be built in the area designated as Area I under the Commemorative Works Act. Area I, the heart of the monumental core, encompasses the National Mall and Tidal Basin areas.

In 1999, a site for the memorial, on the northwest side of the Tidal Basin, was approved by the Secretary of the Interior, the National Capital Planning Commission, and the Commission of Fine Arts. A competition was held and a design concept for the memorial was chosen from the approximately 900 entries submitted. Currently, the Foundation is preparing an environmental assessment, which is necessary for final approval of the design. It is expected to be released for public comment shortly. In the meantime, the Foundation is actively engaged in fundraising for the memorial. Foundation representatives told the National Capital Memorial Commission recently that they have received pledges for about \$25 million of the

approximately \$100 million needed and intend to raise the balance in the next three years.

Extensions of legislative authority have been granted before for other memorial projects. Memorials authorized to be constructed in the Nation's Capital must go through time-consuming procedural steps. If they are relatively large memorials, as the Martin Luther King, Jr. Memorial will be, raising the necessary funds is often a daunting challenge. Three recently constructed memorials Women in Military Service for America, World War II and George Mason—were granted time extensions. Three authorized but not yet constructed memorials Black Revolutionary War Patriots, Thomas Paine, and Victims of Communism—were granted extensions similar to that proposed under S. 470.

Establishing a sunset clause for memorial projects has been a policy of the Congress for more than 60 years. This policy ensures that memorial sites will not be held indefinitely if, for funding or other reasons, the sponsors of a memorial are not able to build it. Nevertheless, the granting of at least one extension to the initial authorization has precedent, particularly in those circumstances when a memorial sponsor has taken the time required to obtain an Area I authorization.

S. 1076

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 1076, which would authorize the Vietnam Veterans Memorial Fund to construct an education center to provide information to the public on the Vietnam Veterans Memorial.

We are deeply appreciative of the sacrifices made by the men and women who bravely served our country in Vietnam. We share the interest of the congressional sponsors of S. 1076 in having the American public, particularly younger generations, better understand and appreciate the extraordinary burden borne by those who fought for our country during a most difficult, divisive, and painful time in our nation's history.

The veterans who served our nation in Vietnam are honored here in the Nation's Capital in what many view as one of the most emotionally moving memorials ever created. We are privileged to be the steward of this memorial. In that role, we are well aware of the deeply emotional experience visitors have when they see the Wall. We believe that it is vitally important that nothing detract from the powerful emotion that the memorial evokes, as it is that emotion that helps keep alive the public's appreciation of those who served in Vietnam. For this reason, as well as others, we give careful and cautious consideration of any proposal to add a new structure to the memorial.

The Department wants to ensure that a structure on or adjacent to the Vietnam Veterans Memorial, as envisioned by S. 1076, will not detract from visitors' experience at the Vietnam Veterans Memorial, and the nearby Lincoln Memorial. We believe there may be other more suitable alternatives to the proposed visitor center that should be explored. We would like to work with the committee to identify alternative ways of fulfilling the goal of this legislation.

S. 1076 would authorize the Vietnam Veterans Memorial Fund to construct an education center to provide information to the public on the memorial. The bill would authorize the center to be located either above ground or underground, on or adjacent to the memorial. S. 1076 requires the visitor center to be located in a way that prevents interference with or encroachment on the memorial and protects open space and visual sightlines on the National Mall, and constructed and landscaped in a manner that is consistent with the Memorial and the National Mall. We appreciate that S. 1076 seeks to be sensitive to siting and design concerns that have been raised since similar legislation was first introduced three years ago.

As you know, several elements have already been added to the original black granite wall that were not part of the original design. They include the flagpole and the *Three Servicemen* statue, the *Memorial to Women who Served in Vietnam* that was constructed in 1993, and most recently, the In Memory Plaque, to those veterans who died after the war as a direct result of their military service in Vietnam, which was authorized in 2000. With each addition, the Department has been concerned about the risk of diminishing the original work. The proposed addition of an education center at the site poses a significant new challenge, since it would not be just another memorial element but, instead, a relatively large structure adjacent to the memorial.

A similar view is shared by the two commissions that, by law, review proposals for structures in the monumental core—the National Capital Planning Commission and the Commission of Fine Arts as well as the National Capital Memorial Commission, which advises the Secretary of the Interior and Congress on such proposals.

Since the time legislation authorizing construction of a visitor or education center was first introduced, three design concepts have been publicized. One was a 1,200-square-foot above-ground facility that would be sited where the existing 168-square-foot information kiosk currently stands. All three commissions were opposed to that proposal, and the Department testified in opposition to it in testimony before the Senate Subcommittee on National Parks in July, 2001.

The second publicized design concept was an 8,000-square-foot underground facility, which would include a substantial above-ground entrance. In a February, 2002 letter to the President of the Vietnam Veterans Memorial Fund, the Director of the National Park Service indicated support for the concept of an underground facility, so long as it was appropriately sized and sited, acceptable visually, and had a minimum of distracting qualities to the visitor experience. The Director committed the National Park Service to consult with the Fund, as well as the National Capital Memorial Commission, the Commission of Fine Arts, and the National Capital Planning Commission on the options available to enhance the interpretation of the memorial.

At the time that the letter was written, we believed that it might be possible to design an underground facility for the memorial that was, in fact, appropriately sized and sited for the memorial. Since that time, however, the National Park Service has consulted with representatives of the three commissions. They have expressed serious concerns that, because of the practical need for a large above-ground entrance, it would be virtually impossible to design an underground facility in close proximity to the memorial that is not intrusive on the visitor experience. In a public meeting in September, 2002, with the National Park Service representative abstaining, the National Capital Memorial Commission—which includes representation from the other two commissions—voted unanimously to oppose construction of an underground visitor center at the Vietnam Veterans Memorial.

The third design concept was discussed at the hearing on H.R. 1442, similar to S. 1076, held two weeks ago by the House Resources Subcommittee on National Parks, Recreation and Public Lands. At that hearing, the witness for the Vietnam Veterans Memorial Fund discussed plans for a 10,000-square-foot underground facility, with the entrance located at the site where the information kiosk stands.

In addition, members of the three commissions are concerned about the precedent a facility of this type would set for other memorials. Structures similar to that proposed by H.R. 1442 have been disapproved or precluded at the Franklin Delano Roosevelt, World War II, and Martin Luther King, Jr. Memorials because they would detract from the visitor experience. These types of structures run counter to the *Memorials and Museums Master Plan*, which was endorsed by all three commissions after extensive public review. If an education center is allowed to be constructed at the Vietnam Veterans Memorial, it will make it much more difficult to deny proposals for such facilities at other similar memorials, despite both previous denials of such proposals and the guidelines opposing these structures contained in the approved *Master Plan*.

The Department is fully committed to educating the public about the Vietnam Veterans Memorial and the men and women who served our nation in Vietnam. For more than ten years, the Smithsonian has displayed an exhibit of the offerings left at the Vietnam Veterans Memorial and collected by National Park Service rangers. Other exhibits of offerings collected by the National Park Service have traveled to schools, universities, museums and veterans centers all over the world. In addition, the National Park Service has published a book and CD-ROM on the history of the memorial and runs a website designed to educate children about museum collections, including those associated with the Vietnam Veterans Memorial. The National Park Service has been involved in a number of news programs and television specials on the Vietnam Veterans Memorial and the history of our nation's involvement in Vietnam.

In coordination with the committee, we would like to investigate various alternatives for fulfilling the goal of this legislation. Two ideas we would like to explore are (1) enhancing the existing visitor kiosk and interpretation at the memorial, and (2) studying sites near the Mall where a visitor or education center for the Vietnam Veterans Memorial could be located. We are open to other ideas, as well, that the committee, or the Vietnam Veterans Memorial Fund, or others may suggest.

On the first idea we mentioned, we think that it might be possible to modify the information kiosk at the Vietnam Veterans Memorial to include computerized touchscreens that visitors could access to find information about the memorial, and individuals who served in Vietnam. The use of computer technology and touchscreens would enable a wide variety of periodically revolving information to be provided to visitors. This type of technology is already in use at the Korean War Veterans Memorial, and is planned for the World War II Memorial. Along with en-

hancing the visitor kiosk, the National Park Service would want to work with the Vietnam Veterans Memorial Fund to develop more extensive visitor outreach and interpretive programs that do not necessitate a new structure.

On the other idea, we would undertake a study to identify sites near the Mall that are feasible for a visitor or education center specifically for the Vietnam Veterans Memorial. We would expect to work closely with the Vietnam Veterans Memorial Fund, as well as the committee, in conducting this study.

The goal of S. 1076 of educating the public about Vietnam is an admirable one, and one that the Department has fully supported and will continue to support. We believe that the two possible courses we have suggested could lead to excellent opportunities to educate visitors about the men and women who served our nation in Vietnam, and would do so while preserving the sanctity of the memorial so that it appropriately honors them. And, as I mentioned, we are open to other ideas for pursuing the same goal. We look forward to working closely with the committee to fulfill the spirit of this legislation.

Mr. Chairman, that concludes my statements. I would be pleased to answer any questions that you or other members of the committee may have.

Senator THOMAS. Thank you very much.

There is a town in Wyoming called "Due-BOYS." There is a president of the university called "Due-BWAH." Which do you prefer?

Mr. DuBOIS. My grandfather emigrated to this country from French Canada when he was a baby before the turn of the century, the last century, and he was Leonel Pierre "Due-BWAH," after whom I have named my son, and therefore I use that pronunciation.

Senator THOMAS. Very well. Mr. DuBois, would you care to go ahead.

Mr. DuBOIS. I am familiar with Dr. Philip DuBois of the University of Wyoming.

Senator THOMAS. Are you? Good.

STATEMENT OF RAYMOND F. DuBOIS, DIRECTOR, WASHINGTON HEADQUARTERS SERVICES, OFFICE OF THE SECRETARY OF DEFENSE

Mr. DuBOIS. Thank you, Mr. Chairman, on behalf of Secretary Rumsfeld to have this opportunity to appear before this subcommittee and to testify on the four bills that your letter of invitation identifies. Now, as a practical matter, I want to use the few minutes available to me in my opening remarks to share with you some of my observations and thoughts about S. 296, which is the eligibility requirements bill with respect to the Vietnam Veterans War Memorial.

The reason that I am here testifying for the Secretary is that the Directorate of Information and Operations and Reports comes under my supervision as the Director of Administration and Management of the Office of the Secretary of Defense. We have the serious task of collating and statistically identifying the casualties from our Nation's wars.

In addition, as Senator Akaka knows, before whom I have testified many times, I am also the Deputy Under Secretary of Defense for Installations and Environment and as such represent the Secretary on the National Capital Planning Commission.

Two other reasons why I am particularly honored to be here today. I am a D.C. native. I grew up in this town. I played on the Mall as a child and wandered the halls of the Smithsonian. My mother sometimes used to say that it was my day care center. I am very appreciative of that wonderful, wonderful place and all

that it means, not just to those of us who grow up in this town but to all Americans.

Finally, I am a Vietnam veteran and therefore I want to, as I indicated, share some thoughts, some personal thoughts, about S. 296, which is a bill, as you know, which would require the Secretary of Defense to conduct a study and report to the Congress regarding the requirements applicable to the inscription of names on the Vietnam Veterans Memorial wall.

As my good friend and fellow Vietnam vet Dan Smith has testified, 58,000-plus names are inscribed on over 140 panels on the shiny black granite reverently referred to as "the wall." It is with great care that the Department of Defense reviews requests for names to be added to the wall.

The eligibility criteria for inscribing names on the wall consists basically of two specific time periods as well as the conditions under which and the place where a Service member died: first, from November 1, 1955, the formal beginning of the U.S. military involvement in Vietnam for purposes of naming casualties, to December 31, 1960. Any Service member who died in Vietnam during that time frame is eligible to have their name on the wall. The second time frame is on or after January 1, 1961, to May 1975. Any Service member who died in the defined combat zone as delineated by the Joint Chiefs of Staff and who died as a result of wounds sustained in that combat zone or who died while participating in or providing direct support to a combat mission, immediately en route to or returning from a target within that combat zone during that time is eligible.

Now, the Defense Department recognizes that many, many others served and lost their lives during the war effort. However, they do not meet the criteria I just mentioned and therefore are not listed on the wall. In fact, in June 2000, Congress, in an effort to honor the Vietnam veterans who died after service in the Vietnam War and who did not meet the eligibility for placement on the memorial wall, passed Public Law 106-214 authorizing the American Battle Monuments Commission to place a plaque within the memorial in their honor. I was given just a few minutes ago what that plaque would look like, as it is yet to be placed, but it reads as follows: "In memory of the men and women who served in the Vietnam War and later died as a result of their service, we honor and remember their sacrifice."

The Secretary of Defense believes that an appropriate additional recognition such as the one that I just read to the many men and women whose deaths were somehow associated with the Vietnam War is deserving. However, the Secretary stands by the current eligibility criteria for inscribing names on the Vietnam Memorial.

The Vietnam Veterans Memorial was established to pay tribute to all who served during the Vietnam War. In fact, it has become a reverential place, I would suggest, for all Americans whether they served or not. But, the uniqueness it seems to me, Mr. Chairman, of having one's name inscribed on that wall is that it gives special recognition to those who died within the combat zone or in direct support of combat missions in that combat zone or as a result of the wounds sustained while serving there.

This attribute, this single attribute, is what gives the wall its emotional impact. I believe it is why when I go to the wall I feel such a deep sense of gratitude to those of my comrades in arms of my generation who died there, in that place, in that time, for those reasons.

