C. (2) To promote the O'Hara bill (H. R. 2739). (4) $100 per month compensation.

A. Rodney W. Markley, Jr., Ford Motor Co., 1200 Wyatt Building, Washington, D. C.

B. Ford Motor Co., Dearborn, Mich.

C. (See attached statement).[1]

A. Miller & Chevalier, 1001 Connecticut Avenue, Washington, D. C.

B. Estate of Nellie Buckingham, care of Northern Trust Co., Chicago, Ill.

C. (2) The estate favors amending section 208 of H. R. 6426. (4) Ordinary out-of-pocket expenses of lawyers, not to exceed $100. Compensation will be paid for this representation; amount to be agreed upon.

A. Miller & Chevalier, 1001 Connecticut Avenue, Washington, D. C.

B. Estate of Demarest Lloyd, care of Harry Olins, 31 State Street, Boston, Mass.

C. (2) The estate favors the passage of H. R. 6440. (4) Ordinary out-of-pocket expenses of lawyers, not to exceed $100. Compensation will be paid for this representation; amount to be agreed upon.

A. Paul, Weiss, Rifkind, Wharton & Garrison, 1614 I Street NW., Washington, D. C.

B. American Fidelity & Casualty Co., Insurance Building, Richmond, Va.

C. (2) Amendment to section 273 of the Internal Revenue Code to provide that the Secretary of the Treasury may abate a jeopardy assessment when, in fact, no jeopardy exists.

A. Charles M. Price, 134 South La Salle Street, Chicago, Ill.

B. Gypsum Association, 20 North Wacker Drive, Chicago, Ill.

C. (2) For H. R. 3897, percentage depletion on gypsum rock. (3) The Gypsum Industry's Case for Percentage Depletion. (4) $5,000 (in addition to expended amounts shown on p. 2 hereof) estimated to reimburse for traveling expenses and for fee at regular per diem of $200–$250 as a lawyer.

A. Harry N. Rosenfield, 3600 38th Street NW., Washington, D. C.

B. National Safety Council, 425 North Michigan Avenue, Chicago, Ill.

C. (2) A bill to incorporate the National Safety Council, S. 1105, H. R. 1985.

A. Delbert L. Rucker, 616 Investment Building, Washington, D. C.

B. The National Fertilizer Association, Inc., 616 Investment Building, Washington, D. C.

C. (2) Any legislation that might affect the manufacture or distribution of fertilizer or the general agricultural economy. (4) Of salary received by me during the quarter, $20 may be allocable to legislative interests.

A. James D. Secrest, 777 14th Street NW., Washington, D. C.

B. Radio-Electronics-Television Manufacturers Association, 777 14th Street NW., Washington, D. C.

C. (2) General legislative interests are: Those relating directly or indirectly to the radio and television manufacturing industry. Specific legislative interests are: Excise taxes, excess profits taxes, Reciprocal Trade Agreements Act, and opposition to S. 24. (3) RETMA Industry Report. (4) No specific expenses anticipated; monthly rate of compensation is $1,666.67.

[1] Not printed. Filed with Clerk and Secretary.

A. Jane Stewart, 500 Fifth Avenue, New York, N. Y., and 1731 I Street NW., Washington, D. C.

B. Group Attitudes Corp., 500 Fifth Avenue, New York, N. Y., and 1731 I Street NW., Washington, D. C.

C. (2) To promote the O'Hara bill (H. R. 2739). (4) $100 per month compensation.

A. Bernard H. Topkis, 1316 New Hampshire Avenue NW., Washington, D. C.

B. Hickory Handle Association, care of B. Holthouse, Waynesboro, Tenn.

C. (2) Reciprocal trade legislation.

A. Quaife M. Ward, 1625 I Street NW., Washington, D. C.

B. American Retail Federation, 1625 I Street NW., Washington, D. C.

C. (4) Annual rate of compensation, $4,000; anticipated annual expenses, $200 (travel).

A. Richard H. Wels, Moss & Wels, 551 Fifth Avenue, New York, N. Y.

B. Bowling Proprietors Association of America, Inc., 185 North Wabash Avenue, Chicago, Ill.

C. (2) All legislation affecting in any way the bowling industry.

SENATE

THURSDAY, FEBRUARY 11, 1954

(Legislative day of Monday, February 8, 1954)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O God, whose word is hidden in the framework of the world, shines in the mind of man, and is made flesh in that holy One who unveils Thy heart: We can know Thee only in part, but we know what goodness is, and we believe that Thou art good; we know what justice is, and we believe that Thou art just; we know what love is, and we believe that Thou art love. Thou hast made all things dependent upon Thee for their existence and Thou hast made our hearts so that they are restless until they rest in Thee. Yet we confess that we have so often not made it our chief concern to establish a life of communion with Thee; we have been slack in prayer and careless in living; we have not hungered and thirsted after righteousness. Yet Thou art the love that will not let us go. Help us to yield our flickering torch to Thee, to give Thee back the life we owe, that in Thine ocean depths its flow may richer, fuller be. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The legislative clerk read the following letter:

UNITED STATES SENATE,
PRESIDENT PRO TEMPORE,
Washington, D. C., February 11, 1954.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. FRANK A. BARRETT, a Senator from the State of Wyoming, to perform the duties of the Chair during my absence.

STYLES BRIDGES,
President pro tempore.

Mr. BARRETT thereupon took the chair as Acting President pro tempore.

THE JOURNAL

On request of Mr. KNOWLAND, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, February 10, 1954, was dispensed with.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Maurer, its reading clerk, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Acting President pro tempore:

H. R. 395. An act to confer jurisdiction upon the United States Court of Claims with respect to claims against the United States of certain employees of the Bureau of Prisons, Department of Justice;

H. R. 1129. An act for the relief of Katina Panagioti Fiffis and Theodore Panagiotou Fiffis,

H. R. 1496. An act for the relief of Mrs. Hermine Lamb;

H. R. 1516. An act for the relief of Mrs. Clemtine De Ryck;

H. R. 1674. An act for the relief of Setsuko Motohara Kibler, widow of Robert Eugene Kibler;

H. R. 2021. An act for the relief of Clarence R. Seiler and other employees of the Alaska Railroad;

H. R. 2618. An act for the relief of Santos Sanabria Alvarez;

H. R. 2633. An act for the relief of Lee Sig Cheu;

H. R. 2813. An act for the relief of William E. Aitcheson;

H. R. 2839. An act to enable the Hawaiian Homes Commission of the Territory of Hawaii to exchange available lands as designated by the Hawaiian Homes Commission Act, 1920, for public lands;

H. R. 2842. An act to authorize the Secretary of the Army to transfer certain land and access rights to the Territory of Hawaii;

H. R. 2885. An act authorizing and directing the Commissioner of Public Lands of the Territory of Hawaii to issue a right of purchase lease to Edward C. Searle;

H. R. 3027. An act for the relief of Tamiko Nagae;

H. R. 3228. An act for the relief of Mrs. Ursula Eichner Clawges;

H. R. 3280. An act for the relief of John James T. Bell;

H. R. 3390. An act for the relief of Eiko Tanaka;

H. R. 3619. An act for the relief of Rufin Manikowski;

H. R. 3728. An act for the relief of Mrs. Helen Bonanno (nee Koubek);

H. R. 3733. An act for the relief of Mrs. Anna Holder;

H. R. 4439. An act for the relief of John Abraham and Ann Abraham;

H. R. 4577. An act for the relief of Edith Maria Gore;

H. R. 4972. An act for the relief of John Jeremiah Botelho;

H. R. 5195. An act for the relief of Max Kassner;

H. R. 5379. An act to authorize the printing and mailing of periodical publications of certain societies and institutions at places other than places fixed as the offices of publication;

H. R. 5861. An act to amend the act approved July 8, 1937, authorizing cash relief for certain employees of the Canal Zone Government;

H. R. 5945. An act conferring jurisdiction upon the United States District Court for the District of Colorado to hear, determine, and render judgment upon the claim of J. Don Alexander against the United States;

H. R. 5959. An act to exempt certain commissioned officers retired for disabilities caused by instrumentalities of war from the limitation prescribed by law with respect to the combined rate of retired pay and of compensation as civilian employees of the Government which retired officers may receive; and

H. J. Res. 358. Joint resolution to discharge indebtedness of the Commodity Credit Corporation.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. KNOWLAND. Mr. President, I ask unanimous consent that immediately following the quorum call there may be the customary morning hour for the transaction of routine business, under the usual 2-minute limitation on speeches.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KNOWLAND. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Secretary will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. KNOWLAND. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded and that further proceedings under the call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL MONDAY

Mr. KNOWLAND. Mr. President, I ask unanimous consent that when the Senate concludes its work today it stand in recess until 12 o'clock noon on Monday next.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Reimbursement of Post Office Department for Handling Franked Mail

A letter from the Postmaster General, requesting that the amount of $1,169,700 be substituted for $1,890,905, recommended by him in his letter of December 2, 1953 (laid before the Senate on January 7, 1954), as the amount the Post Office Department should be reimbursed for handling franked mail for the year 1954; to the Committee on Appropriations.

Suspension of Deportation of Certain Aliens

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, withdrawing the names of several aliens from reports relating to aliens whose deportation had been suspended, heretofore transmitted to the Senate (with accompanying papers); to the Committee on the Judiciary.

Proposed Renewal of Concession Permit, Willow Beach, Lake Mead National Recreation Area, Nevada

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed renewal of a concession permit at Willow Beach, in Lake Mead National Recreation Area, Nevada (with accompanying papers); to the Committee on Interior and Insular Affairs.

Proposed Awards of Concession Permits, Lake McDonald, Glacier National Park, Mont., and Big Bend National Park, Tex.

Two letters from the Assistant Secretary of the Interior, transmitting, pursuant to law, proposed awards of concession permits at Lake McDonald, in Glacier National Park, Mont., and the Big Bend National Park, Tex. (with accompanying papers); to the Committee on Interior and Insular Affairs.

Abolition of Old Kasaan National Monument, Alaska

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to abolish the Old Kasaan National Monument, Alaska, and for other purposes (with an accompanying paper); to the Committee on Interior and Insular Affairs.

Mr. William Henry Diment, Mrs. Mary Ellen Diment, and Mrs. Gladys Everingham

A letter from the Secretary of the Army, transmitting a draft of proposed legislation for the relief of Mr. William Henry Diment, Mrs. Mary Ellen Diment, and Mrs. Gladys Everingham (with an accompanying paper); to the Committee on the Judiciary.

TAXATION OF INTEREST FROM CERTAIN STATE AND MUNICIPAL OBLIGATIONS — RESOLUTION OF CITY COUNCIL, OWATONNA, MINN.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a resolution adopted by the city council of the city of Owatonna, Minn., on February 2, opposing taxation of interest from certain State and municipal obligations, be printed in the Record, and appropriately referred.

There being no objection, the resolution was referred to the Committee on Finance, and ordered to be printed in the Record, as follows:

Resolution opposing proposition for the taxation of interest from certain State and municipal obligations

Whereas it has been made to appear to the city council of the city of Owatonna, Minn., that the United States House Ways and Means Committee has provisionally voted for a general revenue revision bill of 1954 which will contain provisions providing for (1) Federal income taxation of interest received from future issues of municipal housing authority bonds; and (2) Federal income taxation of interest received from revenue bonds issued by States or municipalities for industrial development purposes; and

Whereas it appears that such provisions would tend to destroy the constitutional tax immunity of State and municipal bonds; and

Whereas it has been made to appear to said council that if such proposed revision were in effect, such municipal obligation interest rate costs would increase between 1 and ½ percent, which would result in an added cost to municipal taxpayers of millions of dollars: Now, therefore, be it

Resolved by the City Council of the City of Owatonna, Minn. (five aldermen being present), That said city object to and oppose any such revision in Federal legislation, and that certified copies of this resolution be sent to the United States Representative and Senator of the people of the city of Owatonna in voicing its objection.

Passed and adopted this 2d day of February 1954.

Approved and signed this 3d day of February 1954.

T. E. Carroll,
Mayor.

Attest:

Lawrence R. Haberman,
City Clerk.

TAX-EXEMPT STATUS OF MUNICIPAL BONDS—RESOLUTION OF CITY COUNCIL, BRAINERD, MINN.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a resolution adopted by the City Council of the City of Brainerd, Minn., on February 1, 1954, opposing any attempt to repeal the tax-exempt status of municipal bonds, be printed in the Record, and appropriately referred.

There being no objection, the resolution was referred to the Committee on Finance, and ordered to be printed in the Record, as follows:

Whereas the city of Brainerd is vitally interested in its ability to finance itself in its various governmental activities through the sale of municipal bonds; and

Whereas the burden imposed upon the city and village units of government has grown substantially more and more heavy due to the increased demand for service by the public at the municipal level; and

Whereas this burden has been further increased by the taking away by the State and Federal governments of more and more traditional sources long used by municipalities to finance their activities; and

Whereas any further increase in this burden will further jeopardize the ability of the municipal unit of government to function and perform the services required of it; and

Whereas the removal of the tax exemption from municipal bonds will substantially increase the cost of financing needed municipal improvements; and

Whereas a tax of any type imposed upon public power systems will likewise further burden the many operations of this type conducted by municipalities: Now, therefore, be it

Resolved by the City Council of the City of Brainerd, That the city of Brainerd opposes any attempt to repeal the tax-exempt status of municipal bonds; be it further

Resolved, That the city of Brainerd opposes any attempt or proposal to tax municipal operated power systems.

Adopted this 1st day of February 1954.

Geo. W. Krueger,
President of the Council.

Approved this 2d day of February 1954.

Levi Johnson,
Mayor.

Attest:

Walter Fall,
City Clerk.

TAX ON MUNICIPAL BONDS—TELEGRAM FROM MAYOR OF ST. CLOUD, MINN.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a telegram which I have received from Mayor George Byers of the city of St. Cloud, Minn., protesting any attempt of the Federal Government to tax municipal bonds, be printed in the RECORD, and appropriately referred.

There being no objection, the telegram was referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

ST. CLOUD, MINN., *February 6, 1954.*

Senator HUMPHREY,
United States Senate:

City of St. Cloud vigorously protests any attempt of Federal Government to tax municipal bonds. Tax immunity of the State is right guaranteed under our Constitution. We insist that right be protected. No hearing has been held on this matter. We request your assistance in obtaining a hearing on the issue. A motion for reconsideration of these matters should be made before the bill is presented on the floor. Please contact House Ways and Means Committee expressing our views.

We respectfully request that you exert efforts on behalf of St. Cloud and other cities on segment 5, route 86, of Northwest Airlines to have CAB hearing on airlines attempt to withdraw from all cities on segment 5 held in Twin City area.

Mayor GEORGE BYERS.

SOCIAL-SECURITY PLAN FOR ALL VILLAGE AND GOVERNMENTAL EMPLOYEES—LETTER FROM VILLAGE CLERK, HIBBING, MINN.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a letter which I have received from Roy E. Mickelson, village clerk of Hibbing, Minn., favoring a general social-security plan for all village and governmental employees, be printed in the RECORD, and appropriately referred.

There being no objection, the letter was referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

VILLAGE OF HIBBING,
Hibbing, Minn., February 6, 1954.

Hon. HUBERT HUMPHREY,
United States Senator,
Washington, D. C.

DEAR SENATOR HUMPHREY: This is to advise that the Hibbing Village Council at a meeting held February 4, 1954, took action to the effect that the council go on record as favoring a general social-security plan for all village and governmental employees, with the choice of those now belonging to other pension plans to retain same if they desire, unless such persons desire to avail themselves of social-security benefits.

I have been instructed to advise you of this action of the village council. On behalf of the council I desire to take this opportunity of soliciting your full support and cooperation in furthering the proposed measure which will provide social-security benefits for village employees. I know of my own knowledge that all of our employees decidedly favor social security, with the exception, of course, of those employed in the police and fire departments, they having had a pension plan of their own for a great number of years.

I would appreciate also receiving a copy of the proposed bill for the files in this office.

Thanking you for any assistance you may render in connection with this matter, and assuring you it will be appreciated and remembered, not only by the members of the council but our employees as well, who are very much interested, I am

Very truly yours,

ROY E. MICKELSON,
Village Clerk.

INCLUSION OF MINISTERS UNDER SOCIAL-SECURITY LAW—LETTER FROM NORTHEAST MINISTERIAL ASSOCIATION, MINNEAPOLIS, MINN.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a letter which I have received from the Northeast Ministerial Association, Minneapolis, Minn., requesting that ministers be granted the privilege of participating in the social-security program, be printed in the RECORD, and appropriately referred.

There being no objection, the letter was referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

NORTHEAST MINISTERIAL ASSOCIATION,
Minneapolis, Minn., February 4, 1954.

The Honorable HUBERT H. HUMPHREY,
United States Senate,
Washington, D. C.

DEAR SENATOR HUMPHREY: As Christian citizens of our country, we, as members of the Northeast Ministerial Association of Minneapolis would like to have the privilege of participating in the social-security program of the United States of America.

Whatever you may be able to do to make this desire a reality will be much appreciated.

We are praying that you will be given the wisdom of Christ the Lord for all your deliberations.

Respectfully yours,

Rev. HAROLD McCLURE,
Vice President.

TAX EXEMPTION OF $125 PER MONTH FROM RETIREMENT INCOME—LETTER FROM MINNESOTA EDUCATION ASSOCIATION, ST. PAUL, MINN.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a letter which I have received from the Minnesota Education Association, St. Paul, Minn., in support of the so-called Mason bill (H. R. 5180) to amend section 22 (b) of the Internal Revenue Code so as to provide that $125 per month of retirement income shall be nontaxable, be printed in the RECORD, and appropriately referred.

There being no objection, the letter was referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

MINNESOTA EDUCATION ASSOCIATION,
St. Paul, Minn., February 4, 1954.

Senator HUBERT H. HUMPHREY,
Senate Office Building,
Washington, D. C.

DEAR SIR: I wish to call to your attention that the Minnesota Education Association, speaking for the more than 20,000 teachers of Minnesota, did unanimously urge favorable consideration of H. R. 5180, otherwise known as the Mason bill.

It is unnecessary to point out that teacher annuitants must under current exemption provisions pay up to and beyond $100 in Federal income taxes in many instances. When one considers that the retirement annuity is often the only means of subsistence the annuitant has, it becomes readily clear that relief by the Federal Government would be an act of public interest in that it would increase the ability of annuitants to maintain their independence.

There is, further, discrimination among annuitant groups in that teachers do not enjoy the same degree of exemption as that allowed for some other bodies of workers. H. R. 5180 would to an extent remove these discrepancies.

We are currently, throughout the Nation, seeking to interest young people to enter teaching and to reduce the shortage due to the ever-increasing number of children in our schools. The future of our country depends on the proper education of these children. An improved retirement situation would be an inducement of no small moment in attracting young men and women to teaching as a career and to holding them throughout a long period of service.

We respectfully bespeak your influence in securing favorable action on H. R. 5180.

Very sincerely yours,

WALTER E. ENGLUND,
Executive Secretary.

AMENDMENT OF NATURAL GAS ACT—RESOLUTION OF CITY COUNCIL, SOUTH ST. PAUL, MINN.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a resolution adopted by the City Council of the City of South St. Paul, on February 1, 1954, in regard to the Natural Gas Act, be printed in the RECORD and appropriately referred.

There being no objection, the resolution was referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed in the RECORD, as follows:

Be it resolved, That the City Council of the City of South St. Paul go on record as approving the passage of "a bill for an act to amend section 4 (e) of the Natural Gas Act (15 U. S. C. 717c)"; be it further

Resolved, That certified copies of the resolution be forwarded to HUBERT E. HUMPHREY, United States Senator in Congress; JOSEPH O'HARA, United States Representative in Congress; and EDWARD J. THYE, United States Senator in Congress.

Adopted by the city council February 1, 1954.

Approved February 3, 1954.

FRANK J. PETRICH, *Mayor.*

FARM PRICE PROGRAM—LETTER FROM LANCASTER (MINN.) BUSINESSMEN'S ASSOCIATION

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a letter which I have received from the Lancaster Businessmen's Association, Lancaster, Minn., in support of a strong farm price program, be printed in the RECORD, and appropriately referred.

There being no objection, the letter was referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

LANCASTER BUSINESSMEN'S ASSOCIATION,
Lancaster, Minn., January 19, 1954.

Hon. HUBERT H. HUMPHREY,
Senate Building, Washington, D. C.

DEAR SIR: At our regular January meeting it was moved, seconded, and unanimously carried, that the Lancaster Businessmen's

Association go on record and support a strong farm price program.

We urge you to do your utmost in support of this farm price program.

Yours very truly,

SIMON ELLEFSON,
Secretary.

PRICE SUPPORTS FOR DAIRY PRODUCTS—TELEGRAM FROM CAMBRIDGE (MINN.) BUSINESS ASSOCIATION

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a telegram which I have received from the Cambridge Business Association, Cambridge, Minn., urging continuation of price support for dairy products at the present level, be printed in the RECORD, and appropriately referred.

There being no objection, the telegram was referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

CAMBRIDGE, MINN., *February 7, 1954.*

HUBERT H. HUMPHREY,
Senate Office Building,
Washington, D. C.:

We respectfully request you support legislation continuing price support for dairy products at preesnt level. While Government subsidy is not permanent solution dairy industry must have price support until it can adjust itself to inroads made by butter substitutes. If price support is lowered now dairy farmers cannot survive.

CAMBRIDGE BUSINESS ASSOCIATION,
A. G. ENGBERG, *Secretary.*

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SMITH of New Jersey (for himself, Mr. MURRAY, Mr. LEHMAN, Mr. IVES, and Mr. KENNEDY):

S. 2930. A bill to amend the Railroad Retirement Act, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. SMITH of New Jersey when he introduced the above bill, which appear under a separate heading.)

By Mr. MANSFIELD (for himself and Mr. MURRAY):

S. 2931. A bill to provide for the establishment of a United States Air Force Academy at Great Falls, Mont., and for other purposes; to the Committee on Armed Services.

(See the remarks of Mr. MANSFIELD when he introduced the above bill, which appear under a separate heading.)

By Mr. MURRAY (by request):

S. 2932. A bill to authorize payment of salaries and expenses of officials of the Fort Peck Tribes; to the Committee on Interior and Insular Affairs.

By Mr. CLEMENTS:

S. 2933. A bill to amend the Soil Conservation and Domestic Allotment Act so as to provide for assistance under such act in the restoration of pasture land which has been damaged by drought or insects and the placing of protective vegetative cover on croplands which are not to be tilled for an extended period; to the Committee on Agriculture and Forestry.

(See the remarks of Mr. CLEMENTS when he introduced the above bill, which appear under a separate heading.)

By Mr. HENNINGS (for himself and Mr. SYMINGTON):

S. 2934. A bill to amend the act of April 6, 1949, relating to emergency feed and seed assistance to farmers, ranchers, and stockmen in connection with major disasters; to the Committee on Agriculture and Forestry.

(See the remarks of Mr. HENNINGS when he introduced the above bill, which appear under a separate heading.)

By Mr. MAGNUSON:

S. 2935. A bill for the relief of Chew Shee Woo; and

S. 2936. A bill for the relief of Elisa Palumbo Castaldo; to the Committee on the Judiciary.

By Mr. SPARKMAN:

S. 2937. A bill to amend the United States Housing Act of 1937 so as to extend for 5 years the period in which the families of veterans and servicemen may be admitted to low-rent housing without meeting the requirements of section 15 (8) (b) (ii) of that act; to the Committee on Banking and Currency.

PROPOSED AMENDMENT OF RAILROAD RETIREMENT LEGISLATION

Mr. SMITH of New Jersey. Mr. President, on behalf of the Senator from Montana [Mr. MURRAY], the junior Senator from New York [Mr. LEHMAN], the senior Senator from New York [Mr. IVES], the Senator from Massachusetts [Mr. KENNEDY], and myself, and such other Members of the Senate as may care to join us, by request, I introduce for appropriate reference a bill which is jointly sponsored by all standard railway labor organizations to amend the Railroad Retirement Act, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act.

The bill which I have introduced liberalizes the railroad retirement system and makes certain adjustments in regard to benefits.

The changes which it proposes can be summarized, as follows:

First. Widows' benefits at age 60: Under present law aged widows are not eligible for survivor benefits until age 65. The bill reduces the eligibility age to 60.

Second. Disability work clause: Under present law, a disability annuitant is deemed recovered if he earns more than $75 in each of 6 consecutive months. The bill provides for withholding the annuity in any month in which more than $100 is earned. This will remove hardships on the one hand, and eliminate abuses on the other.

Third. Survivor's benefits for disabled children and widowed mothers: Under present law, a widowed mother and her child cease getting survivor's benefits when the child reaches age 18 even though the child may be completely disabled for any employment. The bill provides that if the child is permanently and totally disabled, the survivor's benefits to the widowed mother and child will continue beyond age 18.

Fourth. Maximum creditable and taxable compensation: Under present law, the maximum compensation that is taxable and creditable for both railroad retirement and unemployment insurance purposes is $300 per month. The bill increases this maximum to $350 both for tax purposes and for credit toward benefits under both the railroad retirement and unemployment insurance systems. In connection with establishing the new benefit rates for crediting this additional compensation under the Unemployment Insurance Act, it is also provided that the daily benefit rate shall not be less than one-half the last daily rate of pay at which he worked in railroad employment, but with a maximum of $8.

Fifth. Crediting of compensation earned after age 65: Under present law, compensation earned after retirement age is used in computing the annuity even though through lower earnings in later years this operates to reduce the annuity. The bill provides for disregarding such compensation (though crediting the service) if using such compensation would reduce the annuity.

Sixth. Receipt of both survivor annuity and retirement annuity: Under present law, a widow who has had railroad employment and is eligible for a retirement annuity in her own right and who would also be eligible for a survivor annuity by reason of her husband's employment has the latter offset against the former and cannot receive both; the bill provides for both to be paid.

Seventh. Delegates to conventions: Under present law, service as a delegate to a labor organization convention is covered employment. These conventions frequently include delegates from units outside the railroad industry or outside the country who have no other covered employment. The accumulation of these trifling credits is of no substantial value compared with the nuisance of recording it and collecting the taxes on it. The bill excludes such service from coverage where the individual has no other covered employment.

Mr. President, I request that, by unanimous consent, there be printed in the body of the RECORD immediately following my remarks a letter which I have received from the railroad brotherhoods requesting that this proposed legislation be introduced.

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

WASHINGTON, D. C., *February 11, 1954.*

Hon. H. ALEXANDER SMITH,
Chairman, Senate Committee on Labor and Public Welfare,
United States Senate,
Senate Office Building,
Washington, D. C.

DEAR MR. CHAIRMAN: This is to advise that all the standard railroad-labor unions, including the four train and engine service brotherhoods and all the organizations identified with the Railway Labor Executives' Association, are in full agreement and in support of the draft bill which has been delivered to your office by Messrs. Johnson and Kolanda, which would amend the railroad retirement and railroad unemployment insurance systems. For your ready reference, these recognized standard railroad-labor organizations are listed below:

Brotherhood of Locomotive Engineers; Brotherhood of Locomotive Firemen and Enginemen; Order of Railroad Conductors; Brotherhood of Railroad Trainmen; Switchmen's Union of North America; the Order of Railroad Telegraphers; American Train Dispatchers' Association; Railway Employees' Department, A. F. of L.; International Association of Machinists; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers; Brotherhood Railway Carmen of America; Sheet Metal Workers National Association; International Brotherhood of Electrical Workers; International Brotherhood of Firemen and Oilers; Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and

Station Employes; Brotherhood of Maintenance of Way Employes; Brotherhood of Railroad Signalmen of America; National Organization Masters, Mates, and Pilots of America; National Marine Engineers' Beneficial Association; International Longshoremen's Association; Hotel and Restaurant Employes and Bartenders International Union; Railroad Yardmasters of America; Brotherhood of Sleeping Car Porters.

The above organizations represent substantially all the railroad workers in the United States. We will be very grateful to you if you will introduce this bill and do all you consistently can to expedite its prompt consideration.

Respectfully yours,

LAWRENCE V. BYRNES,
Assistant Grand Chief Engineer and National Legislative Representative, Brotherhood of Locomotive Engineers.

A. M. LAMPLEY,
Vice President, National Legislative Representative, Brotherhood of Locomotive Firemen and Enginemen.

W. D. JOHNSON,
Vice President and National Legislatice Representative, Order of Railroad Conductors.

HARRY SEE,
National Legislative Representative, Brotherhood of Railroad Trainmen.

A. E. LYON,
Executive Secretary, Railway Labor Executives' Association.

The bill (S. 2930) to amend the Railroad Retirement Act, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, introduced by Mr. SMITH of New Jersey (for himself, Mr. MURRAY, Mr. LEHMAN, Mr. IVES, and Mr. KENNEDY), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

PROPOSED AIR FORCE ACADEMY, GREAT FALLS, MONT.

