United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, FIRST SESSION

SENATE—*Friday, June 20, 1969*

The Senate met at 11 o'clock a.m., and was called to order by the Vice President.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, our God, for this quiet moment lift us above the rituals of duty into the light of Thy presence. Breathe through the things that are seen the peace and joy of the unseen and eternal.

Whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely and of good report, grant that with one accord we may think on these things to do them; through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, June 19, 1969, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate a message from the President of the United States submitting a nomination, which was referred to the Committee on Foreign Relations.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the distinguished Senator from Iowa (Mr. HUGHES) has completed his remarks, there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The VICE PRESIDENT. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar, beginning with "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The VICE PRESIDENT. The nominations on the Executive Calendar will be stated, beginning with "New Reports."

DEPARTMENT OF DEFENSE

The assistant legislative clerk proceeded to read sundry nominations in the Department of Defense.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations are considered and confirmed en bloc.

OFFICE OF EMERGENCY PREPAREDNESS

The assistant legislative clerk read the nomination of Haakon Lindjord, of Virginia, to be an Assistant Director of the Office of Emergency Preparedness.

The VICE PRESIDENT. Without objection, the nomination is considered and confirmed.

U.S. ARMY

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations are considered and confirmed en bloc.

U.S. MARINE CORPS

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations are considered and confirmed en bloc.

U.S. MARSHAL

The assistant legislative clerk read the nomination of Walter J. Link, of North Dakota, to be U.S. marshal for the district of North Dakota.

The VICE PRESIDENT. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—THE AIR FORCE, THE ARMY, AND THE NAVY

The assistant legislative clerk proceeded to read sundry nominations in the Air Force, the Army, and the Navy which had been placed on the Secretary's desk.

The VICE PRESIDENT. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immedately notified of the confirmation of these nominations.

The VICE PRESIDENT. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The VICE PRESIDENT. Under the order of June 18, 1969, the Senator from Iowa (Mr. HUGHES) is recognized for a period not to exceed 40 minutes.

VIETNAM PERSPECTIVE

Mr. HUGHES. Mr. President, at the present time there is a rising dialog throughout this land about our goals and priorities as a civilized society. I believe this a healthy sign in a free country.

The fact that much of the dialog is concerned with priorities—not only for America and the free world, but for the human race—reflects our idealism as a people. It also indicates our growing awareness of the realities of the nuclear age.

The majority of the people who are involved in this discussion are not radicals or summer patriots.

They are thoughtful men and women of good will who have long been concerned but are now aroused at our seeming inability as a nation to escape from the imprisonment of collision-course national policies.

They include public leaders, scientists, economists, businessmen, and other concerned citizens who are deeply upset by the growing obsolescence of our traditional foreign policy in a drastically changing world, the implications of the arms race, the continuing dominance of the military over our culture and economy, and, above all, the unmet critical needs of our domestic society.

The participants in this national dialog also include ordinary fathers and mothers who want a future for their sons and daughters—and young people who are not convinced that there is a future.

The new dialog has mounted an impressive critique of our traditional policies. This does not imply that our present policies are products of a deliberate, self-serving conspiracy. Nor does it imply that those who support and carry out these policies are not well intentioned.

The belief is, rather, that some of these key policies are no longer relevant or right in the context of present and future realities.

Those who believe we must free ourselves from the inflexible past and seek new options are of both political parties and of no political party. If the dialog is political, we are talking about the politics of hope and survival, not partisan considerations.

At the present time, a Congressional Conference on the Planning of New Priorities is in session here on Capitol Hill, in which Members of Congress, businessmen, scientists, scholars, and other thoughtful Americans are discussing in a positive way the exciting possibilities of setting new priorities for a redirected and regenerated Nation.

I believe that our public leaders of all political allegiances know in their hearts that we must make massive moves, as yet not seriously envisioned, if we are to meet the overwhelming problems of peace and poverty and equality of opportunity that must be met if our Nation is to endure in its intended image.

But directly in the road of any plans to reshape our society and bind its wounds is a mammoth and sinister presence—the unspeakably tragic and seemingly endless war in Vietnam.

Whatever our other travails may be, the ending of this costly and pointless war is the sine qua non of what we must do to create a new order of priorities in which there is hope and substance.

Over a period of 14 years we have seen the growth of the cancer: the original intervention, the buildup, the escalation, and now the deadlock while hundreds of American servicemen are dying each week along with untold numbers of Vietnamese military personnel and civilians—men, women, and children.

It is said that there is nothing new under the sun, and certainly the discussion of our policies in Vietnam has been as endless as the war itself. I do not pose as a military expert or a prophet in foreign policy. But I have taken the floor to give expression to thoughts and emotions that have too long been bottled up and which, I believe, are passionately shared by millions of responsible Americans, including distinguished colleagues on both sides of the aisle in this Chamber.

Many of these people supported our Government's policies in Vietnam silently and hopefully over a long period of time. They recognized the awesome complexity of making the right command decisions. They had the deepest sympathy for the unimaginably heavy burdens of leadership in this most repugnant of all wars.

But time ran out—and disillusionment came.

It became apparent that if this hideous war drags on, breeding the likelihood of future similar involvements, our entire society may be damaged beyond recovery.

It is time for every American who cares about the things worth caring about to speak out. The greatest peril of all would be to remain silent.

I read an excerpt from a letter I received just this morning from a combat soldier in Vietnam:

> I know it's often said back home that dissent just lowers the morale of our troops over here. Nothing could be farther from the truth. We live to hear that people back home are working to end the war.

Mr. President, no reasonable person could fault the bravery and devotion to duty of our military men in Vietnam. I think they are the finest soldiers in our history, fighting one of the dirtiest and most difficult wars of our history.

American industry has done an admirable job of supplying the material and equipment for this conflict. I am not faulting them.

We are simply ruled by policies and programs that have led us into a dead end.

I have never doubted Mr. Nixon's deep commitment to peace—nor that of Mr. Laird or Mr. Rogers and the other leaders who direct our defense and foreign policy.

I never doubted Mr. Johnson's passion for peace, either.

From 1963 through mid-1967, as Governor of my native State, I fully supported President Johnson's leadership in Vietnam. I doubt if there was a more ardent supporter than I was at that time.

During this period, I attended several briefings by the President and his Cabinet members on the progress of the war. In 1965, I went to Vietnam and talked to troops and military leaders in the battle areas. I saw at first hand, as so many of my colleagues have the viciousness of this jungle war and the high dedication and morale of the troops.

Although questions began to rise and haunt me, I still supported the administration line. In 1967, these questions became too intense to live with—and I sought, in the highest offices of the land, the answers that were needed. There were no rational answers.

It was not anyone's intentions that I questioned, but the premises of our policy and the direction it was taking.

I could only conclude that the premises on which our involvement was founded were wrong, that we had no business on the basis of moral imperative and national interest to be there, that there could be no military victory or even negotiated settlement that would satisfy our traditional demands, and that we should move at once to halt the bombing and take other measures toward attaining an honorable, if not wholly satisfactory peace.

I believe, and still believe, that we are strong enough as a nation to take compelling new initiatives for peace in Vietnam without losing the respect of other nations and the peoples of this world. On the whole, I was convinced, we would gain their respect, and I still feel that way.

Since then, my personal agony over this war and what it is doing to our own country, as well as to the people of Southeast Asia, has steadily increased to the point where I think it would be criminally irresponsible on my part to remain silent.

It should be starkly significant to all Americans that, one by one, distinguished leaders who had key roles in our defense and foreign policies through the years of this conflict have changed their minds about the hard line we have taken in Southeast Asia.

Governor Harriman, Clark Clifford, and Cyrus Vance are recent members of this growing group who have recently called for strong and bold action by our Government to get this war ended.

These distinguished men have not proposed such rash measures as unconditional withdrawal or unilateral disarming.

But they have pushed for strong, determined, immediate measures on the part of our Government toward peace. They have proposed, for example, that we press for very substantial troop withdrawals and that we take other bold initiatives.

And an ever-increasing number of our distinguished leaders during the course of this catastrophic war have renounced military intervention, global policing, and uncontrolled military spending by our Government.

Retired Marine General Shoupe made a monumental contribution to our national enlightenment with his recent article in the Atlantic Monthly on military intervention around the world as a tool of our foreign policy and on the inordinate influence of the military on all of our national policies.

No responsible leader, to my knowl-

edge, advocates reducing our military capabilities beyond the rational needs of our national defense to keep our commitments.