From time to time, I think back on my young year in the Army in Vietnam, now some 35 years ago, and I also remember standing in a cold drizzle in front of that wall as it was dedicated now 20-plus years ago, and I hope that President Ronald Reagan was right when he said to me and my fellow Vietnam veterans several years later that we had honorably fought in a noble cause. For those of my brothers who fell in that combat zone, not to return, their names on that wall is a small honor I wish to respect.

I am prepared to address and answer questions on both S. 296 as well as the other three bills, but I again appreciate the opportunity to share my thoughts with you. Thank you.

Senator THOMAS. Thank you so much. Thanks to both of you. We appreciate it. A few questions probably.

Mr. Smith, has the Park Service or anyone done a feasibility study regarding the Pyramid of Remembrance?

Mr. SMITH. We have not, Mr. Chairman, because it has not become law yet. However, the commissions in looking at it have certainly looked at the concept and think it is a very commendable idea. It is just where would it be placed, and for the bill to have it going into an Area II, it just runs up against the Commemorative Works Act.

I must say that in reviewing the testimony for it, now that I understand it to be another naming memorial, which means to put a continuing amount of names on it, we are finding out the difficulty in naming memorials. We have another common thread through several of these here today of who really qualifies and that type of thing. We had that question come up in testimony last year before Congress on a terrorism memorial for the Mall, of how you would go back in history, to where do we start to recognize people that have been caught up in terrorism.

So it has been looked at, but no, we have not done a feasibility study directly on it.

Senator THOMAS. Let us see. Did you indicate, does the Park Service have any contingency plans for accommodating some additional names? You mentioned there is just a few spots left.

Mr. SMITH. On the Vietnam Veterans Memorial? Not really contingency plans. We obviously are very concerned that the wonderful design that the country has come to reflect upon down there—obviously, certainly nothing as drastic as thinking about adding additional panels or anything to it, and we have not. Part of that has been addressed in other legislation where there have been plaques, added inscriptions to it, in that regard.

But no, Mr. Chairman, there is no other contingency plan to do anything with that memorial that would allow names to be added directly on it.

Senator THOMAS. On the Vietnam Visitors Educational Center, are you suggesting that there could be a design that would fit into the Mall, do you think?

Mr. SMITH. We would like to discuss that as part of other alternatives. Obviously, architects can do wonderful things in a landscape setting. We have concerns about the Vietnam Veterans Memorial itself, where it would be cited adjacent or near that that would not interfere with the memorial.

Size is becoming even more of a concern now, of what size this would eventually be, what exactly would be interpreted or taught in it. Ironically, some type of an education center would allow a chance to do other names without having to affect the wall. So it is all very intertwined. Again, the Director's letter said we would like to consider doing it. But really, a tremendous amount of concern on size, location, and exactly how that would be done and what would be interpreted are all things that as these type of issues are moved through the commissions that address them they get worked out.

The siting of the Vietnam Veterans Memorial before the Commemorative Works Act actually led to that act and the end result is that the memorial is worldwide known and it works wonderfully in that site where people had concern about it many, many years ago.

Again, we are open to looking at all kinds of considerations. Underground seems to make more sense than above-ground, but there has to be an above-ground entranceway into it. We have security concerns. You have to get the disabled under ADA into it. So even something that you think can be underground has to have an above-ground part to it, and those are all things that no design has really come before the Park Service. Anything that has been discussed on this by the commissions is in their advisory role because Congress had not passed legislation. And obviously, like so many things in life, the devil really is in the details on these things. We need a lot more discussion on this to see, if it is feasible, how best would it be accomplished.

Senator THOMAS. Do you think there would be then interest in having a similar educational center for World War II or Korea or the other memorials?

Mr. SMITH. Mr. Chairman, we certainly know that there was that interest at the World War II. The original design had, I believe, 100,000 plus or minus square feet that would have been for wonderful museum type interpretive space. The memorial that will be completed next summer, dedicated next summer, ended up going through the commissions and has none of that. It has basically the basic restrooms and a visitor contact kiosk type of arrangement, as does the Korean War Memorial, but no visitor/education/interpretive centers.

This does raise a tremendous precedent for people who would want those for the other wars.

Senator THOMAS. Sure. This reserve area that was set aside pretty much by the commission and by this committee and so on, there is now—I guess the thought is to keep that pretty much as it is and have the memorials be in what is then Area II, outside of the reserve area; is that your view?

Mr. SMITH. The reserve concept administratively—of course it has not become law. But administratively, the Park Service and the Commemorative Works Act actually does look at either this

exact reserve configuration or something very close to it, the Mall area, looks to be very protective to what could go there, although in saying that we all have been here in Washington to watch an awful lot be built over the last 20 years even though those concerns are there.

But the reserve as you view it, Mr. Chairman, and as you held an oversight hearing on it, I believe as recently as last year, in some ways it does make tremendous sense. There are people, though, that think there are a few more presidents who would need to be recognized at some point in time. But of course, Congress could always waive the act. You have that discretion, and the president could sign it into law.

But the reserve concept administratively has taken on where—when you say “the reserve,” Senator, the Park Service does know of what you speak and administratively through the Commemorative Works Act has tried to concur with that.

Senator THOMAS. Talk about presidents. Washington—the Roosevelt was developed later and is not in that area, is that correct?

Mr. SMITH. It technically is—let us see.

Senator THOMAS. It is not in the reserve.

Mr. SMITH. No, it is not in the reserve, no, sir, no, Senator.

Senator THOMAS. Senator, can I go to the ranking member here first?

Senator CAMPBELL. Yes.

Senator AKAKA. Thank you very much, Mr. Chairman.

It is good to see both of you here today, Mr. Smith and Mr. DuBois. I just want to understand what the administration’s position is, so this question is to both of you. As I understand your testimony, and this is having to do with the Pyramid of Remembrance Memorial, which is S. 268—as I understand your testimony, the Department of the Interior would support the proposal if the memorial were placed on military property; the Department of Defense does not oppose it, but does not want it to be located, I take it, on a military reservation.

So my question to you, both of you, can you help me reconcile both of your statements on the administration’s position on S. 268?

Mr. Smith.

Mr. SMITH. Yes, I can partially do that, Senator. The precedent for this would be for a memorial like this—and again I do not know if sizewise it would fit, but as it went through consideration. So many memorials that sort of fall into this category of certainly wanting recognition and honor in this country to events that have affected people’s lives, it has been Arlington National Cemetery. There is a monumental capability there that already recognizes Somalia, the Challenger Space Shuttle, six or seven others I could certainly provide for the record.

That technically is military land and not National Park Service land. The fact that the bill has it going to an Area II rather than an Area I makes it certainly less of an obstacle, but still it runs contrary to the Commemorative Works Act for something like this.

The 9/11 Memorial at the Pentagon, obviously very fitting because the building was directly involved, but the Pentagon does have some other room where a memorial could be placed.

I am not trying to avoid putting it on—or I would try to avoid putting it, say, at Fort Myer, where you would not have access by the public, but there are memorials where you can be on a military reservation and not have the access problem, and you certainly can commemorate a national event that does not have to be on the Mall or in this case located in an Area II in the District of Columbia.

So the simple answer was Arlington Cemetery is one possible solution. There probably are others.

Senator AKAKA. Thank you.

Mr. DuBois.

Mr. DUBOIS. Senator Akaka, we in the Department of Defense see great merit in a memorial such as described in S. 268. What concerns we have, what hesitation we have, if you will, is that—and certainly we will respect whatever Congress directs—but should a memorial such as this be put on a military reservation, a military installation, which is restricted, which has restricted access, it thereby by definition impedes the access to the public.

If the opportunity for maximum visibility, maximum access, is a metric that we ought to pursue, then we kind of think that it ought to be on a non-military reservation. Now, Dennis mentioned both the 9/11 Memorial at the Pentagon, with which I am very familiar—fortunately for us, the 9/11 Memorial will be at a corner near Route 27 and there will be a perimeter around it which prevents, which will prevent, the public from then entering the inner area, if you will, near the Pentagon building proper.

Arlington Cemetery, in a way analogous to the wall, the Vietnam wall, is running out of room and the question one must ask is do we want to put another memorial there which might have been used for eligible soldiers, sailors, airmen, and marines to be buried? So again, we are not objecting to the memorial, but we would suggest that there might be a better place than one which is restricted to the public.

Senator AKAKA. Thank you for your responses.

Mr. Smith, I know you touched on this, but let me hear an expansion on it if you can. Your testimony indicates the National Park Service now concludes—and this is on S. 1076, which is the Vietnam Veterans Memorial Education Center—“The Park Service now concludes that an underground visitors center near the Vietnam Veterans Memorial will not be feasible.”

The Vietnam Veterans Memorial Fund seems convinced that an underground center is the best way to proceed. If this bill is enacted, how do you envision those two views being reconciled?

Mr. SMITH. Actually, we have—I believe in the testimony it speaks of in their advisory role the planning commissions having given their advice to the Congress and to the Park Service. The Director of the Park Service would still like to try to find a way that this could possibly occur and that is why we are saying in our testimony that we look forward to working with both the committees of Congress and the fund and these commissions to see if there is some way to look at all the alternatives.

If it is to go on or adjacent, above or below-ground, those are the type of details that, they would certainly then go to size, smaller being probably more appropriate to accommodate than something as large as 10,000 square feet, location, which would have to be

looked at very carefully, of where it would be, close to the Vietnam Veterans Memorial but not too close to the Lincoln Memorial. Those type of details would have to come out, as any type of structure on the Mall would, as it goes through that process where the experts really look at it and make them work.

The size and scope of the World War II Memorial was reduced, but it did stay in that unbelievably prominent site. The Korean War Memorial certainly was looked at as to how it would be a landscape solution. So a lot of that is once you actually have a proposal from Congress which is signed into law, is then to let those commissions do their work and work on those specific details.

Senator AKAKA. Thank you for that response.

My last question, Mr. Smith. Last Congress this committee adopted an amendment to the Commemorative Works Act which would prohibit the siting of new memorials on the National Mall. As I understand, this amendment was based on the recommendation of the National Capital Memorial Commission, which includes the Director of the National Park Service, and the National Capital Planning Commission. This is considering the future of the Mall.

Does the Department of the Interior still support this amendment prohibiting new memorials and other commemorative works on the Mall?

Mr. SMITH. Mr. Chairman, it has not come before this current Secretary of the Interior, but you are correct that those commissions as part of their—I was looking quickly back through my testimony. The exact study they did, the Memorials and Museums Master Plan, the commissions did take that position, and again they take that in their advisory role, created by Congress to advise both the Department, the Secretary, and Congress.

But since it has not been legislatively done, this Secretary has not gone on record as to her position on that. I did state in my follow-up to one of I believe the chairman's questions, administratively we basically are adhering to the reserve concept in the way the Park Service is approaching memorials on the Mall.

Senator AKAKA. Thank you, Mr. Chairman.

Senator THOMAS. Thank you.

Senator Campbell.

Senator CAMPBELL. Thank you, Mr. Chairman. I have a couple of questions. I have been scribbling a bunch of notes here.

Mr. DuBois, thank you for reading the inscription on that small plaque. I want to tell you, that was my bill a couple of years ago. I introduced that bill and we almost had to go to war again to get that darn thing passed, just for one little tiny plaque in addition to the Mall. Even though every veterans group in the United States supported that little bill, the administration opposed it.

The Park Service—in fact, I can still remember Mr. Scruggs, who I believe perhaps was in your position now, Mr. Smith, from the Park Service came in and testified against that little, passing the bill to add that little plaque to the wall.

I have to tell you, some of these so-called eligibility requirements leave a bad taste in my mouth, very frankly, after fighting as hard as we did to get that one little, one little recognition for some of the veterans who have died. I can still remember, when I went in the service there was not many eligibility requirements. We had to

be 18 years old, have a clean criminal record, to be in good health, and the unspoken part was we had to be willing to go die somewhere.

I know that we get caught up in all this bureaucratic stuff where we have all kinds of regs and rules and so on. When we get down to the real nitty-gritty of who gave what, it seems to me a lot of Americans paid the dues and paid the sacrifice to be able to be recognized for it.

I wanted to get that off my chest in the beginning and ask you a couple of questions based on your testimony. Mr. Smith, you talked about design elements having been added to the wall. What were those design elements?

Mr. SMITH. The design elements, actually when the memorial was first conceived it was only the—

Senator CAMPBELL. They were not added after the wall was constructed?

Mr. SMITH. They were—well, I can go through a list here, Senator, if I could. The first thing that happened was as the memorial had cleared through the commissions, the addition of a flag and the servicemen's statue. Those were actually additions to the original design that had originally cleared through the commissions and legislation that Senator Mathias and Senator Warner passed. Before the memorial was built and dedicated, those were added.

There was also the recognition of women who served in Vietnam has been added, very close to the wall but discretely away so that it does not directly—it is tied into the wall, but does not impact the wall.

Now you do have an addition would be your legislation, Senator, that now that plaque will be placed in that circular area where that statue is of the three servicemen. So those are considered additions to the memorial.

Senator CAMPBELL. My staff tells me maybe I should not have been too tough on you because you did not oppose, apparently, my last bill, which authorized the POW-MIA flag to be flown at the Korean Memorial and the Vietnam Memorial and I guess the World War II Memorial, too.

Mr. SMITH. Senator, if I could clear the record so we will have it, the actual Park Service witness would have been John Parsons. Jan Scruggs of course is the president of the Vietnam Veterans Memorial Fund.

There are those of us who sit in this chair and certainly take no problem with you having those views. I sit here as a veteran, the son of a veteran, my two brothers also having served in Vietnam. So believe me, this is a topic that I sit here as a witness who is very concerned and would like to find a solution for this, even though I do wear a bureaucratic hat and certainly have to defend the position the Park Service takes on issues on that Mall, of which all of these bills fall back into that category of what we are going to build there, which is many, many things that people wish to see there.