Mr. MANSFIELD. Mr. President, on behalf of myself, and my colleague, the senior Senator from Montana [Mr. MURRAY], I introduce for appropriate reference a bill to provide for the establishment of a United States Air Force Academy at Great Falls, Mont., and for other purposes. On January 30, 1954, I wrote a letter to Hon. Harold E. Talbott, Secretary of the Air Force. I ask unanimous consent to have my letter printed in the RECORD at this point as a part of my remarks.

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

UNITED STATES SENATE,
January 30, 1954.

Hon. HAROLD E. TALBOTT,
Secretary of the Air Force,
The Pentagon, Washington, D. C.

DEAR MR. SECRETARY: In view of the fact that the House has passed a bill approving the establishment of an Air Academy and in view of the possibility that this bill will be before the Senate shortly, I should like to call to your attention the possibility of your giving every consideration to the designation of Great Falls, Mont., as the designated site for this new installation.

In my opinion the Great Falls Airbase is the most important air installation in the United States and, as you will recall, during World War II we shipped over 7,000 combat planes of all types from that base to Alaska for eventual shipment to Siberia and the western front. This is an important factor to consider because in case of an all-out war what once was a one-way street may in fact become a two-way avenue of approach. As we all know, the shortest distance and perhaps the most effective way to carry out an aerial attack against this country would be from over the polar regions.

It may be of interest to note that in recent years the Soviet Union has made a definite shift in its offensive power to northeast Siberia, from which area that power could form a direct threat to the American Continent. Preparations for this drastic change of strategy, I am informed, began in 1950 when the Soviets began building air bases with 2,500-yard runways at various bases on the north Siberian coast. In addition to that it is my understanding that they have put many thousands of their slave laborers to work on a new railroad track connecting Chita in mid-Siberia on the trans-Siberian line with Chukotsk naval base on the Bering Straits. Until January 1953, all of this area was under the command of Marshal R. J. Malinovski. After Stalin's death, however, Malenkov separated northeast Siberia from Malinovski's command and turned it into a military district of its own. Headquarters for this new district have been established in Anadyr, and the man supposedly designated to head this new district is Lt. Gen. Sergi M. Shtemenko. According to my information, Shtemenko is today in charge of at least nine Red army divisions including four paratroop brigades. He has under his command somewhere between 5,000 to 6,000 aircraft composed of C-47's, B-29's, MIG-15 jet fighters, and TU-4 bombers. This information indicates just how serious the Soviet Union considers northeastern Siberia, and it should certainly make us realize how important our Alaskan Air Command is and how in conjunction with that command the airbase at Great Falls becomes. Recently, the Great Falls Airbase became one of the operating fields for the Strategic Air Command. Everyone knows of course what the primary mission of the Strategic Air Command is, and the movement to Great Falls only adds up to a renewed significance of that particular base.

In addition to its strategic position Great Falls has ideal weather conditions the year round with as many full and partial flying days as any of the southern areas where the bulk of Air Force training is now carried out. If the proposed Air Academy were placed in Great Falls, cadets and trainees would have the advantage of flying and maintenance training under all weather conditions.

I urge, therefore, that when the bill for the proposed Air Academy passes the Senate, as I am confident it will, that you give every possible consideration to the establishment of this Academy at Great Falls, Mont. I can assure you that the local people would be most happy to have this installation, and I am certain that in view of the statements I have made, you and your staff will give this matter your most earnest and serious consideration.

Must close now, but with best personal wishes, I am,

Sincerely yours,

MIKE MANSFIELD.

The bill (S. 2931) to provide for the establishment of a United States Air Force Academy at Great Falls, Mont., and for other purposes, introduced by Mr. MANSFIELD (for himself and Mr. MURRAY), was received, read twice by its title, and referred to the Committee on Armed Services.

ASSISTANCE IN RESTORATION OF PASTURE LAND

Mr. CLEMENTS. Mr. President, I introduce for appropriate reference a bill to amend the Soil Conservation and Domestic Allotment Act so as to provide for assistance under such act in the restoration of pasture land which has been damaged by drought or insects and the placing of protective vegetative cover on croplands which are not to be tilled for an extended period. I ask unanimous consent that a statement prepared by me explaining the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the statement will be printed in the RECORD.

The bill (S. 2933) to amend the Soil Conservation and Domestic Allotment Act so as to provide for assistance under such act in the restoration of pasture land which has been damaged by drought or insects and the placing of protective vegetative cover on croplands which are not to be tilled for an extended period, introduced by Mr. CLEMENTS, was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

The statement presented by Mr. CLEMENTS is as follows:

STATEMENT BY SENATOR CLEMENTS

The last 2 years have seen the greater part of Kentucky suffer one of the worst droughts in its recorded history. Cropland and pastures have been ravaged by sun, heat, and wind that have left thousands of acres of once-fine productive farmland momentarily useless and open to destruction by erosion. Since the inception of the drought assistance program carried out by the Department of Agriculture, 77 counties in the State have been designated by the Secretary of Agriculture as eligible for Federal drought aid, with many more counties in such condition that they should be designated without further delay. Hay and other forage crops have been completely consumed many months ago, and beef cattle and dairy herds maintained by the farmers of the State are rapidly being decimated for lack of food supplies.

In the preparation of the 1954 Agricultural Conservation Programs Handbook, several of the county committees in Kentucky strongly recommended that practices be included in the 1954 program that would hasten the restoration of pasture and croplands that were severely damaged by drought and insects. Such practices are authorized under the Soil Conservation and Domestic Allotment Act, but have been disapproved by the Secretary as being emergency measures outside the concept of the ACP program. Being well acquainted by now with the philosophy of the present Secretary of Agriculture of waiting until disaster has taken its toll before offering aid to the farmers, I am introducing this morning a bill to make it mandatory that practices designed to restore our soil's fertility be included in the ACP program for this year, a program that has long since proven itself to be one of the most successful and beneficial to the country as a whole that has ever been carried out by the Federal Government.

EMERGENCY FEED AND SEED ASSISTANCE IN CERTAIN CASES

Mr. HENNINGS. Mr. President, for myself and my colleague, the junior Senator from Missouri [Mr. SYMINGTON], I introduce for appropriate reference a bill to amend the act of April 6, 1949, relating to emergency feed and seed assistance to farmers, ranchers, and stockmen in connection with major disasters.

I ask unanimous consent that a statement prepared by me explaining the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the statement will be printed in the RECORD.

The bill (S. 2934) to amend the act of April 6, 1949, relating to emergency feed and seed assistance to farmers, ranchers, and stockmen in connection with major disasters, introduced by Mr. HENNINGS (for himself and Mr. SYMINGTON), was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

The statement by Mr. HENNINGS is as follows:

STATEMENT BY SENATOR HENNINGS

Many farmers in my State are now without pastures or meadows due to last year's drought. A serious emergency exists. The Missouri Agricultural Mobilization Committee submitted an appraisal with urgent recommendations to the Secretary of Agriculture on January 7.

The purpose of this bill is to clarify the authority of the Secretary of Agriculture to give emergency seed and fertilizer assistance for restoring pastures and meadows in disaster areas. Federal funds heretofore appropriated for disaster demands are made available for use as the Secretary of Agriculture may deem necessary.

The drought has been disastrous for vast segments of the farm economy. Its consequences are far reaching. Realizing the severity of the emergency, the Missouri Legislature in special session appropriated $6,500,000 to pay transportation costs on hay to drought-disaster areas. Railroads moved the hay at one-half their customary rates. The Federal Government committed $1 million to assist the State in paying the freight charges.

The Missouri commissioner of agriculture reports that through January 7, 1954, his office paid freight charges on 20,195 cars of hay, totaling 280,154 tons. This hay has cost Missouri farmers approximately $5,600,000 or an average of about $20 a ton.

The freight charges paid on those shipments amounts to $2,876,085 or an average of approximately $10.27 a ton. The railroad contribution, through reduced freight rates, has been approximately equal to the State-Federal aid. It is estimated that 30,000 cars of hay have been shipped into Missouri by this time. Unless the pastures and meadows are reseeded soon, vast shipments on this scale must be continued.

Many Missouri farmers have exhausted their credit and their resources. Maintaining farming operations in this area is essential not only to the farmers directly involved but to the entire agricultural economy of the Midwest.

An example of the severe effects of the drought is seen today in Dunklin County, Mo., where surplus commodity food is to be made available to some 5,000 residents who have appealed for emergency aid. The people, who are not transients, are destitute because the drought reduced the need for farmworkers. Most farm jobs will not be available until May. The demand for farm labor will be considerably below that of 1953 because of reduced crop quotas.

Members of the Missouri congressional delegation of both political parties have been unanimous in repeatedly urging Secretary of Agriculture Benson to assist farmers in restoring their drought-seared pastures and meadows. It was recommended that the seeds and fertilizers for the program be obtained through regular commercial channels. The Department of Agriculture has promised surveys.

With other members of the Missouri delegation, I offered to introduce legislation to provide any necessary additional authority to carry out an adequate drought aid program. To remove any doubt that may exist in the Secretary's mind, I am introducing this bill.

Certain aspects of the farm problem are becoming more acute. Depressed farm markets have caught vast numbers of American farmers in an economic squeeze between ever-rising prices on the cost-of-living items the farmer buys and the prices he receives for the things he sells. This condition is affecting nonfarm people. The farm implement business is among those that have been badly affected by falling farm prices. This trend, if not checked, will spread to other industries which supply the farmer with items he utilizes in producing food and fiber for our economy.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

NOTICE OF CONSIDERATION OF NOMINATION OF JOHN M. CABOT TO BE AMBASSADOR TO SWEDEN

Mr. SMITH of New Jersey. Mr. President, for the Committee on Foreign Relations I give notice that the committee will consider a nomination received from the White House today, at the expiration of 6 days. The nomination is that of John M. Cabot, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador of the United States to Sweden.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTER IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. HOLLAND:

Article entitled "Florida's Sunshine at Last Gets Tax Deductible Rating."

NATIONAL GUARD AND RESERVE PLAN

Mr. MARTIN. Mr. President, I ask unanimous consent that I be permitted to address the Senate for not exceeding 3 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and the Senator may proceed.

Mr. MARTIN. Mr. President, yesterday I was honored by being permitted to be a sponsor, with the Senator from South Carolina [Mr. MAYBANK], of a bill (S. 2927) to provide for an additional Assistant Secretary of Defense for all Reserve affairs.

American defensive power will be seriously weakened if the National Guard and Reserve plan is ever replaced by any system that fails to recognize the outstanding merit of the citizen soldier.

Even when we are able to teach every young man the fundamentals of military service, the National Guard and the Reserve will continue to be the best and most effective agencies for peacetime training of good soldiers.

Since the beginning of our Republic, the citizen-soldier has kept alive the spirit of national service. The wars of the United States have always been fought by its citizens. George Washington contended that a republic could not survive unless it was defended in war by the people themselves.

The defense of the United States is the most serious problem confronting our Nation at the present time. It calls for patriotic sacrifice on the part of our finest young manhood. It calls for the expenditure of vast sums of money, representing almost two-thirds of our national budget.

I am sure everyone who knows the terrible waste and destruction of war will stand behind President Eisenhower in his determined efforts to get more defense for fewer dollars.

In World War I, the German high command made a very careful analysis of the units opposing them. Some months after the armistice a war correspondent asked Major Von Rundstedt, who became Field Marshal Von Rundstedt in World War II, what their records revealed as to the efficiency of the American divisions.

The war correspondent told of the incident as follows:

> I asked the major what the high command had noted as regards the most efficient American divisions. While an aide went to get the proper books, the major said he could recall offhand four divisions which the Germans considered among the best.
>
> He said, "The division which you call Rainbow-in-the-Sky."
>
> "Forty-second," I said. "Yes, Forty-second," he replied.
>
> "And that division, half of which is made up of Marines." "Second," I told him. "Yes, the Second," he said. "Also the Twenty-eighth and the First."
>
> The lieutenant had brought back the record and the major found other divisions which the Germans considered were excellent. These were the 32d, the 26th, the 33d, and the 37th.

Mr. President, 6 of those 8 divisions which were considered by the enemy to be the most efficient were National Guard or civilian divisions.

THOMAS ALVA EDISON

Mr. SMITH of New Jersey. Mr. President, today marks the 107th anniversary of the birth of one of New Jersey's most distinguished sons, Thomas Alva Edison. In calling him a son of New Jersey, I realize that he was born in Ohio, and was reared in Michigan. But shortly after he reached the age of choice, at 23, he established himself in Newark, and thereafter maintained his principal home and laboratories in the Garden State. His first wife, Mary Stilwell, was from Newark; and his son—and my warm, personal friend—Charles Edison, was elected by the people of his father's adopted State to be their Governor in 1940:

Fortunately for the future of America, even in this day of emphasis upon machines, rather than men; and upon inevitability, rather than inspiration, the story of Thomas Edison's life and achievements is still taught in our elementary schools. I shall not repeat here in detail the facts all of us remember: The former newsboy and "candy butcher" printing at the age of 15 a newspaper on the train running between Port Huron and Detroit; the experiments in telegraphy, at the age of 16, after learning the skill from a grateful father whose son's life was saved by Edison; his arrival in New York City in debt and out of work. At 23 he received his first money from an invention, and invested it in a manufacturing shop in Newark. Then began his fabulous life of productivity and prosperity.

Four major contributions to modern life spring from Edison's genius. They are the phonograph, the electric light and power system, the motion picture, and discovery of the so-called Edison effect, upon which principle is based the whole science of electronics. However, the wide range of Edison's interest is attested by the fact that he was awarded 1,097 patents, the greatest number awarded an individual to this day. When Thomas Edison was past 80, he embarked on experiments to produce rubber from sources indigenous to the United States. Before his death, at 84, on October 18, 1931, he had the satisfaction of seeing a small piece of rubber vulcanized from goldenrod which he himself had grown.

Mr. President, probably the closest competitor among Edison's contemporaries for the honor of being most responsible for the wondrous age in which we live was Henry Ford, the master of mass production. But Mr. Ford took himself out of the running by saying of Edison:

> It has sometimes been said that we live in an industrial age. It might better be said that we live in an age of Edison. Edison did more to abolish poverty than any other person or group of persons since the beginning of the world.

Mr. President, New Jersey is proud of Thomas Alva Edison. But its pride is not selfish; and the manner of the man is such that we are pleased to share his memory with the people of all the States, indeed, all the world.

Mr. FERGUSON. Mr. President, on this 11th day of February, the birthday of Thomas Alva Edison, the great American inventor and great American, I wish to join in paying tribute to him.

It is fitting and proper that the State of Michigan take a leading role in this tribute. Edison belongs to the ages—to all men everywhere; but the State of Michigan has a unique claim on this great man.

It was in the wholesome atmosphere of Michigan that the boy, Thomas Alva Edison, did his first experimenting. His father had moved to Port Huron, Mich., when young Thomas was 7. That was in 1854, just 100 years ago. When Thomas was 11, he set up his first laboratory in the cellar of his home in Port Huron.

Michigan contributed its wholesomeness to the formative years in the life of Thomas Edison, who was destined to give the world the electric light, the phonograph, and many other blessings and comforts. Michigan is justly proud of its part in his life.

To make money to buy equipment for his cellar laboratory, young Edison sold papers on a Grand Trunk railway train between Port Huron and Detroit. At the end of his run, his spare time was spent in the Detroit Public Library.

Edison's venture in the publishing field was in Michigan. He composed, printed, and sold a newspaper on the train. He called it the Weekly Herald. It contained market reports and Michigan news. Edison was only 15 then. The world is familiar with the story of the baggage-car fire which suddenly halted the young publisher's career—as a publisher.

A Michigan man, J. U. McKenzie, station agent at Mount Clemens, taught Edison telegraphy; and that opened up a great new field in the inventive mind of Thomas Edison.

When the telegraph cable across the river between Sarnia, Ontario, and Port Huron, Mich., broke, young Edison, then only 16, used a locomotive whistle to send messages across.

Edison lived and worked in several States, but he considered Michigan his home. When, at the age of 21, he conceived the plan of duplex telegraphy, he arranged to demonstrate his device before railway officials in his home town of Port Huron.

Yes, the great State of Michigan is a little greater for having had a part in the early life of Thomas A. Edison, inventor, benefactor of mankind.

Mr. MARTIN. Mr. President, Pennsylvania is very proud of the work of Thomas A. Edison. The first electric-light plant in the world was established by Edison at Sunbury, Pa. He spent much time in the Commonwealth of Pennsylvania, and the time he spent in our great State was most helpful to us.

Mr. HENDRICKSON. Mr. President, the junior Senator from New Jersey desires to commend his distinguished colleague, the senior Senator from New Jersey [Mr. SMITH], the senior Senator from Michigan [Mr. FERGUSON], and the senior Senator from Pennsylvania [Mr. MARTIN] for their fine tributes to Thomas A. Edison. I join them, and associate myself with their remarks, and pay my personal tribute to a very great American.

"BE KIND TO DEMOCRATS" WEEK

Mr. CARLSON. Mr. President, I was pleased to note yesterday that the President was sponsoring a movement to be kind to Democrats. With that policy I am in accord. I have many fine Democratic friends on the other side of the aisle, and, of course, over the Nation as a whole. I would not desire to see them unduly criticized or castigated.

However, I noticed that when former President Truman accused the Republicans of sponsoring a "rich man's tax relief," and when he said that the President had a program of weakening the national security for the sake of false economy, it received rather liberal applause in many Democratic quarters.

I noticed, too, that when Adlai Stevenson declared that the 4 freedoms had been replaced in this Nation by 4 fears, among them being the fear of depression, his statement was received with approval by Democrats in many places.

I sincerely hope that our good Democratic friends will not criticize us if we talk about some of the extravagances, favoritism, and crookedness which was apparent in the Truman administration. I hope we will not be criticized even if we go to the extent of mentioning the fact that efforts to expose Communists in the Government were resisted.

I do not object to participating in political debate. I have been through it for many years. I know that our good Democratic brethren can take it. So can we Republicans. I do not believe they should be crying "foul" at this time.

REPORT BY SENATOR MANSFIELD ON STUDY OF ASSOCIATED STATES OF INDOCHINA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a report which I made on October 27, 1953, to the Committee on Foreign Relations as a result of a study mission to the Associated States of Indochina, namely Vietnam, Cambodia, and Laos, be printed in the RECORD at this point as a part of my remarks:

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

INDOCHINA

(Foreword)

Communist power in the Far East thrusts outward from the heart of the Asian mainland in two principal directions. One drive extends into the Korean Peninsula, where it has recently been blocked by a combination of United Nations military action and diplomacy. The second probes into Indochina, from whence, if unchecked, it might turn west toward India or south and east toward Indonesia and the Philippines.

World peace hangs in balance along both these avenues of Communist expansion. Hence, the security of the United States and of other free nations is no less involved in Indochina than in Korea. Indochina is the key to control of southeast Asia, rich in the raw materials of war. This is an area of rice surplus—on which the armies of Asia march—and of petroleum, tin, and rubber. To deny these sinews of power to the Communists is to limit their capacity to engage in further aggressive adventures.

Although the responsibilities of the United States in Korea have been more direct than in Indochina, our policies since 1950 have recognized the essential indivisibility of these two situations. It will be recalled that in taking action in Korea in June of that year, we also made provision for direct military assistance to Indochina. This aid program has continued through the past 3 years.

In view of the interrelationship of the two situations, it seemed to me that the halting, at least temporarily, of hostilities in Korea called for a firsthand study of the situation in Indochina. My objective in making this study has been to obtain information of possible interest to the Committee on For-

eign Relations, particularly along the following lines:

1. Current military situation in Indochina.

2. Political developments in the relationship between France and the three Associated States of Indochina and within the associated states relevant to the conflict with international communism.

3. The role of American aid in the defense of Indochina against international communism.

4. Prospects for a successful termination of her conflict in Indochina.

The report that follows is based primarily on discussions with officials and nonofficial observers and on personal observations in Vietnam, the Kingdom of Cambodia, and the Kingdom of Laos during the latter half of September. In order to obtain additional information and to cross-check findings, officials and nonofficial observers were also interviewed in Paris at the beginning and end of the study.

I should like to express my appreciation for the courtesies extended to me in Indochina by Ambassador Donald Heath and Gen. T. J. Trapnell of our mission at Saigon; by Commissioner Maurice Dejean and Gen. Henri-Eugene Navarre; by Prime Minister Nguyen Van Tam and Gov. Nguyen hun Tri of Vietnam; by Prime Ministers Penn Nouth of Cambodia and H. H. Souvanna Phouma of Laos; and by their staffs. The assistance and cooperation of these officials, their staffs, and many other persons in the three States greatly facilitated the carrying out of the study mission.

I should also like to note the indispensable assistance of Mr. Francis R. Valeo, Chief of the Foreign Affairs Division of the Legislative Reference Service, on detail to the Foreign Relations Committee staff, who accompanied me on the study mission.

MIKE MANSFIELD.

OCTOBER 27, 1953.

A. MILITARY SITUATION IN INDOCHINA

The Indochinese war is a grim one. It is a strange and elusive struggle, a shadowy war without battle lines. It is a war of sudden raids in the night, of parachute drops on scattered supply dumps, of interminable patrol actions, of ambush, terrorism, and sabotage.

It is fought in dense jungle, in remote mountain passes, and in the great river deltas. These are now vast green seas of rice, shoulder deep in monsoon rain. This kind of terrain favors an enemy whose tactics are hit-and-run, plunder, and retreat. To a considerable extent it neutralizes the mechanized equipment which the French possess. For years now it has been a stalemate. The casualties mount; but positions remain relatively the same. Except for an abortive advance of the Viet Minh into the Kingdom of Laos last spring and occasional sallies by the French and Associated States forces against Viet Minh supply centers, there have been few major actions and no significant positional changes in many months.

The French and Associated States forces continue to dominate the large cities, the principal rice-producing areas, the rubber plantations, the coal mines, and port facilities. The Viet Minh hold the rural areas, the jungles, the mountains, and, at night, parts of the rice-producing deltas which are under nominal control of the French and the Associated States by day.

There are indications that the stalemate in Indochina may be coming to an end. The months ahead could witness the beginning of a series of significant military engagements. On the one hand, the Viet Minh have been concentrating in divisional strength in the northern delta region. On the other hand, the new French commander, Gen. Henri-Eugene Navarre, has made clear that he thinks in terms of ending the defensive mentality which has characterized the French and Associated States operations since the death of Gen. de Lattre de Tassigny in January 1952. To this end, tactical concepts are being revised; France is dispatching 9 additional battalions from Korea and Germany to the Indochinese theater; and the indigenous forces of the 3 Associated States are being expanded as rapidly as the French believe possible.

The Viet Minh forces under Ho Chi Minh consist of approximately 300,000 men. It is an army built around disciplined and devoted Communist cadres and is generally regarded in the area as well organized and well led. While a portion of the manpower is grouped in small, scattered guerrilla bands, the Viet Minh are capable of deploying in divisional strength. The bulk of the army is concentrated in and around the Red River Delta in northern Vietnam. There are, in addition, Viet Minh forces in central Vietnam, in the Mekong River Delta of south Vietnam, in northern Laos, and on the borders of Cambodia.

The Viet Ninh are equipped with an assortment of locally produced and foreign-made weapons, which includes those of American and of recent Soviet manufacture. They have neither aircraft nor naval vessels.

Their principal source of outside supply is Communist China. Equipment flows over the border at the rate of 3,000 to 5,000 tons per month and military reports indicate that there has been some slight increase in the total since the Korean truce. The Chinese also supply technical advisers and training facilities. There is no evidence of Soviet Russian personnel within Indochina but there are reports of such personnel operating across the border in southern China.

The military position of the Communists in south Vietnam appears to have weakened over the years in the Mekong Delta area. It is unchanged or perhaps more powerful, however, in the northern Red River region, which from the outset has been the citadel of Viet Minh strength. The Communists also continue to pose a threat in northern Laos.

Opposing the Viet Minh are some 400,000 French, French Union, and Associated States forces, equipped with air and naval units. The core of these forces consists of French and French Union troops. However, the armies of Vietnam and, to a lesser extent, those of Cambodia and Laos are expanding.

The casualties suffered by the French Union forces and the 3 Associated States, while lower than those of the Viet Minh by perhaps a 5-to-1 ratio, have been greater than those of the United States in Korea. Casualties among French officers have been particularly heavy.

The non-Communist forces have been supported largely by France, whose current annual outlay for the conflict in Indochina amounts to approximately $1.2 billion, and by the United States at the rate of some $500 million a year. French expenditures in Indochina over the years has more than equaled the grants which France has received under our foreign-aid programs.

Like ourselves in Korea, the French are participating in an extremely difficult military undertaking. It involves fighting at the end of supply lines that stretch halfway round the world.

B. THE POLITICAL SITUATION IN INDOCHINA

The French are trying to halt communism in an area where nationalism is giving a new birth of freedom to peoples who have not known it for a long time. The French have found that in these circumstances military problems are deeply enmeshed in political problems. This creates a situation not readily amenable to simple, get-out-cheap formulas.

The current of nationalism runs strong throughout Indochina. It is not, perhaps, of equal fervor in each of the three States but in all of them it is the basic political reality. It gives rise to a desire for independence from foreign control that is deep-seated and widespread. To a great extent, it explains the continued acceptance of Ho Chi Minh in many parts of the region. He has been publicized not as an exponent of communism but as the figurehead of anticolonial, antiwestern nationalism.

The problem for France and, in an indirect sense, for ourselves, is to treat with this political reality in a manner which will insure that full independence, once achieved, will not immediately be nullified in the onrush of international communism. It is a problem that has both moral and practical aspects. This country is committed by belief, tradition, and practice to policies of supporting the right to self-government of peoples able and willing to assume the responsibilities of self-government. Moral aspects apart, failure to utilize the indigenous power latent in nationalism merely serves to increase immeasurably the cost to ourselves and to France of preventing the Communists from seizing Indochina and it could even throw the entire issue into doubt.

It is the general consensus of opinion of French, indigenous, and American observers in Indochina that one of the most important elements in a successful termination of hostilities lies in the mobilization of the local peoples against the Communists. This involves the winning over of the non-Communist support which, as a form of misdirected nationalism, is now enjoyed by Ho Chi Minh. At the same time it requires the stimulation of a substantial part of the population, presently indifferent, into active participation in the conflict on the non-Communist side.

French leaders, both in Paris and in Indochina, give evidence of recognizing this reality. As previously pointed out, they are moving rapidly to expand the military forces of the Associated States while shifting political power to the three local governments. Preparations are now being made and preliminary discussions are already under way to give effect to the July 3 declaration which paves the way for full independence. At issue are such matters as control of foreign exchange, customs, justice, the sureté, the participation of indigenous military in the high command of the armed forces and arrangements which link the three Associated States such as a common currency and a common customs.

Given mutual confidence and patience on the part of the negotiating political leaders, it is possible that most of the remaining limitations on full national sovereignty can be removed during the coming months.

Impetuous actions, however, such as recently manifested in Cambodia,[1] could be seriously disruptive, as could a failure of rapport between French officials in Paris and Saigon or unwarranted pressure by ourselves or other outside parties.

If there is to be a meaningful transfer of full sovereignty to the Associated States, one which will not immediately jeopardize the resistance to the Communists, it must be a transfer which is worked out by the French and the nationalist leaders in a manner satisfactory to both. Once such an arrangement has been achieved, the last remaining political block to the full mobilization of Vietnamese, Laotian, and Cambodian national sentiment against the Communist advance in the area will have been removed.

The political problems of the Associated States, however, will not end with the achievement of full independence. The leaders of these countries are already confronted with a multitude of internal difficulties and these are more likely to increase rather than decrease in the future. The basic problem

[1] See appendix 1, subsection on Cambodia.

which confronts all three governments, and particularly that of Vietnam, is to put down firm roots in their respective populations. They will be able to do so only if they evolve in accord with popular sentiment and if they deal competently with such basic problems as illiteracy, public health, excessive population in the deltas, inequities in labor and land tenure, and village and agricultural improvement. Finally, it is essential that there be a constant raising of the ethical standards of government and a determination to use the armies, now in the process of formation strictly for national rather than private purposes. Failure in these fundamental responsibilities of self-government will result in the achievement of the shadow rather than the substance of independence. It could also mean the rapid reduction of the three nations to chaos and the subsequent intrusion of some new form of foreign domination from close at hand.