But the policies that led to Vietnam and will inexorably lead to future Vietnams, if they are not changed, are being scrutinized and questioned today, as never before in our history.

The intention of the bipartisan opposition to the war policies of the present administration is not in any sense an effort to embarrass the President or to impede whatever unrevealed program he may have to end the war. If partisanship is inferred, it should be remembered that most of these same people who are now questioning the Nixon war policies also questioned the war policies of Lyndon Johnson.

Our role is to urge the President to take action that we deem in the national interest and in his interest as well. It was the same insistence on the part of congressional critics and concerned citizens that persuaded Mr. Johnson, to his great credit, to take the move he had so long resisted—the cessation of the bombing in the north.

We now need a similar breakthrough move by Mr. Nixon to get the peace movement realistically on the road again.

The president said last night:

> I am re-examining our policy in Vietnam every day . . . I will not get frozen in.

On the basis of what we had seen before—on the basis of his Air Force Academy speech—he appears to be already frozen in.

But on the basis of what he said last night in his press conference—that he hoped to beat Mr. Clifford's proposed schedule of removing a hundred thousand American combat troops from Vietnam this year and completing the withdrawal of combat units next year—he is definitely not frozen in.

I can only hope that the press conference version is right.

As a freshman Senator from an inland State, it is not my thought to present a new and unique blueprint of what should be done to disengage ourselves from the Vietnam conflict.

Suffice it to say that I believe our Government should take some strong initiative, choosing among lines that have been suggested recently by highly competent authorities.

For example, it would be a breakthrough if the President would announce a timetable along the lines of Clark Clifford's recent proposal that 100,000 combat troops be removed this year and the rest of the ground troops be phased out in 1970. It could be made clear that this was not an immutable schedule into which the leadership would be frozen, but a declaration of solid intention that would clear the atmosphere. The token withdrawal of 25,000 has not served this purpose and the atmosphere is not cleared at this time.

I, personally, would further endorse the proposals of Cyrus R. Vance, a former negotiator at the Paris Peace Conference, which included several items:

First, a stand-still cease-fire by all sides in Vietnam;

Second, an international peacekeeping force to oversee the cease-fire, the political settlement, the withdrawal of all outside military forces and the protection of the minorities;

Third, democratic self-determination for the South Vietnamese through a system of free elections at the earliest possible date under the jurisdiction of a representative—joint—electoral commission, with both sides agreeing to accept the result of the election;

Fourth, a sweeping land reform programs giving title to the tenants faring the land and providing compensation to the landlords;

Fifth, massive medical aid and relief to refugees to bind the wounds of the war, and economic development channeled through the United Nations.

Again I say, we are not trying to force decisions on the President; we are trying to suggest the options available to him and to urge that he take action along the lines of his choice toward the common objective of ending this war.

Mr. President, I thought long about presenting my feelings on the floor of the Senate regarding this conflict in Southeast Asia. Over this period of time I have patiently waited, as have all the people of this country, I believe for these strong indications. I am encouraged and hopeful that the signs are here that the President of our great Nation can take the action that can be politically of enough force to again bring a breakthrough in negotiations and result in bringing an end to the interminable conflict.

Until these steps are taken, I am convinced the priorities of America will not be met. I believe commitments at nome are as important in the defense of this Nation as commitments abroad. If we are going to meet the needs of the hungry and the starving, housing needs, the needs of the underprivileged, the needs of education, and needs in every area, we have to rechannel the resources of this Nation to the best of our ability.

I realize that with the heavy incumbencies and burdens of this we cannot commit ourselves to providing all of the solutions immediately. In my opinion, however, we do not have 2 years to meet the needs internally of this Nation.

So we must have a set of priorities which will permit us, as a people, to commit ourselves to what can be an acceptable solution of the war in Southeast Asia and, at the same time, to redirect our energies in meeting the total needs of our people within the boundaries of this Nation.

Thank you, Mr. President.

Mr. MANSFIELD. Mr. President, will the Senator from Iowa yield?

Mr. HUGHES. I am happy to yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I want to commend the distinguished Senator from Iowa for the thoughtful, statesmanlike speech he has just made. I know how deeply he feels about the situation which has developed in Vietnam. I concur wholeheartedly in the adjectives he has used to describe that barbaric, that tragic, that brutal, and that unnecessary war.

It has weighed on the minds of many of us for some years now. It has been a burden which has cost this country something on the order of 36,000 dead, well over 200,000 wounded, and almost $100 billion—and the end, Mr. President, is not yet in sight.

It is my belief that President Nixon would take courage and sustenance from what the distinguished Senator has said, because the Senator's tone was moderate and helpful. The Senator is aware of the difficulties under which the Chief of State of this Nation must labor to find a solution.

Thus, the good wishes of the Senator and the fact that he realizes that Mr. Nixon has an onerous burden to bear and that Mr. Nixon is interested in a real peace must be considered in the context in which the speech was made.

The Senator mentioned the fact that until 1967, he went along with President Johnson on the conduct of the war and believed that it was a proper conflict, so to speak; but that after a visit to Vietnam, and the more he thought about it, the more convinced he became that it was not the right war in the right place or at the right time.

Mr. President, I honor the Senator from Iowa, a combat infantryman in the Second World War, who has had the courage to face up to a difficult situation and to change his mind in accordance with his conscience.

I honor former Secretary of Defense Clifford for changing his mind, too.

I honor, too, President Nixon for changing his mind.

Those of us who raise questions about the war in Vietnam are not isolationists—"neo" or otherwise. Those of us who raise questions about the war in Vietnam are not in favor of unilateral disarmament. Those of us who raise questions are just as concerned about the welfare of this country as is the distinguished Senator from Iowa, who stated that what, in effect, we must achieve, if at all possible, is a balance between our domestic needs, which are difficult and increasing, and our commitments overseas.

The distinguished Senator from Iowa has indicated that he questioned the premises on which the policies which involved us in Vietnam were arrived at, not the intentions of the people who happened to be the Chiefs of State of this Government in the past 4 or 5 years, and at the present time.

He also raised the question about achieving a peace without losing the respect of other nations. I would say that what we should be interested in is not that, so much, as a peace with which we could retain our respect in this Nation and save the lives of those young men who are carrying out their bounden obligation as citizens of the United States, and who are carrying out a policy for which they are not responsible but which was laid down here in Congress and in the executive department—policies which have brought us nothing but sorrow and distress.

I am glad that the distinguished Senator referred to the statement of President Nixon at his press conference last evening, to the effect that he was not "frozen in," but was reassessing the situation in Vietnam on a daily basis and was prepared to take advantage of any possibilities which might arise.

I think that proposals have been made which are worthy of consideration and

which, in my opinion, are being given consideration—proposals like those advanced by our former Ambassador to the Paris Peace Conference, Cyrus Vance, and proposals like those advanced by former Secretary of Defense Clark Clifford. All of these proposals have merit. They may or may not be the answers; but, certainly, in my opinion, the President is giving consideration to the proposals. If he is not bound in by the bureaucracy in the State Department and the Defense Department, there are good possibilities that these suggestions may be given independent consideration, and that the decisions will be made by the President—I certainly hope that he will not be bound by policies which were good 5 years ago, a decade ago, or two decades ago.

The trouble with too many people in high positions is that they live in the past and believe that something which was good at the end of the Second World War is still good today. But, Mr. President, times have changed, and changed drastically.

The Senator from Iowa has pointed out that there are difficulties—I repeat—arising at home which must be faced up to. There are policies which must be changed.

I commend the distinguished Senator from Iowa (Mr. HUGHES) for taking the floor on this occasion and making his maiden speech on this particular subject. I thank him for giving all of us the benefit of his thoughts and his views on the situation as it exists today, both in the area of Vietnam and, just as important, in the domestic field.

Mr. HUGHES. Mr. President, I thank the distinguished Senator from Montana for his very eloquent additions and admonitions to the people of our country concerning considerations of the time and the age in which we live.

I certainly share his hopes and his thoughts that we will not be bound, today or tomorrow, by anything in history that is so traditional that we cannot constantly review our existing positions and, if new options appear, move to take advantage of them.

I concur with the distinguished Senator from Montana that, in conducting the affairs of this Nation, our primary concern should be for the self-respect of the people of this Nation.

My thought in expressing the statement as I did today was that the steps proposed would be respected, and this country would gain in prestige in the world by having the courage to take the initiative as we may see it at this particular time.