Senator CAMPBELL. Well, for the record then let me apologize to Mr. Scruggs if he was not in that position. I apologize for that.

Let me ask you—let me stay with this one before I ask you something about the King one. I understand about 290 some odd names have been added to the wall since it was built; is that correct?

Mr. SMITH. I tried to do the math, Senator. I came to 296.

Senator CAMPBELL. Okay, 296.

Mr. SMITH. It could be a little different.

Senator CAMPBELL. That is why this bill was numbered that. But you mentioned that they are alphabetical. What did you do with those names, just add them to the—

Mr. SMITH. Not alphabetical. It is in chronological order. The unbelievable initial design of that memorial by Maya Lin—

Senator CAMPBELL. How did you add the 296?

Mr. SMITH. They actually—the way names were spaced as you came down on each panel is they could be added at the end of each panel as you came down. And they adhered to chronological order through the first 231, I believe, which were added as the memorial was being built. VVMF actually researched records and found those. I believe there have been between 209 and 230 that have been added since, and those actually have gone in as close to chronological order of where they became casualties on the wall and they have filled in where there was space available for names.

Senator CAMPBELL. Good, all right.

Let me ask Mr. DuBois a question on S. 1076, I believe it is, the educational bill that is in. I have been around the Capitol a little bit and I notice that almost every building that has something to do with the military has a museum or artifacts or something in it. You go to the Navy Yard, they have a very nice museum. If you go to the Pentagon, there is a whole area there where they commemorate the different military branches. If you go to the Retired Officers Association, for instance, they have some memorabilia there. Almost everybody does.

But I have never seen anything in this city that coordinates or uses any of that existing areas, museums, if I can use that word, in some kind of a fashion to encourage people to visit them. Do you know of anything that is done along that line?

Mr. DuBOIS. It is interesting you ask that question. Before I came back to the Government, I was intensely involved in the one museum that this great Nation does not have, a National Army Museum, believe it or not. Now, with the involvement of various Senators here, it is going to be built at Fort Belvoir.

But in my research in those years I came to the conclusion, as you have pointed out, there is something missing. I would call it a virtual visitors center, if you will, that would tie together all the not just great museums and destination spots, if you will, on the Mall in Area I, but museums that reflect the heritage of this country that go across the country, in a place where, to use the phrase, the grandson of Private Ryan in northern California could access what is on the wall in Washington and why, or a young man or a young woman in Pensacola, Florida, could find out what will be at the American Indian Museum here on the Mall.

We believe that the military ought to do something like this, but of course there is a larger educational issue at hand and perhaps the Department of Interior and the Department of Defense might work together. I think that with the technology available to us—

and in point of fact, what are museums? They are educational venues. If we can turn to the Internet, as so many children do today naturally, as opposed to when I grew up, and create a virtual mall, a virtual museum if you will, interconnecting all of these fabulous sites where artifacts and educational value resides, it might be a very valuable thing for the Congress to consider.

Senator CAMPBELL. Well, there may be a role for the Library of Congress to work in there, too.

Thank you, Mr. Chairman. I appreciate the time.

Senator THOMAS. Gentlemen, thank you very much. We appreciate your contributions.

Mr. DUBOIS. Thank you, Mr. Chairman.

Senator THOMAS. We look forward to working with you as we go forward.

Let us call up our second panel then: Mr. Dave Enzerra, trustee of Pyramid of Remembrance Foundation; Mr. Harry Johnson, president of the Martin Luther King National Memorial Foundation; William Lecky, principal, I think architect; George Oberlander, board member and treasurer of the National Coalition to Save Our Mall; Lieutenant Colonel James Zumwalt, *U.S.S. Frank E. Evans* Association, Inc.

Again, thank you all, gentlemen, for being here. Your total statements will be put in the record, so if you could summarize those. If you have the impulse to do that, please pursue it recklessly.

Let us see. Let us start over here with Mr. Enzerra, please.

**STATEMENT OF DAVID J. ENZERRA, TRUSTEE,
PYRAMID OF REMEMBRANCE FOUNDATION**

Mr. ENZERRA. Chairman Thomas and subcommittee members: I appreciate the opportunity to testify in support of S. 268, to establish a national memorial to honor members of our armed forces who have lost their lives during peacekeeping operations, humanitarian efforts, training accidents, terrorist attacks, and or covert operations.

This memorial was conceived 10 years ago by students at Riverside High School in Painesville, Ohio. The images of an American soldier being dragged through the streets of Mogadishu evoked heartache and galvanized a purpose which endures to this day.

World events underscore the significance of remembering America's heroes who have lost their lives in Somalia, Haiti, and Kosovo. The Pyramid of Remembrance also honors soldiers killed in terrorist attacks on the Pentagon, *U.S.S. Cole*, those who have died in Afghanistan, Iraq, during the bombings in Saudi Arabia and in Beirut, during the rescue attempt of American hostages in Iran, and during hostilities in Grenada, El Salvador, Panama, and the Persian Gulf.

All too often we also learn of soldiers who perish in military accidents. This sadly was the case on March 11 when a Black Hawk helicopter crashed during a training mission at Fort Drum, New York, killing 11 servicemen. As one student remarked, just because soldiers are killed during training does not mean they should not be remembered with a memorial. Their sacrifices are the same as those who died in World War II, Korea, and Vietnam.

The need for this memorial has been made clear in the aftermath of September 11 and the evolving role of our military. On January 30 four soldiers were killed aboard a Black Hawk helicopter that crashed in Afghanistan. All four were remembered as warriors, aviators, and family men who represented the best the Army had to offer. Sadly, there are other casualties. The White House has reported that 52 servicemen and women were killed in just the first year of Operation Enduring Freedom.

Last week's Memorial Day activities took on added meaning as we remembered 160 U.S. soldiers killed during Operation Iraqi Freedom. As America engages in the war on terror, let us now forget the sacrifices of these many brave men and women.

In 2001, the National Capital Planning Commission said that the Pyramid of Remembrance would indeed fill a void in our Nation's military monuments and recommended it be constructed on Defense Department land. The memorial has also received endorsements from former Secretary of Defense Cohen, General Shelton, former Chairman of the Joint Chiefs of Staff, and former President Bush.

Last September, H.R. 282, introduced by Congressman LaTourette, was approved by the Resources Committee to establish this memorial. A companion bill was introduced by Senators Voinovich and DeWine. The 107th Congress adjourned before either bill reached the floor. Similar legislation had been introduced in earlier sessions, including H.R. 1608, which actually passed the House during the 106th Congress, but failed to reach the Senate.

Passing legislation during the 108th Congress is not only the right thing to do for our armed forces, veterans and families; it would also be an endorsement of the youth of our country. This grassroots effort, championed by high school students a decade ago, deserves our support now.

Accordingly, our foundation achieved 501(c)(3) status in 2002 through the donated services of legal counsel. We also developed a strategic plan. Our advisers and trustees include executives from national corporations and professionals in business, legal, finance, marketing, and education, all of whom are volunteering their expertise to this cause. This is compelling testimony to how a community can rally around civic-minded students who are persevering to make a difference for their country.

Mr. Chairman, I also want to emphasize that we are not seeking a site on the Mall for this memorial. We will collaborate with the Department of Defense and Interior to find a suitable location elsewhere within the District of Columbia, which could include Arlington National Cemetery, the Pentagon, or other suitable locations.

The final design and costs will also depend upon input from the National Park Service, the National Capital Memorial Commission, and veterans. We also understand and support that no public funds can be used. We will incorporate best practices others have used to raise private funds for memorials, including endorsements from national leaders and tiered giving from corporations.

In conclusion, please be assured our foundation is prepared to take full responsibility for managing this project once legislation is passed. We have both the passion and wherewithal to help turn the dreams of our students into a reality for America.

Thank you for the opportunity to speak. We appreciate any advice you can provide, and I would be happy to address any questions regarding my testimony.

[The prepared statement of Mr. Enzerra follows:]

PREPARED STATEMENT OF DAVID J. ENZERRA, TRUSTEE,
PYRAMID OF REMEMBRANCE FOUNDATION

Chairman Thomas and members of the Subcommittee: I appreciate the opportunity to testify in support of S. 268. The Pyramid of Remembrance Foundation seeks to establish a national memorial to honor members of the Armed Forces of the United States who have lost their lives during peacekeeping operations, humanitarian efforts, training accidents, terrorist attacks or covert operations. My intention today is to communicate both our resolve and capability for seeing this worthy endeavor through to a successful completion.

The vision for this memorial was conceived in 1993 by students at Riverside High School in Painesville, Ohio during the Somalian conflict. The images that appeared on televisions and newspapers of an American soldier being dragged through the streets of Mogadishu evoked heartache and galvanized a purpose which endures to this day.

Events of the ensuing decade underscore the significance of remembering America's heroes who have lost their lives serving our country in areas such as Somalia, Haiti, Bosnia and Kosovo. The Pyramid of Remembrance would honor servicemen and women killed in terrorist attacks on the Pentagon and the *U.S.S. Cole* and those who have fought and died heroically in Afghanistan and Iraq. It would pay tribute to our soldiers who perished during the bombings of the Khobar Towers in Saudi Arabia and the Marine barracks in Beirut; during the failed rescue attempt of American hostages in Iran; during hostilities in Grenada, El Salvador, Panama, the Persian Gulf and in training accidents that occur on land, in air and at sea so our Armed Forces can be ready to defend human rights and freedoms that Americans cherish.

We read in our papers all too frequently of soldiers who have lost their lives in military accidents. This sadly was the case on March 11 when a Black Hawk helicopter crashed during a training mission at Fort Drum, N.Y., killing 11 servicemen. As one student remarked, "just because soldiers are killed during training doesn't mean they shouldn't be remembered with a memorial their sacrifices are the same as those who died in WWII, Korea and Vietnam."

What we want to remember with this monument is that our military personnel have chosen a career filled with inherent danger. They put their lives on the line every day and for that we owe them our sincerest gratitude and respect. Today there is no memorial in Washington, DC. to specifically honor these courageous men and women largely because their sacrifice occurred in a time other than a declared conflict.

The timeliness and necessity of the Pyramid of Remembrance has been made clearer in the aftermath of September 11 and the evolving role of our Armed Forces. On January 30 of this year, four U.S. soldiers were killed aboard an Army MH-60 Black Hawk helicopter that crashed during a training mission near the Bagram Air Base in Afghanistan. They were members of the 160th Special Operations Aviation Regiment and gave their lives in support of Operation Enduring Freedom. At a memorial held at Fort Campbell, Kentucky, all four were remembered as "warriors, aviators and family men who represented the best the Army had to offer."

Sadly, these casualties are not the only ones. Others have died in America's war on terrorism, including all ten soldiers aboard the Chinook MH-47E helicopter that crashed on February 22, 2002 during counter terrorism exercises with Philippine troops.

The White House reported that 52 American servicemen and women had been killed in the war on terror in just the first year of Operation Enduring Freedom. Last week's Memorial Day activities took on added meaning as our country reflected on the 160 U. S. soldiers killed to date during Operation Iraqi Freedom. As our Nation continues to engage in the war against terror, we must not forget the sacrifice that these men and women have made for their country.

Students past and present have remained steadfast in their conviction for and pursuit of the Pyramid of Remembrance Memorial. Their efforts have received an ever-increasing amount of support from government and community leaders over these years.

In April 2001, the National Capital Memorial Commission, charged with overseeing monument construction in Washington, DC., held hearings about the pro-

posed Pyramid of Remembrance. The Commission recommended that the memorial be constructed on Defense Department land, possibly at Fort McNair. The Commission also noted that such a memorial would indeed fill a void in our Nation's military monuments. The memorial has also received endorsements and letters of support which we have on file from former Secretary of Defense William S. Cohen, General Henry Shelton, former Chairman of the Joint Chiefs of Staff and former President Bush.

In September of 2002, H.R. 282 by U.S. Rep. Steven C. LaTourette was discharged by unanimous consent by the House Resources Committee to authorize the establishment of this memorial on Department of Defense property. A companion bill (S. 3128) was introduced by U.S. Senators Voinovich and DeWine in October. The 107th Congress adjourned before either bill could reach the floor. Similar legislation was introduced during previous sessions of Congress. This includes H.R. 1608 which was passed in the House in November, 2000 with 80 co-sponsors but failed to reach the Senate prior to adjournment.

In January 2003, legislation was reintroduced as H.R. 422 and S. 268. The House bill is currently before the Resources Committee. Passing this legislation during the 108th Congress is not only the right thing to do for our nation's armed forces and families; it would also be a message of affirmation to the youth of our country. This grassroots effort championed by high school students deserves our support. They have worked diligently for ten years; there is no better way to uphold their dedication and perseverance than by helping them achieve their vision.

The Pyramid of Remembrance Foundation is a coalition of students, educators, business people and community leaders working together to turn this idea into a reality. In 2002 we achieved 501(c)(3) tax exempt status through the donated services of legal counsel. Our EIN is 30-0044856. A strategic plan was also created that includes input from senior managers from national corporations, veterans and other stakeholders. It contains our mission, values, objectives and action plans. Partnerships among businesses, civic groups, veterans, educators, government officials and community leaders at the local and national level will make this memorial a reality.

We fully appreciate that an undertaking of this scope will require a well coordinated, nation-wide campaign. We have researched the efforts and chronology of other groups who have pursued national monuments. These include the WWII Memorial on the Mall, the Martin Luther King Jr. Memorial on the Tidal Basin and the Air Force Memorial at the Navy Annex site overlooking the Pentagon. We are factoring their experiences into our plans. Our organizational capabilities, board governance and fund-raising strategies are being developed in anticipation of legislation being passed by the 108th Congress. When President Bush signs this bill into law, support will escalate rapidly across the country. We have positioned ourselves to "hit the ground running" when this occurs.