C. UNITED STATES AID TO INDOCHINA

Direct United States assistance to Indochina began in August 1950. At that time, France's domestic economy had reached a point where it was no longer able to sustain the burden of the conflict in Indochina. Simultaneously, Ho Chi Minh's forces were everywhere preparing to push the French into the sea. This blow, however, did not fall. France did not withdraw. Throughout Indochina this is attributed largely to our intercession which provided the margin of material support and of hope that enabled the French to pursue the struggle.

Under military-aid agreements signed in December 1950, some 350 ships bearing arms have reached Indochinese ports. These shipments have included small-arms ammunition, transport vehicles, combat vehicles, military aircraft, naval vessels and small craft, communications equipment, small arms and automatic weapons, artillery ammunition, hospital supplies, and engineering and other technical equipment. There is a United States Military Defense Assistance Advisory Group in Indochina under Brig. Gen. T. J. Trapnell which provides instruction in the use of this equipment.

A pact of economic cooperation was signed between the United States and Vietnam on September 7, 1951. Subsequently, similar pacts came into effect with Laos and Cambodia. Under the STEM (Special Technical and Economic Mission) program of the Foreign Operations Administration some $96 million has been authorized as technical and economic aid during the fiscal years 1951–54. It is used to finance projects in village rehabilitation, sanitation, small business, irrigation, and public works. An additional $30 million annually in military-support assistance has been allocated in 1953 and 1954.

In all, the United States has been assuming about 40 percent of the total cost of the war in Indochina. In March 1953 the United States assured France of a willingness to increase its aid program if France produced an adequate plan for concluding the war. Such a plan, based on the views of General Navarre, was presented to the United States by the Mayer cabinet and later by the Laniel cabinet. The United States and France announced in a joint communique September 30, 1953, that "in support of plans of the French Government for the intensified prosecution of the war against Viet Minh, the United States will make available to the French Government prior to December 31, 1954, additional financial resources not to exceed $385 million." This assistance was additional to aid to Indochina in the Mutual Security appropriation early in 1953. The new allocation will raise the United States share of the cost of the war to an estimated 60 percent of the total.

In general, military supplies appear to be entirely adequate to meet current needs in Indochina. The only items which are cited by French authorities in the area as being in short supply are C-47 transports, helicopters, and small naval craft for use in the delta areas. These shortages will probably be relieved in the near future.

Economic assistance from the United States is channeled through the indigenous governments of the three states. Military aid, however, is made available to the French military authorities who, in turn, allocate it to the various forces engaged in the conflict. There is considerable pressure emanating from the governments of the associated states to participate more directly in American military aid. Any change in the present distribution system, however, prior to a clarification of relationships between the various parties under the July 3 declaration could prove disruptive of present military operations. Furthermore, a service of supply, now nonexistent, must be developed in the national armies of the three states before aid can be effectively handled by them.

D. SUMMARY OBSERVATIONS

The military prospects of the non-Communist forces in Indochina are improving

Three principal factors account for the improvement in the military position of the non-Communist forces which 3 years ago was at the point of utter dissolution. In the first place, there has been an expansion of the national forces of the associated states. Much remains to be done before these forces acquire the skills, morale, and leadership that will be necessary if they are to assume the primary burden for the defense of their countries. A start has been made, however, and the announced policy of the French is to push this process as rapidly as possible.

A second factor in the improved situation is the flow of American aid. This assistance makes possible the equipping and activating of indigenous forces on a large scale. It also provides the margin without which the French would probably be unable to continue to sustain their commitments in Indochina. American aid, however, does not and should not involve the commitment of combat forces. Sacrifices for the defense of freedom must be equitably shared and we have borne our full burden in blood in Korea.

The third factor is the new approach to the conduct of the campaign against the Viet Minh, which has been introduced by General Navarre. It is basically, as has been pointed out previously, the psychology of the offensive. While it is still too early to evaluate its effectiveness, the general consensus is that it has already provided a lift to morale and may provide in time the striking edge necessary to end the long stalemate.

The non-Communist forces in Indochina are still, however, a long way from the threshold of victory. Without a vast increase in present striking power, the Viet Minh will not be defeated. This increase, primarily a question of manpower, cannot come from France, already hard-pressed to meet commitments elsewhere. It certainly cannot come from this country. It can come only from the three Indochinese states.

And it is right that it should come from them. Their hope for freedom and national existence is at stake. If they have the will to sustain themselves as independent nations, the French have pledged themselves to continue to support them until the Communists are defeated. As for the material needed to insure the resistance, we have not stinted in our assistance in the past and we are not likely to do so in the future.

Transfer of full sovereignty to the indigenous governments of the Associated States in the near future is possible

Responsible French officials in both Paris and Saigon are unanimous in their views that France must withdraw from political authority in the Associated States. This view is generally shared by nonofficial observers. The French Government is on record as pledging the transfer. Indigenous leaders, in varying degrees, are anxious to assume full political responsibility. The issues that remain to be resolved before the transfer can be made do not appear to be excessively complex.

In these circumstances, then, the principal problem would appear to be one of timing, especially insofar as the transfer affects military operations. Full independence can be a reality only within the context of security against Communist aggression.

Apart from the question of timing, a successful transfer depends on the closest liaison between Paris and French officials in Indochina so that political decisions arrived at between France and the Associated States will be carried out promptly and accurately in the field. It also requires that the indigenous leaders of the three States recognize that full national independence carries with it full responsibilities for maintaining internal order and effective government.

Essential to the negotiation of the transfer are good faith and the utmost patience on both sides. It is not the kind of settlement that either side can be clubbed into making by well-intentioned friends. It is the kind of settlement that can be negotiated only by the two parties themselves. And it must satisfy both.

Continuing American assistance is justified and essential

As previously pointed out, American aid has provided the margin of material assistance necessary for continuing resistance to the Communist advance in southeast Asia. In making available this assistance we recognized that Indochina is of great importance to the security of the non-Communist world and to our own national security. Just as the conflict in Korea is being fought in part to avoid war on our own frontiers in the future, so, too, is the war in Indochina.

In these circumstances continued aid to the French and Associated States is justified and essential. Neither the French, who are already making heavy sacrifices in Indochina and who must support commitments to the common defense in Western Europe and other parts of the non-Communist world, nor the newly created Associated States can carry this burden alone. In the interests of our own security, therefore, it is necessary that American aid be continued.

American assistance in this area, however, as elsewhere, must be carefully administered to insure its most economical and effective use. It may be desirable, therefore, to review in detail both the military and economic aspects of the aid program in Indochina. Some informed observers in the area believe that present procedures and undertakings are unduly wasteful.

A solution to the war in Indochina satisfactory to the non-Communist world is possible

It is to the advantage of international communism to continue this highly indecisive struggle in Indochina, not to our side. It drains the strength of France into distant battlefields and impairs the consolidation of the defense of Western Europe. It churns into turmoil and chaos an area which should have peace and stability. Finally, it places a heavy financial load on the people of the United States at little cost to Moscow or Peking.

This situation can be reversed provided the position of the non-Communist world in Indochina is steadily strengthened over the next 2 or 3 years. If progress is made in the military and political fields along the lines previously mentioned, and if American aid continues, the Communist threat in southeast Asia can be dissolved.

Only an outright invasion by the Chinese Communists would be likely to rescue the Viet Minh from defeat in time, at the hands of the expanding non-Communist power in

the Associated States. If such an invasion were to occur, however, it would create an entirely new situation of international aggression. On September 2, 1953, Secretary of State John Foster Dulles, in a speech before the American Legion convention in St. Louis, warned that such an aggression "could not occur without grave consequences which might not be confined to Indochina."

While present plans of the French and the Associated States must necessarily envision essentially a military solution to the problem of the Communist advance, a negotiated settlement based on the Korean precedent is by no means ruled out by France. A truce in Indochina, however, as anywhere in dealing with the Communists, depends on strength, not weakness. On September 15, 1953, the Chinese Communist regime proposed a Korean-like peace conference on Indochina. The French have repeatedly indicated their willingness to enter into negotiations to this end and the desire for peace is strong in the Associated States. The Viet Minh under Ho Chi Minh, however, so far have spurned all overtures which might lead to a termination of hostilities, probably because they still believe that they can win.

In these circumstances, continuance of the present three-pronged effort in Indochina is of the utmost importance. The Communists may become more receptive to a cessation of hostilities once they are faced with the certainty of ultimate defeat. That is why they must be convinced that the French mean to pursue a course leading to the establishment and preservation of the independence of the three States. They must be convinced that the three States, in turn, have the will and popular support necessary to fight for their national freedom. They must be convinced, finally, that we are prepared to stay with the struggle until the liberty of this area is assured.

And the need to stay with it is clear because the issue for us is not Indochina alone. Nor is it just Asia. The issue in this war so many people would like to forget is the continued freedom of the non-Communist world, the containment of Communist aggression, and the welfare and security of our country.

APPENDIX 1

BACKGROUND INFORMATION ON INDOCHINA

The Indochina Peninsula forms the southeasternmost extremity of continental Asia. To the north is China. Burma and Thailand border on the west. The Gulf of Tonkin and the China Sea lie to the east, while the Gulf of Siam is to the south. Indochina is comprised of three separate States: Vietnam on the east, extending from the China border to the extreme south; Laos, in the northwest hinterland; and Cambodia, in the southwest. The State of Vietnam includes the areas previously known as Tonkin in the north, Annam in the center, and Cochin China in the south. Hanoi is the principal city in the Tonkin Delta and Saigon, the capital of Vietnam, the principal city in the Mekong Delta. Pnom Penh is the capital of Cambodia and Luang Prabang the capital of Laos.

The population of Vietnam is 23 million, Cambodia 3½ million, and Laos 1½ million. Three-fourths of the Indochinese live on the coastal plains on one-tenth of the total land surface. Ninety percent of the population is rural. The total area of Indochina, 285,640 square miles, is about twice the size of the State of Montana.

Rice production predominates in the Indochinese economy. About five-sixths of the cultivated land produces rice. Prior to World War II Indochina was the world's third largest rice-exporting country with Cochin China the principal exporting region. Rubber production has developed rapidly in Cochin China and Cambodia since 1911, with some 69,000 tons exported in 1939. Other agricultural products include sugar, cotton, corn, tea, coffee, silk, lac, and spices. The high mountain ranges of the north produce hardwoods, bamboo, herbs, and vegetable oils. Laos is a primary source of teakwood. High-grade anthracite coal, iron, manganese, zinc, and wolfram are mined in Tonkin. Laos produces tin.

Indochinese industries are largely of the conversion type and inslude rice mills, distilleries, sugar refineries, spinning and textile mills, tobacco-manufacturing, lime and cement works, paper mills, and chemical plants. Although heavier industry had begun to develop between the two World Wars, the war and unrest which followed has stopped any significant industrial expansion.

When the French returned to Indochina in 1945 rice exports had dropped to one-tenth of the prewar level. They have not yet regained their former position. Rubber production in 1952 had almost returned to the prewar level. The transportation system built by the French has deteriorated during 12 years of war and rebellion. Shortages of technical personnel and investment capital retard industrial development. Problems related to a high population density in the Tonkin delta, absentee landlordism in south Vietnam, and high interest rates on agricultural loans persist. While some gains have been made since World War II, significant economic recovery has been retarded by continuing internal hostilities.

The French colony of Cochin China and the protectorates of Annam, Tonkin, Laos, and Cambodia were federated in 1887 to form the Union of Indochina. Under French rule the colony enjoyed certain benefits of western education, sanitation, and material progress. Railroads were built, canals and harbors dredged, mines developed, rubber plantations established, and rice culture expanded. French medical services gained wide recognition. French cultural institutions were intermingled with the indigneous. French became a second language of the educated classes.

As nationalism and anticolonialism spread throughout Asia it found support in Indochina. During the 1920's various national movements challenged the French authority. French prestige was crippled by the Japanese occupation during World War II, and the Indochinese desire for independence was nurtured by the postwar attainment of independence by the Philippines, Indonesia, Burma, India, and Pakistan.

In March 1945 Japan proclaimed the end of Indochina's colonial status, removed the Vichy administration from office, and recognized indigenous regimes. In Annam the Emperior Bao Dai proclaimed an independent State of Vietnam. With the surrender of Japan in August 1945, Bao Dai transferred his authority to a government headed by Ho Chi Minh and became an adviser in that government. France quickly regained control in Laos and Cambodia and, by an agreement of March 6, 1946, with the Ho Chi Minh government, recognized the Republic of Vietnam as a free state having its own government, parliament, army, and finances, and forming a part of the Indochinese Federation and the French Union. The entry of Cochin China into the Republic of Vietnam was to be determined by a plebiscite. Discussions with the Ho government eventually broke down and Ho Chi Minh's forces commenced an armed insurrection against the French. During a temporary truce Ho demanded a greater degree of sovereignty than France was willing to concede. In December 1946 full-scale war commenced which has continued to date.

In September 1947, France opened discussions with Bao Dai, who had in the meantime broken his connections with Ho Chi Minh, for the establishment of an indigenous government. Basic agreements were signed in Paris March 8, 1949. France agreed that Cochin China would become part of an independent and self-governing State of Vietnam within the framework of the French Union. Under the agreement France retained a measure of control over the Vietnamese Army and the right to maintain military forces in Vietnam. Vietnamese foreign policy was to be coordinated with that of France through the High Council of the French Union. Vietnam's currency was linked with the franc and the French retained certain administrative controls.

Bao Dai assumed office June 23, 1949, and sovereignty was formally transferred February 2, 1950. In July 1949, a similar treaty was signed with the Kingdom of Laos and in November with the Kingdom of Cambodia. In conferences at Pau, France, ending in November 1950, clarifying agreements were reached.

The association of the 3 states within the framework of the French Union provided the basis of their title, "Associated States of Indochina." The 3 states were recognized by the United States and Britain in February 1950. Subsequently recognition was extended by some 30 other powers. Their applications for membership in the United Nations were vetoed by the Soviet Union. However, the states are members of several U. N. subsidiary agencies. In October 1950, Vietnam, Laos, and Cambodia took part in the London meeting of the Consultative Committee on the Colombo Plan and, in September 1951, delegates of these states signed the Japanese Peace Treaty in San Francisco.

On July 3, 1953, France agreed to negotiate with Vietnam, Laos, and Cambodia with a view to transferring to the 3 states some of the functions and powers which had been retained by France under the earlier agreements.

The most pressing problem in Indochina is the military conflict with the Communist-led Viet Minh. The Viet Minh League for Independence was founded in China in 1941, as a coalition of Indochinese nationalist movements under Communist domination. During the immediate postwar period its propaganda made little or no mention of communism and popular support was sought by stressing the theme of national independence. The Viet Minh leader, Ho Chi Minh, a Communist organizer with experience in France, the Soviet Union, China, and Thailand, had organized the Indochinese Communist Party in 1930. When the Japanese withdrew from Indochina in 1945 they left behind large quantities of arms and ammunition which fell into the hands of Ho Chi Minh. With this material, the Viet Minh forces were able to launch a surprise attack on the French garrison in Hanoi in December 1946.

APPENDIX 2

NOTES ON POLITICAL DEVELOPMENTS WITHIN THE ASSOCIATED STATES

VIETNAM

Bao Dai, upon assuming power as the Chief of State, declared that the people of Vietnam would have the right to choose their own form of government at some future date; that, in the meantime, government would be by ordinance and decree. The government is directed by a Premier who is President of a nominated Provisional National Council. Nguyen Van Tam, the present Premier, was appointed in June 1952.

The first nationwide election under the Bao Dai regime was held in January 1953. The election was on a local basis for municipal and village councils and was limited to non-Viet Minh areas. At the time of the election it was announced that newly elected municipal councils would later choose Provincial Councils, which in turn would nominate members of three regional assemblies. The regional bodies would select representatives to a national assembly.

The government of Nguyen Van Tam has energetically approached the administrative problems involved in the transition from a colonial to a national civil service. Defense appropriations have been doubled. Premier Tam has given publicity to French and American aid programs while pressing for the allocation of American aid directly to Vietnamese authorities rather than through France.

Political opposition to Premier Nguyen Van Tam has centered in certain nationalist groups which have always opposed the Viet Minh or have defected from it. These groups, which include such powerful politico-religious sects as the Cao Dai and Hoa Hao, favor complete independence for Vietnam and oppose the more conciliatory position of Bao Dai and Premier Van Tam toward France.

Following the announcement of France in July 1953, of a willingness to negotiate a modification of the pacts with the associated states, Bao Dai moved to gain the increased support of the nationalists. Upon departing in September for preliminary discussions with the French Government in Paris he announced that he was spokesman for all segments of the Vietnamese population and would press for complete independence of Vietnam as well as for a free association with France in a union grouping sovereign and friendly peoples.

CAMBODIA

King Norodom Sihanouk, at the close of of World War II, affirmed his loyalty to France and, on March 7, 1946, signed a provisional agreement providing for French direction of Cambodia's foreign policy and matters affecting the Indochinese Federation. At the same time the king set in motion the transformation of the absolute monarchy into a constitutional monarchy and the creation of a unicameral legislative assembly elected by universal adult male suffrage. An electoral law was promulgated in May 1946, and members of the legislative assembly were elected in September 1946. Three political parties emerged: the Democrats favoring a maximum of autonomy; the Progressives desiring gradual political evolution; and the Liberals urging French control. In the election the Democrats gained 50 of the 57 seats. A constitution was promulgated on May 6, 1947.

During the immediate postwar period Cambodian political affairs have also been affected by the Issarak or Free Cambodia movement. This militant organization of Cambodians in Thailand and Vietnam affiliated with the Viet Minh in 1948. King Norodom responded to the threat of armed rebellion to gain complete independence from France by assuming for himself the position of leadership in the nationalist movement. While in New York City, in April 1953, King Norodom publicized Cambodia's grievances against France. Upon returning to Cambodia he dramatized Cambodia's desire for complete independence by going into temporary exile in Thailand. Cambodia has expressed dissatisfaction with the present pacts governing economic relations among the Associated States and has attempted to break the hold of Saigon on the Cambodian economy by modernizing the port of Pnom-Penh and by orienting her trade toward Thailand.

In September 1953, Cambodian Premier Penn Nouth made a public statement to the effect that Cambodia would remain neutral toward Viet Minh forces in Vietnam so long as they left Cambodia in peace. The Foreign Minister, Strit Matak, however, sought quickly to allay adverse reactions in the United States and France by issuing a statement repudiating the neutralist stand and affirming Cambodia's loyalty to the free world.

LAOS

King Sisavang Vong is the head of the state. The aging monarch entrusts the affairs of state to his son, Crown Prince Savang Vathana. The basic agreement defining the relationship of Laos to France and the French Union is similar to the agreement of France with Cambodia. A constitution guaranteeing democratic freedoms to the Laotian peoples was promulgated May 11, 1947. Legislative power is exercised by a national assembly elected by direct universal suffrage.

APPENDIX 3

TEXT OF THE DECLARATION OF JULY 3, 1953, ON INDOCHINA BY THE FRENCH GOVERNMENT

The Government of the French Republic, meeting in Council of Ministers, has examined the relations of France with the Associated States of Indochina.

It considers that the time has come to adapt the agreements made by them with France to the position which they have acquired, with her full support, in the community of free peoples.

Respectful of national traditions and human freedoms, France has led Cambodia, Laos, and Vietnam to the full flowering of their personality, and has maintained their national unity in the course of cooperation over nearly a century.

By the agreements of 1949, she recognized their independence and they agreed to associate themselves with her in the French Union.

The Government of the Republic wishes today to make a solemn declaration.

During the period of 4 years which has elapsed since the signature of the agreements, the brotherhood of arms between the armies of the French Union and the national armies of the Associated States has been further strengthened thanks to the development of the latter, which are taking daily a more important part in the fight against the common enemy.

In the same period, the civil institutions of the three nations have put themselves in a position to assume the whole powers incumbent on modern states, while the voice of their governments has been heard by the majority of countries composing the United Nations organization.

In these conditions, France considers that there are grounds to complete the independence and sovereignty of the Associated States of Indochina in assuring, with the agreement of each of the three interested governments, the transfer of the functions that France has still retained in the interests of the states themselves, because of the perilous circumstances resulting from the state of war.

The French Government has decided to invite each of the three governments to come to an agreement with it on the settlement of questions which each of them may deem it necessary to raise in the economic, financial, judicial, military, and political fields, in respect of and safeguardng the legitimate interests of each of the contracting parties.

The Government of the Republic expresses the wish that agreement on these various points may strengthen the friendship which unites France and the Associated States within the French Union.

USE OF SURPLUS COMMODITIES IN CONSTRUCTION OF OVERSEAS MILITARY BASES

Mr. CASE. Mr. President, both as an individual Senator and as chairman of the Armed Services Subcommittee on Real Estate and Military Construction, I have been trying to find ways to use Government-owned surplus commodities in the construction of overseas military bases.

Following a recent hearing of our committee on the matter, I wrote a letter to the President indicating our hope that the Departments of State, Defense, and Agriculture might get together on practical steps to achieve this objective. I now have a reply from President Eisenhower which will be of general interest.

The letter from the President follows:

THE WHITE HOUSE,
Washington, February 4, 1954.

DEAR SENATOR CASE: I appreciate your letter about exchanging our surplus agricultural commodities for certain construction materials and services that we need overseas.

Some time ago I asked certain Cabinet officers to make a careful study of this and other possible uses for some of our surpluses. My deep interest in the matter is undiminished, and I am glad to have your suggestion on the problems of implementations of the program. I intend to see that the executive branch continues actively to explore the possibilities of this kind of action. I agree completely with you that we must move as promptly as possible to take advantage of these possibilities as they are developed.

With kind regard,
Sincerely,

DWIGHT D. EISENHOWER.

AMENDMENT TO THE CONSTITUTION RELATING TO TREATIES AND EXECUTIVE AGREEMENTS

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business, which is Senate Joint Resolution 1.

The Senate resumed the consideration of the joint resolution (S. J. Res. 1) proposing an amendment to the Constitution of the United States relative to the making of treaties and executive agreements.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Michigan [Mr. FERGUSON], on behalf of himself and other Senators, to the committee amendment on page 3, line 5.

Mr. FERGUSON. Mr. President, I should like to modify my amendment, so as to make it read:

On page 3, line 5, after the word "treaty", strike out the words "which conflicts with" and insert "or other international agreement which conflicts with, or is not in pursuance of."

The ACTING PRESIDENT pro tempore. The Senator from Michigan modifies his amendment accordingly.

Mr. HENNINGS. Mr. President, this morning I should like to discuss the substitute amendment which has been proposed by the senior Senator from Georgia [Mr. GEORGE], which has been incorporated as a part of the most recent substitute proposed by the senior Senator from Ohio [Mr. BRICKER]. In essence, this substitute provides that no executive agreement can be effective as internal law until it has been implemented by act of Congress. No distinction is made regarding the various types of executive agreements or the constitutional powers under which such agreements are concluded.

Before I begin my discussion, I should like to state that it is only with great reluctance and with a sense of my own limitations that I find myself in disagree-

ment with the distinguished Senator from Georgia [Mr. GEORGE] on a question of constitutional law. As the Senator from Georgia knows, I hold him in the highest possible esteem both as a friend and a fellow lawyer.

Let me say at the outset that I hope to keep what I have to say on as factual a plane as possible, and not descend to hypothesis, recrimination, the questioning of motives, or emotionalism.

So that I may not in any way misconstrue the basic premise which underlies the substitute amendment of the Senator from Georgia, I prefer to use his own clear and concise words rather than a paraphrase of my own. On last Friday, February 5, in an exchange with the Senator from Oregon [Mr. MORSE], the senior Senator from Georgia said:

> When it comes to a limitation upon the right and power of the President to make executive agreements, the only concern I have grows out of cases like the Pink case, which I agree is not very good law, but which happens to be the decision of the Supreme Court. It grows out of the feeling I have that the Court has been moving in that direction for some time, and it looks as if the Court, in the case, went overboard.

The three points which I would like the Senate to consider, before finally voting on the George substitute, are the following:

First. That the Pink case, which more or less stands alone, is neither a precedent of a dangerous character nor one which would warrant amending the Constitution of the United States.

Second. Under our present system of separation of powers, there are sufficient checks and balances to prevent an abuse of the President's power to conclude executive agreements.

Third. The proposed substitute amendment is open to an interpretation which would destroy one of our greatest bulwarks of States' rights against Federal encroachment upon them.

The factual situation underlying the Pink case, decided by the Supreme Court on December 2, 1942, is quite complex. The Pink case perhaps has been used as a gambit, somewhat in the manner used by lawyers who have at times quickly silenced other lawyers and laymen by saying, "It is evident from what you say that you never read the decision in the Schultz case." That argument usually silences his opponent, who has not read the Schultz case. In fact, there generally has never been a Schultz case. One of the easiest ways in which to destroy the opposition in the course of an argument is to ask one's opponent whether he has ever read such and such a case, although he knows full well the case does not exist.

It is a standing joke that sometimes that terminology is used in argument.

The aversion to the so-called Pink case throughout the course of the debate had interested me to such a point that I undertook to reread the approximately 50 pages of the opinion and tried to study it so that within the limitations of my own understanding I could discuss it in lawyerlike fashion. With the indulgence of the Senate, I shall try to do that today. The facts are quite complex and I think it might aid everyone's understanding of the issues of the case if I review this factual situation as briefly as I can at this point.

Although the Soviet Government came into power in 1917, it was not until 16 years later, in 1933, that the United States formally recognized the new Russian Government. One of the most difficult problems which caused this delay was the inability of United States citizens to collect debts due them from the Russian Government or from Russian citizens. Their inability resulted in large measure from the Soviet expropriation of a large part of the Russian economy. The Supreme Court stated the difficulty very concisely in the Pink case when it said:

> The existence of unpaid claims against Russia and its nationals * * * had long been one impediment to resumption of friendly relations between these two great powers (315 U. S. 203, 225).

I believe it is quite clear that the question of the recognition of the Soviet government differed radically from the usual recognition of a foreign government because of the many difficult collateral questions that had to be ironed out simultaneously with recognition. After much discussion and bargaining, the U. S. S. R. agreed to assign to the United States Government all claims which it or its citizens had against the United States or its citizens. There was an understanding that the United States would proceed to collect the assigned claims and apply the proceeds against the claims which United States citizens had against Russia or its citizens.

The Pink case itself arose out of the impact of this assignment—known as the Litvinov Assignment because Litvinov was the negotiator for the Russians at that time—upon certain assets which were being distributed by the New York courts. These assets had been deposited with the New York Superintendent of Insurance by the First Russian Insurance Co., involved in the Pink case.

This company was a Russian insurance company which had established a branch in New York in 1907. Under New York law, it had been required to pledge with the New York Superintendent of Insurance certain assets to guarantee payment of claims arising out of transactions in New York. Before we can fully understand the case, it is necessary to consider the different types of creditors of the New York branch of this Russian insurance company. There were many creditors whose claims arose out of transactions concluded by the branch in New York. Generally speaking, these creditors were United States citizens who had taken out insurance policies in this country with the New York branch. There were also, of course, foreign creditors. In general, these were the shareholders who had put up the money to organize the company and who might be described as the persons who owned an equity in the company itself.

Many were living in Paris and London; many of them were so-called white Russians, doubtless living within the orbit of the Soviet Government. In any case, generally speaking, these foreign creditors were Russian citizens.

In 1918 and 1919 the Soviet Government nationalized all Russian insurance companies, and all property, wherever situated, of all such Russian insurance companies. They also canceled the rights of the shareholders in such property, including the rights of the shareholders in the First Russian Insurance Co. In a word, the Soviet Government confiscated the equitable holdings of the company without compensation.

The New York branch of the company continued to do business until 1925, when the New York courts ordered liquidation of the company's assets. Pursuant to the court order, Mr. Pink, who was superintendent of insurance in New York, paid all claims arising out of transactions of the New York branch in this country. In other words, all domestic creditors, including all policyholders—and they were Americans, of course—were paid in full. There remained a surplus of more than $1 million. In 1931 the New York courts ordered that the surplus should be distributed to various foreign creditors, including the foreign stockholders, of course, whose equity interests had been expropriated by the Soviet nationalization decrees. The claims of a few foreign creditors were paid, but a stay was granted pending presentation of the claim of the United States Government arising out of the Litvinov assignment.

As I said before, the Soviet Government assigned to the United States Government, among other things, the equity interest of the New York branch of the First Russian Insurance Co. Under Russian law, the Soviet Government could assign such interest because of its nationalization decree. The basic question which was presented to the New York courts in a very complicated series of legal proceedings was whether or not it should honor the assignment to the United States or should disregard the assignment as worthless and pay the equity assets over to the original Russian shareholders.

The New York courts held that the nationalization decrees were contrary to New York "public policy," and therefore the courts would not recognize them. They concluded that the Soviet Government had nothing to assign to the United States Government, and therefore the assignment was worthless. The court held as not controlling the fact that by our recognition it became the policy of the United States to recognize retroactively all acts of the then Soviet Government.