I believe that certainly this mightiest of the nations on the face of the earth should have the courage to take the steps for peace as well as the courage to meet our commitments in war and international agreements. I believe that as the President moves these days—certainly our prayers and our hopes are with him; he is our President—we want to do everything we can to strengthen his positions in negotiations, but encourage also the people of this Nation by these discussions and dialogs, not only with respect to the war in Vietnam but our commitment in other affairs and the internal problems of this Nation.

I think as much has been added to the greatness of this Nation in dissent as has been added in affirmation.

As the Senator from Montana pointed out, it took a couple of years before I reached the position of publicly changing my opinion.

I thank the distinguished Senator from Montana for his contribution.

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

Mr. HUGHES. I yield to the Senator from Massachusetts.

Mr. KENNEDY. I would like to underscore the very eloquent remarks and comments made by the distinguished majority leader, and to add my commendation to the Senator from Iowa for his statement, his maiden speech before this body. I want to urge all Members of this body, and certainly the people throughout the country, to read what I believe has been a concise, balanced presentation of the dilemma in which, as a great nation, we find ourselves today.

I think the Senator from Iowa has presented to the Members of the Senate and to the American people in a most explicit way, in a way which is reasoned, thoughtful, and moderate, an explanation of the real cost of this war. He has pointed out to all of us once again the cost of that war in terms of lives and in terms of our resources, and has reminded all Americans of the costs of the American people of our failure to meet our commitments to the education of our young, the health of our old, and those who live with little hope and much despair in our urban areas.

In the relatively short period of time that I have been in the Senate, I have heard few Members, and even fewer freshmen, address this body with the kind of thoughtful commentary that has been made by the distinguished Senator from Iowa this morning. I think he serves a great purpose in the Senate, and I think brings great credit to his State, by the remarks which he has shared with us.

The Senator from Iowa comes to this body with a reputation which preceded him, as a man who is ready to plow new fields, who is not satisfied with the shibboleths of old and the policies of the past, all of which he had demonstrated by his forward-looking administration as one of the great Governors of our Nation. Now he has turned those abundant talents to the national and international questions which face this Nation today. I think the result has been a thoughtful and commendable statement. I congratulate the Senator from Iowa.

Mr. HUGHES. The Senator from Iowa deeply appreciates the very eloquent statements of the Senator from Massachusetts and hopes that in the weeks and months ahead, as we continue our dialog, we can continue to open avenues in support of this great country that will strengthen our country by the proper direction of our resources and by meeting what commitments we must meet internally and externally.

I thank the Chair very much.

Mr. MANSFIELD. Mr. President, the distinguished Senator from Iowa, in his thoughtful, reasoned, and courageous speech has, in my opinion, performed a public service.

I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

DISCLOSURE BY SENATOR JAVITS OF FINANCIAL INTERESTS

Mr. JAVITS. Mr. President, on May 14 of this year I filed, as did each other Member of the Senate, two reports required under the new Senate disclosure rules which have just become effective. One report, filed with the Secretary of the Senate and made public upon its filing, disclosed honorariums and contributions received by me in 1968; and another report, filed with the Comptroller General, disclosed my financial interests, but that report is not, under Senate rules, considered public information.

I am, therefore, continuing today to pursue my practice of many years by publicly filing a report of my major financial interests. I hereby publish this list of companies subject to regulation by the Federal Government, in each of which I have an interest—direct or indirect—mainly as beneficiary of a family trust—in an amount exceeding $5,000. These are normal investments in publicly owned corporations and constitute no element of control alone or in combination with others, directly or indirectly:

Apco Oil Corp., Baxter Laboratories, Belco Petroleum, Cities Service, Corinthian Broadcasting Corp., Felmont Oil Corp., First National City Corp., General Instrument, Government Employees Corp., Government Employees Financial, Government Employees Insurance, Government Employees Life Insurance, South Carolina Electric & Gas, Southern Co., Transamerica Corp., and White Shield Oil & Gas Corp.

Mr. President, I have today filed, and will annually continue to do so. my own financial statement with respect to securities, under any form of Government regulation, relation, or control, in which I have, directly or indirectly an interest in excess of $5,000, as I have for many years, notwithstanding the filing which the Senate now requires, which I made on May 14. I believe this ought to be public information, and under the Senate rule, that information is filed with the Comptroller confidentially.

I just say that at this time, because it is a practice which I have pursued and which I intend to continue until such time as the Senate requires, as I believe it should, complete publication of such information by its Members of a public character.

EXECUTIVE COMMUNICATIONS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE EAST-WEST CENTER IN HONOLULU

A letter from the Secretary of State, transmitting, pursuant to law, the eighth annual report on the activities of the East-West Center in Honolulu, covering the period July 1, 1967 through June 30, 1968 (with an accompanying report); to the Committee on Foreign Relations.

REPORT ON NONPROFIT EDUCATIONAL INSTITUTIONS AND OTHER NONPROFIT ORGANIZATIONS

A letter from the General Manager, U.S. Atomic Energy Commission, reporting, pursuant to law, the nonprofit educational institutions and other nonprofit organizations in which title to equipment was vested by the Atomic Energy Commission pursuant to section 2 of Public Law 85-934, for calendar year 1968 (with accompanying papers); to the Committee on Government Operations.

REPORT ON DEPARTMENT OF TRANSPORTATION GRANTS

A letter from the Deputy, Office of the Secretary of Transportation, reporting, pursuant to law, that there were no grants made by the Department of Transportation pursuant to section 1891 of title 42, U.S. Code, during the preceding year; to the Committee on Government Operations.

REPORT OF PROPOSED CONCESSION CONTRACT FOR THE GRAND TETON NATIONAL PARK, WYOMING

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed concession contract under which Leek's Lodge, Inc., will be authorized to continue to provide accommodations, facilities, and services for the public in Grand Teton National Park, Wyoming, for a 20-year period from October 1, 1968, through September 30, 1988, when executed by the Director of the National Park Service (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION TO COMMENCE PROGRESS PAYMENTS TO A BRIDGE OWNER UPON ORDERING ALTERATION OF THE BRIDGE

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to commence progress payments to a bridge owner upon ordering alteration of the bridge (with accompanying papers); to the Committee on Public Works.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. RANDOLPH, from the Committee on Public Works:

Maj. Gen. Andrew Peach Rollins, Jr., Army of the United States (brigadier general, U.S. Army), to be a member and president of the Mississippi River Commission; and

Col. Charles R. Roberts, Corps of Engineers, to be a member of the California Debris Commission.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the VICE PRESIDENT:

A resolution adopted by the Chatauga County Board of Supervisors, New York, recommending that local government obligations remain free from taxation; to the Committee on Finance.

A resolution adopted by the Board of Supervisors of Cayuga County, N.Y., opposing Federal legislation eliminating tax-exempt municipal bonds; to the Committee on Finance.

By Mrs. SMITH (for herself and Mr. MUSKIE):

Joint resolution of the Legislature of the State of Maine; to the Committee on Finance:

"JOINT RESOLUTION MEMORIALIZING THE HONORABLE MAURICE H. STANS, SECRETARY OF COMMERCE, THE HONORABLE GEORGE P. SHULTZ, SECRETARY OF LABOR AND THE MAINE CONGRESSIONAL DELEGATION TO CURTAIL THE CRIPPLING FLOW OF FOREIGN FOOTWEAR IMPORTS

"We, your Memorialists, the Senate and House of Representatives of the State of Maine of the One Hundred and Fourth Legislative Session assembled, most respectfully present and petition the Honorable Maurice H. Stans, Secretary of Commerce, George P. Shultz, Secretary of Labor and the Maine Congressional Delegation, as follows:

"Whereas, the production and importation of foreign footwear has become a decisive threat to the shoe industry in the Sanford-Springvale area; and

"Whereas, a petition is being prepared on the national level for presidential presentation as an initial step toward curtailment of this hazard to the leather and vinyl footwear industries in Maine; and

"Whereas, seven New England shoe factories have already found it necessary to close in the past six months, due to the increasing percentage of imported leather; and

"Whereas, a strong possibility exists that two manufacturing industries located in the area of Sanford and Springvale will also close their operations in the near future depriving some 500 workers of their major source of income and employment; now, therefore, be it

"Resolved: That we, your Memorialists, recommend and urge the Secretary of Commerce and the Secretary of Labor and the Members of the United States Congress from the State of Maine to use every possible means to promptly curtail the importation of foreign footwear and to provide adequate safeguards to our domestic industry and its work force; and be it further

"Resolved: That copies of this resolution, duly authenticated by the Secretary of State, be immediately transmitted by the Secretary of State to the Secretary of Commerce, the Secretary of Labor, and each Senator and Representative from Maine in the Congress of the United States."