Our Board of Advisors and Trustees include professionals in business administration, legal, finance, architecture, marketing and public education. Some serve on the boards of other foundations and non-profit organizations. Our goal is to broaden our leadership base as the project moves forward. Even at this early stage - without a bill being passed, executives from two national corporations with global operations are serving on our Board of Trustees. The Lubrizol Corporation and the Steris Corporation are both listed on the New York Stock Exchange. Their headquarters are in Lake County, Ohio close to where Riverside High School is located. We have letters of support from the Chief Executive Officers of both of these organizations. They advocate the type of corporate involvement in community projects we need to be successful.

Support for this memorial continues to expand well beyond the classroom walls where it began. It now includes other school districts, social, civic and community based leadership organizations. They have helped us take important first steps in this journey across America. It is now becoming a national undertaking. This is compelling testimony to the power of perseverance and collaboration—how a community can help a small group of civic-minded students make a lasting difference for an admirable cause.

As word of this project spreads, additional support, expertise and infrastructure will be secured to raise the funds to construct this memorial. We are eager to work with the appropriate committees as the legislative process moves forward. Once the bill becomes law, final site selection, design and fund-raising activities can proceed accordingly.

Regarding site selection and design—we will work responsively with all appropriate Federal agencies. Mr. Chairman, it is important to note that we are not seeking a site on the Mall for this memorial. We intend to collaborate fully with the Department of Defense and other entities to find a suitable location elsewhere within the District of Columbia and its environs.

The initial, conceptual design by students includes a thirty to forty foot tall, red granite, four sided pyramid with water sheeting down all four sides. The continuous flow of water symbolizes the monument as a living memorial and on-going tribute to our military heroes. It will be raised on a black granite platform. The insignias of the five military branches and the words "Faith, Honor, Virtue and Remembrance" will be inscribed on the Pyramid's sides. The final design and definitive cost will, of course depend upon input from appropriate Federal agencies such as the National Park Service, the National Capital Memorial Commission, the Department of Defense, veterans groups and constituencies. We intend to comply fully with the Commemorative Works Act and other Federal legislation as appropriate.

Regarding financing—we understand, accept and support that no public funds can be used for the Pyramid of Remembrance. We will incorporate best practices others have used to raise private funds to build memorials of this nature. We will obtain endorsements from nationally known and respected individuals and organizations. These include military personnel, veterans groups and celebrities. We will utilize professional fund-raising expertise and proven strategies such as tiered giving from national corporations, foundations, individuals and stakeholders. Students across America will be involved because of the unique educational aspects of this endeavor.

In conclusion, please be assured the Pyramid of Remembrance Foundation is prepared to take full responsibility for managing this project and raising the required funds once legislation is passed. We appreciate any advice and assistance you can provide. You can also be confident supporting S. 268 knowing that our Foundation has both the passion and the wherewithal to turn the dream of our students into a reality for America.

Thank you once again for the opportunity to speak today, and I would be happy to address any questions you might have regarding my testimony.

Senator THOMAS. Thank you very much, sir. We appreciate it.
Mr. Lecky.

**STATEMENT OF WILLIAM P. LECKY, PRINCIPAL,
Ai ARCHITECTS**

Mr. LECKY. I am a principal in a firm called Ai in town. I have been practicing architecture for 43 years in the Washington area and I am the designer for the proposed visitors center. My background, along with my partner I was the architect of record on the Vietnam Memorial 20-some years ago, working with Maya Lin and Jan Scruggs. I was the architect of the Korean Memorial on the other side of the Reflecting Pool. As a sidebar comment, I am also a Korean veteran. I have worked on the White House, Blair House, pretty much every museum along the Mall, and if I have learned anything in 23 years of working on the Mall, it is something that as a designer I take very, very seriously, as would any competent designer, I would certainly hope.

I would like to focus on four areas of concern that I have heard from people. The first is setting a precedent: If we are allowed to do this at Vietnam, then everybody is going to want to build a visitors center. I would point out that there is already a bookstore at the Lincoln, there is a visitors center at the Navy Memorial, there are restrooms and a gift shop at the Roosevelt Memorial, a visitors center at the White House, a proposed visitors center at the Washington Monument.

I am not certain that we are really setting a precedent, and the truth of the matter is I am not sure it would be terrible at other memorials as long as the information center, visitors center, education center, whatever we want to call it, is well designed and does not interfere with the memorial, that this would necessarily be a terrible thing.

I would like to add a few comments about this issue. The east end of the Mall is a very, very user-friendly place. Love to go

there—lots of museums, restaurants, restrooms, air conditioning when needed, a place to sit down. It is just a great place to be. The west end of the memorial—of the Mall, showcases three of the favorite memorials in the city and yet I submit it is a very user-unfriendly place to go. There are no Metro stops as there are on the east part of the Mall. There are no restaurants. Yes, you can get a stand-up hot dog. There are a couple of restrooms if you know where to find them.

There are very few amenities currently being provided at that end of the Mall. The new center will offer some of this—some restrooms, some seating, some air conditioning—and, most important of all, the issue of education, helping our youths to understand the memorial and Vietnam in general. I just do not understand how this can be viewed as a negative, having a negative impact on the Mall.

No. 2, disturbing vistas on the Mall. The Reflecting Pool is one of the most sensational vistas, I believe, in the world, with Washington at one end on Lincoln at the other. The view coming across the Memorial Bridge, with the Lincoln right on dead center, is another absolutely spectacular, breathtaking vista. There are secondary vistas that we designed into both Vietnam and Korea which give views of Lincoln and Washington.

All of these things should not be disturbed. Both Vietnam and Korea, coincidentally, were very specifically placed and articulated to not disturb any of the vistas that currently existed.

If you look at exhibit 1, which I guess is over here, you will see a whole series of little yellow squares and dots, or in your handout maybe it is more visible. These are all miscellaneous structures, some well-designed, some poorly designed—restrooms, kiosks, maintenance facilities, and so on. We see the visitors center as simply being one of those auxiliary structures tucked in the woods, not disturbing any vistas in any way, shape, or form. In fact, the trees that exist will block more vistas than our visitors center.

The third item is proximity to the wall, will it impact the experience of going to Vietnam. I spent three long years trying to perfect the wall, not without help from Maya Lin and my partner and others. We worked on some of the elements we talked about earlier in this meeting, moving the sculpture and the flagpole from their originally proposed locations, all of which were done to keep Maya Lin's design in its most pure form. I am not about to sacrifice that dedication at this point in my career.

This new center will be hidden in the woods. People may not even realize that it is there unless they see a line or are told to go there. It is in the same location as the small Park Service kiosk that is there now.

The last issue is esthetics and all I can say about that, that the above-ground as well as below-ground, truth be told, have not been finalized in terms of their design, but this is not a place, I certainly feel, for an architectural statement. This should be a very negative, non-building that is very transparent, a lot of glass, elegantly detailed, and the hope is when you come away from this you will not remember what the building looked like because it will be such a passive entity on the Mall.

In summary, the only impact this project will have on the Mall in my view is the educational and emotional impact that it will have on thousands of students and visitors who will go away with a deeper understanding of our Nation's history and our Nation's values.

As a slight aside, I would encourage you to put title 2 into a separate legislation so that it does not impact what we are trying to do with the visitors center. I have pointed out that the two exhibits, one showing the location of things, one showing some views of the inside of the proposed center—and at this point I thank you for the privilege of being here and appreciate the opportunity and would be happy to answer any questions.

[The prepared statement of Mr. Lecky follows:]

PREPARED STATEMENT OF WILLIAM P. LECKY, PRINCIPAL, AI ARCHITECTS

As a brief introduction, my name is William Lecky. I am a Principal in the firm of Ai. I have practiced architecture in and around Washington, DC for 43 years. I was the Architect of Record for the Vietnam Veterans Memorial, working along with Maya Lin in our office for the first few months and then continuing for the next two years to get the memorial built. I was also the Architect for the Korean War Memorial which sits in a mirror image location on the other side of the Reflecting Pool from Vietnam. I have lived in the DC area for over fifty years, won a number of design awards, and have worked on just about every building along the Mall at some point in my career. Designing anything on the Mall—from sidewalks to benches to memorials is something I take very seriously.

I am here today, as the designer and an advocate, for the proposed Visitor Center at the Vietnam Veterans Memorial. There seem to be four areas of concern having to do with this project. A.) Setting a precedent for other memorials, B.) Locating a new object on the Mall that may impact its various vistas, C.) Its proximity to "The Wall", and D.) The aesthetics of the structure. I would like to briefly address each of those concerns.

SETTING A PRECEDENT

Some people have said, "If we let them do this at the Vietnam Memorial, all the memorials will want to do it." In response to this, I would first point out that there is already a book store at the Lincoln Memorial, there are restrooms and a gift shop at the Roosevelt Memorial, there is a Visitor Center at the White House, there is a Visitor Center currently planned for the Washington Monument. As far as I am aware, these have all been endorsed by the National Park Service and the public at large.

The East end of the Mall is currently filled with museums, gift shops, restaurants, rest rooms and Metro stops—a very user-friendly environment. In contrast, the West end of the Mall showcases three of our nation's favorite memorials, yet it is a terribly user-unfriendly place to go with no parking to speak of, no Metro stops nearby, no place to get something to eat (with the exception of a hot dog), very few places to sit down, and there are a few restrooms, but you certainly have to go looking for them. The new Center at Vietnam will offer restrooms, and a place to sit down. More importantly, it will offer a profound educational experience with displays of photographs of those individuals whose names appear on The Wall, as well as helping youngsters better understand the history and significance of Washington's most visited memorial. I can't imagine anyone thinking that would not be a very positive thing for our visitors to the city.

On the issue of limiting future memorials on the National Mall, this is a serious issue and good public policy. Yet, this issue must be advanced separately from this legislation or we again risk delaying the Visitor Center.

A NEW OBJECT ON THE MALL

The primary vista on the West end of the Mall is down the Reflecting Pool—seeing the Lincoln at one end; the Washington Monument at the other. It is both historic and spectacular. Another powerful vista is crossing the Memorial Bridge with the Lincoln Memorial at the focal point of your view. Two other meaningful views are from the Vietnam Memorial, where one portion of the wall points to the Washington Monument; the other to the Lincoln. The other is the view of the Lincoln

from the Korean Memorial. These are hugely important vistas that should not be disturbed ever. But there are a number of miscellaneous structures, some large, some small, some well designed, some not, that are tucked into the woods along the edges of the Mall. I submit that after considerable study, the Visitor Center now proposed has been placed specifically to not conflict in any way with one's views around the Mall. You can see this clearly in Exhibit One.

PROXIMITY TO THE WALL

I spent three years of my life working to perfect The Wall. I spent many meetings with the Commission of Fine Arts and NCPC trying to locate the Three Soldier Statue and the Flagpole in a way that would allow the purity of Maya's design to remain undisturbed. I would not do otherwise with this Visitor Center. It will be tucked between trees, off to the side, causing no interruption to either pedestrian traffic or the views between memorials. In truth visitors to The Wall could easily miss it, if they weren't looking for it.

THE AESTHETICS OF THE CENTER

My hope, as the designer, is to essentially create a piece of non-architecture . a structure that will disappear into the landscape. This is a place for design excellence, a structure of refined and elegant details, but one that leaves the overall impression of transparency. This is not a place for an "architectural statement" that cries for attention.

In summary, the only impact this facility will have on the Mall is the educational and emotional impact it will have on the thousands of visitors and students who will go away from this place with a deeper understanding of our nation's history, our nation's values.

I appreciate this opportunity. I'll be happy to answer any questions.

Senator THOMAS. Thank you very much.
Colonel Zumwalt.

STATEMENT OF LT. COL. JAMES ZUMWALT, U.S. MARINE CORPS, RETIRED, U.S.S. FRANK E. EVANS ASSOCIATION, INC.

Colonel ZUMWALT. Thank you, sir.

On March 29, 1969, the *U.S.S. Frank E. Evans* departed its home port of Long Beach, California, with a crew of 272 on board, setting sail for the western Pacific and combat duty in Vietnam. Neither the *Evans* nor more than a quarter of her crew would return. The circumstances giving rise to the tragic loss of this ship on June 3, 1969, continue to haunt the families of the 74 sailors who lost their lives early that morning. This haunting continues because we as a Nation have failed to adequately address an issue which could once and for all provide them with closure.

We are here to discuss S. 296. Although of interest to the families of the *Evans* 74, there are many other families similarly affected who lost loved ones in the Vietnam War under circumstances creating an eligibility cloud of entitlement so that their names are not included on the Vietnam Veterans Memorial wall. This unfortunately is due to a failure by the Department of Defense to uniformly apply those eligibility standards.

Let me share why I am here. In late June 1969, as a midshipman I reported on board a destroyer also serving off the coast of Vietnam which, like *Evans*, provided gunfire support for United States and allied forces ashore. *Evans* had just been lost. When my ship later arrived in Subic Bay, I saw the decommissioned stern section of *Evans*, a once-proud destroyer now reduced to a sad rusting hulk.

I did not know a single member of the *Evans'* crew, but learned early on my career of the bond among those who served in uniform.

A fellow serviceman's pain becomes your pain, his loss becomes your loss. Senator Campbell, based on your own Korean War service, I know you share that bond with veterans and I thank you for that, sir.

As I observed the remains of *Evans*, a lump gathered in my throat. Coming to attention, I snapped a salute to the 74 souls lost on board her. That emotional moment in my life occurred almost 34 years ago, yet I remember it as if it were yesterday. Accordingly, I was honored when the *USS Frank E. Evans* Association invited me to participate in a salute of a different nature to these 74 victims by appearing before your committee to testify in support of S. 296.