The case was appealed by the United States Government to the United States Supreme Court. In a 5-to-2 decision, that Court overruled the decision of the New York Court of Appeals. That is the decision in the famous Pink case, as I understand it to have been then interpreted, and as the Court, I believe, said. It held that the public policy of the United States was paramount to the public policy of New York—there is nothing remarkable, shocking, or unusual about that—and further, that the public policy of the United States was expressed in the Litvinov assignment, the

executive agreement between the President and Litvinov, which was an integral part of our diplomatic recognition of the Soviet Government. The Court demonstrated how a contrary decision would have frustrated our recognition of the Soviet Government and would have frustrated the payment of claims of the United States citizens against other nationalized firms in Russia.

The exact holding in the case was as follows:

We hold that the right to the funds or property in question became vested in the Soviet Government as the successor to the First Russian Insurance Co.; that this right has passed to the United States under the Litvinov assignment; and that the United States is entitled to the property as against the corporation and the foreign creditors (315 U. S. 203, 234).

Mr. President, that, in brief, in substance and in effect, is the Pink case. That holding and that holding alone, in the minds of some persons is supposed to furnish a predicate or a support to warrant a change in our Constitution. I wish to point out a number of aspects of the case which lead me to the conclusion that the case represents no threat whatever to our liberties.

First. I think it is necessary to keep in mind that the assignment was an integral part of the act of recognition itself. Without the assignment, no recognition could have taken place, because the settlement of claims had been an obstacle to the recognition for years. The Court touches upon this point in the following passages:

Recognition is not always absolute; it is sometimes conditional. (1 Moore, International Law Digest (1906), pp. 73–74; 1 Hackworth, Digest of International Law (1940), pp. 192–195.) Power to remove such obstacles to full recognition as settlement of claims of our nationals (Levitan, Executive Agreements, 35 Ill. L. Rev. 365, 382–385) certainly is a modest implied power of the President who is the sole organ of the Federal Government in the field of international relations. (*United States* v. *Curtiss-Wright Corp., supra*, p. 320.) Effectiveness in handling the delicate problems of foreign relations requires no less. Unless such a power exists, the power of recognition might be thwarted or seriously diluted. No such obstacle can be placed in the way of rehabilitation of relations between this country and another nation, unless the historic conception of the powers and responsibilities of the President in the conduct of foreign affairs (see Moore, Treaties and Executive Agreements, 20 Pol. Sc. Q. 385, 403–417) is to be drastically revised. It was the judgment of the political department that full recognition of the Soviet Government required the settlement of all outstanding problems including the claims of our nationals. Recognition and the Litvinov assignment were interdependent. We would usurp the executive function if we held that that decision was not final and conclusive in the courts.

I continue to read from the decision in the case:

The action of New York in this case amounts in substance to a rejection of a part of the policy underlying recognition by this Nation of Soviet Russia. Such power is not accorded a State in our constitutional system. To permit it would be to sanction a dangerous invasion of Federal authority. For it would "imperil the amicable relations between governments and vex the peace of nations." (*Oetjen* v. *Central Leather Co., supra*, p. 304.) It would tend to disturb that equilibrium in our foreign relations which the political departments of our National Government had diligently endeavored to establish.

Does anyone really seriously believe that New York or any other one of the 48 States should be permitted to block the recognition by the United States of a foreign government or a foreign state? This is what would have resulted if the Supreme Court had affirmed the decision of the New York Court of Appeals.

Second. The executive agreement which formalized our recognition of the Soviet Government and which included as an integral part the Litvinov assignment was an executive agreement made in pursuance of a specific power of the President under the Constitution. It is the exercise of just this type of power that the Senator from Georgia [Mr. GEORGE] has said he does not wish to limit. For example, on February 5, he said:

I would be perfectly willing, if it was sound principle of law, which I could justify, to say that my amendment should not be construed to affect the powers of the President as Commander in Chief of the Army and Navy or his powers as provided in the Constitution to receive Ambassadors and Ministers of foreign governments. (CONGRESSIONAL RECORD, p. 1404.)

On the same day the distinguished Senator also said that his substitute "could certainly not affect his"—the President's—"power, as an illustration, to invite and receive Ambassadors and Ministers of foreign countries. Those powers are expressly guaranteed in the Constitution, and under international law as well. International law is a part of the law which our courts must accept and enforce."

What the Senator from Georgia says may be very true in regard to some recognitions. I fail to see how it could apply to the recognition of the Soviet Government in 1933. There is certainly no principle of international law which would cover the Litvinov assignment, which was an integral part of the recognition. If recognition were to be accomplished, it was necessary to conclude an executive agreement containing specific provisions falling completely outside the principles of international law.

What is difficult to understand is the fact that the Litvinov assignment, which forms the base of the Pink case, is an executive agreement which was made by the President within his power as provided in the Constitution to receive Ambassadors and Ministers of foreign governments. It is just this power which the Senator from Georgia [Mr. GEORGE] says he does not wish to limit, and still he disagrees with the decision in the Pink case.

Third. It is frequently said, although erroneously, that the Pink case stands for the proposition that international agreements are not subject to the provisions of the Constitution, and in particular, that they are not subject to the fifth amendment. For example, on page 1405 of the CONGRESSIONAL RECORD, we find the following statement by the senior Senator from Ohio [Mr. BRICKER]:

Certainly it is the President's right to recognize foreign governments. But the question of abolishing one of the rights of the people under the fifth amendment has nothing to do with the recognition of a foreign government.

So said the Senator from Ohio.

Mr. President, nothing could be more misleading than this. The Court makes it perfectly clear that it is ready and willing to examine all international agreements to see if they contravene any of the provisions of the Constitution. In this instance, the Court examined the Litvinov assignment very closely and specifically dealt with arguments that it contravened the fifth amendment. The Court concluded, and I believe rightly, as do other lawyers, that there was no violation of the fifth amendment or any other provision of the Constitution. I should like to read several passages from the Court's opinion on this point.

Mr. MORSE. Mr. President, will the Senator from Missouri yield?

Mr. HENNINGS. I am very glad to yield to the Senator from Oregon.

Mr. MORSE. The Senator from Missouri has made a very important point with regard to the meaning and the effect of the Pink case. The Pink case does not stand for the proposition that the Court will not look into executive agreements entered into by a President which may contravene the Constitution. To the contrary, the Pink case is authority holding that the check provided under our constitutional system will be exercised by the Supreme Court of the United States, and which was exercised by the Supreme Court in terms in passing on the Litvinov agreement.

I do not believe we can emphasize too strongly that the Pink case does not support the holding that executive agreements made by a President supersede the Constitution; but, to the contrary, the Supreme Court found that the particular executive agreement in question did not violate the Constitution, carrying out the check which the Supreme Court had upon the exercise of executive power.

As I suggested in my speech last Friday on the Pink case, I am at a loss to find the language in the Court's decision which has caused all the excitement about the Pink case being an example of how the President of the United States can violate the constitutional rights of the American people. The Supreme Court said such an opinion is not valid.

That leads to the next question which I think needs to be emphasized: Are we, the Congress, to take the position that, because we do not like the effect of a decision of the Supreme Court of the United States, we ought to go along with a constitutional amendment which would have the legal effect of destroying the separation-of-powers doctrine, under which each branch of the Government is coordinate and equal, and under which system the Supreme Court of the United States is set up as the final judge of what is or is not constitutional? I suggest that in the last analysis we get down to the question whether or not the Congress

is going along with a proposal to amend the Constitution by an amendment which in effect puts the Congress over the President and the Supreme Court.

Mr. HENNINGS. I thank my distinguished colleague for his contribution. He is a fine lawyer and a scholar, and a teacher of the law in his own right. It is perfectly evident to me that there must be a gross misunderstanding upon the part of some of our colleagues and other proponents of the several amendments proposed, of what is actually stated in the Pink case. As to many of these amendments, the attempt is to write them on the floor of the Senate, or at the other end of Pennsylvania Avenue, or goodness knows where. We are asked to come in and, so to speak, off the cuff, amend the Constitution of the United States upon the basis of the Pink case, which does not at all state what many have undertaken to tell the Senate it does state and what impact it in fact has. When one takes the decision in the Pink case, and spends a little time studying it and reading the Court's opinion, it is really incredible and unbelievable to understand how some arrive at such an opinion. I hope that Members of the Senate, when we come to the consideration of the amendments, will not undertake to accept the word of even distinguished constitutional lawyers and others that the Pink case is an enormity, or a denial of justice to American citizens, or that it transgressed or trespassed upon the fifth amendment or any other section of the Bill of Rights or the Constitution of the United States.

It is the easiest thing in the world to lead people astray by saying, "This is the decision," and when they rely upon it without having read or fully comprehended the decision, driving them into something on which they need enlightenment when they may not fully comprehend or understand the decision.

I say that with no reflection upon the intelligence or capacity of any Member of this body; but we all know that many Senators do not have the time to study questions adequately. They are engaged in many other matters, on their own committees, and with their other obligations. To read and analyze a 50-page opinion is an undertaking from which many of us would quite naturally shrink. However, I do most respectfully adjure my colleagues to read the opinion, if they are not willing to accept what has been said in derogation of the effect of the so-called Pink case. I am sure that after doing so they will be compelled to a full realization that the Pink case is really not the bogey under the bed which it has been described to be by many of my learned colleagues.

The Court's opinion in the Pink case, which also involved the question of the fifth amendment, contained this statement:

The Belmont case forecloses any relief to the Russian corporation. For this Court held in that case (301 U. S. at p. 332): "Our Constitution, laws, and policies have no extraterritorial operation, unless in respect of our own citizens. * * * What another country has done in the way of taking over property of its nationals, and especially of its corporations, is not a matter for judicial consideration here. Such nationals must look to their own government for any redress to which they may be entitled."

But it is urged that different considerations apply in case of the foreign creditors to whom the New York Court of Appeals (255 N. Y. 415, 175 N. E. 114) ordered distribution of these funds.

Of course, the reference is to the distribution of funds referred to in the Pink case.

I read further:

The Court added the following footnote: In view of the disposition which we make of this case, we express no view on whether these creditors would be barred from asserting their claims here by virtue of the ruling in *Canada Southern Ry. Co.* v. *Gebhard* (109 U. S. 527, 538).

The Canada Southern Railway Co. case was an old case, decided in 1883, long before the decision in the Pink case, and long before the Pink case was raised as a grim specter which was "going to destroy our rights and take away our liberties and freedoms and make it possible for a Hitler to march to power." That argument has been used; it has been said that if we do not amend the Constitution in the way now proposed, we shall find a Hitler marching to power—all because of the Pink case, I gather.

Mr. President, I repeat a little of the last quotation:

The Court added the following footnote: "In view of the disposition which we make of this case, we express no view on whether these creditors would be barred from asserting their claims here by virtue of the ruling in *Canada Southern Railway Company* v. *Gebhard* (109 U. S. 527, 538), that 'anything done at the legal home'—

Which in that case meant Canada—

of the corporation, under the authority of such laws, which discharges it from liability there, discharges it everywhere."

Mr. President, in that Canadian railway case, decided away back in 1883, the Canadian Parliament had made an arrangement for new securities in place of the ones then held by some American bondholders among others, thereby depleting considerably the value of the securities held by the Americans.

But to go back to the Pink case, the argument is that their rights in these funds had vested by virtue of the New York decree; that to deprive them of the property would violate the fifth amendment, which extends its protection to aliens, as well as to citizens; and that the Litvinov assignment cannot deprive New York of its power to administer the balance of the fund in accordance with its laws for the benefit of these creditors.

The Court said:

At the outset, it should be noted that, so far as appears, all creditors whose claims arose out of dealings with the New York branch have been paid.

Mr. President, the creditors there referred to are the American creditors.

I read further from what the Court said:

If the President had the power to determine the policy which was to govern the question of recognition, then the fifth amendment does not stand in the way of giving full force and effect to the Litvinov assignment. To be sure, aliens as well as citizens are entitled to the protection of the fifth amendment. (*Russian Volunteer Fleet* v. *United States* (282 U. S. 481).) A State is not precluded, however, by the 14th amendment from according priority to local creditors as against creditors who are nationals of foreign countries and whose claims arose abroad. (*Disconto Gesellschaft* v. *Umbreit* (208 U. S. 570).) By the same token, the Federal Government is not barred by the fifth amendment from securing for itself and our nationals priority against such creditors. And it matters not that the procedure adopted by the Federal Government is globular and involves a regrouping of assets. There is no constitutional reason why this Government need act as the collection agent for nationals of other countries when it takes steps to protect itself or its own nationals on external debts. There is no reason why it may not, through such devices as the Litvinov assignment, make itself and its nationals whole from assets here before it permits such assets to go abroad in satisfaction of claims of aliens made elsewhere and not incurred in connection with business conducted in this country. The fact that New York has marshaled the claims of the foreign creditors here involved and authorized their payment does not give them immunity from that general rule.

In essence, Mr. President, what the Court is saying is that since all American creditors of the Russian Insurance Co. have been paid in full, the Litvinov assignment does not contravene the fifth amendment. Creditors whose claims arise out of foreign transactions are not covered by the fifth amendment; and, furthermore, "the Federal Government is not barred by the fifth amendment from securing for itself and our nationals priority against such creditors." Mr. President, in my view, it is clearly wrong to say that the Pink case violated the rights of anyone under the fifth amendment to the Constitution.

Fourth. There has been a great deal said about "secret agreements" and the necessity to control them. I should simply like to point out that the substitute amendment of the Senator from Georgia [Mr. GEORGE] would have no bearing whatsoever on secret agreements. Perhaps I fail to get the point, but it seems perfectly obvious to me that an Executive agreement cannot possibly have any effect as internal law until it is made public. In other words, all the talk about secret agreements seems to me to be irrelevant.

Mr. MORSE. Mr. President, will the Senator from Missouri yield?

The PRESIDING OFFICER (Mr. THYE in the chair). Does the Senator from Missouri yield to the Senator from Oregon?

Mr. HENNINGS. I am very glad to yield to the distinguished Senator from Oregon.

Mr. MORSE. The Senator from Missouri has just used the phrase "internal law," in referring to the identical phrase used in the George amendment.

I have been "running the cases," as we lawyers say; and I cannot find in constitutional law any decision of the United States Supreme Court which interprets the phrase "internal law."

If my premise in that respect is a correct one, as I believe it to be, based upon the research I have made up to today, then let me say that if there is a case in which the Supreme Court discussed the

meaning of the phrase "internal law," I have not been able to find it.

Mr. HENNINGS. I am sure the Senator from Oregon is correct, and that he will not be able to find such a case. I do not think one exists.

Mr. MORSE. Assuming that it is a new concept in United States constitutional law, does the Senator from Missouri agree with me that therefore it follows that if there is a proposal to amend the Constitution of the United States on the floor of the Senate, and to do so before we have had the advantage of the learning of outstanding constitutional law authorities in the United States as to the meaning of the phrase "internal law," and as to its effect upon our legal system, what we are really doing is using a term which up to this hour is without constitutional-law meaning?

Mr. HENNINGS. The Senator from Oregon is precisely correct. The Senate would be proposing to amend the Constitution, and to add to it the word "internal," in compliance with, and following, the amendment of the Senator from Georgia, but without there being in existence in any case I have been able to find, or in any definition I have been able to discover, in its constitutional sense, a statement of the meaning of "internal law."

Mr. MORSE. If the Senator will permit me to say one more word, which relates to the point he has just made, I believe it would be most unfortunate for the Senate to proceed to recommend to the American people the adoption of the George amendment, with an entirely new constitutional law concept in it, until we have at least first taken, our soundings, so to speak, in a hearing before the Judiciary Committee, as to what the legal consequences may be of adopting a constitutional amendment containing a legal term which has yet to be defined by the United States Supreme Court or, for that matter, used in any legal sense. I think that would be very dangerous, because, as I indicated yesterday, I do not know what internal law is, and I do not know what is meant when it is said that the proposed amendment would protect the American people from any executive agreement having internal law effect.

A few days ago I asked whether our truce agreement in Korea had any internal legal effect. Some GI's might think so, in connection with some claims which they might conceivably have in the future. I am speaking hypothetically. Therefore, I think it would be a great mistake, distinguished as is the Senator from Georgia, for us to accept the interpretation of the meaning of the phrase "internal law" advanced on the floor of the Senate by the Senator, until we have the benefit of scholarly hearings on the subject before the Judiciary Committee, so that we may know exactly what the legal effects are to be when we write a new concept into the Constitution of the United States by way of a legal term.

Mr. HENNINGS. I thank the distinguished Senator for his contribution. I am in complete agreement that it would be a great mistake, without availing ourselves of the usual processes of committee consideration with regard to the full impact, significance, and interpretation of such an amendment, to undertake, on the floor of the Senate, to write an amendment to the Constitution of the United States.

Another point which I undertook to raise in my remarks last week was the question: Who is to decide which of the so-called executive agreements affecting internal law are to come to the Senate? Would not a President be well advised to send all such agreements to the Senate, on the theory that they might have some effect upon internal law? What effect would that have on the processes and the machinery of legislation in the Congress, or action in the Senate? Where do we start? Where do we stop? What is it that affects internal law? If such an amendment would not affect internal law, why not? What is our definition of the internal law about which we are now speaking? Where does it all lead us?

Mr. MORSE. Mr. President, will the Senator further yield?

Mr. HENNINGS. I yield.

Mr. MORSE. Speaking hypothetically again, the limitations which I now understand the Senator from Georgia proposes by way of clarification of his amendment, as first offered, also stimulate legal imagination. As I understand, he now wishes to make clear that he is excluding any agreement which involves the President carrying out his duty as Commander in Chief.

What are the limitations of the President's duty as Commander in Chief? Speaking hypothetically, is he exercising a duty as Commander in Chief if he enters into an executive agreement with the French Republic in connection with policies which the United States will follow in the prosecution of the war in Indochina?

Is he exercising his functions as Commander in Chief if—still speaking hypothetically—he enters into an executive agreement with the French Republic to supply a thousand airplane mechanics to work on airplanes of American design, owned by the French, and used in the Indochina war?

Is he exercising his duties as Commander in Chief if those thousand mechanics work on the planes out of the war zone, or only if they work on the planes within the war zones?

Is he exercising his powers as Commander in Chief if he enters into an agreement with the French Republic that we will supply, under the name of a military mission, 500 American Air Force officers only to brief French pilots on airfields within the war zone?

Or is he, in such an agreement—again speaking hypothetically—exercising his civil powers as President; and would such an agreement have to come to the Senate? Would any of the three hypothetical agreements which I have suggested have to come to the Senate, or would they all be examples of exercise by the President of his powers as Commander in Chief? The mechanics might think differently. The thousand mechanics might think, under my hypothetical example, that because of the effect of the executive agreement upon them, perhaps the Senate ought to take a look at the agreement, under the George amendment.

I cite these examples at random, to point out that a myriad such hypothetical questions ought to be submitted to the Judiciary Committee. We should have the benefit of testimony by constitutional experts; and, with the benefit of the hearings, we might be able, as Senators, to pass judgment upon the meaning of the George amendment.

Mr. HENNINGS. The distinguished Senator is eminently correct. He has stated exactly the position of some of us, not only as to the amendment of the distinguished senior Senator from Ohio [Mr. BRICKER], but the proposed amendment in the nature of a substitute known as the George amendment.

The Senator raises many intricate questions. Of course, if such an amendment should become a part of our Constitution, those questions and many more would be persistently raised, and I fear to the embarrassment of all of us who would have taken part in an ill-considered action, with no emergency existing, amending the Constitution at this time, accepting an ill-considered substitute by way of compromise—or for whatever other purposes it might be devised. I want it very clearly understood that in making that statement I question the motives of no Senator.

I think the proposal to amend the Constitution is very dangerous. It is something which we would live to regret when the effects of it confronted us in after years.

Another aspect of the case which has either been ignored or minimized is that the Congress gave specific endorsement to the Litvinov assignment after its conclusion. The Court points this out very clearly on pages 227–228 of its opinion, as follows:

> Acting in anticipation of the realization of funds under the Litvinov assignment (H. Rept. 865, 76th Cong., 1st sess.), it authorized the appointment of a Commissioner to determine the claims of American nationals against the Soviet Government. Joint resolution of August 4, 1939, 53 Stat. 1199.

If the Congress had desired, it could have annulled the internal effects of the Litvinov assignment by a simple act of Congress. Far from doing this, it set up a Commission to adjudge the claims to be paid by the funds realized from the assignment.

Congress had not sought to annul the Litvinov agreement as it had abundant power to do. Congress had taken steps to implement the Litvinov agreement. The Court, in the Pink case, only sought to give effect to an agreement which the Congress itself had taken steps to implement.

Sixth. An argument can be made that in the case of the recognition of the Soviet Government in 1933, the President should have used a treaty instead of an executive agreement, since the recognition involved an assignment which could override State laws. This is a plausible argument but, in my view, an invalid one. To force the President to use a treaty in such circumstances would constitute a

change in our system of separation of powers. Under our present Constitution, the President alone has the power of recognition without the advice and consent of the Senate. He recognizes foreign governments on the best terms possible, his recognition often being conditional. If the conditions are to be subjected to senatorial approval, the President will no longer have the exclusive power of recognition. We must realize that such a situation would work a change in our Constitution as we have known it for 165 years.

Seventh. There is some broad and unessential language in the opinion which has caused a certain amount of apprehension. In my view, this language is dicta because it is not essential to the decision of the court. The language which I have in mind is on pages 230 and 231 of the Court's opinion. I will read it now:

It is, of course, true that even treaties with foreign nations will be carefully construed so as not to derogate from the authority and jurisdiction of the States of this Nation unless clearly necessary to effectuate the national policy. (*Guaranty Trust Co.* v. *United States, supra*, p. 143, and cases cited.) For example, in *Todok* v. *Union State Bank* (281 U. S. 499), this Court took pains in its construction of a treaty, relating to the power of an alien to dispose of property in this country, not to invalidate the provisions of State law governing such dispositions. Frequently the obligation of a treaty will be dependent on State law. (*Prevost* v. *Greneaux* (19 How. 1).) But State law must yield when it is inconsistent with, or impairs the policy or provisions of, a treaty or of an international compact or agreement. (See *Nielsen* v. *Johnson* (279 U. S. 47).) Then, the power of a State to refuse enforcement of rights based on foreign law which runs counter to the public policy of the forum (*Griffin* v. *McCoach* (313 U. S. 498, 506)) must give way before the superior Federal policy evidenced by a treaty or international compact or agreement. *Santovincenzo* v. *Egan, supra* (284 U. S. 30); *United States* v. *Belmont, supra*.

That is the language which seems to give some Senators and other persons difficulty.

In the first place, the Court speaks of treaties when no treaty is involved. And in the second place, the language is very general and rather vague. In contradistinction, the decision of the Court is very narrow. I have no reason to believe that the Court would apply its broad dicta to an executive agreement which was not a valid exercise of a specific constitutional power and which has been made under circumstances where either a treaty or a congressionally sanctioned executive agreement should have been employed.

Eighth. I might make this further point, in passing, that it was not New York law, in the sense of a statute, that was in question in the Pink case, but only a determination of the New York courts as to what constituted New York "public policy," as distinguished from law.

The Legislature of New York has never decided that in regard to Russian shareholders in a Russian insurance company a nationalization or expropriation by the Russian Government would not be recognized in New York. It was the New York courts that had decided that Russian creditors of this expropriated insurance company should take precedence over American creditors of other expropriated Russian companies. In my view, the Pink case should have been decided the same way even if it had involved an act of the New York Legislature, but I merely wanted to point out that no such act was involved. It was simply a question of the "public policy" of the United States prevailing over the judicially declared "public policy" of the State of New York.

Ninth. I think that it should be made clear that in the Litvinov assignment the United States Government was in no way endorsing the Soviet expropriations. Quite to the contrary, it was trying to alleviate the hardships caused by such expropriations on all United States creditors whose property had been expropriated. There was no question of paying the claims of American creditors of the First Russian Insurance Co.; they had been paid in full. The question was one of priority between the Russian creditors of this company and American creditors of other expropriated Russian companies. It was the objective of the Litvinov assignment to give priority to such American creditors. The Supreme Court of the United States seemed to feel that this was a perfectly legitimate objective. I have difficulty in seeing how anyone can honestly disagree with it. Personally, I would feel that the President of the United States would have been lax in his duties if at the time he recognized the Union of Soviet Socialist Republics he had failed to obtain any available assignment, such as the Litvinov assignment.

In making the Litvinov agreement, President Roosevelt acted to protect American creditors. His policy was to take care of Americans in preference to foreigners. I am surprised that the senior Senator from Ohio apparently disagrees with this policy. In the Pink case, the Supreme Court merely said that the President was within his constitutional powers in acting so as to protect Americans first. That Senators are critical of President Roosevelt's action and of the Court's rule in this case is indeed amazing.

Mr. President, let me review the aspects of the Pink case which have led me to the conclusions that the decision was correct and that, even if it were incorrect, it is no cause for alarm, and certainly no cause for constitutional amendment.

The Litvinov assignment was an integral part of the act of recognition, and one of the 48 States should not be permitted to block national recognition of a foreign state or government.

The executive agreement, including the Litvinov assignment, was concluded under a specific power granted to the President in the Constitution.

There is no violation of any provision in the Constitution.

Congress showed its approval of the assignment by appointing a commission to administer the funds to be obtained under it; Congress certainly did not disapprove of the conclusion of the assignment, since it took no action whatever to overcome its domestic effect; it could simply have directed the President not to prosecute the interests derived under the assignment; and this would have constituted no breach of an international agreement, because it would have been a pure right and no obligation of the United States Government that would have been nullified.

Under the Constitution as we have known it for 165 years, the President has had the sole authority to recognize foreign government; and to force him to get the consent of the Senate in all cases where recognition is conditional would be a change in our traditional system of separation of powers.

There is some broad dictum in the case, but like all dictum it is of very limited effect. It alone should certainly not cause us to make changes in our Constitution.

There was no New York statute that was overruled in the decision.

I believe that the results of the case were good. It seems to me that the effects of Russian expropriation should be borne by Russian citizens and American citizens should not be forced to suffer losses. After all, it is the Russian Government that did the expropriating, not the Government of the United States.

Mr. President, I hope I have demonstrated that the Pink case is not a judicial monster, but a very sensible case that has been misconstrued and exaggerated. I know that some Senators may disagree with some of the points I have made, but I hope I have called to their attention some points which may not have occurred to them.

Even if some of my distinguished colleagues are not convinced of all I have said, I would hope to convince them of my second major point: Regardless of the merits of the Pink case, under our present system of separation of powers, there are sufficient checks and balances to prevent an abuse of the power to make executive agreements.

In connection with the discussion of the various substitutes dealing with executive agreements there has been some rather extreme talk about "one-man rule," constitutions under which a Hitler could come to power in America, and so forth. The only justifications for such extreme theories seem to be the cases that arose out of the Litvinov assignment, and principally the Pink case. Even if they are given the most frightening interpretation possible, in my view, they do not present any real threat because of the various checks and balances which we have in our form of government.

Let us very quickly review these checks and balances.

Congress, by a simple act, can override the domestic effect of any treaty and any executive agreement. That is an exceedingly important point. I am perfectly aware that we do not want to make a habit of breaking our international commitments, but in an emergency—when the man on horseback is on the horizon—I feel sure that the Congress would never hesitate to take appropriate action as

sanctioned by the Constitution. I realize, also, that the man on horseback who might be sitting in the White House might veto the legislation. However, in a real emergency I am sure that a two-thirds majority of both Houses of Congress would be easy to obtain to override the veto.

A second very potent check and balance is the Supreme Court of the United States. Although in the Pink case the Court decided that a particular executive agreement, which had been made under a specific constitutional power of the President, could override State law, there is no indication that they will decide the executive agreements in general can override State law, regardless of the circumstances under which it was made, and regardless of the Presidential power being employed.

A great deal has been made of the fact that the present Attorney General has appealed the *Capps* case (204 F. 2d 655 (April 15, 1953)) to the Supreme Court It is said that if the Supreme Court decides in favor of the Government, all the fears growing out of the Pink case will have materialized. I am unable to agree with that conclusion.

The Capps case arose out of an executive agreement made with Canada in 1948 to prevent a flood of potatoes that would have wrecked our potato price-support program. There was an alternative method available under the provisions of the Agriculture Act of 1948, but it was felt that its application would take so long that it would not have been effective. Also its application would have caused hard feelings, and possibly retaliation, on the part of Canada, which preferred to prohibit export of potatoes rather than have us prohibit import of Canadian potatoes. The whole object of the executive agreement was to carry out the intent of Congress as expressed in the potato support program, and at the same time not to injure or impair our relations with Canada.