HOUSE BILL PLACED ON CALENDAR

The bill (H.R. 265) to amend section 502 of the Merchant Marine Act, 1936, relating to construction-differential subsidies, was read twice by its title and ordered to be placed on the calendar.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HANSEN, from the Committee on Interior and Insular Affairs, without amendment:

S. 38. A bill to consent to the upper Niobrara River compact between the States of Wyoming and Nebraska (Rept. No. 91-265).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

H.R. 4297. An act to amend the act of November 8, 1966 (Rept. No. 91-266).

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

S. 2341. A bill to amend section 502 of the Merchant Marine Act, 1936, relating to construction-differential subsidies (Rept. No. 91-267).

SENATE JOINT RESOLUTION 126—REPORT OF A COMMITTEE ON ORIGINAL JOINT RESOLUTION RELATING TO INCREASE OF APPROPRIATION AUTHORIZATION FOR THE FOOD STAMP PROGRAM (S. REPT. NO. 91-264)

Mr. ELLENDER, from the Committee on Agriculture and Forestry, reported an original joint resolution (S.J. Res. 126) to increase the appropriation authorization for the food stamp program for fiscal 1970 to $750 million, and submitted a report thereon, which report was ordered to be printed, and the joint resolution was placed on the calendar.

BILLS AND A JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced or reported, read the first time and, by unanimous consent, the second time, and referred or placed on the calendar as follows:

By Mr. RANDOLPH:

S. 2461. A bill to amend the Randolph-Sheppard Act for the blind so as to make certain improvements therein and for other purposes; to the Committee on Labor and Public Welfare.

(The remarks of Mr. Randolph when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. DIRKSEN (for himself, Mr. PASTORE, Mr. COTTON and Mr. BROOKE):

S. 2462. A bill to amend the joint resolution establishing the American Revolution Bicentennial Commission; to the Committee on the Judiciary.

(The remarks of Mr. DIRKSEN when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. TALMADGE:

S. 2463. A bill for the relief of Rosemaria De Loach; to the Committee on the Judiciary.

By Mr. ELLENDER:

S.J. Res. 126. A joint resolution to increase the appropriation authorization for the food stamp program for fiscal 1970 to $750 million; placed on the calendar.

(The remarks of Mr. ELLENDER when he reported the joint resolution appear earlier in the RECORD under the appropriate heading.)

S. 2462—INTRODUCTION OF A BILL ESTABLISHING THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

Mr. DIRKSEN. Mr. President, for myself and Senators BROOKE, COTTON, and PASTORE, I introduce for appropriate reference, a bill to extend the life of the American Revolution Bicentennial Commission for 1 year. The Commission by laws is required to report to the President and Congress by July 4 of this year and its appropriation authorization expires June 30 this year.

When the Commission was first created it was felt that sufficient time had been provided for it to complete its work: That of recommending suitable bicentennial observances.

However, it was more than 10 months before members of the Commission were appointed and funds were not provided for several additional months. In fact, the Commission has been staffed and

operating for only 7 months. I am assured by the members of the Commission that they can complete their work within 1 year. The budget request for this Commission has been reduced by some $40,000, but of course funds for the Commission are contingent upon the enactment of this legislation. I am confident that a 1-year extension will be sufficient.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 2462) to amend the joint resolution establishing the American Revolution Bicentennial Commission, introduced by Mr. DIRKSEN, for himself and other Senators, was received, read twice by its title, and referred to the Committee on the Judiciary.

ADDITIONAL COSPONSOR OF A BILL

S. 1653

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Washington (Mr. MAGNUSON), I ask unanimous consent that, at its next printing, the name of the Senator from Kansas (Mr. PEARSON) be added as a cosponsor of the bill (S. 1653) to amend the Interstate Commerce Act, with respect to recovery of a reasonable attorney's fee in case of successful maintenance of an action for recovery of damages sustained in transportation of property.

The VICE PRESIDENT. Without objection, it is so ordered.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

William E. Amos, of Maryland, to be a member of the board of parole for the term expiring September 30, 1974, vice Homer L. Benson;

Leigh B. Hanes, Jr., of Virginia, to be U.S. attorney for the western district of Virginia for the term of 4 years, vice Thomas B. Mason, resigned;

William F. Howland, Jr., of Virginia, to be a member of the board of parole for the term expiring September 30, 1972 (Reappointment);

Joseph O. Rogers, Jr., of South Carolina, to be U.S. attorney for the district of South Carolina for the term of 4 years, vice Klyde Robinson;

Charles R. Wilcox, of Wyoming, to be U.S. marshal for the district of Wyoming for the term of 4 years, vice John Terrill, retired.

James E. Williams, of South Carolina, to be U.S. marshal for the district of South Carolina for the term of 4 years, vice Walter N. Lawson, Jr.

Charles S. White-Spunner, Jr., of Alabama, to be U.S. attorney for the southern district of Alabama for the term of 4 years, vice Vernol R. Jansen, Jr.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, June 27, 1969, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARINGS

Mr. ERVIN. Mr. President, the Subcommittee on Constitutional Rights will conduct hearings on Tuesday, Wednesday, and Thursday of next week to consider proposed amendments to the Criminal Justice Act of 1964. That act is the Federal statute providing for the appointment and compensation of attorneys to represent persons accused of Federal crimes who cannot afford to retain adequate counsel and investigative services.

The Senator from Nebraska (Mr. HRUSKA) and I have cosponsored a bill (S. 1461) which would amend the act to increase the compensation for attorneys appointed to represent indigents and expand the types of cases and proceedings for which appointed counsel could be paid. The bill would also authorize the establishment of full-time Federal public defenders in certain high volume districts which have had some difficulty in providing adequate representation by appointments from the private bar or from privately supported legal aid agencies under the present act. Members of this body will recall that the version of the Criminal Justice Act passed by the Senate in 1963 provided for such public defender offices. That provision was deleted from the bill by the House of Representatives and the final legislation did not include it. Senator HRUSKA and I believe, however, that experience under the act has indicated the need for amendment of the act to authorize high volume districts to establish full-time defender offices. Our amendments would assure the continuing involvement of the private bar by providing that a substantial number of indigent defendants in such districts would have to be represented by counsel appointed from the private bar.

Among those who will appear at the subcommittee hearings are: Judge Harvey M. Johnsen, senior judge of the Eighth Circuit Court of Appeals, who chaired a U.S. Judicial Conference Committee established to assist in the implementation of the act; Prof. Dallin Oaks, of the University of Chicago Law School, who directed an extensive study of the act last year for the Judicial Conference Committee, other Federal court judges with broad experience under the act, and a representative of the Department of Justice. A complete list of witnesses scheduled to testify is attached:

WITNESS LIST FOR HEARINGS ON S. 1461, AMENDMENTS TO THE CRIMINAL JUSTICE ACT OF 1964, SENATE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS, JUNE 24, 25, AND 26, 1969, ROOM 2228, NEW SENATE OFFICE BUILDING

TUESDAY, JUNE 24, 1969, 10:30 A.M.

Honorable Harvey M. Johnsen, Senior Circuit Judge, U.S. Court of Appeals for the 8th Circuit, Omaha, Nebraska. Accompanied by: William E. Foley, Deputy Director, Administrative Office of the United States Courts.

Donald E. Santarelli, Associate Deputy Attorney General for Administration of Criminal Justice, Department of Justice.

Professor Dallin Oaks, The Law School, University of Chicago.

Mrs. Barbara Allen Bowman, Director, Legal Aid Agency for the District of Columbia. Accompanied by: Samuel Dash, Chairman, Board of Trustees, Legal Aid Agency for the District of Columbia.

Terence F. MacCarthy, Executive Director, Federal Defender Program Inc., Chicago, Ill.

WEDNESDAY, JUNE 25, 1969, 10:30 A.M.

Honorable James M. Carter, Judge, U.S. Court of Appeals for the 9th Circuit, San Diego, California.

Honorable Walter E. Craig, Judge, U.S. District Court, Phoenix, Arizona.

Maynard J. Toll, President, National Legal Aid and Defender Association, Los Angeles, California. Accompanied by: Robert J. Kutak, appearing on behalf of William F. Gossett, President, American Bar Association.

Tom Karas, Federal Defender, Federal Criminal Defense, Phoenix, Arizona.

James F. Hewitt, Attorney in Charge, Federal Criminal Defense Office, San Francisco, California.

Harry D. Steward, Executive Director, Defenders Inc., San Diego, California.

THURSDAY, JUNE 26, 1969, 10:30 A.M.