The circumstances surrounding the loss of the *Evans* are straightforward. Senator Campbell mentioned most of those during his opening remarks. Let it be said that the *Evans* was operating in the combat zone, left the combat zone to be replenished, participate in a planning conference, then participate in Operation Sea Spirit just outside the combat zone, when she was severed by the Australian aircraft carrier *Melbourne*.

The only things of importance to us today in reference to the report that was done by the joint investigation of U.S. Navy and Australian forces was the fact that the location of the loss of the *Evans* was outside the combat zone, plus the duty she was participating in just prior to that loss. These are the types of things that need to be addressed specifically by DOD, as is required by the legislation we are talking about today.

In the wake of *Evans*' loss and the commissioning of the Vietnam Veterans Memorial, repeated efforts by both *Evans* survivors and victims' families to have the names of their 74 shipmates and loved ones placed on the wall were unsuccessful. DOD cites the reason as the *Evans* victims' failure to meet eligibility standards for inclusion which require death occur within the combat zone from enemy fire. However, these eligibility standards have been given a broad interpretation over the years to in fact include others now whose names are on the wall, yet fail to meet the same criteria applied to the *Evans* 74.

To avoid casting a shadow upon the entitlement of these other deserving heroes, I will only use generic categories to show the lack of uniformity exercised in applying the eligibility standards. For example, the first addition of names to be made to the memorial after its 1982 dedication were, quote, "68 names of servicemen, all of whom were killed in an airplane crash en route from the combat zone to Tokyo for R and R," end quote.

While death apparently came outside the combat zone and not the result of enemy action, this R and R group received entitlement. Yet the *Evans* 74, similarly lost outside the combat zone but, as evidence supports, in the process of returning there, were denied eligibility.

Also included on the memorial are the names of air crew members who did die in the combat zone, but in crashes due to mechanical problems and not enemy fire. At the time of the initial dedication of the Vietnam Veterans Memorial, 57,939 names appeared on the wall. Over the past 21 years 296 names have been added, the last group just this past Memorial Day. But in the eyes and hearts

of the families of the *Evans* 74, the eligibility standards have not been uniformly applied to them or others, resulting in almost daily inquiries from family members whose loved ones were left off the wall.

The evolution of determining victim eligibility for name inclusion on the wall by DOD is not unlike that, what State courts face in determining eligibility issues related to workman's compensation, with a major exception: State courts have been uniform in applying eligibility standards; DOD has not. As State courts have expanded what fell into the scope of employment, even acts occurring far from the workplace were included when the employer knew or should have known an employee might engage in a certain activity.

Because DOD's applicability of eligibility standards for name inclusion on the wall has lacked the consistency our courts have followed vis-à-vis employment issues, the perception arises that DOD's process is arbitrary. Absent the congressional mandate of S. 296, it is unlikely DOD will do anything about it, continuing to leave affected families frustrated in their efforts to honor loved ones.

Every aspect of the eligibility issue is in need of address by DOD in its final report, including the issue of friendly fire. DOD has set a precedent in awarding the Purple Heart, normally reserved for those killed or wounded by enemy fire, to those killed or wounded by friendly fire as well. If DOD recognizes entitlement to this medal for one killed or wounded by friendly fire, should it recognize entitlement for name inclusion on the wall where death has been caused by friendly fire?

Another issue then becomes what constitutes friendly fire. Could the sinking of *Evans* and casualties caused by its collision with Melbourne qualify as the equivalent of friendly fire?

Also in need of address is the issue concerning the actual geographic area constituting the combat zone. A 1965 executive order signed by President Johnson designated Vietnam and its adjacent coastal waters within specified geographical coordinates as a combat zone. As hostilities spread elsewhere, there were spill-over areas, some of which were later included in the designated combat zone, some of which were not.

The loss of *Evans* on June 3, 1969, devastated many families. A father, Lawrence J. Reilly, Senior, survived the collision, only to discover his son, Lawrence Junior, did not. Also, in a chilling reminder of the five Sullivan brothers lost during World War II, one family lost three brothers, Greg, Gary, and Kelly Joe Sage, when *Evans* went down. Their now-elderly mother continues to attend the annual reunions of the *Evans* Association, still wondering why her three sons are not recognized on the wall.

In a letter of condolence to the mother of another victim, Yeoman Third Class Andrew J. Botto, President Nixon promised, quote: "I can only assure you that the Nation he died to serve shares your grief and will forever honor his memory." Mrs. Botto, now 83, still waits for a grateful Nation to do so.

I would point out S. 296 is not a budget-related item. It requires no decision now on changing existing policies. It gives sufficient time for an updated review of those policies in light of current con-

ditions and a greater appreciation for the sacrifices of veterans of the Vietnam era, as stated in the bill.

Opposition to S. 296 at this point, absent the initial review and report it requires, is premature, for we must go through the process of qualifying and identifying possible names for inclusion on the wall or on an alternate memorial to fully understand the impact of this bill, rather than simply assuming the worst. And to cite cost at the outset as a reason for not supporting S. 296 is a disservice to the families whose loved ones might qualify for such a memorial. Enactment will show victims' families Congress has not forgotten them.

This is clearly a bill all members of Congress can and should support.

I thank you, sir.

[The prepared statement of Colonel Zumwalt follows:]

PREPARED STATEMENT OF LT. COL. JAMES ZUMWALT, UNITED STATES MARINE CORPS, RETIRED, USS FRANK E. EVANS ASSOCIATION, INC.

On March 29, 1969, the USS FRANK E. EVANS (DD-754) departed its home port of Long Beach, California, with a crew of 272 onboard, setting sail for the western Pacific and duty in Vietnam. Neither the EVANS nor more than a quarter of her crew would ever return. The circumstances giving rise to the tragic loss of this ship on June 3, 1969, continues to haunt the families of the seventy-four (74) sailors who lost their lives early that morning. This haunting continues because we, as a nation, have failed to adequately address an issue which could, once and for all, provide them with closure.

I appear before this Committee today as an interested veteran and at the specific request of the USS FRANK E. EVANS Association, Inc. But I must report the subject we discuss this afternoon, Senate Bill 296, "The Fairness to All Fallen Vietnam War Service Members Act of 2003," goes beyond just the families of the FRANK E. EVANS' victims. Sadly, there are many other families who, similarly, lost loved ones in the Vietnam war under circumstances creating a "cloud of entitlement" as to eligibility for their names to be included among those that appear on the Vietnam Veterans Memorial "Wall." Accordingly, I respectfully request the Committee keep in mind numerous cases are in dispute as to a victim's entitlement to be so listed due to a failure by the Department of Defense (DOD) to uniformly apply eligibility standards for inclusion.

Let me further explain why I am here.

In late June 1969, I reported onboard the USS PERKINS (DD-877), a ship of very similar construction to the destroyer FRANK E. EVANS. When I joined my ship, she was off the coast of Vietnam, performing a very similar mission to that which the EVANS had been, i.e., providing gunfire support for U.S. and allied forces ashore. As a midshipman on PERKINS, I gained firsthand experience and appreciation for the dangers, risks and demands of serving at sea in a combat zone. That experience and appreciation was firmly embellished upon my mind as, by the time I reported onboard PERKINS, the EVANS had been lost. On occasion, my ship found itself performing the same mission EVANS was performing that ill-fated night of June 3-taking up position as rescue ship aft of an aircraft carrier preparing to launch and recover its planes. Several weeks later PERKINS arrived in Subic Bay in the Philippines where I was surprised to see the decommissioned stern section of FRANK E. EVANS. What I saw was a once proud destroyer, which had earned the nickname "The Fighter" for its Vietnam service on the gunline, now reduced to a sad, rusting hulk. Although I did not know a single member of EVANS' crew, I learned very early in my career of the bond that forms among those who serve in uniform. A fellow serviceman's pain becomes your pain; his loss becomes your loss.

I suspect, Senator Campbell, based on your own service in the Korean war, that is why you as a legislator have concerned yourself so much over the years with veterans issues-for which I thank you. But as I observed the remains of the EVANS, a lump gathered in my throat. Coming to attention, I snapped a salute to the 74 souls lost onboard her. Although that emotional moment in my life occurred almost 34 years ago, I remember it as if it were yesterday. Accordingly, I was honored when the USS FRANK E. EVANS Association asked me to participate in a salute

of a different nature to these 74 victims, this time by appearing before your Committee to testify as to the importance of S. 296.

The circumstances surrounding the loss of the EVANS are straightforward. Reporting for duty at Yankee Station off the coast of Vietnam on May 5th, the ship immediately demonstrated she was a valuable asset in the war effort. The crew received several commendatory messages for their professionalism, responsiveness and accuracy in destroying enemy targets in support of our fighting forces ashore. They participated as well in what was one of the largest amphibious assaults of that war. EVANS departed the combat zone, along with her two sister ships, for a brief logistics stop in Subic Bay before participating in Operation Sea Spirit in the South China Sea. Sea Spirit involved vessels from navies representing five of our six allies in Vietnam. EVANS, along with the two sister ships in her squadron, became the US Navy contingent of a five destroyer screen operating with the Australian aircraft carrier HMAS MELBOURNE. At 0310 on June 3rd, as the ships were still observing darkened ship wartime conditions operating on a specified zig-zag plan, EVANS was ordered to take up the preliminary position for duty rescue ship 1000 yards aft of MELBOURNE prior to the Aussie conducting flight operations.

In the process of executing this maneuver, a collision occurred between the two ships at 0315-with MELBOURNE slicing EVANS in half. The forward section of EVANS, where all 74 casualties were suffered, sank within nine minutes, while the aft section was salvaged and taken to Subic Bay. Although a full investigation into the incident was conducted by both U.S. and Australian authorities, the only findings in their final report which are of relevance to us here today are the location of the collision and the activities of EVANS in the days prior to the tragedy. These are the factors too that need to be revisited by DOD, as suggested by S. 296, to determine whether the EVANS' 74 died "as a direct or indirect result of military operations in southeast Asia."

In the wake of EVANS' loss and the commissioning of the Vietnam Veterans Memorial, repeated efforts by both EVANS' survivors and victims' families to have the names of their 74 shipmates and loved ones placed upon The Wall have been unsuccessful. The reason given is the EVANS' victims do not meet DOD eligibility standards for such inclusion, which require that death occur within the combat zone and as a result of enemy fire. However, the eligibility standards cited as a basis for denial have been given a broad interpretation over the years to, in fact, include others now whose names are on The Wall but who fail to meet the same criteria applied to the EVANS' 74.

I do not wish to put myself in the difficult position of naming to the Committee names, already on The Wall, of individuals who, under somewhat similar circumstances, were deemed eligible while the EVANS' 74 were not. To do so would cast a shadow upon the entitlement of other deserving heroes. Therefore, I will only use generic categories to support the contention there is a lack of uniformity in applying eligibility standards.

I submit by way of example, the first addition of names to be made to the Memorial after its 1982 dedication, described in the Vietnam Veterans Memorial Fund literature as "68 names of servicemen, all of whom were killed in an airplane crash enroute from the combat zone to Tokyo for R&R." Entitlement was given to this R&R group, for deaths apparently outside the combat zone and not as a result of enemy action. Why then was entitlement denied to the EVANS' 74 who were similarly lost outside the combat zone—especially in light of evidence EVANS would have returned to the combat zone immediately after Operation Sea Spirit, as did her two sister ships? This clearly demonstrates a lack of uniformity in eligibility. Included on the Memorial too are names of aircrew members who died in the combat zone in crashes caused, not by enemy fire, but by mechanical problems.

At the time of the initial dedication of the Vietnam Veterans Memorial, a total of 57,939 names appeared on The Wall. Over the past twenty-one years, an additional 296 names have been added—the last group just this past Memorial Day. But, in the eyes and hearts of the families of the EVANS' 74, the application of eligibility standards has not been uniform to all, resulting in a denial of eligibility not only to the EVANS' 74 but others too. The confusion surrounding eligibility is further evidenced by the fact The Vietnam Veterans of America, the only Vietnam veterans organization chartered by Congress, reports almost daily inquiries being made by family members whose names of loved ones were left off the Wall.

The process for determining a victim's eligibility for name inclusion on The Wall is not unlike the evolution of workman's compensation law in many states having to determine if an act by an employee giving rise to an injury falls within the scope of employment. Initially, that scope was interpreted very narrowly by the courts. But in subsequent years, the range of factors weighed to determine if an act was "in furtherance of" the employment relationship has been broadened. Even an act

occurring far away from the work location is deemed to be within the scope as long as an employer reasonably knew or should have known an employee might engage in it. Thus, the legal boundaries of the employment relationship in workman's compensation cases have been greatly expanded. A similar argument is applicable to the eligibility standards for name inclusion on The Wall. But, unfortunately, the decision-making process at DOD for regulating applicability of eligibility standards has lacked the consistency our courts have exhibited in dealing with workman's compensation cases. This has resulted in a perception that the eligibility-determining process for name inclusion on The Wall is arbitrarily applied. Absent responsible action by Congress in the form of S. 296, it is unlikely DOD will undertake any effort to implement a uniform eligibility process, continuing to leave affected families frustrated in their efforts to honor their loved ones. A need for DOD to undertake the study and report called for by S. 296 is further underscored by the cloud of entitlement for inclusion on The Wall raised by groups such as Air America, employees of the CIA which lost 242 pilots and crew members in Southeast Asia in the war conducting rescue operations deep behind enemy lines in North Vietnam and Laos.