The Capps Corp. imported potatoes in violation of the executive agreement. The United States Government brought suit against Capps as a third-party beneficiary to the contract made between Capps and the Canadian exporter providing that the executive agreement, which had been implemented by the Canadian Government, would not be violated. Both the district court and the court of appeals found for the defendant. We do not know, of course, how the Supreme Court will decide the case. The question which is presented to them is whether the Congress intended to limit the President in carrying out the potato program solely to the use of the provisions of the Agriculture Act to discourage imports which would have the effect of wrecking the program, or whether they intended it to be merely one way with discretion in the President to supplement it with more effective methods wherever necessary. The Court will also have to decide whether the President did not have some independent discretion in the matter because of the foreign relations aspects of the case, growing out of the strong Canadian desire to work out an executive agreement rather than have the Agriculture Act applied.

Once the case is understood, it loses, as did the Pink case, most of its frightening aspects. Even if the Supreme Court decides in favor of the Government, no great danger to our liberties is presented. I feel quite certain myself that the court will decide this case very narrowly and avoid the type of dicta that was used in the Pink case.

In any event, I believe it will be beneficial for the Supreme Court to pass upon the issues involved, and I do not see why the Attorney General is being criticized for asking for certiorari in the case.

Aside from the Congress and the courts, we have additional checks and balances such as the power of impeachment and the power of public opinion. Although the power of impeachment is an extreme one, the power of public opinion can be relied upon in most instances to prevent an abuse of the power to make executive agreements. After all, there are elections every 4 years.

To me, all of these checks and balances, taken together, appear sufficient to protect us from abuse of the executive power.

The third point I would like to bring to the Senate's attention is the question of States' rights. I am utterly convinced that the Senator from Georgia [Mr. GEORGE] does not intend by his amendment to strike a blow at States' rights.

However, I am equally convinced that despite his intent, the wording of his proposed substitute would have just that effect. It would result in giving up the protection against Federal encroachment that is offered by the constitutional protection of two-thirds of the Senate.

I am not sure exactly how the Senator from Georgia does interpret his words so that they do not have this effect. At present, the supremacy clause is so worded that only treaties can have the effect of overriding State laws and State constitutions. Under the Senator's proposal, the supremacy clause would, in effect, be amended so that executive agreements, implemented by a majority of both Houses of Congress, would override State laws and State constitutions. I do not see how any other construction is possible under the wording of the substitute.

Executive agreements are given constitutional status, which they have never had, and which they do not have now. By specific constitutional sanction, they will be made superior to State laws when implemented by Congress. Is not this an invitation to the President to submit all controversial agreements in the form of executive agreements, rather than in the form of treaties? Will not the line between executive agreements and treaties, which has worked so well in practice, be completely broken down? Will there not be a great temptation upon the President to present such things as the Genocide Convention, the Human Rights Covenants, and similar documents, in the form of executive agreements, in the hope of getting approval of a majority of both Houses?

In my view, this is rather fatal medicine for a hypothetical disease. The only justification for taking the medicine seems to me to be some dictum in a single Supreme Court case.

This is a question which certainly my southern and my western friends, and certainly I, as a Senator from a State so classified, should think about. We should hesitate, even, to vote for the George substitute or any similar substitute or, for that matter, any substitute written on the floor of the Senate.

Should the small States be asked to give up their greatest protection on the theory that some bad result might come from the dictum in the Pink case, which really did not influence the decision? To that, the answer would seem to me to be an unequivocal "No."

Mr. President, there has been little time for the Senate to consider the George proposal. We have not had the benefit of the mature thinking of constitutional lawyers and students of international affairs on the proposal, as the distinguished junior Senator from Oregon has pointed out.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. HENNINGS. I yield.

Mr. MORSE. In support of the comment the Senator from Missouri has just made, we will not have had the benefit of the testimony of the Secretary of State and persons in the State Department so responsible in their obligations to the President for devising foreign policy, and we will not have had the benefit of the testimony of the Attorney General of the United States, legal counsel to the President of the United States.

Does not the Senator from Missouri agree with me that as a matter of parliamentary courtesy, we owe an opportunity to the executive branch of the Government, with its obligations and responsibilities under the Constitution, to have its representatives come forward and to present their testimony on the effects of such an amendment as the George substitute?

Mr. HENNINGS. The Senator from Oregon certainly is correct. In all matters relating to the several departments of the Government, it is almost invariably the practice to call before the committees the Cabinet officers and other persons, including those charged with the defense of the country, as in the case of military matters, involving or affecting the armed services. We know that in this case the Attorney General of the United States and the Secretary of State never have been interrogated with respect to any of the possible effects, or as to the long-term or short-term effects, of the so-called George substitute.

A superficial study of the proposal has convinced me that it would have effects far beyond those contemplated by the learned Senator from Georgia. None of us in the Senate can be sure that further study would not disclose even more serious difficulties than those which I have undertaken to discuss in my speech today and that which I delivered last week. Even the most learned among us should avoid snap and hasty judgments when we consider amendments to the Constitution.

Let us remember that it is the Constitution, the fundamental law of the land, the charter of our liberties, with which we are dealing. We are not considering amendments to a code of court procedure which can be altered at will by future Congresses. We are considering amendments to the Constitution which once accepted cannot be altered by simple congressional enactment. If we err and deprive the Executive of the power to protect the security of the people in a grave and pressing emergency, no future Congress will have power in time to rectify whatever mistake may now be made.

We cannot preserve the Constitution and the liberties it guarantees to us by adding or subtracting a few words here and there. The genius of our Constitution resides not in the inflexible rules which it may impose, but in the general distribution of powers among the three great branches of government. The great principles governing the distribution of power between the executive, the legislative, and the judicial branches derive from the Constitution as a whole, and cannot be reduced or continued in any simple formula of words. We must rely on the spirit of the Constitution and the devotion of our people to the spirit of the Constitution to maintain a fair and workable balance of power among the three branches of government. At times in our history, the judiciary has tended to encroach on the functions of the other two branches of government; at other times, it has been the President or the Congress. But each time the balance has been restored, not by a new formula of words, but by the eternal vigilance of our people and their devotion to the great principles of the Constitution. Let us be careful that the vitality of these great principles is not lost by any vain attempt on our part to degrade them into a few inflexible rules or glib, easily arrived at, compromised verbal formulas.

We live in the atomic age and are threatened by dangers which cannot be erased by adding to our Constitution any formula of words. A few weeks ago, the Secretary of State made an important address in which he indicated a basic decision had been taken by the National Security Council to depend primarily for our defense upon a great capacity to retaliate, instantly, by means and at places of our own choosing. I have many doubts and reservations about the policies announced in this respect by the Secretary of State in that speech. But there can be no doubt that we are living in a world in which the President of the United States may have to make instant decisions which may involve us in instant war without time for consultation or discussion with or in the Congress. The spirit of the Constitution would require that the President take the Congress into his confidence to the fullest extent possible before the necessity to act arises. But that cannot be achieved by adding any formula of words to the Constitution. Neither the Bricker amendment or any of its substitutes would help us to create smoother and more workable relations between the President and the Congress in meeting a genuine crisis. The Bricker amendment and its substitutes would simply make it harder or more difficult for the President in a grave emergency to take action which might be immediately necessary to safeguard the lives of our people.

We cannot save our people from the scourge of total war by tying the hands of the President or of future Congresses. This is no time to tinker with our Constitution. This is no time to deprive the President of powers under the Constitution which he may need to save the Republic.

I now yield the floor.

LICENSING OF CERTAIN PROPERTY IN HONOLULU TO LEAHI HOSPITAL

Mr. BURKE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. BURKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that further proceedings under the call be dispensed with.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. HENDRICKSON. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate now proceed to the consideration of Calendar No. 932, House bill 6025.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey asks unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of Calendar No. 932, House bill 6025.

The clerk will state the bill by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 6025) to authorize the Secretary of the Army to grant a license to the Leahi Hospital, a nonprofit institution, to use certain United States property in the city and county of Honolulu, T. H.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

THE BRICKER AMENDMENT

Mr. HAYDEN. Mr. President, I had been a Member of the House of Representatives from the newly admitted State of Arizona for not quite a year when, on February 7, 1913, I listened to a lengthy speech delivered by Frank W. Mondell, of Wyoming, one of the senior Members who afterward became the majority floor leader. Mr. Mondell began by saying:

> Mr. Chairman, we live in the midst of revolution—revolution proposed and revolution threatened. It is true there are few open avowals of revolutionary intent; no armed forces hostile to our form of government and to our institutions thunder at our gates or threaten our liberties. On the contrary, the forces of revolution, though they have among their leaders many supremely selfish and inordinately ambitious and some thoroughly irresponsible and conscienceless men, are in the main composed of entirely well-meaning people, who, carried away by their enthusiasm or by the claims and sophistries of others, fail utterly to realize that they are the advocates and supporters of a revolutionary cause.
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> This is a Government we are sworn to uphold. The portion of the sovereignty of the people which they have surrendered, or, rather, agreed to exercise jointly under a National Government, is set out in the Constitution in language reasonably clear and explicit; and that is the instrument we are sworn to uphold and defend against all enemies, foreign and domestic, which includes well-meaning enemies as well as willfully wicked ones.

Mr. Mondell then proceeded to state just why he was convinced that a revolutionary assault upon the Constitution was being attempted:

> What I have said is not intended as the opening of a Fourth of July oration or of a dissertation on American Government. It is preliminary to some observations which I shall make with respect to what, I regret to say, seems to be a very live issue. On May 9 last Mr. Lee, of Georgia, reported from the Committee on Agriculture a bill entitled "A bill for the protection of migratory and insectivorous game birds of the United States." A short time before that, namely, on April 26, 1912, Senator McLean reported from the Senate Committee on Forest Reservations and the Protection of Game a bill entitled "a bill to protect migratory game and insectivorous birds in the United States." On January 22, 1913, the said bill passed the Senate without any real debate and practically by unanimous consent. This bill was referred to the Committee on Agriculture, was ordered reported, and is, I believe, now on the calendar.
>
> It is 18 years since the beginning of my service here. In all that time there has been no legislation reported that has approached this in its revolutionary character.
>
> I shall not at length discuss the constitutionality of this legislation. I will leave that for the lawyers. I could not do it without expressing an opinion of the views of gentlemen who favor it from a constitutional standpoint, which I think no Member should express in regard to a colleague. Some of them claim that a bird is interstate commerce. I have never heard of the consignee or the consignor of the blackbird or the crow or the brant that wings its flight across the blue vault of heaven.
>
> The fact is that the most ingenious torturing of the Federal Constitution cannot develop the shadow of an excuse for such legislation as is proposed. The birds referred to are game. The Supreme Court has declared the sovereign power of the State over them, and no flight can change their character.

Mr. President, it is my purpose to present a number of historical facts, of some of which I had personal knowledge when they occurred, to show that the issues in the case of the State of Missouri against Ray P. Holland, a United States game warden, were thoroughly understood and debated in the Congress before the enactment of the migratory bird law upon the constitutionality of which the Supreme Court passed judgment in 1920.

The need for legislation to give adequate protection to migratory birds had been recognized throughout the United States for more than two decades before the Supreme Court decided the case. In 1910, Senator George P. McLean, a Senator from Connecticut and a former

Republican governor of that State, introduced a joint resolution proposing an amendment to the Constitution which provided that "Congress shall have power to protect migratory birds and prohibit and regulate the killing thereof." The Senator later became convinced that a constitutional amendment was not necessary and therefore sponsored a bill which passed the Senate on January 22, 1913. In reporting the bill to the Senate, Senator McLean said:

For many years the necessity and importance of effective protection for the bird life of this and other nations has been apparent to ornithologists and all others who have interested themselves in the subject.

The several States of the Union have enacted many laws prohibiting and regulating the killing of birds, but the strong temptation pressing upon every State to secure its full share of edible game birds during the spring and fall migrations has rendered harmonious and effective State supervision impossible.

Game commissioners and other officials representing 43 of the 48 States of the Union, together with some of the leading ornithologists of the country, appeared before your committee, and their testimony, based upon years of experience and practical observation, was conclusive to the fact that State control of migratory birds must, from the very nature of the surrounding temptations and conditions, end in failure.

Conceding the necessity of Federal regulation and the willingness of Congress to exert its power to prevent the extermination of the useful migratory birds, the question of the extent and nature of that power was at once raised and very carefully considered by your committee.

The fact that several States of the Union have, up to date, exercised the right to regulate the taking of both migratory and nonmigratory birds where no discrimination or distinction has been suggested or desired does not preclude the Nation from asserting its right to protect migratory birds whenever conditions make such protection necessary. A dormant and unused power in a nation may be asserted at any time.

The power of the Federal Government to regulate by treaty the taking of migratory seals and fish cannot be questioned, and your committee can see no distinction between the right to regulate by law and treaty the taking of seals and fish that today may be in the waters of one State or Nation and tomorrow in the waters of another State or Nation, and that the right to regulate the taking of wild birds whose habitat changes from one State or Nation to another with the changing seasons.

A House bill reported from the Committee on Agriculture by Representative Gordon Lee, of Georgia, was accompanied by a 12-page report which gave detailed reasons why migratory birds required protection by the Federal Government. The bill was not brought to a vote, but later, as stated by Mr. Mondell, the McLean measure came over from the Senate and was favorably reported to the House by Hon. John Lamb, of Virginia, a Confederate veteran, who served for 16 years in the House. The following extracts are taken from his report:

It appears that most of the States have laws more or less effective in the protection of game and other birds resident and breeding within their borders, and by special reservation in this act none of its provisions are to be deemed to affect or to interfere with these laws as to such birds, or to prevent the States from enacting laws and regulations in aid of the regulations of the Department of Agriculture provided for in this act.

Through these local laws, however, it appears that because of their nomadic habits little or no real protection is afforded waterfowl or other migratory game and insectivorous birds, and therefore, to secure for them adequate protection, particularly in the spring, when they are on their way to their nesting grounds, they should be placed under the control of the general Government.

It has been conclusively shown that some of the most valuable species of these nomadic birds will soon become extinct unless immediate congressional protection is afforded.

The game birds yield a considerable and important amount of highly valued food, and the insectivorous migratory birds destroy annually thousands of tons of noxious weed seeds and billions of harmful insects, and it may be stated that they are the deadliest foe yet found for the cotton boll weevil, the gypsy and brown-tail moths, and other like pests.

Forty-four of the States of the Union were represented before your committee at the hearings on this proposed legislation, either in person or by letters and briefs, and the legislatures of the States of Massachusetts, New York, and Oklahoma have adopted and presented to Congress resolutions urging this legislation.

Owing to the opposition of Mr. Mondell, no action was taken by the House on the Senate bill, so Senator McLean offered the text of it as an amendment to the annual agricultural appropriation bill, to which objection was made by Senator Nathan P. Bryan, of Florida. The following statements in the CONGRESSIONAL RECORD of February 27, 1913, show the action taken, which resulted in what became known as the Migratory Bird Act of March 4, 1913:

Mr. GRONNA of North Dakota. Mr. President, I hope that the Senator from Florida will withdraw his point of order on the amendment that has been submitted by the Senator from Connecticut. The Senator from Florida well knows that a similar bill passed the Senate unanimously, and the only way that this bill can become a law at the present session is to put it upon some appropriation bill. The bill which the Senator from Connecticut introduced passed the Senate unanimously, and it would seem to me that having formerly passed the Senate it is not really subject to a point of order.

The PRESIDENT pro tempore. Inasmuch as the bill has passed the Senate without objection the Chair will submit the question to the Senate: Is the amendment in order on the pending bill?

Mr. BURNHAM (of New Hampshire who was in charge of the appropriation bill). In view of the action of the Senate, the Senate having passed the bill, and its present standing in the House, as I understand it, I wish to say that I have no objection to the amendment, and I accept it, so far as I have any authority to do so.

The PRESIDENT pro tempore. Senators who are of the opinion that the amendment is in order on the pending bill will say "aye." [Putting the question.] The ayes have it, and the question is on agreeing to the amendment.

The amendment was agreed to.

At a Senate committee hearing on the protection of migratory birds, held on March 6, 1912, attended by Milo C. Perkins of California, Henry Cabot Lodge of Massachusetts, Miles Poindexter of Washington, Lee S. Overman of North Carolina, and Gilbert M. Hitchcock of Nebraska, and presided over by Senator McLean as chairman, it was urged by numerous witnesses representing game-protective associations that wild game belongs to all the people in their united sovereignty, and that consequently the Government of the United States had authority to legislate for the protection of this property. Supreme Court decisions were cited to show that in the absence of legislation by Congress the reserve power of the States is plenary within their jurisdictions, but when Congress exercises a dormant power State laws must give way. It was this line of reasoning which persuaded Senator McLean to sponsor the legislation which became the Migratory Bird Act of 1913.

However, it is evident that the Senator from Connecticut did not fail to take notice of a paragraph in a brief filed by George H. Shiras 3d, a former Member of Congress from Pennsylvania, urging direct action by Congress, which stated:

THE RIGHT OF THE GOVERNMENT BY TREATY TO PROTECT THE MIGRATORY BIRDS AND MIGRATORY FISH OF THE UNITED STATES

While in one respect it may not be germane to consider now another and wholly different jurisdiction for the protection of beneficial migrants, were it not that future development may make it important in the present connection.

In the case of wild fowl, excepting possibly the wood duck, and in the case of most of our shore birds or snipe, it can be easily shown that as a class all these migrants during their vernal and autumnal movements either breed in or pass over the adjoining territory of several nations. And just as we are now about to put into effect a treaty with Great Britain regulating the taking of fish in the Great Lakes and within the territorial waters of such boundary States, just so we have the future right to make a series of treaties with Canada, under British sanction, and with Mexico and other southern republics interested in the protection of birds habitually migrating from one country to another.

Under a similar treaty with several foreign powers we have been able to prohibit pelagic sealing, and Congress, while having no original jurisdiction over such a subject, now possesses an implied right to pass such laws as may be necessary to put such treaty regulations into operation.

Should Congress now decline, by a direct act, to protect the migratory birds and the migratory fish of the United States, it may be worth while then to resort to a treaty for this purpose.

This precautionary suggestion probably had influence when Senator McLean introduced his resolution requesting the President to negotiate migratory bird treaties with other nations. This he did on April 7, only a little over a month after the enactment into law of the text of his bill on March 4, 1913.

There can be no doubt that, being convinced that the constitutional question would be raised, Elihu Root, then a Senator from New York, a former Secretary of State, felt fully justified in submitting on April 12, 1913, a favorable report from the Committee on Foreign Relations on a resolution introduced by Senator McLean, which provided:

That the President be requested to propose to the governments of other countries the negotiation of a convention for the protection and preservation of migratory birds.

In fact, Senator Root introduced a resolution of his own which read:

Resolved, That the President be requested to propose to the governments of other North American countries the negotiation of a convention for the mutual preservation of migratory birds.

Then Senator Root gave way to Senator McLean, whose resolution was agreed to in the Senate on July 7, 1913, and promptly transmitted to President Wilson.

It is impossible to believe that Elihu Root, a great lawyer, after serving for over 4 years as the head of the Department of State, would look with favor upon any proposal whereby the treaty-making power might be utilized to impair the Constitution of the United States. Yet the American people have been told over and over again during the past 3 years that the Migratory Bird Treaty with Great Britain, negotiated in response to the resolution reported by Senator Root, created a great loophole in the Constitution which, if not plugged by the Bricker amendment, leaves an opening by which the American people can lose all the liberties guaranteed to them by the Bill of Rights.

In course of time the Migratory Bird Act of 1913 was compelled to travel over a rough legal road. It was declared to be unconstitutional by a number of United States district courts, the opinions in three of which are available in printed reports. Consequently it became evident that use of the treaty-making power was the only remaining way tc proceed.

On August 21, 1916, a little over 3 years after the Senate made its request, President Wilson sent a message to the Senate transmitting a convention between the United States and Great Britain for the protection of migratory birds in the United States and Canada, which stated that the convention was negotiated pursuant to the Senate resolution adopted on July 7, 1913.

I ask unanimous consent to have printed at this point in the RECORD the text of the President's message and the accompanying statement by Robert Lansing, the Secretary of State. I also include in my request that I may have permission to insert in the RECORD, as a part of my remarks, other documents and extracts from records to which I shall make reference as I proceed with this discussion.

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

To the Senate:

In pursuance of the resolution adopted by the Senate on July 7, 1913, requesting the President to propose to the governments of other countries the negotiation of a convention for the protection and preservation of birds, negotiations were by my direction initiated with the Government of Great Britain through the British Ambassador for the conclusion of a convention that would insure protection to migratory and insectivorous birds in the United States and Canada.

These negotiations have resulted in the signature, on August 16, 1916, of a convention for this purpose between the United States and Great Britain, which I transmit herewith to receive the advice and consent of the Senate to its ratification.

The attention of the Senate is invited to the accompanying report of the Secretary of State and to the views of the Department of Agriculture therein presented.

WOODROW WILSON.

THE WHITE HOUSE,
Washington, August 21, 1916.

REPORT OF THE SECRETARY OF STATE

DEPARTMENT OF STATE,
Washington, August 17, 1916.

The PRESIDENT:

The undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate, if his judgment approve thereof, to receive the advice and consent of that body to its ratification, a convention between the United States and Great Britain for the protection of migratory birds in the United States and Canada, signed at Washington on August 16, 1916.

This convention is the result of negotiations initiated with the British Ambassador at Washington in pursuance of the resolution adopted by the Senate on July 7, 1913, "That the President be requested to propose to the governments of other countries the negotiation of a convention for the protection and preservation of birds."

The Department of Agriculture has taken keen interest in the negotiations and has been of great help in their final conclusion. The views of that Department regarding the negotiation of this treaty were expressed in a communication recently addressed to this Department, as follows:

"Not very many years ago vast numbers of waterfowl and shore birds nested within the limits of the United States, especially in the Far West, but the extension of agriculture, and particularly the drainage on a large scale of swamps and meadows, together with improved firearms and a vast increase in the number of sportsmen, have so altered conditions that comparatively few migratory game birds nest within our limits. The greater part of the supply still remaining, the value of which must be estimated at many millions of dollars, breed largely in the Canadian Provinces and consist of birds that winter within or to the south of the United States and journey back and forth in autumn and spring across our territory.

"That a very great number of people in the United States are personally interested in the protection of our migratory wild birds is evidenced by the fact that there are about 5 million sportsmen in this country and their number is steadily increasing. These men are all dependent upon the continuance of our supply of wild fowl for their sport, and a very large number of them are in consequence taking an active interest in the present treaty. In addition the value of the proper protection of our migratory insectivorous birds is of the deepest interest to farmers for the practical assistance they give in destroying insects injurious to crops. Furthermore, millions of people in the United States are deeply interested in the conservation and increase of our bird life from an esthetic viewpoint, as well as on account of their practical utility. As a result the number of persons who approve and are deeply interested in the conclusion and enforcement of the present treaty includes many millions. There is no question but that the Federal migratory bird law and the present treaty for the protection of migratory wild fowl now being negotiated between the United States and Canada are conservation measures of prime importance."

Respectfully submitted.

ROBERT LANSING.

Mr. HAYDEN. Mr. President, article VIII of the convention provided that—

The high contracting powers agree themselves to take, or propose to their respective appropriate lawmaking bodies, the necessary measures for insuring the execution of the present convention.

The distinguished junior Senator from Illinois [Mr. DIRKSEN], in his address on February 1 in support of the Bricker amendment, made the following statement:

John Pollock was Federal district judge in Missouri in 1915. He laid down a very solid and a very well-reasoned opinion, in which he said there was no power in Congress to authorize a warden to go into Missouri and to apprehend one of its citizens for shooting a wild mallard out of season.

The case went to the Supreme Court of the United States when, I believe, Edward Douglass White was the Chief Justice, who, as I recall, came from Louisiana. The vote in the Supreme Court on that issue was 3 to 3. * * *

So no effort was made to disturb the decision which was rendered in the Missouri case, involving the shooting of a wild mallard and the apprehension of the hunter under Federal law. The decision meant, of course, that Congress did not have the power under the Constitution as it then obtained to pass a law providing for arrests in such cases. So the conviction could not stand.

Then something happened. Very quickly President Wilson submitted a treaty to Great Britain and to the Dominion of Canada. It did not take long to contrive that treaty to deal with wildfowl.

Mr. President, I am sure that the Senator from Illinois did not intend it that way, but from his saying "Then something happened. Very quickly President Wilson submitted a treaty to Great Britain and Canada," it might be inferred that the then President acted in an artful way without letting everyone know the object to be accomplished by the ratification of such a treaty.

The message from President Wilson transmitting the migratory bird convention to the Senate shows that it was negotiated pursuant to a request made by the Senate more than 3 years before. I am sure that no one who knew him will believe that Mr. Wilson was duped into negotiating and submitting a treaty which violated any part of the Constitution. A man who had built up a national reputation for his knowledge of the nature of the powers possessed by the Federal Government must be assumed to have known just what he was doing when he asked the Senate to approve that treaty. The author of Congressional Government was a stanch defender of every right guaranteed to the American people by the Constitution.

The minutes of the Senate Committee on Foreign Relations show that on August 25, 1916, on motion by Senator James A. O'Gorman, of New York, seconded by Senator John Sharp Williams, of Mississippi, a favorable report was ordered to be made on the Migratory Bird Treaty. The minutes of the executive session of the Senate for August 29, 1916, have not been located, but the CONGRESSIONAL RECORD for that date shows that Senator O'Gorman, in open session, reported its ratification.

The next step to be taken was the introduction of a bill to implement the treaty, which was done by Marcus A. Smith, a Senator from Arizona and a member of the Committee on Foreign

Relations. His bill was favorably reported with the following justification:

The Committee on Foreign Relations, having had under consideration Senate bill 1553, "to give effect to the convention between the United States and Great Britain for the protection of migratory birds, concluded at Washington August 16, 1916, and for other purposes," reports it back and recommends that the bill be passed.

Your committee desires to call attention to the fact that the aforesaid treaty was ratified at the earnest solicitation of the United States and that the demands of international courtesy call for the passage of this act at an early date.

Your committee would further call attention to the fact that the Senate, in 1913, adopted a resolution requesting the President to negotiate treaties with foreign nations for the protection of migratory birds, and that the treaty with Great Britain was secured in direct response to this resolution.

In view of these circumstances, your committee is confident that the Senate will recognize the necessity for immediate and favorable action upon the pending measure.

The effective protection of the useful migratory birds has been desired by the American people for many years.

It is advocated by State authorities, as well as by many associations and individuals who have appeared before congressional committees to urge the economic value of the insectivorous birds as a protection to agriculture and the vital necessity of conserving the birdlife of the country by Federal laws and regulations.

The Senator from Arizona had difficulty in obtaining consideration for his bill, which was under discussion on 5 different days between June 27 and July 30, 1917, when the Senate passed it without a record vote. The principal opposition came from Senator James A. Reed, of Missouri, who, after his motion to recommit the bill to the Committee on Foreign Relations had failed by a vote of 7 yeas to 43 nays, among other arguments advanced the following:

Mr. President, I am perfectly aware that my opposition to this bill and this class of legislation has been regarded as somewhat stubborn, and I am going to say now for the relief of the Senator in charge of the bill that I am going to give him a vote before 2 o'clock, because I shall have done my full duty, and I only want time enough to make my position perfectly clear.

The fact is, there are two classes of men opposed to this legislation. One of them is that class of sportsmen who believe that when you undertake to turn over to the Agriculture Department of this country the right to make rules and regulations prescribing when and how and where game can be killed, you have put the job into the hands of incompetents who do not know how to administer it. The demonstrations up to this day are to the effect that the Agriculture Department do not know how to administer this law, a fact which they confess by going outside of the departments of the Government and outside of any authority of law and organizing what they please to term an advisory council.

But there is another class who have opposed this legislation, and in that class I include myself. It is that class of men who hold that there are certain fundamental rights and privileges and duties which belong to the several States of the Union, and that those rights and duties under the Constitution of the United States cannot be taken away, and that when Congress undertakes to take them away Congress violates the Constitution that it ought sacredly to uphold.

I say it now, in all pleasantness, and by way of parenthesis, the day is going to come, and come soon, when men who do not stand by the Constitution of the United States will find other men occupying their seats in Congress, for, just as certain as the old sun will lift its head in the east and disappear at eventide in the west, just as certain will the day come when the people of the United States will discover that this much-maligned Constitution is their Constitution; that it is their charter of rights; that it is their harbinger of safety; and that those who strike it down or lay unholy hands upon it are worse than anarchists, because the anarchist parades his infamy in the open, while those who undermine the Constitution do it under the pretense of performing a public service; but whoever undermines the Constitution will someday find that the people will rise and say: "This was our Constitution; we wrote it in blood and in tears; we inscribed it as the charter of our rights; and we demand that obloquy and disgrace shall be visited upon every man who has assisted in debasing the Constitution." Make no mistake. We shall be held to a strict accountability.