Daniel J. Freed, Former Director, Office of the Criminal Justice, Department of Justice.

Honorable William H. Hastie, Chief Judge, U.S. Court of Appeals for the 3rd Circuit, Philadelphia, Pa.

Charles L. Decker, Director, National Defender Project, Washington, D.C.

Lawrence Speiser, Director, Washington Office, American Civil Liberties Union.

CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of the calendar, beginning with Calendar No. 228, and that the rest of the calendar be considered in sequence.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

The clerk will state the first bill by title.

RAYMOND C. MELVIN

The bill (S. 632) for the relief of Raymond C. Melvin was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of clause (1) of section 2733 of title 10, United States Code, and any regulations promulgated pursuant to such clause, the Secretary of the Army is authorized to receive, consider, settle, and pay any claim filed under such section within six months after the date of enactment of this Act by Raymond C. Melvin, of Burlington, Vermont, for permanent physical injury suffered by him as a result of the accidental explosion of a blasting cap allegedly left by United States Army personnel in an area near a military housing development where children were known to play and which was found by said Raymond C. Melvin on July 4, 1964, while playing in such area.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–238), explaining the purposes of the bill.

There being no objection, the excerpt was ordrered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to waive the applicable statute of limitations to permit the filing under the Military Claims Act a claim for Raymond C. Melvin, of Burlington, Vt., for permanent physical injury suffered by

him as the result of the accidental explosion of a blasting cap.

STATEMENT

A bill for this claimant was introduced in the 90th Congress to provide for the payment of $10,000 to the claimant. In its report on that bill the Department of the Army stated that it would have no objection to the enactment of the legislation if the bill were amended to provide for the filing of the claim under the Military Claims Act.

The facts of the case as set forth by the Department of the Army are as follows:

"Official records of the Department of the Army show that Raymond C. Melvin was residing with his father, Sfc. Donald D. Melvin, at Fort Lewis, Wash., on July 6, 1964. He was then 13 years of age and often played in a wooded area adjacent to his family's assigned quarters. Although posted signs stated that entry into the wooded area was prohibited because the area was the location of a small-arms firing range, it was common knowledge on the post that children frequently disregarded the warning. On July 6, 1964, Raymond found a blasting cap in the area. As he picked it up, the cap exploded and his left hand was severly injured. He was admitted to Madigan General Hospital at Fort Lewis for treatment. Several days later his hand swelled markedly, the skin sloughed over the back of his hand, infection set in, and the extensor tendons to the long and ring fingers were exposed and lost. Raymond had two skin grafts to the back of his hand at Madigan General Hospital in July 1964, and had further grafts at Walter Reed General Hospital in October 1964, July 1965, and September 1965. In April 1966, he had reconstructive surgery of the tendons and joints. Doctors for the claimant now feel that an optimum of 60 percent use of the hand may be returned with further surgery involving tendon grafting. Raymond's total hospitalization has been in excess of 4 months and because of his injury his school's principal reports that he has lost about 2 full years of formal schooling.

"At the time of the accident, Sergeant Melvin reported the accident to the safety officer at Madigan General Hospital but did not file a claim or seek claims information within 2 years of the inquiry. This Department has no knowledge of why Sergeant Melvin failed to initiate claims action.

"The accident was reported to the Fort Lewis safety office but a detailed report of a safety or claims investigation has not been found. In a statement dated June 17, 1967, however, the former safety noncommissioned officer at Madigan General Hospital reports that he searched the area where Raymond found the device and found no other explosive devices. Other evidence, primarily hearsay, indicates that explosives were often found in the general area.

"A claim for the damages suffered by Raymond would have been cognizable under the Military Claims Act (10 U.S.C. 2733) had it been filed with the Department of the Army, within 2 years of the date of the injury. As a claim was not filed within the statutory period, recovery is now barred by the statute of limitations (10 U.S.C. 2733). Available evidence indicates that the Government is probably liable under the Military Claims Act and evidence is available to determine the amount of damages, if settlement under the act is authorized.

"In view of the circumstances set out above, the Department of the Army is opposed to the enactment of S. 1254. Payment of the lump-sum award proposed in this bill would clearly constitute discriminatory and preferential treatment over that accorded other claimants similarly situated, particularly those who, after filing timely claims under the Military Claims Act, have had such claims settled pursuant to the uniformly applicable standards for measuring damages which have been prescribed under that act.

"If, however, the Congress should find extenuating circumstances relating to Sergeant Melvin's failure to file a timely claim under the Military Claims Act, this Department would have no objection to the enactment of legislation for the limited purpose of waiving the applicable statute of limitations and authorizing the filing of a claim under that act within 6 months of the date of enactment.

"The cost of the bill, if amended as suggested and enacted, cannot be determined at this time."

The committee believes that the bill as introduced in this Congress to authorize the filing of the claim under the Military Claims Act is meritorious and recommends it favorably.

BILL PASSED OVER

The bill (S. 1932), for the relief of Arthur Rike, was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The VICE PRESIDENT. The bill will be passed over.

CREATION OF A COMMISSION TO STUDY THE BANKRUPTCY LAWS OF THE UNITED STATES

The joint resolution (S.J. Res. 88) to create a Commission To Study the Bankruptcy Laws of the United States was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 88

Whereas the number of bankruptcies in the United States has increased more than 1,000 per centum annually in the last twenty years; and

Whereas more than one-fourth of the referees in bankruptcy have problems arising in their administration of the existing Bankruptcy Act and have made suggestions for substantial improvement in that Act; and

Whereas the technical aspects of the Bankruptcy Act are interwoven with the rapid expansion of credit which has reached proportions far beyond anything previously experienced by the citizens of the United States; and

Whereas there appears to be little experience or understanding by the Federal Government and the commercial community of the Nation in evaluating the need to update the technical aspects of the Bankruptcy Act and the financial policies pursued by the Federal Government and the commercial community: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established a commission to be known as the Commission on the Bankruptcy Laws of the United States (hereinafter referred to as the "Commission").

(b) The Commission shall study, analyze, evaluate, and recommend changes to the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898 (30 Stat. 544), as amended (title 11, United States Code), in order for such Act to reflect and adequately meet the demands of present technical, financial, and commercial activities. The Commission's study, analysis, and evaluation shall include a consideration of the basic philosophy of bankruptcy, the causes of bankruptcy, the possible alternatives to the present system of bankruptcy administration, and all other matters which the Commission shall deem relevant.

(c) The Commission shall submit a comprehensive report of its activities, including its recommendations, to the President and the Congress within two years after the date of enactment of the joint resolution. Upon the filing of such report, the Commission shall cease to exist.

SEC. 2. (a) The Commission shall be composed of the following members appointed as follows:

(1) three members appointed by the President of the United States, one of whom shall be designated as Chairman by the President and two of whom shall be active practitioners in the field of bankruptcy law;

(2) two appointed by the President of the Senate;

(3) two appointed by the Speaker of the House of Representatives; and

(4) two active full-time referees in bankruptcy appointed by the Chief Justice of the United States. (b) Five members of the Commission shall constitute a quorum.

(c) A vacancy in the Commission shall not affect its powers. Any vacancy shall be filled in the manner in which the original appointment was made.

(d) Referees in bankruptcy and any other employees of the Federal Government who are members of the Commission shall serve without additional compensation. Each member from private life shall receive $100 per diem for each day (including traveltime) during which he is engaged in the actual performance of his duties as a member of the Commission. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 3. The Commission shall have the power to appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this joint resolution. Such appointments shall be without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such compensation shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 4. To carry out the purposes of this joint resolution, the Commission shall have the authority, within the limits of available appropriations—

(1) to obtain any research or other assistance it deems necessary;

(2) to prescribe such rules and regulations as it deems necessary governing the manner of its operations and its organization and personnel;

(3) to enter into contracts or other arrangements, or modifications thereof, and such contracts or other arrangements or modifications thereof may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(4) to make advance, progress, and other payments which it deems necessary without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code; and

(6) to acquire by lease, loan, gift, bequest, or devise, and to hold and dispose of by sale, lease, or loan, real or personal property of all kinds necessary for or resulting from the exercise of authority under this joint resolution.

SEC. 5. Any office, department, agency, or instrumentality of the executive or judicial branches of the United States Government shall furnish to the Commission, upon a reimbursable basis, such advice, information,

and records as the Commission may require for the performance of its duties.

SEC. 6. There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the provisions of this joint resolution.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–240), explaining the purposes of the joint resolution.

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

PURPOSE

The purpose of the joint resolution is to create a commission to study the bankruptcy laws of the United States.