I would respectfully suggest to the Committee that every aspect of the eligibility issue be addressed by DOD in its final report. The issue of friendly fire, for example, needs to be included. For example, a DOD precedent has been set in awarding the Purple Heart, normally reserved for those killed or wounded by enemy fire, to those killed or wounded by friendly fire as well. If DOD recognizes entitlement to such a medal for one killed or wounded by friendly fire, should it recognize entitlement for name inclusion on The Wall where death has been caused by friendly fire? Another issue then becomes what constitutes "friendly fire?" Could the sinking of EVANS and casualties caused by its collision with MELBOURNE qualify as the equivalent of friendly fire?

In need of address too is the issue concerning the geographic area actually constituting the combat zone. Executive Order No. 11216, signed by President Johnson on April 24, 1965, designated Vietnam and its adjacent coastal waters, within specified geographical coordinates, as a combat zone. As hostilities spread to neighboring nations, so too did the designated combat zone, eventually including areas such as Laos and Cambodia. The combat zone off the coast of Vietnam varied in width as it roughly paralleled that country's coastline, with no apparent rationale as to why a variation in distances existed between the shoreline and the zone's furthest seaward boundary at any given point. While the official combat zone existed as a delineated "box" on the map, known enemy vessel activity took place outside that box, necessitating periodic air and sea patrols there as well. Did engagements outside this box, therefore, extend the combat zone beyond the parameters delineated on the map? Such issues need to be addressed.

The loss of EVANS on June 3, 1969 devastated many families. A father, Lawrence J. Reilly Sr., survived the collision, only to discover his son, Lawrence Jr., did not. Also, in a chilling reminder of the five Sullivan brothers lost during World War II in the sinking of the USS JUNEAU, one family lost three brothers-Greg, Gary and Kelly Jo Sage-the morning EVANS went down. Their now elderly mother continues to attend annual reunions of the EVANS Association, still wondering why her three sons are not recognized on The Wall.

President Nixon wrote the families of other victims, including the mother of Seaman Andrew J. Botto. In his letter, Mr. Nixon promised "I can only assure you that the nation he died to serve shares your grief, and will forever honor his memory." Mrs. Botto, now 83, still waits for a grateful nation to do so.

Mr. Chairman and distinguished members of this Committee, we respectfully ask of you the question we so often hear from the families of the EVANS' 74: "Hasn't the time now come for this Nation to forever honor their memory?" This can only be achieved by the passage of S. 296 so that the eligibility issue can be revisited with a Congressional mandate to fairly and uniformly apply policies these families can understand and support.

If the full intent of S. 296 is met, the end result should either be:

(A) A determination of eligibility to include the names of the EVANS' 74 on The Wall, as well as others who died in the Vietnam war under a cloud of entitlement, or

(B) In the event eligibility is still denied, a provision to establish an alternative memorial, honorably recognizing their sacrifice and listing the names of the EVANS' 74. This result will not only remind a grateful nation never to forget them but also fill a void in the lives of families and friends who have fought so long and hard for their recognition.

Now, Mr. Chairman, having expressed much dissatisfaction, let me hasten to commend the enormously dedicated work of Mr. Jan Scruggs and his highly motivated

staff. We know their best intentions are to operate faithfully within directives given them but over which they have no authority to change. Simply said, without Mr. Scruggs' constant, untiring efforts, there would be no Wall today honoring the Vietnam veterans who perished in that war.

Mr. Chairman and distinguished members of this Committee, on behalf of the USS FRANK E. EVANS Association, I want to thank you for allowing us to appear today to express our support for Senate Bill 296. It has no budgetary impact nor makes no change in current policies, but is an essential and necessary first step in fully re-examining the eligibility issue for name inclusion on this emotionally-inspiring memorial. It is a bill which ALL senators can and should support.

We strongly urge the prompt passage of S. 296. Thank you.

Senator THOMAS. Thank you very much.

I am going to hop over to Mr. Johnson because you will be commenting on several bills.

Mr. Johnson, please.

STATEMENT OF HARRY E. JOHNSON, SR., PRESIDENT, MARTIN LUTHER KING, JR., NATIONAL MEMORIAL PROJECT FOUNDATION, INC.

Mr. JOHNSON. Thank you. Thank you, Mr. Chairman and members of the subcommittee. Good afternoon. On behalf of the foundation, I would like to thank the chairman and the members of the subcommittee for the opportunity to testify to you today regarding S. 470, to extend the authority for the construction of a memorial to Dr. Martin Luther King, Jr.

The building of such a memorial to a great American as Dr. King is a major undertaking of national importance. Our mission has always been clear and our resolve unyielding. Due in part to support of many across this great Nation, I am pleased at the progress we have made. I have with me today, Senator, our Executive Director, Mr. Leroy Lowry; Richard Marshall, our CFO; and Ed Jackson, our executive architect, with me joining me today.

The review and approval process for the memorial involves hearings, public debates, and, if requested by the select commissions, additional studies. The MLK Memorial Foundation has achieved many milestones on the path to building a memorial, including what you heard earlier from Senators Sarbanes and Warner and others, that is the signing of the bill, the site selection, and the selection of the winning design.

Mr. Chairman, in March 2001 the foundation launched the quiet phase of the fund-raising campaign. General Motors was one of our first major corporate sponsors. April 18, 2002, the Commission on Fine Arts voted in favor of the proposed design for the MLK Memorial. July 2002, Actor Morgan Freeman donated his time to create a series of public service announcements to raise the awareness of the Martin Luther King Memorial. In addition, Freeman voluntarily spoke to the media about the memorial, including participating in our online discussion on washingtonpost.com.

In November 2002, under the auspices of the National Park Service, the foundation initiated the environmental assessment of the proposed site. A public scoping session was held January 2003 and the public response was overwhelmingly positive.

The geotechnical investigations are currently under way. Early reports indicate that the structural foundation of the memorial will have to extend 50 to 80 feet below the surface of the memorial. The Martin Luther King Memorial Foundation has also successfully

partnered with individuals and organizations to raise the awareness of the memorial. An example of this is last month, May 2003, Senate Majority Leader Bill Frist hosted the launch of a national media campaign which was developed by the Ad Council in collaboration with the advertising firm of Saatchi and Saatchi. Mr. Chairman, the PSA's feature such individuals as Halle Berry and Al Roker.

The foundation has raised to date \$25 million in pledges out of an estimated \$100 million needed to build the memorial. General Motors, Tommy Hilfiger and BellSouth continue to support the memorial project. Over the next two years, the foundation will continue to raise the necessary funds to build the memorial.

Senators and members of this committee, when asked who should pay for the memorial to Dr. Martin Luther King, overwhelmingly everyone should say: Anybody who ever benefited from anything Dr. King said or did. That includes all of us in this room.

It is vitally important that we receive the authorization to extend time to build as we proceed on. We have provided for you in our informational packets a description of the concept of the winning submission, its salient features, the site plan, a report of contributions to date, and the project schedule. If this extension is approved, we feel certain that this will give us the time necessary to fund the memorial and build the memorial to Dr. King.

Mr. Chairman and members of the subcommittee, we sincerely appreciate having the opportunity to appear before you to support this legislation. Together we can make this dream of building a memorial to Dr. King a reality. I thank you and I would be glad to answer any questions, Mr. Chairman.

[The prepared statement of Mr. Johnson follows:]

PREPARED STATEMENT OF HARRY JOHNSON, SR., PRESIDENT,
MARTIN LUTHER KING, JR. NATIONAL MEMORIAL PROJECT FOUNDATION, INC.

Mr. Chairman and Members of the Subcommittee on National Parks, my name is Harry E. Johnson, Sr., and I am the President of the Washington, DC Martin Luther King, Jr. National Memorial Project Foundation, Inc. On behalf of the Foundation I would like to thank the Chairman and the Members of the Subcommittee for the opportunity to testify regarding Senate Bill 470, to extend the authority for the construction of a memorial to Dr. Martin Luther King, Jr. on the National Mall.

The building of a memorial to such a great American as Dr. King is a major undertaking of national importance. Our mission has always been clear and our resolve unyielding, due in part to the support of many across this great nation. I am pleased about the progress we have made to date.

The review and approval process for the Memorial involves hearings, public debates and if requested by select commissions, additional studies. The MLK Memorial Foundation has achieved many milestones on the path to building the Memorial, including the following:

- On November 12, 1996 President Clinton signed congressional legislation proposing the establishment of a Memorial in the District of Columbia to honor Dr. King.
- On July 16, 1998 the authorization to construct a memorial in Area I of the National Mall was granted by Congress and signed by President Clinton.
- On December 2, 1999 The National Capital Planning Commission (NCPCC) approved the memorial site on the National Mall.
- In May 2000 over 900 entries from 52 different countries around the world were received in response to the call for entries for the Dr. Martin Luther King, Jr. International Design Competition in Washington, DC.
- On September 13, 2000 the MLK Memorial Foundation announced that ROMA Design Group, Inc. based in San Francisco, won the international design competition.

- In March 2001 the Foundation launched the quiet phase of the fundraising campaign. General Motors was the first major corporate sponsor.
- On April 18, 2002 the Commission of Fine Arts voted in favor of the proposed design for the MLK Memorial.
- In July 2002 Morgan Freeman donated his time to create a series of Public Service Announcements (PSA's) to raise awareness for the MLK Memorial. In addition, Freeman voluntarily spoke to the media about the Memorial, including participation in an on-line discussion on Washingtonpost.com.
- In November 2002 under the auspices of National Parks Service (NPS), the Foundation initiated the Environmental Assessment of the proposed site. A public scoping session was held in January 2003 and the public response was overwhelmingly positive.
- The Geotechnical Investigations are currently underway. Early reports (as of April 2003) have indicated that the structural foundations of the Memorial will extend 50 to 80 feet below the surface to support the Memorial.

The MLK Foundation has also successfully partnered with individuals and organizations to raise awareness for the Memorial. For example, in May 2003, Senate Majority Leader Frist hosted the launch of the national media campaign developed by the Ad Council in collaboration with the advertising firm Saatchi & Saatchi. The PSAs feature Halle Berry and Al Roker.

The MLK Foundation has raised \$25 million in pledges out of the estimated \$100 million needed to build the Memorial. General Motors, Tommy Hilfiger and Bell South continue to support the MLK Memorial Project. Over the next two years, the Foundation will continue to raise the necessary funds needed to build the Memorial.

We have provided in our information package, a description of the concept of the winning submission and its salient features, the site plan, a report of contributions to date, and the project schedule. If this extension is approved, we feel certain that this will give us the time necessary to fund and build the memorial to Martin Luther King, Jr.

Mr. Chairman and Members of the Subcommittee, we sincerely appreciate having the opportunity to appear before you in support of this legislation. Together, we can make this dream of building a memorial to Dr. King a reality.

Senator THOMAS. Thank you very much.

Mr. Oberlander.

**STATEMENT OF GEORGE OBERLANDER, BOARD MEMBER
AND TREASURER, NATIONAL COALITION TO SAVE OUR MALL**

Mr. OBERLANDER. Mr. Chairman and members of the committee: My name is George Oberlander. I am a board member and trustee of the National Coalition to Save Our Mall, NCSOM for short. In the audience is the chairman of the NCSOM, Dr. Judy Feldman, a professor of Art History and the chairman of the Coalition. It is a national not-for-profit education and research organization working to preserve the National Mall as the monument to democracy it is intended to be.

I am a city and regional planner, having retired in 1996 from the staff of the National Capital Planning Commission after 31 years serving mostly as the associate executive director of that organization. Dr. Feldman's and my resumes are attached to the statement that you have.*

Last October, the coalition published its "First Annual State of the Mall" report, and that is also attached to the statement, in which we said, quote: "The National Mall—the unique national park in the heart of our Nation's Capital—is under physical assault. The threats come from Congress, through well-intended interest groups and otherwise well-meaning citizens who wish to see more memorials or museums located on the Mall's dwindling historic planned public open space. These assaults on the Mall's open

* Attachments have been retained in subcommittee files.

space character threaten to change and undermine the historic symbolism that makes the Mall the premier democratic public space in the Nation and indeed in the world.”

On Memorial Day a few weeks ago, NBC Nightly News had a TV story about this assault called “How Many Memorials Are Enough?” I have a videotape here for the committee to view if it likes. A month before that, the Sunday April 20 edition of the *Los Angeles Times* devoted a full two pages to what is called “America’s Maul,” and I have a copy of that article and the printout version in the statement. So I would like to offer both of these for the record if I may.

Senator THOMAS. Without objection.

Mr. OBERLANDER. Getting to the bills specifically, S. 268, to authorize the construction of the Pyramid of Remembrance if proposed to be located on the National Mall—and we heard that it is not to be located there—and S. 1076, authorizing the construction of an education center next to the Vietnam Memorial, continue this physical assault—only the Vietnam Memorial, not the Pyramid of Remembrance.

We are not opposed to the concept of the Remembrance or the education center. We oppose additional manmade structures on the open space of the National Mall, which is a one of a kind natural resource over which this committee has oversight. We have three main points regarding these bills and, due to the limited time, I will just focus on S. 268 and S. 1076.

The Commemorative Works Act, which has been discussed previously at this hearing, should be upheld with no exceptions in any authorizing legislation. As you know, Congress passed and then President Reagan signed the Commemorative Works Act in 1986 in response to this problem of overbuilding on the National Mall. The purpose was and is to protect the historic L’Enfant and McMillan plans for the Mall, preserve the open space, and prevent new construction from encroaching on the existing memorials.

S. 268, section 1(b)(2)(B) provides for exception, and you have it in the testimony. If the concept of the pyramid does not fit the standards of the CWA, then the structure might be better located elsewhere or possibly in Arlington National Cemetery.

Regarding S. 1076, the Vietnam Education Center, section 6(b) would except the center from requiring approval by law for the location in Area I, which is on the maps that you have looked at before. This provision is completely unacceptable to the coalition. We have attached an exhibit 2, our May 20, 2003, news advisory on this particular proposal.