In the vast majority of cases the liberties of the peoples of various countries who have had liberty and have lost it by men who permitted the rights of the people to be impinged, and who at the time thought they were doing a good service; but, sir, they made a precedent that lived to become the instrument in the hands of others to bring about evil for their country. And so I still have the temerity to stand here, although I stand alone, with nothing back of me except the unbroken decisions of half a century of the courts of the United States and the courts of the several States, with nothing back of me but the decisions of at least two Federal courts rendered recently with reference to a law like the one now before us—I have the temerity to stand alone and protest against this legislation.

The Smith bill was favorably reported from the House Committee on Foreign Affairs by Hon. Charles M. Stedman, of North Carolina, a three times wounded veteran of the Confederate Army, who came out of the Civil War with the rank of major. His report, submitted on April 20, 1918, reads, in part, as follows:

The power to make treaties extends to all proper subjects of negotiation between our Government and that of other nations.

One of the provisions of the migratory-bird treaty is that the two nations shall enact whatever legislation may be necessary to carry into effect its terms.

As this agreement is contained in the treaty, Congress must execute the contract by legislation to make it effective and enforceable by the courts. (*Foster* v. *Neilson* (2 Peters 253–314).)

The treaty is valid. It was negotiated and concluded by the authorities having undisputed power to do so. It has been ratified by both governments.

The bill as reported has all essential requisites to enforce the treaty.

Its passage is demanded by a sense of patriotic duty to our entire country. By preventing the indiscriminate slaughter of birds which destroy insects which feed upon our crops and damage them to the extent of many millions of dollars, it will thus contribute immensely to enlarging and making more secure the crops so necessary to the support and maintenance of the brave men sent to the battlefield by this Republic, to preserve the honor of its flag, and to protect the lives of its citizens wherever engaged in lawful pursuits.

This bill, or one like unto it in all essential features, is demanded by practically all the farmers in our land, through their different organizations, State and national.

There are approximately 5 million sportsmen in this country, who urge prompt action to protect the migratory birds.

Not alone the utility of this measure appeals to many others than farmers and sportsmen, but thousands upon thousands of people—men, women, and children—who have happy memories of their homes made brighter and more attractive by the annual visitation of the robin, the catbird, and other insectivorous birds embraced within the treaty, earnestly request the passage of the bill.

The sentiment of approval is practically universal.

My recollection that the principal opposition to the bill to carry into effect the Migratory Bird Treaty was based upon the fear of Federal bureaucracy rather than upon a violation of the Constitution, is borne out by the proceedings in the House as printed in the CONGRESSIONAL RECORD. A sample of what was repeatedly said can be found in a speech by Hon. Thaddeus H. Caraway, a Representative from Arkansas, who became a Member of the Senate in 1921, and served in this body until his death 10 years later, when he was succeeded by his estimable wife.

In denouncing the bill Mr. Caraway said:

It gives to the Secretary of Agriculture the right to name a horde of officers, many of them without known character, without standing, certainly not known in the community that is to suffer from their activity. These will pin the bottom of an oyster can upon their coats and invade the homes of free citizens * * *. If you have had any experience with a departmental agent, one of these who parts his hair in the middle and puts on a nose glass and looks wise and knows nothing, you know this is true—that he has the idea that his efficiency—whatever that may mean—depends upon the number of people he harasses and the amount of discontent and disturbance he creates.

The author of this measure seeks power for the Secretary of Agriculture to appoint a thousand of those fellows and turn them loose to protect the tomtits and harass the white people of this country. They will go out from Washington and will come back with statements something like this: "I arrested Bill Jones because I saw a duck feather sticking out of his hat, and I threw the widow Smith out of her house because I had a suspicion there was half of a bird's egg under her table. I left anger and resentment wherever I went, and I will do as well the next time."

Mr. Mondell, of Wyoming, expressed his continued opposition by saying:

Whenever we encroach upon those principles thus laid down and established we undermine the very foundations of our Government. It is curious the frame of mind gentlemen bring themselves to in a matter of this kind. Men who have so profound a regard for local rights—we call them States' rights because our Commonwealths are States, but I mean local rights. Men who have such regard for local rights of self-government that they would not tolerate for a moment a proposition to invoke the Federal authority in the protection of human life and against outrage to the individual will blithely support a proposition to establish Federal police jurisdiction the country over for the alleged protection of the plover and peedee. Such is the inconsistency of the attitude of these gentlemen.

Major Stedman, an experienced lawyer, who had served as president of the North Carolina Bar Association,

made an able defense of the bill, and clearly set forth what would be accomplished by its enactment. His line of reasoning is indicated by the following extracts from his remarks made on June 4, 1918:

The treaty is valid. It violates no fundamental principle of our Government. It was negotiated and concluded by the authorities having undisputed power to do so. It has been ratified by both governments. The power to make treaties extends to all proper subjects of negotiation between our Government and that of other nations.

One of the provisions of the migratory-bird treaty is that the two nations shall enact whatever legislation may be necessary to carry into effect its terms.

As this agreement is contained in the treaty, Congress must execute the contract by legislation to make it effective and enforceable by the courts.

The bill as reported has all essential requisites to enforce the treaty. * * *

The present migratory-bird law has been declared unconstitutional by five courts, three Federal courts and two State supreme courts, Maine and Kansas, whilst it has been sustained by 15 courts. One of the cases decided by a Federal court was from the eastern district of Arkansas, Shauvers case. That case was removed to the Supreme Court of the United States and was argued in 1915. That court took it under advisement. When the case was called the Attorney General moved that the case be passed subject to be called up by an agreement of counsel. Is it not a fair and legitimate presumption that this action was so taken to give Congress the opportunity to enact a bill to carry out the treaty between the United States and Great Britain?

The bill deals with an international question. There is a marked distinction between the right of Congress to legislate for the protection of birds in the different States, in the absence of any treaty with another nation with reference to the same subject and affecting the interests of that other nation, and the right to so legislate after a treaty is made to carry it into effect.

The cases relied upon as bearing upon the present migratory-bird law and intended to show its violation of the Constitution, in that it interferes with the inherent right of the several States to regulate and control game laws, do not apply to this bill.

The full power of the United States to make treaties, with stipulations affecting matters within State control, and also to enforce said treaties by appropriate legislation, is recognized by many eminent authorities, both Federal and State.

It could not be otherwise, as the States are deprived of all power to make treaties by express constitutional limitations. It is only through the intervention of the Federal Government, exercised in their behalf, that the rights of the citizens of each State with foreign nations can be protected.

At the very commencement of the operation of constitutional power a conflict arose between State sovereignty and the right of the Federal Government to modify State laws under the treatymaking power.

Over 100 years ago this question was before the Supreme Court of the United States in the case of *Ware* v. *Hylton*, reported in Third Dallas, page 199. This case has been the leading authority from that date, that a treaty made by the constituted authorities of the United States with regard to any matters, whether exclusively within the control of the States or not, was paramount to any State legislation. The point involved was whether the treaty of peace with Great Britain would override State statutes in regard to the collection and confiscation of antebellum debts owed by Americans to citizens of Great Britain.

The doctrine announced in *Ware* v. *Hylton* was reiterated in *Fairfax* v. *Hunter* (U. S. Supreme Court, 7 Cranch 603); also in *Hopkirk* v. *Bell* (U. S. Supreme Court, 3 Cranch); in *Hunter* v. *Martin* (U. S. Supreme Court, 4 Wheat.); in *Haunstine* v. *Lynham* (100 U. S. Supreme Court); in *Chirac* v. *Chirac* (U. S. Supreme Court, 2 Wheat.); in *Geofroy* v. *Riggs* (133 U. S. Supreme Court); in *Carneal* v. *Banks* (U. S. Supreme Court, 10 Wheat. 189); in *Hughes* v. *Edwards* (U. S. Supreme Court, 9 Wheat. 489); and in other cases decided by the Supreme Court of the United States which might be cited.

In *Ware* v. *Hylton* it was held that the treaty of peace nullified all State laws by its own operation when in conflict with them.

In *Hopkins* v. *Bell* the treaty was held to repeal the Virginia statute of limitations.

In *Hunter* v. *Martin* it was held that in a case where the treaty was ratified after the rendition of a judgment in the circuit court, which was impeachable on no other ground than the effect of a treaty, the judgment was revoked on that ground.

To the same effect have been the decisions of the highest courts in many of the States. * * *

These decisions are sustained by the support and concurrence of the illustrious names of John Marshall, Joseph Story, and other eminent jurists, including Justices Jay, Field, Bradley, Miller, Harlan, Gray, and Fuller.

It has also been urged that the United States could not exercise its treatymaking power in regard to matters wholly within State jurisdiction to any greater extent than Congress could exercise its legislative powers.

It is sufficient to say in answer thereto that the Supreme Court of the United States has repeatedly held that the treatymaking power could regulate the descent of property as well as other matters under State jurisdiction and that in so doing it can supersede all conflicting State laws which Congress, in the absence of treaty stipulation, could not possibly do by ordinary legislation.

When the importance of this bill is considered as affecting the interests of our entire country, one cannot fail to pause and reflect upon the memorable words of Joseph Story:

"That had the framers of the Constitution done nothing else than to securely vest the treatymaking power in the Central Government, they would be entitled to immortality and the unending gratitude of the American people."

Hon. William H. Temple, of Pennsylvania, who served in the House for over 10 years from that State, and who prior thereto had been for 8 years a professor of history and political science at Washington and Jefferson College, clearly demonstrated that the bill in no way violated the Constitution. I quote from his speech:

The question has been raised as to whether the bill now under discussion, or even the treaty itself, is constitutional. I should like to read a single sentence from Charles Henry Butler's great work on the treatymaking power of the United States. Mr. Butler says:

"The power to legislate in regard to all matters affected by treaty stipulations and regulations is coextensive with the treatymaking power, and acts of Congress enforcing such stipulations, which in the absence of treaty regulations would be unconstitutional as infringing upon the powers reserved to the States, are constitutional and can be enforced, even though they may conflict with State laws and provisions of State constitutions."

If the power to legislate in regard to all matters affected by treaty stipulations is, as Mr. Butler says, coextensive with the treatymaking power, then a law to make the treaty operative cannot be unconstitutional unless the treaty itself is unconstitutional. There are doubtless limits to the treatymaking power, but no case has yet arisen in which a treaty has been declared unconstitutional by the Supreme Court.

It has been said that the police power is a right reserved by the States and has not been delegated to the General Government; that in its lawful exercise the States are absolutely sovereign, and that such exercise cannot be disturbed by any treaty stipulations. It is argued that as the laws for the protection of game birds are such an exercise of the police power, the enactment of such laws by the National Government would be unconstitutional, and even treaty stipulations could not bring them within the jurisdiction of Congress.

On the contrary, the Supreme Court has held that the United States, in the exercise of its treatymaking power, may in certain circumstances enforce laws prohibiting the sale of intoxicating liquors in territory which, but for the treaty, would be in this matter subject only to the police power of a State.

I refer to the case of the *United States* v. *Forty-three Gallons of Whisky*, reported in 93d United States Reports, page 188.

The whisky had been seized in Crookston, Polk County, Minn., under the act of Congress, 1864, which prohibited the possession of spirituous liquors in Indian country. The place where the liquor was seized was not Indian country, and had not been Indian country in 1864, when the act was passed. It was situated in the district which had been ceded to the United States in the treaty of October 3, 1863, between the United States and the Red Lake Band of Chippewa Indians. Article 7 of the treaty is as follows:

"The laws of the United States now in force, or that may hereafter be enacted, prohibiting the introduction and sale of spirituous liquors in the Indian country, shall be in full force and effect throughout the country hereby ceded until otherwise directed by Congress or the President of the United States."

The district court of the United States declined jurisdiction, and the question of jurisdiction was taken to the Supreme Court of the United States.

It was then contended that the treaty which made the law applicable to this territory was invalid so far as it attempted to extend to an organized county of Minnesota certain United States laws applicable only to Indian territory. This contention was based on the ground that a treaty which provides regulations which the Federal Government cannot constitutionally impose is to that extent without validity or binding force.

The Supreme Court decided otherwise and held that it is competent for the United States, in the exercise of its treatymaking power, to stipulate in a treaty with an Indian tribe that within the territory ceded by the treaty laws of the United States prohibiting the introduction and sale of spirituous liquors in the Indian country shall be in full force and effect in spite of the fact that the said territory has ceased to be Indian country and has become a part of an organized county of a State.

This applies not only to laws in force at the time the treaty was signed but also to laws that might afterward be enacted. They, too, would be in full force and effect within the limits of the district covered by the treaty, though in that district, but for the treaty, the laws of the United States for the control of Indian country would not be operative.

The case that was referred to by the gentleman from Virginia [Mr. Flood], *Geofroy* v. *Riggs* (133 U. S., p. 258), is also in point, as showing the wide scope of the treatymaking power. The Court said:

"The treatymaking power extends to all proper subjects of negotiation between our

Government and that of other nations. It, as expressed in the Constitution, is in terms unlimited, except by those restraints which are found in that instrument against the action of the Government or all of its departments and those arising from the nature of the Government itself and that of the States."

In reply to Mr. Temple, Hon. Horace M. Towner, of Iowa, an able lawyer, who opposed the bill, gave his opinion on the issue of constitutionality by stating:

Mr. Chairman, I agree with those who have said that the constitutional powers conferred upon the President and the Senate in the negotiation of treaties would reach to any question such as here is to be considered. I agree entirely with the proposition that insofar as it is proper to carry out the terms of a treaty all the necessary powers are given to Congress to carry them out. I agree entirely with the statement that it is necessary for the House of Representatives in instances such as this to join in legislation that shall carry into effect the terms of the treaty. However, I differ from the gentlemen who say that because now we have made a treaty that therefore Congress can pass any law that they may deem necessary for the purpose of carrying out any of the provisions regarding the migration of birds, for instance, as in this bill.

The Supreme Court of the United States has clearly indicated the limit of the action of Congress with regard to the enforcement of treaties. It extends to all of those things that do not raise a constitutional question, that do not affect the rights of the Federal Government or the rights of the States. This rule was expressly laid down in the decision that was quoted by the gentleman from Pennsylvania [Mr. Temple]. It does not extend to those questions affecting the relations of the States to the General Government. It cannot take from the States the powers that are theirs under the Constitution. That being true, then we have not removed and will not remove by the passage of this act the constitutional difficulty, because the constitutional difficulty regarding the present law, and which will remain in this law if it is passed, is the question as to whether the General Government has any right to legislate whatever regarding migratory birds or fishes.

The power to legislate concerning game has been from the first exercised by the States and has been confirmed by the courts down to the present day. This bill if passed will take that power away from the States and confer it upon an official of the General Government. Therefore if we commit to the General Government a question that belongs to the jurisdiction of the States, it is an interference with the constitutional rights of the States. We are, therefore, not going to get rid of this constitutional question by this legislation. It will still remain. I do not know what the Supreme Court of the United States will say eventually regarding this proposition, but it is not removed by any means. It remains, and if the Supreme Court shall follow out the almost unbroken line of authorities, that the control of the wild game, of the birds and the fishes, lies with the States, then this law will be declared unconstitutional, just the same as the United States courts up to the present time have declared the present law unconstitutional.

Hon. John H. Small, who served 22 years as a Representative from North Carolina, made the following statement:

I flatter myself that when it comes to the preservation of the essential rights of the States, I have a record perhaps as good as that of any Member of this honorable body. But we are not violating any essential rights. In fact we are trying to provide a law the purpose of which may not be effected by the law of any State of the Union. The fact that we are adopting the only method for carrying into effect a solemn treaty made between the United States and the Kingdom of Great Britain is of itself an argument of the impotency of the States to effectuate the purpose which this law is intended to carry out.

How can you take away an essential right of the State when the purpose to be accomplished by the exercise of the so-called State rights will be nugatory and accomplish nothing? The gentlemen are straining at a gnat. There are some essential rights in the States—rights which involve local self-government—which involve absolute sovereignty, which preserve the integrity of the States, and for such rights gentlemen of this body and the citizens of the country ought to stand; but we disparage the essential rights of the States when we cite such a law as this as one which violates them.

To demonstrate the old saying that there is nothing new under the sun, I now quote from the CONGRESSIONAL RECORD what was said by Hon. Oscar E. Bland, of Indiana, who presented the 1918 version of what is now known as the "which" clause in the Bricker amendment. His amendment read:

SEC. 13. That this act shall not become effective until the provisions of the treaty between the United States and Great Britain covering the question of migratory birds shall have been ratified or approved by the legislatures of all the States of the Union, which fact shall be determined by proclamation issued by the President of the United States.

He then stated that—

The people should have something to say about their rights to hunt, and if my amendment carries, the legislatures of the various States will have to approve, not ratify, this legislation. You understand that I am against the bill, and in its present form I intend to vote against it, so my amendment says, "All the States of the Union." I am frank about it. I want this requirement so that no State shall be denied this natural right without its consent. I want to call the attention of the gentleman in charge of the bill to the fact that it is not necessary to ratify the treaty to make the treaty good, but it is necessary for you to get the approval of the States of that treaty before the people of the States will be satisfied with such usurpation of their natural rights; before they concede the right by this bill to make their game laws by the delegation of legislative authority to the Department of Agriculture.

Opposition to the Bland amendment, which finally resulted in its defeat, was first expressed by Hon. Henry A. Cooper, of Wisconsin, who said:

Mr. Chairman, inasmuch as the Constitution of the United States provides that treaties negotiated and ratified and laws enacted in accordance with the Constitution shall be the supreme law of the land, and inasmuch as the Constitution confers upon the Senate of the United States the sole power to ratify treaties, and inasmuch as the amendment offered by the gentleman from Indiana [Mr. Bland] would make it necessary to have all of the 48 States separately ratify this treaty with Great Britain, I feel that I shall be constrained to vote against the amendment.

Uncle Joe Cannon, the former Speaker, interrupted Mr. Cooper, and the following colloquy occurred:

Mr. CANNON. The treaty having been ratified, as I understand, by Great Britain, I do not know that its ratification is necessary, but it was ratified by the Senate of the United States and it stands as a law.

Mr. COOPER of Wisconsin. The supreme law of the land.

Mr. CANNON. Then what is the necessity for this legislation? If I recollect aright, I think there have been several treaties that have practically failed because after they had been ratified by the treatymaking powers the House of Representatives refused to enact legislation that would put them into force.

Mr. COOPER of Wisconsin. What the gentleman from Illinois says is entirely in accord with the facts; but as I heard the amendment of the gentleman from Indiana read, it proposes to require that all of the States shall ratify the provisions of this treaty, and that it shall not be effective until all the States have ratified and approved it.

Mr. CANNON. I am inclined to think that the amendment was in order, and if it should be agreed to and this bill should become an act of Congress, I think its operation would be postponed until all the States had approved it.

Mr. COOPER of Wisconsin. That is very true, because an act of Congress passed in accordance with the Constitution, if passed subsequent to the ratification of a treaty, repeals that treaty entirely or pro tanto, as it may happen to run counter to the provisions of the treaty; but I said only that I shall vote against the amendment because it proposes in effect, that all of the States must ratify this treaty.

A question almost identical with one I heard proposed only a few days ago was asked and properly answered with one word by Mr. Temple in the following colloquy:

Mr. GRAHAM of Illinois. Suppose Canada and the United States, through the proper officers, made a treaty providing that no person should vote at any municipal, State or county election unless he had $10,000.

Mr. TEMPLE. If the gentleman will permit me to read the remainder of the paragraph—

Mr. GRAHAM of Illinois. Suppose such a treaty was negotiated, would it be good? In other words, it must be a proper and legitimate matter of negotiation between the Governments.

Mr. TEMPLE. Certainly.

The vote on the final passage of the bill was 236 yeas to 49 nays.

It appears to be most difficult for some people to understand that one sure way to completely destroy the effectiveness of any treaty which requires implementation is for Congress to refuse to make the necessary appropriations. If Thomas U. Sisson, of Mississippi, could have had his way about it, that is exactly what would have happened to the Migratory Bird Treaty. When the agriculture appropriation bill for the fiscal year 1918 was under consideration in the House Mr. Sisson objected to an item providing for the necessary expenses for the enforcing of the provisions of the Migratory Bird Act by saying:

The only way in which an individual ever gets title to birds or animals, ferae naturae, is either by reducing them to captivity or by bringing them to the ground. The court having repeatedly decided that all such animals and game belong to the people of the States. The Federal Government in creating this law said that the title in this property should be vested in the Federal Government, thereby divesting the people who have always owned that property, and taking away from the people of the States that which they own, as has been repeatedly decided by the Supreme Court of the United States. Therefore, when the Supreme Court

of the United States passes upon this question I do not believe a majority of that Court will go to the extent of saying that Congress by its act can take away from the people their property and vest the title in the Government of the United States, and that is exactly what that law attempted to do when it was passed. I have never voted for this appropriation in this bill. I opposed the passage of the law when it was proposed by Mr. Weeks, of Massachusetts, now a member of the Senate. * * *

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

Mr. SISSON. I will if I have the time.

Mr. MANN. Admitting for the sake of the argument the gentleman's position, does he think that the treaty just proclaimed between the United States and Great Britain, controlling the migration of birds between this country and Canada, would be invalid?

Mr. SISSON. I do.

Mr. MANN. Under the treatymaking power?

Mr. SISSON. I do. The first time that matter was called in question was when Washington was President, and a young Representative from the State of Pennsylvania called the matter in question. The language of the Constitution, saying that a treaty shall be the supreme law of the land, has never been construed by the Supreme Court, or by any subordinate court, to mean that it can supersede the Constitution, and the treatymaking power is limited in the instrument to the specific grant of power to the Federal Government over which it has jurisdiction.

If Mr. Sisson had been successful there would have been no Federal control over the taking of migratory birds. Every Senator now knows that if Congress should refuse to appropriate money for the rearmament of the free nations of Europe the North Atlantic Treaty would be just as dead as if Congress had passed a joint resolution to abrogate it.

It is therefore not strange or extraordinary that every argument relative to the treatymaking power which has been made during the past few years was completely duplicated 30 years ago. As a final result of the present agitation this generation of Americans will no doubt be benefited by having a better understanding of the powers granted and the limitations imposed by the Constitution. But they will learn nothing the last generation did not know.

Mr. President, it has been my purpose to present a series of pertinent facts as disclosed by the record made at the time of the negotiation and ratification of the Migratory Bird Treaty with Great Britain and Canada, and in the enactment of legislation to give it force and effect to show that the President, the Senate, and the House of Representatives acted with their eyes wide open, and that there was no concealment of any facts essential to a proper determination of what was the wise and proper action to be taken.

I do not hesitate to say that when the treaty and the law to make it effective were under consideration, the constitutional questions involved received the attention of able lawyers in both the Senate and the House of Representatives who probably had devoted more time to a study of the Constitution than the present membership of the Congress. They knew what the Constitution meant and what could and what could not be done in conformity with it.

I can add that the Nation 30 years ago also had its alarmists who were terrified at what might happen if their ideas were not adopted. But, strange to say, the revolution so fervently predicted by Representative Mondell has not occurred, and the certain defeat of all Senators who disagreed with him as predicted by Senator Reed did not happen. The executive, legislative, and judicial branches of the Federal Government continued to function within the respective spheres of activity assigned to them by the Constitution. The American people lost none of their liberties and continued to enjoy their freedom.

It would not be appropriate to bring these remarks to a close without some comment on the activity and efficiency that has been displayed by one man in magnifying the importance of the Supreme Court decision in the case of Missouri against Holland. For example, he has succeeded in frightening most of the physicians and surgeons in the Nation into the belief that there is a real danger that a President will negotiate and a two-thirds majority in the Senate will approve for ratification a treaty which would impose socialized medicine on the American people. Furthermore, the doctors have been urged to believe that the precedent established by Missouri against Holland will compel the Supreme Court to decide that a socialized-medicine treaty is entirely within the scope of the treatymaking power as set forth in the Constitution.

I am in entire accord with the statement of the junior Senator from Illinois [Mr. DIRKSEN] that between 1920, when the Supreme Court decision was handed down in the case of Missouri against Holland, and the year 1950, the American people lived for a full 30 years in serenity and equanimity and likewise in sweetness and tranquillity so far as that very sensible decision was concerned. But about 4 years ago Frank E. Holman, an ex-president of the American Bar Association, made the amazing discovery that what Justice Holmes said in announcing that decision of the Supreme Court made a great loophole in the Constitution, and from then on he has devoted most of his time to crying havoc, sounding the tocsin, and making clarion calls.

From some unaccountable cause, Mr. Holman has persistently and completely ignored what should be obvious to any thinking person, that birds which nest in one country and then fly each year to another country are a proper subject for the exercise of the treatymaking power which the Constitution grants to the Federal Government, and consequently the Migratory Bird Treaty of 1916 in no way whatsoever violated the Constitution. He has done everything he possibly could to make the American people believe that in deciding Missouri against Holland the Supreme Court deprived them of rights guaranteed to them by the Constitution. What right was lost to any American citizen except possibly the right to kill the only surviving migratory duck?

Having assumed that the Migratory Bird Treaty took away rights previously enjoyed by all Americans, Mr. Holman established a basis for the assertion made by advocates of the Bricker amendment that other rights safeguarded by the Constitution, even all of those specifically set forth in the Bill of Rights, might also be forever lost by what he calls treaty law.

By insisting that the decision in Missouri against Holland gave Congress a power unwarranted by the Constitution, the loophole is created, Mr. Holman has acted as if he were entitled to a patent on that assertion by right of original discovery. With that for a base of operations, for nearly a year, he has proclaimed to the Nation that the Bricker amendment, pure and unadulterated, is the only plug the insertion of which will completely and adequately fill that gaping loophole. And we may all be assured that until that eminent lawyer from Seattle has had his way about it there will be neither serenity and equanimity nor sweetness and tranquillity anywhere in these United States.

LEGISLATIVE PROGRAM

Mr. KNOWLAND. Mr. President, will the Senator from New Jersey yield?

Mr. HENDRICKSON. I yield to the Senator from California.

Mr. KNOWLAND. Due to the hour that has been reached this afternoon, I have suggested to the Senator from New Jersey that rather than take up the pending bill now, we should be prepared to have it considered when the Senate convenes on Monday. Because the Senate is preparing to recess over the weekend, I thought, in the absence of a number of Senators, that it would be preferable to have House bill 6025 considered on Monday. As I understand, it has been made the pending business.

The PRESIDING OFFICER (Mr. THYE in the chair). It is now the pending business.

Mr. KNOWLAND. I am prepared to suggest that the Senate now recess, but before doing so I shall be glad to yield to any Senator who may desire the floor.

THE BRICKER AMENDMENT

Mr. GEORGE. Mr. President, I wish to make a few remarks in order to make my own position clear with respect to the so-called Bricker amendment, that is to say, Senate Joint Resolution 1, which was reported by the Committee on the Judiciary.

I have listened with great interest to the historic background given by the distinguished Senator from Arizona [Mr. HAYDEN] in connection with the "duck" case, as it has been called, in which the Supreme Court held that it had been given authority to sustain an act of Congress by putting into effect a treaty made between the United States and Great Britain on behalf of Canada.

I have never been able to believe that treatymaking was endangered by the case of Missouri against Holland. I have never taken that position, and I shall not take that position. I cannot see any great danger in permitting the making of treaties which have had the scrutiny of the Senate, and which must be concurred in by a vote of two-thirds of the Senators present; and a quorum must be

present. I see in such a procedure no very great danger to the liberties of individuals or of the States.

My position from the beginning has been that nothing should be done to the Constitution except to reiterate what I think is implicit in the Constitution, and what almost all the Justices in the earlier days have said—namely, that a treaty could not rise above the Constitution; that is, a treaty could not conflict with the Constitution and still remain valid; though perhaps many times they may have gone beyond the necessities of the instant case. Most of those declarations were obiter dicta, but that makes very little difference, because the principle was so well recognized by the Justices who sat on the Supreme Court in the early days of the Republic that everyone took it for granted.

However, I think there would be no particular harm in declaring, as the so-called Bricker amendment would declare, as the majority leader has proposed, and as I propose in the first section of my amendment in the nature of a substitute, that no provision of a treaty—not a whole treaty, but no provision of a treaty—shall be valid which is in conflict with the Constitution. Or, as the amendment states, no provision of a treaty which conflicts with the Constitution shall have any force or effect. That is almost the equivalent of what I have said.