STATEMENT

A similar resolution in the 90th Congress, S.J. Res. 100, was the subject of a subcommittee hearing, was approved by the full committee, and was passed by the Senate, but no action was taken in the closing days of the session in the House of Representatives.

In its favorable report on the similar resolution in the 90th Congress, this committee said:

"The Commission's work should result in recommendations the Bankruptcy Laws of the United States which will have as its objective a wide range study and analysis of the bankruptcy situation as it exists in America today.

"The Commission's work should result in recommendations for changes in the National Bankruptcy Act in order to make this act reflect current conditions and meet the needs of our present society. During the course of the hearings, testimony was heard from outstanding referees in bankruptcy and representatives of the Judicial Conference of the United States, the Executive Office of the President, the National Association of Credit Management, the National Conference of Referees in Bankruptcy, the Association of the Bar of the City of New York, and the National Bankruptcy Conference. In addition, a statement was received from the American Bankers Association. Interest in the hearings was expressed by the American Bar Association which was represented by a staff member who attended the hearings in behalf of his association and the Brookings Institution which was represented by a member of its staff. All the witnesses expressed strong approval of the proposed Commission. The recurring theme was that the current Bankruptcy Act deals with conditions of a bygone era; it must be updated.

"The present Bankruptcy Act was enacted in 1898. It is interesting to note that the first major revision of this act was not made until 40 years later with the passage of the Chandler Act in 1938. The primary purpose of the Chandler Act was to revise the bankruptcy law to meet modern business and economic problems and to take into account far-reaching social and economic changes which had occurred in the span of 40 years, and to correct defects and inadequacies in the Bankruptcy Act.

"Since the enactment of the Chandler Act in 1938, there has been only one important revision of the act, which was passed in 1946. The 1946 amendment abolished the old fee system of compensating referees in bankruptcy and placed them on annual salaries. The 1946 act also established a self-supporting system under which the salaries and office expenses of referees in bankruptcy are paid out of a special fund in the Treasury. This fund is maintained by the deposit of filing fees and certain charges collected from the assets of bankrupt estates.

"In the 30 years since the last major revision of the Bankruptcy Act, there have probably been even greater changes in the social and economic conditions of the country than in the 40 years prior to the enactment of that act. The population of the country has grown in the last 30 years from approximately 130 million to 200 million. Installment credit has increased in the same period from approximately $4 billion to $80 billion today.

"It is generally agreed that the present Bankruptcy Act can and should be improved to make it a better instrument for debtor relief and rehabilitation in the courts.

"The number of bankruptcies has reached an annual rate of more than 200,000. Just a few years ago, in 1957, there were 74,000 cases of bankruptcy. The rate of business bankruptcies has remained quite stable. The increase is in personal bankruptcies, which represent over 90 percent of the total yearly bankruptcies. Although we cannot say we have reached a crisis, the rapidly increasing rate of bankruptcies shows that we are on the road to a crisis in this area. The time to act is now while we can evaluate the problem in a calm environment.

"The subcommittee is aware of the Brookings Institution study on bankruptcy, as are all the experts in the field of bankruptcy. The consensus is that this study will be useful to the Commission. The Commission will not duplicate the work of the Brookings Institution because the Commission's task will be much wider in scope than the Brookings Institution study as we understand it. The thought was expressed several times during the hearings that since the Brookings Institution study will be available within a few months, it is now the propitious time to create this Commission so that the Brookings Institution study can be immediately utilized to provide a base from which the Commission can begin to build its record.

"Under section 2075, title 28, of the United States Code Annotated, the U.S. Supreme Court is authorized to prescribe by general rules the forms of process, writs, pleadings and motions, and the practice and procedure under the Bankruptcy Act. Pursuant to this authorization, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States will, in the next several months, complete the drafting of a set of rules of practice and procedure in the bankruptcy courts. In the process of drafting these procedural rules, many procedural sections of the Bankruptcy Act will be incorporated in the rules, leaving intact only substantive provisions of the act. The Commission contemplated by Senate Joint Resolution 100 will therefore, have the benefit of the work of the Rules Committee with respect to practice and procedure and be able to concentrate on the remaining substantive provisions which, in its judgment, need to be changed to meet modern economic and social conditions."

Senate Joint Resolution 100 of the 90th Congress provided for a 10-member Commission, all appointed by the President; there were to be two members of the Senate, two members of the House of Representatives, three referees in bankruptcy, and three businessmen "knowledgeable in the field of bankruptcy." The Commission proposed in Senate Joint Resolution 88 consists of nine members, three, including the Chairman, appointed by the President, two by the President of the Senate, two by the Speaker of the House, and two "active full-time referees in bankruptcy" appointed by the Chief Justice of the United States.

The greater flexibility of the membership provision of Senate Joint Resolution 88 will permit the appointment of a broader range of highly qualified individuals who may bring to the Commission widely diverse viewpoints. It is reasonable to expect that the business community would be represented in such a Commission. Also, because of its substantial role in the administration of the present Bankruptcy Act, the Securities and Exchange Commission should have a hand in the work of the Commission.

The committee believes that the joint resolution is meritorious and recommends it favorably.

BILL PASSED OVER

The bill (S. 2416) to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes, was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The VICE PRESIDENT. The bill will be passed over.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

The concurrent resolution (S. Con. Res. 33) favoring the suspension of deportation of certain aliens was considered and agreed to, as follows:

S. CON. RES. 33

Resolved by the Senate (the House of Representatives concurring), That the Congress favors the suspension of deportation in the case of each alien hereinafter named, in which case the Attorney General has suspended deportation pursuant to the provisions of section 244(a)(2) of the Immigration and Nationality Act, as amended (66 Stat. 204; 8 U.S.C. 1251):

[redacted] Berger, Harry.
[redacted], Ma, Yiu Kay.
[redacted], Pung, Wone.
[redacted], Alcala-Salcedo, Apolinario.
[redacted], Bader, Louis William.
[redacted], Barrera-Cabrera, Jesus.
[redacted], Bergh, Christian Herman.
[redacted], Abrams, Samuel S.
[redacted], Candanoza-Leza, Rogelio.
[redacted], Kalogres, Atanasios.
[redacted], Klingbeil, Bernard Michael.
[redacted], Lum, Mee.
[redacted], Martinez-Venegas, Pedro.
[redacted], Rojo-Estrada, Ramon.
[redacted], Tercero-Flores, Manuel.
[redacted], Lai, Sung Wong.
[redacted], Wong, Kim Taw.
[redacted], Chin, Goon You.
[redacted], Papuzynski, Walter John.
[redacted] Tahir, Ahmed.
[redacted], Rodriguez, Jose Roman.
[redacted], Soares, Jacintho Perreira.
[redacted] Wong, Harry.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–245), explaining the purposes of the resolution.

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

PURPOSE OF THE CONCURRENT RESOLUTION

The purpose of the concurrent resolution is to record congressional approval of suspension of deportation in certain cases in which the Attorney General has suspended deportation pursuant to section 244(a)(2) of the Immigration and Nationality Act, as amended. Under the prescribed procedure, affirmative approval by both the Senate and the House of Representatives is required before the status of the aliens may be adjusted to that of aliens lawfully admitted for permanent residence.

STATEMENT OF FACTS

The concurrent resolution relates to certain cases in which the Attorney General has suspended deportation under the provisions of section 244(a)(2) of the Immigration and Nationality Act, as amended. These cases are submitted to the Congress under the provisions of that section subsequent to its amendment by section 4 of Public Law 87–885. The aliens are deportable as former sub-

versives, criminals, immoral persons, violators of the narcotic laws, or violators of the alien registration laws. The discretionary relief may be granted to an alien within these categories upon a showing (1) of 10 years' continuous physical presence in the United States following the commission of an act or the assumption of a status constituting a ground for deportation; (2) that he has not been served with a final order of deportation up to the time of his application for suspension of deportation; (3) that he has been a person of good moral character during the required period of physical presence; and (4) that his deportation would result in exceptional and extremely unusual hardship to himself or to his spouse, parent, or child, who is a citizen or an alien lawfully admitted for permanent residence.

Included in the concurrent resolution are 23 cases which were referred to the Congress between February 1, 1968, and October 1, 1968. One case referred during that period was withdrawn by the Attorney General, and one case was not approved. In each case included in the concurrent resolution, a careful check has been made to determine whether or not the alien (*a*) has met the requirements of the law; (*b*) is of good moral character; and (*c*) warrants the granting of suspension of deportation.