Any exception will set bad precedent. If you authorize this education-visitor center for one memorial, there will be requests for each of the other memorials recently built and in the pipeline. We wonder why the National Park Service proposal for the visitor-education-security screening center under the grounds of the Washington Monument is not also being considered by this committee, but maybe this committee has given authorization for this previously. I would like to question that, though.

We support the current planning policies of the National Capital Planning Commission and the Joint Task Force on Memorials, and I have their whole document here and if you like—I think it is in

your library, but if you like another copy, be glad to provide that. Those are the policies stated at the lower part of page 2 and I think for the sake of time I will not read them.

Both S. 268 and S. 1076 are in direct conflict with the planning policies. Instead of seeking Mall sites, sponsors should choose from the numerous off-sites identified in the NCPC plan.

The coalition is opposed to visitor facilities at each of our monuments and memorials. We are not opposed to a singular or maybe, if need requires, two centers, one possibly located in the Castle Building of the Smithsonian or on the other side of the Mall at the Museum of American History, which is to be renovated in the future. And the third possible location is actually at Union Station. Union Station when it was renovated several years ago was intended to be a visitors center, but it has not turned out to be that.

Such locations would help visitors find their way around the National Mall and obtain information and knowledge about the unifying sense of freedom that underscores the entire 2-mile open space stretch of the Mall from the Capitol Building to the Lincoln Memorial.

Furthermore, if the Congress believes that there is need to educate our children and adults about America's involvement in war and conflict beyond the level of our public educational system, then the coalition would urge the Congress to authorize one comprehensive Museum of U.S. Military History or Education, located in accordance with the NCPC Memorial and Museum Master Plan. The document designates 20 prime candidate sites and 32 other candidate sites. This kind of a memorial or museum would be similar to the one that is the Imperial Museum in London, England, where they commemorate all the wars that the British have been involved in.

If the Congress continues to except memorials from existing laws, why have the Commemorative Works Act or the Memorial Commission or the Joint Task Force on Memorials or the memorial and museum planning work that is done by the National Capital Planning Commission?

The coalition's primary concern is the preservation of the character of the Mall and we would like to make two final comments. One is the maintenance of existing memorials, the grass, the pathways, the restroom facilities. A greater maintenance effort is really needed. We provide in our testimony a photo of the condition of the D.C. World War I Memorial as an example. That is exhibit 3.

The second point: Regarding the Commemorative Works Act process, we have heard recently that the NCMC recently voted to exempt its meetings from the Federal Advisory Committee Act and public open meetings. Since the NCMC is where site considerations occur, we think that is a mistake. We ask this committee to confirm this and, if true, an explanation for the exclusion of the public from what is clearly the public's business.

We do not understand why this committee is not also considering S. 1157, a bill to establish within the Smithsonian Institution the National Museum of African American History and Culture. Section 8 of that bill mentions two possible locations on the Mall for this proposed museum.

In summary, we support the Commemorative Works Act and we support the Interior Department's testimony today, with no exceptions in any authorizing legislation. The Memorials and Museum Master Plan and the current planning policies, we support those for locations of commemorative works; and a comprehensive Museum of U.S. Military History similar to the London Imperial War Museum, instead of individual visitor-education facilities at each of the war memorials; and one or two visitor centers providing information, tickets, and knowledge about all attractions in the National Capital Region.

We thank you for the opportunity to be before the committee and I will be very happy to answer any questions.

[The prepared statement of Mr. Oberlander follows:]

PREPARED STATEMENT OF GEORGE OBERLANDER, BOARD MEMBER AND TREASURER,
NATIONAL COALITION TO SAVE OUR MALL

Chairman Thomas and members of the Senate Subcommittee on National Parks, the National Coalition to Save Our Mall (NCSOM), founded in 2000, is very pleased to be invited to testify on the several memorial bills before the Committee today. My name is George H. F. Oberlander, a board member and Treasurer of NCSOM.

I am accompanied by Judy Scott Feldman, Ph.D., a professor of history and the Chairman of NCSOM, a national, not-for-profit education and research organization working to preserve the National Mall as the Monument to Democracy it is intended to be.

My professional background is in City and Regional Planning. I retired in 1996 from the staff of the National Capital Planning Commission, after 31 years serving mostly as the Associate Executive Director for D.C. Affairs. (Dr. Feldman's and my resumes attached).

Last October the Coalition published its "First Annual State of the Mall Report" (attached Exhibit 1) in which we stated:

The National Mall—the unique National Park in the heart of our nation's capital— is under physical assault. The threats come from Congress, through well-intended interest groups and otherwise well-meaning citizens who wish to see more memorials or museums located on the Mall's dwindling historic planned public open space. In addition, in face of post 9/11 security concerns, government agencies rush to erect walls and other barriers around our monuments, install security cameras, and erect check points to screen citizens at large public gatherings. *These assaults on the Mall's open space character threaten to change and undermine the historic symbolism that makes the Mall the premier democratic public space in the nation, and indeed the world.* (Emphasis added)

On Memorial Day, two weeks ago, NBC Nightly News had a TV story about this assault called "How Many Memorials Are Enough?" A month before that, the Sunday April 20, edition of the Los Angeles Times devoted a full two pages to what it called "America's Maul" (M-a-u-l). I would like to offer both the videotape and news commentary for the record.

Bill S. 268, to authorize the construction of a Pyramid of Remembrance, if proposed to be located on the National Mall, and Bill S. 1076, authorizing the construction of an education center next to the Vietnam Veterans Memorial, continue this physical assault. We are not opposed to the concept of the Remembrance or the Education Center. We oppose additional man made structures on the open space of the National Mall, which is a one-of-a-kind natural resource over which this Committee has oversight.

We have three main points regarding these bills, and due to the time limit, we will focus on S. 268 and S. 1076.

1. The Commemorative Works Act (CWA) should be upheld with no exceptions in any authorizing legislation. As you know Congress passed and then-President Reagan signed the CWA in 1986 in response to this problem of overbuilding on the Mall. The purpose was and is to protect the historic L'Enfant and McMillan plans for the Mall, preserve the open space, and prevent new construction from encroaching on existing memorials.

- Regarding S. 268, Section 1(b)(2)(B) provides for exception from the CWA provisions dealing with military commemoratives and commemorating events. We

are opposed to these exceptions. If the concept of the pyramid does not fit the standards in the CWA, then the structure might be better located in Arlington National Cemetery.

- Concerning S. 1076, the Vietnam Education Center, Section 6(b) would exempt the Center from requiring approval by law for the location in Area 1. This provision is completely unacceptable to the Coalition. (Attached Exhibit 2 is our May 20, 2003 News Advisory on the Education Center). A Center at this site would interfere with the serenity of the Memorial as well as encroach on the Lincoln Memorial and its site.
- Any exceptions will set bad precedent. If you authorize this education/visitor center for one memorial, there will be requests for each of the other memorials recently built and in the pipeline. We wonder why the National Park Service's proposal for a Visitor/Education/Security Screening Center under the grounds of the Washington Monument is not also being considered by this Committee since it calls for a 60-foot addition to the historic Lodge on 15th Street and security walls on the open space. Has the Committee recently authorized this undertaking on National Park land?

2. We support the current planning policies of the National Capital Planning Commission (NCPC) and the Joint Task Force on Memorials and its "Memorials and Museum Master Plan (December 2001), which establishes the Mall as a "Reserve" for which no new memorials or museums should be allowed. We have reproduced and attached graphics from the NCPC Master Plan showing both the 1986 CWA boundaries for the so called Area I and Area II, and a map showing the adopted Commemorative Zone. (Attached Map A and Map B), as well as sites off-the-Mall to accommodate future proposals.

- Both Bills S. 268 and S. 1076 are in direct conflict with these planning policies. Instead of seeking Mall sites, sponsors should choose from the numerous off-Mall sites identified in the NCPC Plan.

The current public planning policies on the location of commemorative works, agreed to by a Joint Task Force on Memorials, provide for:

- Preserving the integrity of the Monumental Core and its open space, recreation lands, and scenic qualities by limiting memorials in the close-in portions of the Core;
- Encouraging memorials to locate in all quadrants of the city as a way of enhancing neighborhoods and supporting local revitalization efforts; and
- Supporting Comprehensive Plan proposals which call for increasing the public's use of the National Capital waterfronts.

The NCPC Master Plan also contains specific policies which suggest "*No new memorials or museums within the designated reserve" or central portion of the Mall and "no museums or education centers may be located in East Potomac Park or on other park land in Area I"*. (Emphasis added)

3. The Coalition is opposed to visitor facilities at each of our monuments and memorials. We are not opposed to a singular or maybe (if need requires) two centers one possibly located in the Castle building of The Smithsonian and the other at Union Station. Such locations would help visitors find their way around the National Mall and obtain information and knowledge about the unifying sense of freedom that underscores the entire two mile open space stretch of the Mall from the Capitol to the Lincoln Memorial.

Furthermore, if the Congress believes there is a need to educate our children about America's involvement in war and conflict, beyond the level of our public educational systems, then the Coalition would urge the Congress to authorize one comprehensive Museum of U.S. Military History or Education Center, located in accordance with the NCPC Memorial And Museum Master Plan. The document designates 20 Prime Candidate Sites and 32 Candidate Sites. (Maps C)

Above and beyond the memorials you are considering today, the Congress has authorized the Black Patriots Memorial, the John Adams Memorial, and the African American History and Culture Museum. In addition, there are 17 proposals pending which either specify a Mall site or could request a Mall site. Examples (The Ronald Reagan Memorial Act of 2001 (H.R. 452), The Native American Memorial (H.R. 2918), Memorials to Terrorist Victims in the United States (H.R. 2982), and the Slavery Memorial (H.R. 4964).)

According to the NCPC December 2001 "Memorials And Museum Master Plan" there are, as of June 2001, 155 memorials and 74 museums on public land in the District of Columbia and its environs. The location of each of the existing 229 sites can be found in the inside cover of the Plan.

If the Congress continues to exempt memorials from existing laws why have the Commemorative Works Act, or the Memorial Commission, or the Joint Task Force on Memorials or the memorial and museum planning work of NCPC?

We have no comments about S. 296, which requires the Secretary of Defense to report to Congress regarding possible inscriptions of veterans' names on the Memorial Wall. We would have serious concerns if the number of names that might be added would require additional construction or alteration to the Wall or other commemorative additions to the site. The Wall and its setting are a complete work of Art. The sculpture additions to the site have already cluttered this portion of this National Park.

With respect to S. 268, which would authorize the Pyramid of Remembrance in Area II, we would feel more comfortable if Section 1(b)(2)(A) would also make reference to the NCPC Memorials and Museums Master Plan Prime Candidate Sites. There are several Prime Candidate sites identified (depending on size and height) that would be good locations for this commemorative work.

Regarding S. 470, we have no comments. As we understand this change in the authorizing legislation for the construction of a memorial to Martin Luther King, Jr., it extends the termination of the construction authorization to November 12, 2006.

The Coalition's primary concern is the preservation of the entire Mall and we would like to make two final comments:

1. Maintenance of existing memorials, grass, pathways and restrooms facilities. A greater maintenance effort is needed. We provide a photo of the condition of the D.C. WW I Memorial. (Exhibit 3)
2. Regarding the CWA process, we have heard that the NCMC recently voted to exempt its meetings from FACA and public open meetings. Since NCMC is where site considerations occur, we think that is a mistake. We ask this Committee to confirm this and, if true, an explanation for the exclusion of the public from what is clearly the public's business.

We do not understand why this Committee is not also considering S. 1157, a Bill to establish within The Smithsonian Institution, the National Museum of African American History and Culture. Section 8 of that Bill mentions two possible locations on the Mall for this proposed museum.

In summary we support:

- the Commemorative Works Act with no exceptions in any authorizing legislation;
- the Memorials and Museum Master Plan and the current planning policies on the location of commemorative works;
- a comprehensive Museum of U.S. Military History, (similar to the London Imperial War Museum) instead of individual visitor/education facilities at each of the war memorials); and
- One or two visitor centers providing information, tickets and knowledge about all attractions of the National Capital Region.

Thank you for the opportunity to appear before the Committee. We would be pleased to answer any questions

Senator THOMAS. Thank you, gentlemen, all of you. I just have a few. I will have short questions. If you can have short answers that would be good.

Mr. Enzerra, if you did a Pyramid of Remembrance would these be names? Would you have names involved?

Mr. ENZERRA. Yes, we are considering having names involved in the pyramid, although we are open to design criteria and all options so that we can honor the American soldiers that perished in the ways that I have mentioned earlier. We realize that by adding names the criteria that is to be considered and so we have researched the criteria and we will be willing to work with the Department of Defense and other organizations, veterans, to assure that we do the right thing by our soldiers who perished.

Senator THOMAS. Thank you.

Colonel, the bill says "died as a direct or indirect result of military operations." "Indirect result of military operations," that is

pretty broad. Could it be somebody that died 20 years later because of something that happened?

Colonel ZUMWALT. Yes, sir, it could be. In fact, there are names on the wall of people who died many years after the war.

Senator THOMAS. Yes, but those were combat.

Colonel ZUMWALT. Yes, sir.

Senator THOMAS. I am talking about someone who had an illness because they were there or whatever. It seems like it is a very broad definition.

Colonel ZUMWALT. Well, it is, sir, and I think it is important that as one goes through this process that they try to categorize things. You know, if you take a look at all the names on the wall it is my belief that they fall into three categories. One is combat zone death from enemy fire; one is combat zone death not from enemy fire; and a third is not combat zone death and not from enemy fire. You have them falling in all three groups.

Something has to be done here to come up with a system that is more uniform in the application.

Senator THOMAS. Mr. Lecky, you indicated that the little information center that is there from the Park Service, 168 square feet, is going to be close to where you are talking about.