I have always taken the position, and I take it now, that I could not go all the way with the Bricker amendment. I do not believe we should confuse the fundamental, basic relations between the Federal Government and the States in the field of treatymaking. I say this as one who believes basically in the rights of the States; that is, in the rights of local government as against the rights of the general government. At the same time, I believe it is not amiss at this time in our history to say that no provision of a treaty which conflicts with the Constitution shall have any force or effect, because many loose statements have been made in decisions of the Supreme Court during recent times. Almost any lawyer who has kept abreast of the decisions can find some intimation or other that ought never to have been put into such decisions.

I thought, however, that there should be a clear declaration that no provision of a treaty, and particularly no provision of any other international agreement, which conflicted with the Constitution, should have any force or effect. Why? A treaty is made by the President, or, at least, the President is authorized to make a treaty when two-thirds of the Senate present and voting consent to it; and the act of the President in actually making a treaty is but confirmatory of what the Senate is giving him the power to do. But an executive agreement is made by no one but the President, by his Secretary of State, or by such other legal advisers as the President may wish to have make it. Therefore, there is a fundamental reason for saying that an executive agreement, or any international agreement other than a treaty, should not become effective as domestic law, or should not be valid, so far as that goes, if it conflicted with the Constitution.

Mr. President, if that position is not reasonable, then I am not a reasonable man. I believe the American people will recognize that position as being reasonable. They could not do otherwise.

Let me make myself clearly understood. I am not speaking of the President who is now in charge of the affairs of this Nation. So far as I know or have any reason to believe, no executive agreement made by President Eisenhower is a matter of concern to any right-thinking American. I cannot make my statement any stronger than that. Therefore, it is not any act of his that concerns me.

I go back to the Constitution. I use the language of the Constitution, which repeatedly says that the President of the United States shall have power to do so and so, or which places a limitation upon the power of the President.

So the amendment offered by the majority leader, the distinguished Senator from California [Mr. KNOWLAND], would bring the first section of the so-called Bricker amendment, Senate Joint Resolution 1, which was reported by the Committee on the Judiciary, exactly into line with what I have in mind. I believe the distinguished Senator from Michigan [Mr. FERGUSON] offered an additional amendment earlier in the day which I have not seen; therefore, I do not know exactly the meaning of it. But so far as the original amendment offered by the distinguished Senator from California is concerned, it brings the first section of Senate Joint Resolution 1 exactly into line with what I have suggested.

In the second section of the amendment in the nature of a substitute which I have offered, I have used the words "other than a treaty," leaving treaties to stand as they stand at present under our Constitution, namely, as the supreme law of the land.

My amendment in the nature of a substitute then provides that an executive agreement or an international agreement, other than a treaty, which has not been submitted to the Senate, which neither the Senate nor the Congress as a whole has had an opportunity to consider, which the Senate knows nothing whatever about, and not even the Committee on Foreign Relations ever hears of one out of a thousand, shall not become effective as domestic law or as internal law in the United States until it shall have been approved by an act of Congress.

Again, I have not brought the States into the picture, because I do not wish to disturb the fundamental, historic, basic reasons for the separation of the powers of the Federal Government from the local governments in the field of treatymaking, or the fundamental relationship between the executive branch of the Government and Congress in that field.

I am aware of the fact that certain objections have been made to my proposal. The objections are to the effect that my amendment in the nature of a substitute might interfere with the power of the President acting as Commander in Chief of the Armed Forces of the United States. Last week on the floor of the Senate I stated specifically that I would not have the slightest objection to excepting the orders or even the executive agreements which it might be found necessary to make in order to carry out an order issued by the President of the United States acting as Commander in Chief of the Armed Forces of this Nation.

I will say—and I repeat—that I have no objection to saying that my amendment does not touch the power of the President to receive ambassadors and ministers of foreign states; and when they are received, under international law, they have immunity in this country, as if they were on their own home soil. That is a principle which our courts have always respected and recognized.

Mr. President, those are the two objections which have been mainly urged. I have made that declaration, because, under article II, clause 2, of the Constitution, the President is made the Commander in Chief of the Army and of the Navy of the United States. Nothing in my proposed substitute touches his power as such. Under article II, clause 3, of the Constitution as written, the President is given the express power to receive ambassadors and ministers of foreign states; and nothing in the proposed substitute which I have suggested can touch that power. It is not designed to touch it.

If it is desired to allay the fears of those who think we may be encroaching upon the power of the President as Commander in Chief, or the power of the President to receive ambassadors—that is, to recognize foreign states and to receive ministers of foreign states—I would be perfectly willing to make that situation clear, explicit, and definite. I change nothing in my amendment. There is not a word changed in it. Nothing is intended to affect such power, and nothing does affect it.

If it is desired to allay the fears of those who think that perhaps in some way the President could see fit and find it necessary to make an international agreement in case of an invasion from the north through Canadian territory, then I wish to add two express statements: First, that nothing in my amendment should be construed to affect those constitutional powers of the President; and, second, the further safeguarding clause that nothing in the enumeration of powers excepted should be construed to deny or impair other powers given to the President under the Constitution itself.

Mr. President, that is the whole of my amendment. It is simple. The American people can understand it. In my opinion, no amount of camouflage can prevent the American people from understanding it. I have heard the argument that I was proposing to confer upon the States a power which they do not have, that of ratifying a treaty.

Mr. President, that is not the purpose. The purpose of my substitute is to let the Congress say whether such secret agreements—they would be necessarily secret in most cases—shall become domestic law in this country unless approved by an act of the Congress. That is simply to say that it is better for the

protection of the American people, for the liberties of the American people, for the rights of individuals, and for the rights of States to have the whole Congress pass judgment upon such an issue rather than to have a President and a Secretary of State pass upon that issue. So no one need be worried for fear that I am trying to weaken the powers of the States under the Constitution. Not at all. The point is that now an executive agreement is approved by no one but "a President."

I should say that at least in order to avoid disturbing fundamentally the relations between the Federal Government and the States in the field of treaty-making, there must be an act of Congress carrying into effect those provisions of a secret agreement which override otherwise valid State laws. That is all I propose.

Mr. President, this is Lincoln week. I remind my friends on both sides of the aisle that "you can fool some of the people all of the time, and all of the people some of the time, but you cannot fool all of the people all of the time."

Mr. HENNINGS. Mr. President, will the Senator yield for a question?

Mr. GEORGE. I yield to the Senator from Missouri.

Mr. HENNINGS. Do I correctly understand the distinguished Senator from Georgia to suggest that the Pink case, to which the Senator has frequently adverted, overruled any State law?

Mr. GEORGE. Oh, yes, Mr. President, I shall discuss the Pink case next week.

Mr. HENNINGS. I discussed that question earlier in the day in the hope that the Senator would be present. I wished him to hear my interpretation of it.

Mr. GEORGE. I shall discuss that case a little later.

I assert now, as a basic premise, that the whole tendency of the decisions of the courts in construing the effect of executive agreements—forget treaties—has been to assimilate them into the category of treaties. I assert now, whoever takes the contrary view, that the whole philosophy and doctrine of the Pink case are based on the definite, final conclusion of that court, which handed down the decision by a vote of 5 to 2, that an executive agreement or understanding which is assimilated into the category of a treaty becomes the supreme law of the land, and, if necessary, overrides the laws of the States.

Mr. President, I do not care if courts sometimes overspeak their cases. I know what the Court meant by that decision. I assert that if the Pink case becomes the established doctrine of the Supreme Court of the United States, the people of America will demand a definite, positive constitutional amendment which will declare that executive agreements must conform to the Constitution and may not become the internal or domestic law of the country unless they have been acted upon by at least the Congress of the United States.

Mr. HENNINGS. Mr. President, will the Senator yield further for a question?

Mr. GEORGE. I yield to the Senator from Missouri.

Mr. HENNINGS. In the light of the Pink case and the facts relating to the Litvinov agreement, does the Senator suggest that the Congress did nothing to implement the Litvinov agreement?

Mr. GEORGE. Mr. President, I have already assured my friend that I would try to discuss that case; but I am discussing it on the basis that the doctrine of the Pink case—do not read merely the holding of the Court—is to elevate an executive agreement to the category of a treaty. Otherwise the Pink case has no basis. Otherwise there is nothing in it. I think the Court made a fundamental mistake; but that is not the point here involved.

Referring to what the Supreme Court said in the Pink case, be it said to the eternal credit of Chief Justice Stone and Mr. Justice Roberts, who associated himself with the opinion of the Chief Justice, that they stated sound law, namely, that the decrees of the Russian Government had no extraterritorial force and effect over property in the hands of an officer of the State of New York.

That is the British rule, from which nearly all our jurisprudence has come. Yet five justices gave it extraterritorial effect and force, and carried it out.

Mr. HENNINGS. Mr. President, will the distinguished Senator from Georgia be kind enough to enlighten me on one matter? I may have been grievously in error earlier today when I said that the Pink case, first, did not deprive any United States citizen of any right under any article of the Constitution or under the first 10 amendments thereto——

Mr. GEORGE. Mr. President, I ask the Senator from Missouri to wait a minute, please. I am not complaining whether the Pink case deprives a United States citizen or a foreigner of his rights. If today, a foreign citizen can be deprived of his rights, tomorrow a United States citizen can be deprived of his rights, under the same theory or the same doctrine. I would never discuss this point upon so narrow a principle as that.

Mr. HENNINGS. Let me ask a question regarding that point, please. Does the Senator from Georgia tell us that Congress did not implement the terms of the Litvinov agreement?

Mr. GEORGE. I have no knowledge that the Congress ever acted upon those assignments.

Mr. HENNINGS. Let me suggest to the Senator from Georgia that I have read the 50 pages of the Pink case; and according to my understanding of it, Congress did implement the Litvinov assignments, although Congress at that time had—just as Congress today has—the power to negate the terms of those assignments and that agreement.

Mr. GEORGE. Mr. President, I do not wish to enter upon a discussion of the Pink case today, but I am perfectly willing to say that I have no knowledge that Congress ever ratified the Pink case or the Litvinov assignments. The President executed that agreement.

Mr. HENNINGS. I said "implement."

Mr. GEORGE. Implement? Oh, that may have been. We went to war, and Russia was our ally; and I suppose that implemented everything. [Laughter.]

Mr. HENNINGS. Congress did not complain, let me suggest to the distinguished Senator from Georgia. On the other hand, Congress implemented the Litvinov assignments; and Congress had the power to negate and vitiate the terms of that agreement.

Mr. GEORGE. Oh, no; Congress did not know anything about it until it got into the courts. Not even the Foreign Relations Committee, of which I have been a member since 1927, ever heard of it until it got into the courts. So how did Congress have a chance to negate it?

Mr. HENNINGS. I should like to interrogate the Senator from Georgia upon the premise he has just suggested and upon the further suggestion that internal law contained in executive agreements—or, to put the matter in another way, executive agreements which have an effect upon internal law—should be acted upon by the Congress, meaning the Senate and the House, in concurrence, and by a simple majority thereof.

How would the Senator from Georgia suggest we would go about the matter of dealing with all the executive agreements negotiated and entered into by the President of the United States—as a matter of congressional procedure? Would the President send to Congress all executive agreements, or would he send only those which in his judgment have an effect upon internal law? Or would the Senate or the House of Representatives, or both, determine which ones have an effect or impact upon internal law? How would Congress manipulate the cumbersome machinery incident to considering every executive agreement entered into by the President of the United States?

Mr. GEORGE. Mr. President, I have not suggested that that be done, and I refuse to argue about anything I have not suggested.

Mr. HENNINGS. I did not say the distinguished Senator from Georgia suggested it; I say the amendment contemplates it.

Mr. GEORGE. No, no; it does not contemplate any such thing, if I may be permitted to contradict my colleague.

Mr. HENNINGS. I shall be glad to have the Senator from Georgia state what the amendment does contemplate.

Mr. GEORGE. It contemplates that before any provision of an executive agreement shall become internal or domestic law, the Congress shall have a right to act upon it.

I may say to the Senator from Missouri that perhaps 10,000 executive agreements have been made since World War I.

Mr. HENNINGS. Yes, at least that many.

Mr. GEORGE. And perhaps since World War II. I dare say that only a fractional, infinitesimal number of those agreements affect in anywise internal law or have any direct effect on any State statutes.

Mr. HENNINGS. As to that, we do not know until such an agreement gets into court. At least, that is frequently the case; is it not?

Mr. GEORGE. Yes, we do not know. That is why I mean to say that the President should submit, as a treaty, to

the Senate every executive agreement having the effect of internal law. He should submit it to the Senate. If the Senate by two-thirds vote approved the treaty, then I have no doubt at all that it would become a coextensive part of the law of the United States.

That is where we are now, so far as treaties are concerned. I am only concerned with executive agreements which never have been acted upon by the Senate.

Mr. HENNINGS. By whom would the determination as to which executive agreements affect internal law be made, before the President sent them to us?

Mr. GEORGE. By the President himself.

Mr. HENNINGS. So if the President thought they did not affect internal law, he would not send them here; is that correct?

Mr. GEORGE. Yes; in that event he need not send them to the Senate.

Mr. HENNINGS. If the President thought they did affect internal law, he would send them to the Senate; is that correct?

Mr. GEORGE. Yes; presumably.

Mr. HENNINGS. So, Mr. President, under the thesis of the Senator from Georgia, the President still would have complete discretion in the matter of deciding which executive agreements would be submitted to Congress, for congressional approval, and which ones would not be submitted to Congress; is that correct?

Mr. GEORGE. Oh, no; I do not think any President acts without proper restraints under the Constitution.

Mr. HENNINGS. That is my point, of course.

Mr. GEORGE. I have said that not a single executive agreement of President Eisenhower, so far as I know or have been informed, has given anyone concern.

On the contrary, I am speaking of what a President of the United States may do.

Presumably the President of the United States reads his Executive orders. That task has been held to be an intolerable burden upon the President. But if he is going to make the orders, he certainly must read them; and presumably he has someone to advise him about them. The President is under a constitutional restraint not to send to Congress an Executive order or not to issue one that will be in conflict with the Constitution. I have no idea that the President would do such a thing.

I desire to congratulate the President of the United States upon his decision not to send to this body the so-called genocide treaty. It violates article I, article II, and article III of the Constitution; it violates all of them.

The President also decided—and wisely so, I think, and I congratulate him—not to send here the so-called human rights or universal human rights treaty. It never did get into the form of a treaty, entirely; but it was being kicked around and talked about. The President said he would not send it here, and I congratulate him on that decision, because such a treaty would violate the legislative power given to the Congress and the judicial power vested in the Supreme Court of the United States; and I am glad the President did not send such a treaty here.

Mr. GRISWOLD. Mr. President, if the Senator will yield, to permit me to ask a question——

Mr. GEORGE. Certainly.

Mr. GRISWOLD. Would it be possible, on the question of whether such an agreement violated domestic law, for the courts of the United States later to hand down a decision that the executive agreement did violate or did conflict with domestic law, and therefore should have been referred to the Congress?

Mr. GEORGE. That is right.

Mr. GRISWOLD. So that question would not entirely be left to the discretion of the President, I assume.

Mr. GEORGE. Yes, although it would in the first instance.

Consequently, if an Executive order or agreement were asserted against the right of a citizen of the United States, that citizen then could go into court and could say to the court that, with respect to the executive agreement, "It does not have congressional approval, and is not binding as part of the domestic law of the Nation or the State, and therefore is not binding against me; and therefore I plead against it." That is true; the Senator is quite right.

I rose this afternoon merely to make my position clear, and to state what I hope my amendment in the nature of a substitute might accomplish. I wish to pay my respects to some of the other suggestions which have been made.

It has been suggested that we now have ample power. What power have we to even know about an executive agreement? I am not speaking of treaties. I have taken them out of this discussion, so far as I am concerned. What power have we even to learn about executive agreements? How can we overcome them? How can we do anything about them? Presumably we might find out about them in some way, and a bill might be introduced disapproving certain provisions of an Executive order which in our judgment clearly cut across the rights of a citizen of a State under a law of his State which would otherwise be valid.

Then what would happen? We would have to obtain a vote of two-thirds in this body. We would have to obtain a two-thirds majority in the House, and then submit the bill to the President who made the executive agreement. What sort of protection would that be to American citizens?

The only other so-called right or power which is more ridiculous is the right of impeachment of a President or the right of impeachment of a Senator who might vote for such an agreement. What sort of protection would that be? That suggestion goes beyond the ridiculous. When we examine such suggestions, we find that none of them affords any rights whatsoever to the American citizen.

How is a President impeached? He is not impeached in this body. We try him here, if the House impeaches him; and when he is tried here, the Chief Justice comes over and presides. Then it is necessary to have a vote of two-thirds of the Senate to sustain the impeachment of the President or anyone else. How could we obtain such a vote in the face of an honest difference of opinion as to whether or not the President should have made an executive agreement, or whether, in the first instance, he should have submitted the executive agreement to Congress for its approval or disapproval? I have cited only two examples, but they are all of equal dignity in the realm of the ridiculous.

There is no possible safeguard for the American people against an executive agreement made by a President which cuts across the laws of the State and invalidates what would otherwise be a good law in the State, unless we say that at least we will not leave that question to the uncontrolled discretion of the President, but will ask him to send the agreement to the Congress and let the Congress vote upon it. If the majority of Congress votes upon it, that is infinitely better than having the President himself decide the question.

Mr. President, I rose this afternoon merely to make plain my position. I do not believe that the President is without restraint under the Constitution in the making of a treaty. I concede that he is under restraint. He is under similar restraint in making executive agreements; but so far as the treaty is concerned, it must come to the Senate. The Senate is itself at least a part of the treatymaking power. In fact, the Senate gives the treaty life and validity; and the final act of the President putting it into force and effect is but a recognition of that fact. It is merely confirmatory of what the Senate has done.

But with respect to executive agreements, no one knows what is in them. No one can know the full effect of them. It is true that the President is under similar constitutional restraint with respect to executive agreements as with respect to treaties, because, thank God, the Supreme Court has not said that the executive agreement is even higher than a treaty. The Court has lifted executive agreements into the category of treaties and has given them effect as treaties, but no one has said that they are higher than treaties. Therefore, in the field of executive agreements or other international arrangements and understandings, other than treaties, why should not the President be willing to submit to the Congress the question of whether or not they shall go into effect internally, within the United States, as a part of the law of the United States?

I am satisfied that no President would act without due restraints in treatymaking or in the making of executive agreements; and I am also satisfied that some executive agreements have been made which could be dangerous and which would not have had the approval of the American people if they had fully understood such executive agreements. I have said, and I repeat, that my statement does not refer to any decisions made by the present President of the United States.

I cannot believe that the American people do not want us to do at least as

much as I have suggested. I know that there are some Members of this body, for whom I have great respect, who do not believe it is advisable to touch the Constitution. I know that there are some who will say that the Pink case is perhaps not the firmly established law of the Supreme Court of the United States, and may never become such. I grant that. But, Mr. President, enough has happened to indicate the direction in which the Supreme Court is traveling to put us on notice that we ought to do something about it. I think we should face the issue clearly and squarely.

I think we should do so for another reason. I believe that this discussion necessarily involves a divisive issue. The people ought not to be divided. My whole purpose in offering my substitute is that, as a result of submitting a straightforward amendment to the Constitution, the question may be taken back to the States themselves to say whether or not they want such constitutional amendment. I expect to offer my amendment if I have the opportunity to do so, because I firmly believe that the great masses of the American people will approve it when they understand it.

Mr. LONG and Mr. HENNINGS addressed the Chair.

The PRESIDING OFFICER (Mr. THYE in the chair). Does the Senator from Georgia yield; and, if so, to whom?

Mr. GEORGE. I yield to the Senator from Louisiana. I do not wish to occupy any more of the time of the Senate.

Mr. LONG. Mr. President, the Senator from Georgia has made a very fine speech today. The junior Senator from Louisiana is torn between various versions and proposals which have been discussed. His question with regard to the amendment offered by the Senator from Georgia is whether it goes far enough. One thing which has concerned the junior Senator from Louisiana with respect to executive agreements is that Congress is unable to find out what they are.

Mr. GEORGE. That is true.

Mr. LONG. For example, even though the Senator may say that he would not lay any blame upon the present administration for any executive agreements it has made, some of us would like to know the terms of the agreement with Spain, for example. We have been asked to build airbases in Spain, to build great radar establishments, to send troops to Spain, and to make preparations to receive them. Yet we cannot find out whether we would even be able to use such bases in the event of war.

I do not care to rehash the issue of Yalta, Potsdam, Teheran, and all the other meetings which were held with Russian leaders. Yet at that time Congress could not find out what was in those agreements. I wonder if the Senator would agree that we should have some way at least to require the Executive to inform us what these international agreements are, when there is no compelling reason why they should be secret.

Mr. GEORGE. I believe the Senator is quite right. My amendment does not go that far; it is not intended to. I believe there is much merit in the Senator's suggestion. I am not at all sure that the whole question should not be approached in this way, that a treaty or executive agreement, in order to become the supreme law of the land, must be assented to by two-thirds majority of the Senate. I say that because there seems to be an attempt to make an impossible distinction as between treaties and executive agreements. In many instances there is no clear line of demarcation.

I concede to the very able Senator from Louisiana that my amendment does not go as far as many people would like to see it go. Of course, my amendment does not include treaties; nor does it call for congressional action to put treaty terms in effect as domestic law. A great many Senators would like to have it go that far, and many persons throughout the country would like to have it go that far. At the same time, I do not feel it is wise to disturb the fundamental and historic relation between the Federal Government and the State governments with regard to the question of treatymaking. Therefore, I do not wish to disturb the making of treaties.

I do not care to have Congress given the opportunity of passing upon all executive agreements. To do so might impede the progress with which those agreements must be made. My amendment could not, however, impede the progress of an executive agreement, so far as creating a relationship and an obligation between our country and any other sovereign country is concerned. It could refer only to provisions which might have the effect of domestic law.

Mr. LONG. It is true, however, that even though executive agreements relating to bases overseas, many of which are secret agreements, might not affect persons within this country, could they not involve the rights of Americans who would be stationed at those bases overseas?

Mr. GEORGE. That might be possible.

Mr. KNOWLAND. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. KNOWLAND. I did not quite understand the distinguished Senator's statement to the effect that he expected to offer his substitute if he had an opportunity to offer it. I can say to the distinguished Senator from Georgia, insofar as the majority leader is concerned, that he will certainly oppose any parliamentary device which would prevent the Senate from having an opportunity to vote on the distinguished Senator's amendment.

Mr. GEORGE. I thank the majority leader.

Mr. KNOWLAND. The only thing I can conceive of which might prevent it would be the success of a motion to recommit the joint resolution.

Mr. GEORGE. That might prevent a vote, it is true. Such a motion, of course, would be in order.

Mr. KNOWLAND. I shall oppose such a motion, and I shall seek every support possible to prevent a motion to recommit from being successful.

Mr. GEORGE. I thank the majority leader.

The PRESIDING OFFICER (Mr. THYE in the chair). The Chair will advise Senators that the amendment of the Senator from Georgia is not before the Senate in a formal manner. The Senator from Georgia has offered his amendment. The pending question is on agreeing to the amendment offered to the amendment that had been offered by the Senator from Michigan [Mr. FERGUSON], on behalf of himself and the Senator from Colorado [Mr. MILLIKIN], the Senator from Massachusetts [Mr. SALTONSTALL], and other Senators. When that amendment has been disposed of, the next order of business will be the amendment offered by the Senator from Georgia.

Mr. GEORGE. The Presiding Officer is entirely correct. I thought perhaps a motion to recommit might be made. I was hopeful that the Senate would have an opportunity to consider my amendment.

Mr. HENNINGS. Mr. President, will the Senator from Georgia yield?

Mr. GEORGE. I yield; but I hope the Senator from Missouri will bear in mind that I do not want to go into a full discussion of the Pink case at this time.

Mr. HENNINGS. I understand. My only reason for undertaking a discussion of the Pink case this morning was that in the course of the discussion the other afternoon the Senator from Georgia frequently adverted to the Pink case. Therefore I got busy and tried, to the limit of my ability, to analyze the Pink case, as I am sure the Senator from Georgia has analyzed it. It will be recalled that in House Report No. 865, 76th Congress, 1st session, it is stated that the appointment of a commissioner to determine the claims of American nationals against the Soviet Government was authorized.

If Congress had desired, it could have annulled the internal effects of the Litvinov assignment by a simple act of Congress. Far from doing this, it set up a commission to adjudge the claims and to adjudge the rights of American citizens; and certainly no American citizen was deprived of any rights under the fifth amendment or any other rights.

Mr. GEORGE. I must say to the Senator from Missouri that I did not have an opportunity to hear all of his argument this morning, because I had an engagement and had to leave the Chamber, but I have no doubt that the Senator has learned very much more about the Pink case than I have. However, I do know the philosophy of the case.

Mr. HENNINGS. Mr. President, I would suggest that I did not learn more about the Pink case than my distinguished colleague from Georgia may have learned. The question is purely one of interpretation.

Mr. GEORGE. I am sure the Senator has learned more.

Mr. HENNINGS. It is a matter of interpretation, and I got into the subject because upon the Pink case there seems to rest so much of the discussion and the apparent reason for the amendment offered by the distinguished senior Senator from Ohio and the amendment

offered by the distinguished Senator from Georgia.

Mr. GEORGE. I confess that that is true so far as executive agreements are concerned, because had not the Pink case gone as far as I believe it has, keeping in line with the general trend of some of the decisions that have tended to interpret executive agreements as being very closely akin to treaties, I would not have offered my substitute.

Mr. HENNINGS. There is one point which bothers me, and as to which I should appreciate enlightenment by the Senator from Georgia. Does the Senator have in mind a definition of internal law as it might be contemplated by the Constitution; and, further, if the President is to determine which executive agreements affect internal law, as in the instance cited by the distinguished Senator from Louisiana [Mr. LONG], if the Executive is to determine which of those agreements are to come to Congress for congressional action and which executive agreements are not to come to Congress, does it not still leave the Chief Executive with vast discretion?

Mr. GEORGE. Oh, certainly it does.

Mr. HENNINGS. In terms of those agreements, I mean.

Mr. GEORGE. Yes; I would not take them all away from the Chief Executive.

Mr. HENNINGS. Can we, by writing into the Constitution an amendment such as the distinguished Senator from Georgia has suggested, really inhibit the Executive, and should we inhibit him, in terms of some agreements and other things which are necessary for the preservation and the welfare and the security of our country?

Mr. GEORGE. No; indeed not.

Mr. HENNINGS. To what extent should we inhibit his powers as our representative and constitutional actor in any international affair?

Mr. GEORGE. I do not propose to do so. All I propose to provide is that, insofar as any provision of agreements, other than treaties, do affect internal law, that is, become domestic law in the United States, such agreements shall be approved by Congress. However, so far as the President's exercise of political powers is concerned, to negotiate with any foreign country any agreement which he believes advisable to make, so far as his authority to carry those things out, so far as his power to issue orders as Commander in Chief, and so far as his powers—just to enumerate these few instances—to receive ambassadors and recognize a foreign country are concerned, those are matters that lie wholly within his political power, and we would not regulate or restrict those powers. I do not want to restrict them.

Mr. HENNINGS. May I say to the Senator that the very gravamen, the heart, of the Pink case related to the recognition of a foreign government and the receiving of foreign ambassadors, and, as a condition precedent, negotiations involving the Russian insurance companies. So that the President entered into these negotiations and recognized the Soviet Government.

Mr. GEORGE. Let me make myself plain. I do not want a President of the United States to conclude an executive agreement which will make it unlawful for me to kill a cat in the back alley of my lot at night, and I do not want a President of the United States to make a treaty with India which will preclude me from butchering a cow in my own pasture.

Mr. HENNINGS. To take it one step further, if the Senator wants to butcher his cow and the President does want to enter into an executive agreement with Turkey, for example, what process would be followed, if, in the judgment of the President, the executive agreement is not going to prevent the Senator from Georgia from butchering his cow? Are we going to decide whether it does or does not affect internal law, or are we going to leave it solely to someone's discretion?

Mr. GEORGE. When I kill the cat or butcher the cow, and someone prosecutes me——

Mr. HENNINGS. Then the Senator would know.

Mr. GEORGE. No. I would have the right to go into court and say, "This was not approved by the Congress, and it affects internal law."

Mr. HENNINGS. The Senator would then get a judicial determination.

Mr. GEORGE. That is correct.

Mr. HENNINGS. But is the President of the United States to make a judicial determination? And if he does not, who is to do so?

Mr. GEORGE. He does, in the first instance, make his decision, and, as I have said, it puts upon him no great burden. I dare say the President does read every agreement he signs, and if it be an agreement which invades an otherwise valid right under a State law, the President would say so.

Mr. HENNINGS. Then in the opinion of the President it might invalidate a State law, but in the opinion of the court it might not.

Mr. GEORGE. That is correct.

Mr. KNOWLAND. Mr. President, I wish to address a parliamentary inquiry to the Chair in order to clarify what otherwise I am afraid may be a misunderstanding, or perhaps the majority leader misunderstood the observations of the Chair a short time ago.