The committee, after consideration of all the facts in each case referred to in the concurrent resolution, is of the opinion that the concurrent resolution (S. Con. Res. 33) should be agreed to.

DR. JOAQUIN JUAN VALENTIN FERNANDEZ

The bill (S. 152) for the relief of Dr. Joaquin Juan Valentin Fernandez was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Joaquin Juan Valentin Fernandez shall be held and considered to have been lawfully admitted to the United States for permanent residence as of August 15, 1956, and the periods of time he has resided in the United States since that date shall be held and considered to meet the residence and physical presence requirements of section 316 of such Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–246), explaining the purpose of this bill.

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

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

VERNON LOUIS HOBERG

The bill (S. 1087) for the relief of Vernon Louis Hoberg was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(4) of the Immigration and Nationality Act, Vernon Louis Hoberg may be issued a visa and be admitted to the United States for permanent residence if he is found to be otherwise admissible under the provision of that Act; *Provided,* That if the said Vernon Louis Hoberg is not entitled to medical care under the Dependents' Medical Care Act (70 Stat. 250), a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the Immigration and Nationality Act: *Provided further,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–247), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who has a mental defect in behalf of Vernon Louis Hoberg. The bill provides for the posting of a bond as a guarantee that the beneficiary will not become a public charge if he is not eligible for medical care under the Dependents' Medical Care Act.

LILLIAN BIAZZO

The bill (S. 1704) for the relief of Lillian Biazzo was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1704

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Lillian Biazzo shall be deemed to be a returning resident alien within the meaning of section 101(a)(27)(B) of that Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–248), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill is to provide for the readmission to the United States for permanent residence of a former resident of the United States.

CHONG PIL LEE

The Senate proceeded to consider the bill (S. 690) for the relief of Chong Pil Lee, which had been reported from the Committee on the Judiciary, with an amendment, on page 1, line 6, after the word "of" where it appears the second time, to strike out "April 1955, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota control officer to deduct one number from the appropriate quota for the first year that such quota is available," and insert "May 26, 1963, and the periods of time he has resided in the United States since that date shall be held and considered to meet the residence and physical presence requirements of section 316 of such Act."; so as to make the bill read:

S. 690

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Chong Pil Lee shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of May 26, 1963, and the periods of time he has resided in the United States since that date shall be held and considered to meet the residence and physical presence requirements of section 316 of such Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–249), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to enable the beneficiary to file a petition for naturalization. The bill has been amended in accordance with established precedents.

CHONG SUK STROISCH

The Senate proceeded to consider the bill (S. 1128) for the relief of Chong Suk Stroisch, which had been reported from the Committee on the Judiciary, with an amendment, to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Mrs. Chong Suk Stroisch, the widow of Sergeant Lloyd Edward Stroisch, a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of the said Act shall not be applicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended, so as to read "A bill for the relief of Mrs. Chong Suk Stroisch."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–250), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of an immediate relative to Mrs. Chong Suk Stroisch which is the status she would be entitled to were it not for the death of her husband, a citizen of the United States. The bill has been amended in accordance with established precedents.

AUGUSTO G. USATEGUI

The Senate proceeded to consider the bill (S. 1677) for the relief of Augusto G. Usategui, doctor of medicine, which had been reported from the Committee on the Judiciary, with an amendment, in line 4, after the word "Act," to strike out "Augusto G. Usategui, doctor of medicine," and insert "Doctor Augusto G. Usategui,"; so as to make the bill read:

S. 1677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Augusto G. Usategui, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of November 2, 1960.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended, so as to read: "A bill for the relief of Dr. Augusto G. Usategui."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–251), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to enable the beneficiary to file a petition for naturalization. The amendments are technical in nature.

COSMINA RUGGIERO

The bill (H.R. 1437) for the relief of Cosmina Ruggiero was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–252), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States in an immediate status of the adopted child of a citizen of the United States.

MRS. MARJORIE J. HOTTENROTH

The bill (H.R. 1939) for the relief of Mrs. Marjorie J. Hottenroth was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–253), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill is to preserve immediate relative status in behalf of the widow of a U.S. citizen.

MARIO SANTOS GOMES

The bill (H.R. 1960) for the relief of Mario Santos Gomes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD, an excerpt from the report (No. 254), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill would provide for compliance with the residence and physical presence requirements of section 316 of the Immigration and Nationality Act by Mario Santos Gomes.

LOURDES M. ARRANT

The bill (H.R. 2005) for the relief of Lourdes M. Arrant was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–255), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the entry into the United States in an immediate relative status of the adopted child of citizens of the United States.

GEORGE TILSON WEED

The bill (H.R. 5136) for the relief of George Tilson Weed was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–256), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill is to enable George Tilson Weed to file a petition for naturalization.

CONFERRING OF U.S. CITIZENSHIP POSTHUMOUSLY UPON SP4C. KLAUS JOSEF STRAUSS

The bill (H.R. 6607) to confer U.S. citizenship posthumously upon Sp4c. Klaus Josef Strauss was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–257), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill is to confer posthumous U.S. citizenship on Sp4c. Klaus Josef Strauss.

ROMEO DA LA TORRE SANANO AND HIS SISTER, JULIETA DE LA TORRE SANANO

The bill (H.R. 1632) for the relief of Romeo da la Torre Sanano and his sister, Julieta de la Torre Sanano, was considered, ordered to a third reading, read the third time, and passed.

The title was amended, so as to read: "An act for the relief of Romeo de la Torre Sanano and his sister, Julieta de la Torre Sanano."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–258), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States in an immediate relative status of two children coming to the United States for adoption by citizens of the United States. The bill has been amended to correct a spelling error in the title of the bill.

ADELA KACZMARSKI

The Senate proceeded to consider the bill (H.R. 2336) for the relief of Adela Kaczmarski, which had been reported from the Committee on the Judiciary, with an amendment, in line 4, after the name "Adela" to strike out "Durda" and insert "Kaczmarski."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–259), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant to the adopted daughter of citizens of the United States the status of a first preference immigrant, which is the status normally enjoyed by the natural-born alien sons and daughters of U.S. citizens. The bill has been amended to reflect the beneficiary's name by adoption in the body of the bill.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

FLORISSANT FOSSIL BEDS NATIONAL MONUMENT

Mr. ALLOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 253.

The VICE PRESIDENT. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 912) to provide for the establishment of the Florissant Fossil Beds National Monument in the State of Colorado.

The VICE PRESIDENT. Is there objection to the request of the Senator from Colorado?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, line 8, after the word "donation," insert "condemnation"; and on page 3, line 1, after the word "than," strike out "$3,200,000" and insert "$3,727,000"; so as to make the bill read:

S. 912

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to provide for the protection, controlled collection, and scientific interpretation of the

unique insect and leaf fossils and related objects of scientific value which have been preserved in the ancient Florissant lakebeds in Teller County, Colorado, the Secretary of the Interior may acquire by donation, *condemnation*, purchase with donated or appropriated funds, or exchange such land and interests in land in Teller County, Colorado, as he may designate from the lands shown on the map entitled "proposed Florissant Fossil Beds National Monument", numbered NM–FFB–7100, and dated March 1967, and more particularly described by metes and bounds in an attachment to that map, not exceeding, however, six thousand acres thereof, for the purpose of establishing the Florissant Fossil Beds National Monument.

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property within the area designated, and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction in the State of Colorado which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal to values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

SEC. 2. The Secretary of the Interior shall administer the property acquired pursuant to section 1 of this Act as the Florissant Fossil Beds National Monument in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

SEC. 3. There are authorized to be appropriated such sums, but not more than $3,727,000, as may be necessary for the acquisition of lands and interests in land for the Florissant Fossil Beds National Monument and for necessary development expenses in connection therewith.

Mr. ALLOTT. Mr. President, S. 912 is a bill to authorize the establishment of the Florissant Fossile Beds National Monument in the State of Colorado.

The Florissant Fossil Beds are located approximately 35 miles west of Colorado Springs in Teller County, Colo. The 6,000-acre monument area covers part of the ancient lakebed of Florissant Lake. These fossil beds are of significant scientific value and should be preserved for future exploration and interpretation.

Field hearings were conducted at Colorado Springs on May 29, 1969, at which time 24 witnesses were heard. I believe that it is significant that not one word of opposition was heard at those hearings, and well over a hundred petitions, letters, and other communications have been received subsequent to the hearings and none have opposed the establishment of the national monument.