Mr. LECKY. It would be in exactly the same location.

Senator THOMAS. What size would be the surface, above-surface operation that you are talking about?

Mr. LECKY. We are working on trying to reduce this, but if I can take the opportunity to answer that question—

Senator THOMAS. Just give me an answer; can you?

Mr. LECKY. Somewhere between 1,500 and 2,000 square feet.

Senator THOMAS. So it would be quite larger than what is there now? You talked about this being there.

Mr. LECKY. Yes, it would be bigger than the little Park Service kiosk, yes.

Senator THOMAS. Sure. 1,500 feet, did you say, or 2,000?

Mr. LECKY. 15 to 2,000.

Senator THOMAS. Would you have an elevator to go down to the basement?

Mr. LECKY. We would need to take care of handicapped accessibility, so yes.

Senator THOMAS. How tall would the structure be to accommodate an elevator?

Mr. LECKY. Well, I would guess the above structure would be 12 feet, something like that, in terms of the height.

Senator THOMAS. I see. Have you looked at places that are fairly close, but not right there next to the wall?

Mr. LECKY. We certainly have. We have combed the Mall and that—there are several reasons that seemed like a good spot. A, it is sort of off to the side, so it is not blocking any view. B, that little plot of ground is surrounded by grass and it is sort of open in the middle, so that we could excavate and do the underground without removing, hopefully, any trees.

But yes, we have looked all over.

Senator THOMAS. Have you thought about education for all the various war memorials?

Mr. LECKY. Well, if I am going to get myself in trouble I might as well jump in right now. If I were king, which I am clearly not, I would have a similar underground access over on the other side of the Lincoln and I would excavate the entire roadway between the two entry points and cover, and put in restaurants and visitors centers and whatever, and then cover it back over with a road so you would never know it was there.

Senator THOMAS. I see. You mentioned that the east end is different. It is different. It is not nearly as wide and you have museums on either side. Some would argue that we want to keep the other one away from restaurants and so on, but that is a different point.

Let us see. I guess maybe that is—I thought I had one more question here. Are you aware of any plans for the Mall other than perhaps this Vietnam one, or ideas at least?

Mr. OBERLANDER. Yes, sir, there is a proposal to have a visitors center under the Washington Monument grounds. It is already in the planning and execution stage. There would be a tunnel connecting this visitors center to the underground portion of the monument itself. The coalition is very much opposed to that proposition. And it is also being done in connection with making the Washington Monument more secure.

Senator THOMAS. I see. Okay, thank you.

Senator.

Senator AKAKA. Thank you very much, Mr. Chairman.

Mr. Zumwalt, I just want to commend you on your testimony and also the article that was in this morning's newspaper entitled "Fitting Additions to the Wall."

Colonel ZUMWALT. Thank you, sir.

Senator AKAKA. You have reiterated much of what is contained in that article and did a good job.

Colonel ZUMWALT. Thank you very much, sir.

Senator AKAKA. Mr. Johnson, it seems as though you have support here among the witnesses today. If enacted, this legislation would give your organization an additional 3 years to raise the funds necessary to begin construction of the memorial. According to your testimony, the foundation has raised approximately \$25 million of the \$100 million needed to build the memorial. How confident are you that you will be able to raise the remaining funds within the next 3 years, or do you anticipate you will need an extension when the 3 years is up?

Mr. JOHNSON. Senator, I do not expect to ask you for another extension. I am very confident that we will raise the additional funds. Part of our public service awareness campaign which we launched last month was to build awareness of the memorial. Up to this date we have raised \$25 million with barely anyone in this country knowing that we were building the memorial to Dr. King. Soon you will see in Parade magazines, on TV and other PSA's Halle Berry walking across the stage and others, asking and building up the awareness for the memorial. So we believe that funding will come in from that source at that time.

Senator AKAKA. Thank you.

Mr. Enzerra, the Park Service has testified that your proposed memorial is not consistent with the requirements of the Commemo-

rative Works Act and should instead be established as a memorial on military property. What is your reaction to that proposal?

Mr. ENZERRA. We are very appreciative and desire wholeheartedly to work with the Department of Defense and the Department of the Interior to find a location, a suitable location that would be outside of Area I, not located adjacent the Mall. The National Capital Memorial Commission in 2001 testified that this memorial would indeed fill a void in our Nation's military monuments and they too recommended that it be placed on Department of Defense property. So we fully support that and would be willing to collaborate with the Defense Department to find a suitable location.

Senator AKAKA. Thank you.

Thank you very much, Mr. Chairman.

Senator THOMAS. Senator Campbell.

Senator CAMPBELL. Thank you, Mr. Chairman. I will be quick. I understand we have a vote in a few minutes; is that correct?

Senator THOMAS. I do not know. I have not heard.

Senator CAMPBELL. Well, I heard we did.

Let me just ask a couple questions and maybe make a statement, first of all maybe to Mr. Johnson. I certainly appreciate your input in this bill. I am one of the co-sponsors, as you probably know, and I would just ask you to help me on another bill.

A couple years ago, I introduced a bill, it was S. 1791 if you can remember that number, and it authorized the Library of Congress to enter negotiations to buy the King papers or to have the King papers purchased by a private benefactor who would donate them to the Library of Congress. That bill passed—I think it must have set a record. From the time we introduced it, it passed the floor of the Senate in 3 days. That is how popular it was.

Unfortunately, it was near the end of the year a couple of years ago and it got tied up in the House and we could not get it out of the House. I have not reintroduced it, but I wanted just to—when you have time, I would like you to work with our staff because I want to reintroduce that bill. If you could help us with that I would appreciate it.

Mr. JOHNSON. It would be my pleasure.

Senator CAMPBELL. Colonel Zumwalt, let me take a hypothetical case about names on the wall. There are two soldiers in Vietnam. One is in a foxhole with a machine gun and one is sitting on a bar stool in a local village. The one with a machine gun, he fights off a bunch of enemies and kills several; in the process he is killed himself. The one in the bar, he gets so stone drunk he falls off the bar stool and breaks his neck.

Are they both eligible, since it is in a war zone, to have their names put on the wall?

Colonel ZUMWALT. No, sir.

Senator CAMPBELL. What is the criteria, since they are both in a war zone?

Colonel ZUMWALT. Well, sir, in that particular case it would be the fact that the second death did not involve enemy fire.

Senator CAMPBELL. But there are names on there that do not involve enemy fire, are there not?

Colonel ZUMWALT. Yes, sir.

Senator CAMPBELL. Did I understand your testimony—

Colonel ZUMWALT. Yes, sir, and I can give you an example of somebody who did not die in the combat zone, who did not die as a result of enemy fire, but I still believe needs to be on the wall, sir. That is a gentleman who tomorrow, June 4th 30 years ago he died at his own hand. He was Captain Allen Brudnow. He was a POW for 7½ years, returned to the United States and 4½ months later took his own life. No doubt in my mind, sir, that that man was affected by his service, the service of his country, and he should be on the memorial, sir, and he is not.

Senator CAMPBELL. In other words, there is no exact strict defining regulation about who goes on or who does not, if there are exceptions to put some on who maybe were not qualified under the existing rules and others were left off who should have been?

Colonel ZUMWALT. Yes, sir. I think the problem goes back to the fact as I understand it that it was left up to the various services to determine who qualified and who did not qualify—

Senator CAMPBELL. I understand.

Colonel ZUMWALT [continuing]. Rather than having one source that screened every possible name, sir.

Senator CAMPBELL. Thank you.

Now, I did not hear, I am not sure if it was Mr. Lecky or Mr. Enzerra who made the comment about that there could be things put on the Mall that do not hurt the integrity of the visual view of the Mall. Was that you, Mr. Lecky?

Mr. LECKY. Yes, it was.

Senator CAMPBELL. You know, maybe you know this, but I am sure most people do not know that there is a horse stable down there. The only reason I knew about it, is 10 years ago I wanted to bring my horse from Colorado to be in the Inaugural Parade, and the Park Service told me: Why do you not just leave him down there with us; we will take care of him. And I had a heck of a time finding it. But you know where it is. It is down there in the trees.

Mr. LECKY. I do.

Senator CAMPBELL. I mean, it is only 5 minutes from the Lincoln Memorial. You almost cannot see it from walking around it. So there is no doubt in my mind that there are places on the Mall where you could put things that would not hurt the integrity of the view because the vast majority of people do not even know about that stable. I know Senator Thomas does, but most people—because he is a westerner and a horseman like I am. But most people do not know about it.

Mr. LECKY. I agree.

Senator CAMPBELL. I thought I would just pass that on.

Mr. Oberlander, I have to tell you that, you know, I believe in anybody's right to come in and testify for and against anything, but when you talk about setting a precedent, in my view if we had not had the courage to set precedents, this Nation would not even be a Nation. It has become a Nation because people had the courage to do something a little different in our past history.

I am thinking in terms of—I think of this place, what it was 250 years ago. If there had been a coalition to not change the Mall, this place would still be a swamp. I mean, there have been changes all along and it seems to me the majority of the changes have been

beneficial, not only from a health standpoint and an organizational standpoint, but the people that come to our office, they always want a list of all the things they can visit and see, and that includes museums, memorials, and literally everything else. When they are here a week they cannot begin to see the things that are here, but they want to know of every one of them so that they can pick and choose and visit the ones they think are the most important.

I just want to tell you, I have a personal problem with whenever I see the words "save our" something and something. I am just glad that everybody does not think about that all the time or we would not have had progress in this country.

I have no further comments or questions, Mr. Chairman.

Senator THOMAS. If there are any additional questions, we may ask them in the next few days.

Yes, sir, very quickly, please.

Mr. LECKY. If I could just respond quickly to a couple of comments that I have heard. One is concerned about the visitors center decreasing the emotional experience of the wall. Having done this 20-some years ago, I have probably conducted 200 tours of friends and relatives of the Mall. Every time I have gone through both Korea and Vietnam and explained about the construction and the competitions and the stories behind it, everyone has come away saying: My God, I had no idea; this has so increased my understanding and impact of the wall.

I think it is just the reverse, to say that an education center is going to decrease the emotional response to the wall.

Relative to size, our center is roughly a quarter of the size of the food service building that is there, a fifteenth of the size of the stables and the maintenance facility.

The comment that you cannot build it underground. When we were doing Vietnam, everybody said: My God, it is going to fill up with water, we are going to have a lake on the Mall. I have done several Metro stations underground, talked to engineers. This can definitely be built without filling up with water or floating in water or whatever.

That is the end of mine.

Senator THOMAS. Well, there are different points of view, of course. I think we ought to remember that anyone who is interested in making sure that the space remains pretty open and so on is not discounting the value of the recognition of other people. It is a matter of where it is placed. That is always a difficult thing. You know, I think oh my God, you do not support Vietnam. Well, that is not true. It is an idea that you could do it in some other way if you do not agree, or that you can do it in your way.

So it is one of the issues before us, and we appreciate all of you being here, appreciate it very much. Thank you very much.

[The prepared statement of Mr. Scruggs follows:]

PREPARED STATEMENT OF JAN SCRUGGS, VIETNAM VETERANS MEMORIAL FUND

We appreciate Senator Campbell's interests in the Vietnam Veterans Memorial. We are now raising the funds required to place an In Memory Plaque at The Wall—legislation that he sponsored in the Senate.

His latest bill is S. 296. The bill lays the groundwork for one of two results.

The first is the addition of more names than the Memorial can accommodate. We only have four places on The Wall where names exceeding seventeen letters can now be placed. An example is the name of Robert Salas Rocha, who we recently engraved. Yet another issue is the financial cost—approximately \$3,500 per name. Perhaps a thousand names could be at issue here ranging from accidents near the Vietnam Theater of Operations—including Thailand—to other requests including a group of Green Berets who died in an aircraft accident in Alaska on their way to Vietnam. One mother believes her son should be engraved since he would not have died in an ordnance accident in Maryland had he not been drafted due to Vietnam.

The second result is the addition of a separate Memorial on the site for the aforementioned casualties. This is also a troublesome outcome. People desire further separate Memorials on the site. There are desires for a statue of a Native American at the Vietnam Veterans Memorial (which has not yet been brought to Congress). Other groups determined to have a statue or plaque at The Wall include Dog Handlers, the CIA Agents, the American Red Cross and others. Once we dedicate the Plaque, these floodgates may open, all of which have sincere constituencies. This is, of course, the difficult job that your Chairman has. Sincere people want to place things on the Mall.

The Visitor Center will have rotating exhibits or a Wall of Honor to bring recognition to these various groups. This is one reason why plans for the Center continue. The primary reason is to provide a profound educational experience for America's youth using creative exhibits coupled with the power of The Wall—at The Wall. The Wall's popularity attracts more legislative interests for future modifications than is desirable. The Center will allow us to end further memorialization there.

I was traveling in Asia for your last hearing. Yet an idea was advanced which changed the nature of the project. Someone mentioned that the Center would be too small. We therefore expanded the underground Center to 10,000 square feet.

I have brought exhibits of architecture near the Vietnam Veterans Memorial which are not acceptable to our high standards of architectural excellence.

Let me also show you the actual In Memory Plaque. An earlier proposal by American Battle Monuments Commission was withdrawn at a Commission of Fine Arts hearing when we and others objected to the poor quality of the design proposal.

For your information, we have a rendering of the actual Visitor Center.

Our architect of record finds the conclusion of this Commission that the above ground aspect of the Visitor Center will hurt the Mall area to be without merit. Again I bring to your attention the standards of acceptability of what goes on the Mall.

Thank each of you again for hearing my remarks.

Senator THOMAS. The meeting is adjourned.

[Whereupon, at 4:30 p.m., the hearing was adjourned.]