As I understand, there is now pending an amendment offered by the Senator from Michigan [Mr. FERGUSON] for himself and other Senators, which is the amendment now before the Senate, so far as Senate Joint Resolution 1 is concerned.

The PRESIDING OFFICER. The Senator is correct.

Mr. KNOWLAND. As I understand, in addition to that amendment which is pending, except as it has been temporarily displaced by proposed legislation under consideration today, there are several other perfecting amendments which have been offered by the Senator from Michigan for himself and other Senators. I believe one perfecting amendment has been offered by the Senator from Ohio, and conceivably there may be other perfecting amendments offered during the course of the next few days.

The PRESIDING OFFICER. The perfecting amendments have been offered and printed, and are now lying on the table.

Mr. KNOWLAND. My parliamentary inquiry is that it is my understanding that prior to action by the Senate on the so-called George substitute, or any subsequent substitute that may be offered, the Senate will first act on the perfecting amendments. Is that correct?

The PRESIDING OFFICER. A vote on a substitute is not cast until all perfecting amendments have been disposed of.

Mr. KNOWLAND. I thank the Chair.

The PRESIDING OFFICER. That is what the Chair was endeavoring to clarify, that there was pending an amendment which had been offered to the amendment of the Senator from Michigan in behalf of the majority leader and other Senators, and that a later perfecting amendment had been offered which will be the first order of business, and then the Senate will return to the substitute.

Mr. KNOWLAND. In other words, it is now clear that any perfecting amendment will be acted upon by the Senate prior to a vote on a substitute, whether it be the so-called George substitute or any substitute subsequently offered, having in mind, however, that at any time in that procedure a motion to recommit might be made or a motion to table an amendment might be made.

The PRESIDING OFFICER. The Senator from California is correct. The motion to recommit, however, would precede any other motion.

Mr. MORSE. Mr. President, I intend to discuss Calendar 932, House bill 6025, which has been laid over until Monday, but before I discuss that case and certain other points as part of my weekly report of the Independent Party, I desire to make a few comments on the remarks of the Senator from Georgia [Mr. GEORGE].

THE PINK CASE

I shall await with great interest the Senator's analysis of the Pink case next week. If his analysis follows the line of the major thesis he laid down today, I shall respectfully argue next week that his interpretation of the case is counter to what the Pink case holds. In my judgment, there is no holding in the Pink case, as a matter of law, that justifies any conclusion that the Supreme Court in that case equated treaties and executive agreements. There is some broad dictum in the Pink case, but I certainly do not share the viewpoint of the Senator from Georgia that we should be frightened into passing a constitutional amendment because of dicta in Supreme Court cases.

When there is a problem before the Court which would call upon the Court for the first time to decide if it should adopt that dictum as a matter of law, the Court is heard to say frequently that it does not follow the language of the case cited by counsel because as dictum it is not applicable to the facts of the later case.

Mr. President, I am not going to be frightened into voting for a constitutional amendment on the basis of any fear argument that because some judge

or group of judges in a Supreme Court decision talked in terms of dictum we should protect the people from the Supreme Court. I merely say to the American people, "Where is the ruling, as a matter of law, by the United States Supreme Court showing that the Court has ever equated treaties and executive agreements?" The answer is that it has not, and it did not do so in the Pink case.

CONSTITUTIONAL CHECKS UPON ARBITRARY POWER

Mr. President, I am a little surprised to hear on the floor of the Senate the argument made that the basic checks in the Constitution of the United States against the exercise of arbitrary power on the part of any branch of government fall into the category of being ridiculous. I am one who believes that the impeachment section of the Constitution of the United States is a living check upon any President of the United States sitting in the White House. I do not see how we can say that Presidents of the United States have not paid attention to the impeachment section of the Constitution of the United States. It stands there, Mr. President, as a living check upon him.

I think, if we had a crystal ball which would permit us to look into the thinking of the Presidents in the history of the United States, we would find how far from sound it is to argue on the floor of the Senate that the impeachment section of the Constitution is really ridiculous when it comes to being an effective check on the President of the United States.

The fact that impeachment proceedings have not been used extensively during our history does not support an argument that the impeachment check is not effective. Nor does it support an argument that it is ridiculous for those of us opposed to the George amendment to refer to the impeachment power as one of the effective checks upon a President under our check and balance system.

Mr. HENNINGS. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. I yield.

Mr. HENNINGS. Does the Senator believe that these so-called secret agreements entered into by the Executive have any effect upon internal law?

Mr. MORSE. I do not know. Who does?

Mr. HENNINGS. Who does? Does the Senator suggest, under the terms of the George amendment, what procedure might be followed by an executive in determining what would or would not be internal law?

WHAT DOES INTERNAL LAW MEAN?

Mr. MORSE. At least, we ought to be helpful enough to the Executive to give him some definition of what is ment by internal law. We ought to use language that already has been interpreted by the courts. As I said earlier this afternoon, my rundown of cases thus far—and I have not completed the research—does not disclose a decision of the Supreme Court of the United States which has defined the meaning of the phrase "internal law." I do not know whether it means "the law of the land" which the Supreme Court has interpreted in a series of cases, or whether it means "domestic law," or what it means. But the George amendment, in the nature of a substitute, would inject into the Constitution a legal phrase that has yet to be interpreted by the Supreme Court of the United States.

I believe that before the Senate votes upon an amendment that uses an entirely new legal concept, at least the amendment should be sent to committee, in order to have some of the constitutional experts in this country testify as to what they believe the effects on constitutional law of such a phrase in the George amendment would be.

I have listened this afternoon to the Senator from Georgia make what I thought was the soundest, most unanswerable argument that could be made for recommitting the entire matter to the Committee on the Judiciary, in order to obtain expert testimony. The brilliant argument of the Senator from Georgia—and it was a brilliant argument, but a highly fallacious one—was an argument that, in my opinion, justified recommitting the entire matter to the Committee on the Judiciary, for the purpose of taking the testimony of the Secretary of State, the Attorney General of the United States, and the outstanding constitutional law experts of the country.

I wish to continue with the comment I was making about the great living checks that exist in the Constitution to prevent arbitrary action by the Chief Executive of this country.

Mr. HENNINGS. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. HENNINGS. I desire to raise one more point for further clarification. Does the Senator from Oregon believe that under the decision in the Pink case, any American citizen, or any citizen of any country, was deprived of any substantial right, save the Russian holders of equity in an insurance company, who were affected by Russian nationalization?

Mr. MORSE. As the Senator from Missouri knows, I followed very carefully his argument in the Senate this afternoon. I find myself in agreement with the analysis of the Pink case as presented by the Senator from Missouri, including his analysis raised in the question just put to me.

Mr. HENNINGS. I thank the Senator from Oregon.

THE CONSTITUTION PROVIDES FOR THREE COEQUAL AND COORDINATE BRANCHES

Mr. MORSE. Mr. President, I wish to say one more word with regard to the living checks in the Constitution upon the executive branch of the Government.

Of course the Senate could negate executive agreements, and should negate them, if it should be found, in the exercise of the constitutional powers of the Senate, that such agreements were not in the public interest. But the Founding Fathers did not write a Constitution that made the legislative branch supreme; they did not write a Constitution that made the executive branch supreme; and they did not write a Constitution that made the judiciary supreme. They wrote a Constitution that provided for the living checks of the three departments upon each other of which I am speaking this afternoon.

I say that the two-thirds vote check upon the President, in connection with either a treaty or the overriding of a veto is not a ridiculous check. It is a very effective and a very sound check. The record of the Senate of the United States will show that, time and time again, throughout the history of the country, the Senate has garnered the necessary two-thirds vote to override the President in a matter on which the Senate thought he ought to be overridden.

I simply could not follow the Senator from Georgia [Mr. GEORGE] when he argued on the floor of the Senate, if I heard him aright, that the power of negation which the Senate has over executive agreements would not be effective. If this argument were valid, it would be ridiculous for me to make the argument which I now make. But I make it with pride, because I make it in light of the history of the Senate of the United States. The record speaks for itself. It has not been a ridiculous check; it has been an effective check. I have no doubt that the Senate can garner the necessary two-thirds vote to override a veto of the President or to override a position taken by the President in terms of an executive agreement.

I shall close my argument by saying that brilliant as was the argument made by the Senator from Georgia this afternoon, I do not go along with him, because I do not go along with his major premises. I say his major premises ought to be submitted to the Committee on the Judiciary for careful analysis, so that the Senate can have the benefit of the expert testimony that should be taken before we are called upon to vote in the Senate for a constitutional amendment which, in effect, was drafted in the course of debate on the floor of the Senate.

Mr. President, I now desire to turn my attention to the bill that has been put over until Monday, calendar 932, H. R. 6025.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

LICENSING OF CERTAIN PROPERTY IN HONOLULU TO LEAHI HOSPITAL

Mr. MORSE. Mr. President, I desire to make my argument today in connection with the bill (H. R. 6025) to authorize the Secretary of the Army to grant a license to the Leahi Visitor Hospital, a nonprofit institution, to use certain United States property in the city and county of Honolulu, T. H., so that it may be printed in the RECORD, and so that the amendment I shall offer to the bill before I have finished may be printed, and lie on the table.

This is the second time in 2 days that there has been a frontal attack, on the floor of the Senate, on the so-called Morse-Byrd-Saltonstall formula. I regret it, Mr. President. I particularly regret that H. R. 6025 has been reported by the Senate Committee on Armed Services, because it was in the Senate Committee on Armed Services in 1946 that the Morse-Byrd-Saltonstall formula was devised.

Let us look into the facts of the case. There is in Honolulu a hospital, not a Government hospital, not an Army hospital, but apparently a city hospital; at least, it is a non-Federal hospital. Next to the hospital there is a tract of land containing 4.4 acres. Previously an attempt was made, through the offering of a bill, to give this property to the hospital. Now a new tactic is being used. It is proposed to lease the property without any rental charge to the hospital for parking purposes. It is not known exactly what the cost of improvements upon the property will be. The committee report states that the cost is estimated at $12,000. When a member of my staff called the Military Establishment, he was told that the cost might be as much as $20,000, apparently to place on the property a hard surface, such as asphalt, concrete, or something similar. Nevertheless, a considerable expenditure will be required in order to put the property in condition for a parking lot.

The report includes a letter from the Secretary of the Army, and I read from page 3 of the report, as follows:

> The hospital, which is financed both by donations from individuals and by the Territory of Hawaii, proposed to expend $12,000 in making the site suitable for its purposes but was not prepared financially to undertake the obligation to pay rental under a lease at the rate of $2,356 per annum which was determined by appraisal to be the fair market rental value of the site.

One of the reasons why it is sought to have the bill passed is so that the hospital will not have to pay the rental value.

I do not care what language may be used to clothe this giveaway. What the bill proposes to do is to give to a private hospital in Honolulu the use of a piece of property which, on the basis of the committee report itself, has a fair-rental market value of $2,356 a year.

Mr. President, we cannot start to tinker with principles and still have the principles remain intact. We cannot begin to make exceptions to the application of a principle, and still have the principle left. There are many institutions, private in nature, which do a great public good, and are located in the neighborhood of Federal property, which I can well imagine would like to get a piece of Federal property for use as a parking lot or for some other purposes.

Shall the Senate start now to pass any bill that any Senator may offer, which seeks, in his community, to turn over to a private charitable institution a piece of Federal property to be used as a parking lot for the institution, or property of any other nature that can be used for other purposes?

Mr. President, the property is part of a military reservation. The committee report shows that the Defense Establishment, speaking through the Secretary of the Army, agrees that the lease which is to be made shall be for 10 years; but the Federal Government can come in, at a moment's notice, and take this property.

It is an important piece of property to the Federal Government, and the report uses language which is very rich in meaning, if one will stop to consider the implications of the language used. I shall not expand on it other than to point out that the report indicates that the property will be used for aviation defense in case of attack. We know pretty well what that means. I assume it is to be used for various types of weapons, necessary to ward off an aerial attack on Honolulu, such as radar equipment, or for any of the new weapons being developed in connection with aerial defense. In any event, it is a valuable piece of property for defense purposes as far as the Federal Government is concerned.

Mr. President, if we are going to lease the property, it not only is proper that we put a provision in the proposed lease that the Federal Government can take the property over immediately, but I think the taxpayers of the country ought to be entitled to some rental for the property.

I understand that some of the proponents of the bill did not believe that the Morse formula applied to leases. Of course, it does. One would defeat the whole purpose of the Morse formula if, instead of conveying the property, the Government leased it for 10, 50, or 99 years, or for any other lease term, without reimbursement.

Suppose it was proposed by a bill that the Army installation next to the hospital could make available to the hospital, Army ambulances without charge. But, it is said, that is not this case. No; but the principle is identical. One cannot start drawing lines of distinction between types and kinds of Federal property. So I am going to offer an amendment which will provide that the hospital, under the terms of the lease, shall pay 50 percent of the appraised fair-market rental value of the property.

Mr. President, I send to the desk an amendment, that on page 2, line 2, there be stricken out the words "without consideration," and that there be inserted in lieu thereof the words "at a consideration of 50 percent of the fair-rental value."

The PRESIDING OFFICER. The amendment will be received and printed.

Mr. MORSE. Mr. President, as I said before, I understood that the fair rental value of the property is $2,356 per annum. That means that the Federal Government would get 50 percent of such rental value per year for the term of the lease. I hope that, upon reflection, Members of the Senate will recognize that now is the time to call a halt to what appears to be a movement in this session of the Congress, apparently with too much support on both sides of the aisle, to consummate a giveaway program of surplus property.

Someone said to me, after the argument yesterday afternoon on the floor of the Senate, "Senator, how can you reconcile your insistence upon the application of the Morse formula to that piece of property out in Jackson, Wyo., and your proposal to give away surplus food to the hungry in this country?"

One would think that stating the problem, Mr. President, would show the difference. However, if the difference needs to be pointed out, let me say I recognize the obligation of the Government to use the resources of the Government to meet emergency situations. Included in such situations would be hunger, flood, pestilence, and other emergencies of that type which would cause our fellow citizens great suffering. Of course, I shall vote on the floor of the Senate for emergency funds or to give away surplus stores of Government-owned food in order to feed fellow Americans who find themselves in need of food and who do not have the wherewithal to buy food to keep themselves alive. It is a non sequitur argument to say that therefore I ought to vote on the floor of the Senate to give away property to individuals and to organizations which are capable of paying for the property.

Let us examine whether or not the hospital is capable of paying for the property. My office checked with the office of Mr. FARRINGTON, the Hawaiian Delegate in the House of Representatives. I do not know whether or not it had anything to do with postponing action on the bill today. If it had not been postponed, I would have presented the same information which I now present, and that is that Mr. FARRINGTON's office did not consider the application of the Morse formula to a lease and did not explore the possibility of a rental payment. This afternoon Mr. FARRINGTON's office advised my office that the hospital authorities had not been consulted about this possibility until I objected to H. R. 6025 on the call of the calendar, when he mailed tearsheets from the RECORD showing the objection and questions raised. His office advised my office this afternoon that he would be perfectly willing to have the bill go over until next week, in order that he could get in touch with the hospital authorities and determine whether or not the hospital authorities would be willing to pay some fair rental for the property.

Mr. President, it illustrates a point I made on the floor of the Senate yesterday. I do not care what bill disposing of Federal property is in question. If one takes the problem back to the people themselves, the hospitals, the clubs, the school districts, the local governmental officials who are seeking the property, in most instances they will say, "What we want is the property. That is what we are seeking. We are perfectly willing to pay whatever Congress determines to be fair and reasonable."

I would be very much surprised, Mr. President, if the hospital authorities involved in this case, understanding the problem, would not say, "Of course, we are willing to pay 50 percent of the appraised fair market rental for this property."

Mr. President, I am glad the bill is going over, so that an opportunity can be given to the office of Mr. FARRINGTON to get in touch with those people, and determine whether or not the hospital people in Hawaii wish to exercise a greater safeguard in protecting the interest of all our taxpayers in the Federal Government's property than is provided in this bill. I doubt that the hospital authorities, themselves, would join in this attempt to undermine the Morse formula if they understood the facts.

Mr. President, I close this part of my report today by saying that since 1946 the application of the Morse formula on the floor of the United States Senate has saved a good many hundreds of millions of dollars for the taxpayers of America. That is why, no matter how much I am steamrollered over by votes in the Senate, I do not intend to sit idly by when such bills are brought up by motion, after Senators cannot succeed with a giveaway on the Unanimous Consent Calendar. I intend to continue to object to this kind of a giveaway of the property belonging to the taxpayers of this country.

ADMINISTRATION ATTACKS UPON DEMOCRATS

Mr. President, that leads me to discuss the third and last topic which I wish to talk about in the Independent Party's report this afternoon. I was very much interested earlier this afternoon in the remarks of the Senator from Kansas [Mr. CARLSON] when he commented upon objections which have been raised by Democrats to the language which has been used by spokesmen for the administration in recent speeches. I quite agree with the Senator from Kansas, Mr. President; the Democrats should not be crying "foul."

ADVICE TO DEMOCRATS

What the Democrats should be doing—they have not been doing enough of it, at least—is to take to the American people the facts in regard to what the Eisenhower administration has been doing during its first year in office. All one has to do is take to the American people the facts regarding the maladministration of the Eisenhower administration. When that is done, Mr. President, let me tell you that all the namecalling of the spokesmen for the Eisenhower administration will not make a dent upon the voters of the United States.

As the Senator from Kansas has said today, Mr. President, I think the Democrats should stop crying "foul." They should come forward as a party with a constructive program upon issue after issue, as a few Democrats have done which will demonstrate to the American people that we have not reached a stage of statesmanship bankruptcy in the United States, when it comes to protecting the interests of the people. The Democrats should propose legislation which will show the American people how nonsensical it is for the President of the United States to utter the platitude that he is a liberal when it comes to matters of human values, but is a conservative when it comes to matters of economics.

Mr. President, it is impossible to separate the economy of the United States from human values. In my judgment all we need to do to retire a large number of Republicans from the Congress—and they sorely need to be retired in the public interest in 1954, Mr. President—is to come forward with some sound economic legislation which will protect the economic welfare of all of our people. The clear answer to the President is to offer and pass legislation that will do for all the people what they cannot do for themselves, but which needs to be done in the public interest. We should demonstrate to Eisenhower that human values cannot be separated from the economic interests and rights of the American people. He should be given a lesson in the true meaning of the liberalism of Lincoln.

Mr. President, the other evening when I heard the President of the United States in his radio and television speech quote Lincoln's statement about doing for all the people what needs to be done for them, I chuckled; I said to the little group sitting in my living room, who heard the President's statement, "How can he reconcile that statement with the legislative program he has proposed in his messages to Congress—a legislative program which for the most part does not protect the economic welfare of the people of the country, but plays into the hands of big business, which obviously has dominated his campaign and first year of his administration."

So, Mr. President, to my Democratic friends I say, "Do not worry about the language the Eisenhower spokesmen use. Take the fight to them; they have asked for it. Give them the fight in terms of specific proposals which will protect human values by protecting—as is so sorely needed today—the best economic interests of the American people."

RECESS TO MONDAY

Mr. GRISWOLD. Mr. President, in accordance with the order previously entered, I now move that the Senate stand in recess.

The motion was agreed to; and (at 4 o'clock and 14 minutes p. m.) the Senate took a recess, the recess being, under the order previously entered, to Monday, February 15, 1954, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 11 (legislative day of February 8), 1954:

DIPLOMATIC AND FOREIGN SERVICE

John M. Cabot, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden.

COMPTROLLER OF CUSTOMS

Frank M. Kalteux, of Illinois, to be Comptroller of Customs with headquarters at Chicago, Ill., to fill an existing vacancy.

IN THE AIR FORCE

Lt. Gen. Hubert Reilly Harmon, 18A, United States Air Force, retired, to be special assistant to the Chief of Staff for Air Force Academy matters, with rank of lieutenant general and as lieutenant general in the United States Air Force, under the provisions of sections 504 and 515 of the Officer Personnel Act of 1947.

The following-named officers for appointment in the Regular Air Force to the grades indicated under the provisions of title V of the Officer Personnel Act of 1947:

To be major generals

Maj. Gen. Elmer Joseph Rogers, 294A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. Roscoe Charles Wilson, 360A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. Richard Clark Lindsay, 476A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. Frank Alton Armstrong, Jr., 427A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. James Elbert Briggs, 356A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. Carl Amandus Brandt, 563A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. Delmar Taft Spivey, 385A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. Kingston Eric Tibbetts, 436A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. John Koehler Gerhart, 525A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. Dean Coldwell Strother, 591A (brigadier general, Regular Air Force), United States Air Force.

To be brigadier generals

Maj. Gen. Elmer Blair Garland, 322A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Matthew Kemp Deichelmann, 331A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Leland Samuel Stranathan, 406A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Edward Holmes Underhill, 421A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Roy Henry Lynn, 492A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Merrill Davis Burnside, 495A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Robert Oswald Cork, 523A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Paul Ernest Ruestow, 548A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Wiley Duncan Ganey, 553A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Walter Campbell Sweeney, Jr., 555A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Morris John Lee, 556A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. David Hodge Baker, 557A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Daniel Francis Callahan, 579A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Gordon Aylesworth Blake, 582A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. John Paul McConnell, 611A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Kenneth Burton Hobson, 616A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Hunter Harris, Jr., 624A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Robert Broussard Landry, 635A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. William Oscar Senter, 648A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Joseph Francis Carroll, 23161A (colonel, Regular Air Force), United States Air Force.

The following-named officers for temporary appointment in the United States Air Force under the provisions of section 515, Officer Personnel Act of 1947:

To be major generals

Brig. Gen. Fay Roscoe Upthegrove, 76A, Regular Air Force.

Brig. Gen. Reuben Columbus Hood, Jr., 498A, Regular Air Force.

Brig. Gen. Gordon Aylesworth Blake, 582A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Frederic Ernst Glantzberg, 405A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Jacob Edward Smart, 592A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Robert Haynes Terrill, 628A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Phillips Waller Smith, 897A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Alfred Henry Johnson, 270A, Regular Air Force.

Brig. Gen. Charles Franklin Born, 365A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Edward Holmes Underhill, 421A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Dudley Durward Hale, 431A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Robert Oswald Cork, 523A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Wiley Duncan Ganey, 553A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Kenneth Burton Hobson, 616A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Hunter Harris, Jr., 624A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Kern Delos Metzger, AO914698 (colonel, Air Force Reserve), United States Air Force.

To be brigadier generals

Col. Oliver Kunze Niess, 19022A, Regular Air Force, medical.

Col. William Lecel Lee, 430A, Regular Air Force.

Col. William Lafayette Fagg, 465A, Regular Air Force.

Col. Charles Bowman Dougher, 600A, Regular Air Force.

Col. Lewis Leo Mundell, 1286A, Regular Air Force.

Col. Charles Bainbridge Westover, 1351A, Regular Air Force.

Col. William Grover Hipps, 1358A, Regular Air Force.

Col. John Spencer Hardy, 1502A, Regular Air Force.

Col. Thayer Stevens Olds, 372A, Regular Air Force.

Col. William Albert Matheny, 428A, Regular Air Force.

Col. John Reynolds Sutherland, 617A, Regular Air Force.

Col. Dale Orville Smith, 1074A, Regular Air Force.

Col. Harvey Thompson Alness, 1085A, Regular Air Force.

Col. Terence Patrick Finnegan, 18703A, Regular Air Force, chaplain.

Col. Don Orville Darrow, 1270A, Regular Air Force.

Col. Nils Olof Ohman, 1321A, Regular Air Force.

Col. Bruce Keener Holloway, 1336A, Regular Air Force.

Col. Harold Cooper Donnelly, 647A, Regular Air Force.

Col. James Clifford Jensen, 1042A, Regular Air Force.

Col. Arno Herman Luehman, 1080A, Regular Air Force.

Col. Frederic Henry Miller, Jr., 1273A, Regular Air Force.

Col. Maurice Arthur Preston, 1337A, Regular Air Force.

Col. Robert Taylor 3d, 1347A, Regular Air Force.

Col. Ben Ivan Funk, 1500A, Regular Air Force.

Col. Marvin Christian Demler, 1550A, Regular Air Force.

Col. Clarence Theodore Edwinson, 1597A, Regular Air Force.

Col. Hewitt Terrell Wheless, 1609A, Regular Air Force.

Col. Henry Viccellio, 1728A, Regular Air Force.

Col. James Edwin Roberts, 1846A, Regular Air Force.

Col. James Valentine Edmundson, 1863A, Regular Air Force.

The officers named herein for appointment as Reserve commissioned officers in the United States Air Force for service as members of the Air National Guard of the United States under the provisions of the Armed Forces Reserve Act of 1952:

To be major generals

Brig. Gen. Laurence Coffin Ames, AO131519, California Air National Guard, to date from October 12, 1953.

Brig. Gen. Guy Nelson Henninger, AO129883, Nebraska Air National Guard, to date from October 12, 1953.

Brig. Gen. James Alvin May, AO356464, Nevada Air National Guard, to date from October 12, 1953.

Brig. Gen. Errol Henry Zistel, AO286558, Ohio Air National Guard, to date from October 12, 1953.

To be brigadier generals

Col. Lewis Allen Curtis, AO729140, New York Air National Guard, to date from October 12, 1953.

Col. Joseph Jacob Foss, AO944215, South Dakota Air National Guard, to date from October 12, 1953.

Col. Maurice Adams Marrs, AO274899, Oklahoma Air National Guard, to date from October 12, 1953.

Col. Winston Peabody Wilson, AO398325, Arkansas Air National Guard, to date from January 21, 1954.

EXTENSIONS OF REMARKS

Florida's Sunshine at Last Gets Tax Deductible Rating

EXTENSION OF REMARKS

OF

HON. SPESSARD L. HOLLAND

OF FLORIDA

IN THE SENATE OF THE UNITED STATES

Thursday, February 11, 1954

Mr. HOLLAND. Mr. President, I am sure that some of my distinguished friends in the Senate who like to go to Florida in the winter will be delighted to hear that a Federal judge, according to an Associated Press Dispatch from Cleveland in the Washington Star of today has just ruled that Florida's sunshine at last is entitled to a tax deductible rating.

In this particular matter, in connection with which I now ask to have the article printed in the Appendix of the RECORD, it appears that a tired business executive who went to Florida because of certain bodily ailments, having to pay $1,401 for the expense of the trip, was allowed that amount as a deduction on his income-tax return by a Federal court, indicating that for the first time in history, so far as I know, the value of sunshine, at least in a particular place, has been recognized as being tax deductible.

I commend the article to the close attention of my colleagues, so many of whom, I am glad to say, do come to Florida, the Sunshine State, during the winter.

Mr. HENNINGS. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. HENNINGS. Is it not correct to say that a great many of the benefits to be derived from the fine sunshine in Florida are predicated on getting the right doctor, who will insist that a person go to Florida as part of his treatment?

Mr. HOLLAND. I believe that would be important.

Mr. HENNINGS. That would be a necessary predicate for the deduction, of course.

Mr. HOLLAND. I believe it would be a most important feature of the whole matter, but for confirmation of that fact I would have to refer the Senator to some Senator who has had to seek leave of absence from the Senate because of ill health. Because I get my sunshine in Florida during vacations I have had the good fortune to not lose, from illness, as much as a single day in the nearly 8 years I have been in the Senate. Therefore I cannot give the Senator any authoritative information on that point.

Mr. HENNINGS. Then the Senator from Florida does not have any experience in that connection during the best season in his own State. Is that correct?

Mr. HOLLAND. The Senator is correct. I believe that the Senator from Missouri is correct in suggesting that Senators who go to Florida for the purpose of obtaining the benefit of the sunshine should get medical advice before they go if they want to receive a tax deduction.

Mr. President, I ask unanimous consent that the article be published in the Appendix of the RECORD.

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

FLORIDA'S SUNSHINE AT LAST GETS TAX DEDUCTIBLE RATING

CLEVELAND, February 11.—Florida sunshine is a tax-deductible item for a Shaker Heights insurance executive.

Contending the Florida sun had helped his hearing, William B. Watkins, 81, successfully appealed an Internal Revenue Service ruling denying the cost of a trip to Florida was a deductible medical expense.

Judge Marion J. Harron said she was convinced a 4-month Florida stay in 1949 was solely and primarily for mitigation of Mr. Watkins' hearing defect.

The cost of travel and lodgings—amounting to $1,401 in taxable income, or $577 in taxes—but not food, was deductible, she held. A $926 additional claim for food was voluntarily withdrawn by Mr. Watkins.

Mr. Watkins' attorney, Leonard S. Frost, said the executive has been wintering in Florida every year since 1949 and may reap tax benefits in later years. He is there now.