The ancient lakebeds of Florissant preserve more species of terrestrial fossils than any other known site in the world. The insect fossils are of primary significance and approximately 60,000 specimens have been collected. They represent the evolution and modernization of insects better than any other known site in America. In addition, fossil plants, emphasized dramatically by the petrified tree stumps and the great variety of leaf fossils, add greatly to the primary values. Fossils of spiders, other invertebrates, fish, and birds have also been found in Florissant. Even fossils of tsetse flies have been found, indicating that the climate of the area was once tropical. There is no known locality in the world where so many terrestrial species of one time have been preserved. A total of 144 plant entities or species have been found there of which 30 are of uncertain affinity. The remaining 114 are identifiable with modern species. Almost all the fossil butterflies of the new world have been found at Florissant. Collections have been taken by the American Museum of Natural History, the British Museum, the Carnegie Institution of Washington, the Denver Museum of Natural History, the University of Colorado, Princeton University, and many others.

In likening Florissant to Pompeii, Italy, Dr. Betty Willard, who helped conduct the field inspection, made these observations at the Colorado Springs hearings:

At Florissant, Colorado, we have the same opportunity—except at Florissant we can be transported back in time 36 million years before the advent of man on this earth. The Florissant lake shales were formed in much the same way as the Pompeiian formation—by numerous violent, sudden eruptions of a nearby volcano that rained fine ash over the countryside. The ash fell into a large lake dammed up by earlier lava flows from the volcano. As it fell, it sieved from the air and water animals and plants that were living, breathing, eating in the region of Colorado 34 to 38 million years ago. The gentleness of this ash fall, broken by the water of the lake, captured intact and held far from the ravages of pressure and decay, all the forms of life extant at Florissant in the Oligocene—exactly as life was preserved intact at Pompeii.

There is urgency, however, in taking action to preserve this paleontological treasure trove. The bulldozers are almost poised on the boundaries of the proposed monument. Mountain home type commercial developments have come right up to the north boundary and are on the south boundary of the monument site. Recent information indicates that a contract of sale has been entered into covering 1,800 acres of land included within the proposed monument and lying generally along the eastern boundary. This accounts for nearly one-third of the monument area. The proposed use of this land is subdivision and development. In view of the imminence of this planned incompatible development, it is essential that the Senate and the House of Representatives move as quickly as possible to enact S. 912, in order to give the Secretary of Interior the appropriate tools with which to take action to preserve this important scientific deposit.

The committee considered and adopted two amendments. The first amendment inserts the word "condemnation" between the words "donation" and "purchase" on line 8 of page 1 of the bill. The purpose of this amendment is to make it unmistakably clear to all concerned that the power of condemnation is granted to the Park Service and can be employed swiftly, in the event it should become necessary to preserve the integrity of the monument.

The second amendment increased the authorization from $3,200,000 to $3,727,000. This was necessary in order that the authorization reflect the most current Park Service estimates relative to cost.

Mr. President, I would be remiss if I did not express my appreciation to at least some of the people who have worked so hard to bring this measure to its present point in the legislative process.

To our distinguished chairman of the Parks and Recreation Subcommittee of the Senate Committee on Interior and Insular Affairs (Mr. BIBLE) I wish to express my sincere appreciation for scheduling and holding these hearings at such an early date. Without his assistance and support, this bill could not be before the Senate today.

To Dr. Beatrice Willard and to Dr. Estella Leopold who have been the real sparkplugs behind this effort, I wish to express my thanks. However, their real reward will come from the knowledge that they have preserved for the Nation this scientific treasure trove.

To the chairman of the full committee (Mr. JACKSON) and to all of the members of the committee, I wish to express my thanks for acting upon this measure expeditiously and unanimously.

Mr. President, there are two typographical errors in the printed committee report that should be mentioned in order to perfect the legislative history. While neither of them are of a substantive nature, I wish to have the corrections noted as a matter of record.

On page 2 of Senate Report No. 91–263, at the end of the first line in the paragraph entitled "Geologic Resource," the word "terrestrial" should be substituted for printed word "terestial."

On page 3 of the report, near the bottom of the page, the heading "Commercial Encourgement" appears. This should read "Commercial Encroachment."

Mr. President, there are two recent articles in periodicals that I believe should be made a part of the legislative history on his legislation. They help to shed light upon the scientific significance of the fossil beds and also explain the present posture of the monument area. The first is an article in the Mines magazine for May, 1969, written by Dr. Rudy C. Epis, entitled "Proposed Florissant Fossil Beds National Monument." The second is an article from the June 6, 1969, issue of Science magazine entitled "Fossil Beds Are Endangered," and written by Philip M. Boffey. Mr. President, I ask unanimous consent that both of these articles appear in the RECORD at this point.

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

[From the Mines magazine, May 1969]

PROPOSED FLORISSANT FOSSIL BEDS NATIONAL MONUMENT

(By Dr. Rudy C. Epis)

On Feb. 4. 1969, Colorado Senators Allott and Dominick introduced before the U.S. Senate, Bill S. 912, entitled, "A Bill to Provide for the Establishment of the Florissant Fossil Beds National Monument in the State of Colorado." The bill * * * is based largely on a study conducted by the National Park Service of the Department of the Interior. This study was published in May of 1967 and provides a master plan for the proposed monument, the purpose of which "* * * is to conserve a portion of the Florissant Fossil Beds and surrounding area for public use, study, and enjoyment; and to tell the story of the geological and fossil resources." The master plan considers such important items as land

acquisition, resource management, research programs, visitor use, and development. The illustrations used in this article are taken from the published report of the National Park Service.

The Florissant Lakebeds occupy a small, elongate basin situated 15 miles northwest of Pikes Peak in Teller County, Colorado. The basin is arcuate in plan and generally less than 1 mile in width. Its northwestern portion extends from Lake George to Florissant along the route of U.S. Highway 24. At Florissant, the basin bends somewhat sharply and continues southward 7 miles, paralleling Colorado State Highway 143 connecting Florissant with Cripple Creek. The total area of present outcrop of the beds is about 15 square miles. However, the proposed national monument would consist of no more than 6,000 acres lying immediately south of Florissant, as shown in Fig. 1.

It seems fitting that the Florissant Lakebeds be proposed as the site for a national monument. They contain a prolific assemblage of delicately and beautifully preserved fossil plants and insects the likes of which are unsurpassed anywhere in the world. In addition, excellent specimens of fossil fishes and birds are found within the beds. Perhaps no other deposits of such limited areal extent have received so much attention; during the past three-quarters of a century over 225 scientific articles have been written about the nature of these beds, especially their enclosed fossil forms. Public and private museums and famous geological collections the world over proudly display fossil materials gathered from the Florissant Lakebeds. The deposits were discovered by A. C. Peale in 1873 as part of his activities with the Hayden U.S. Geological and Geographical Survey. Among the many papers published about them, perhaps the most comprehensive and significant are those of W. Cross on the general geology, S. H. Scudder on the fossil insects, and H. D. MacGinitie on the fossil plants.

The Florissant deposits consist of a heterogeneous series of beds composed dominantly of intermediate volcanic detritus. They are less than 150 feet thick, and because of their general soft character are poorly exposed, except in road cuts and recent stream valleys and gullies. Major lithologic types include arkosic conglomerates; andesitic tuffs and mudflow breccias; thin-bedded tuffaceous shales, mudstones and sandstones; pumiceous tuffs; and volcanic conglomerates. The tuffaceous shales and mudstones, near the middle of the sequence, contain most of the delicately preserved fossil plant and insect remains; the andesitic tuffs and mudflows below them have preserved numerous petrified stumps and logs of giant Sequoia trees. Judging from the nature of the sediments and their enclosed flora and fauna, MacGinitie concluded that ancient Lake Florissant existed under climatic conditons similar to present-day climates of northeastern Mexico, northern Argentina east of the Andes, northeastern Australia, northeastern Africa, and northwestern India; that is, climatic conditions which were quite warm and humid, perhaps even sub-tropical, and considerably different from those existing in the region today.

Current studies by the writer, in cooperation with Prof. H. D. MacGinitie of the University of California at Berkeley and Dr. J. D. Obradovich of the U.S. Geological Survey in Denver, are underway to better define the geological age of the Florissant Lakebeds. Our preliminary results are based on K/Ar radiometric age determinations of volcanic rocks below, above, and within the deposits, as well as on correlations with dated stratigraphic units in the adjacent Thirty-nine Mile volcanic field. These results indicate that ancient Lake Florissant was in existence during the early and middle parts of the Oligocene epoch, about 34 to 38 million years ago; they agree well with previous age determinations of Gazin, based on a fossil marsupial, and of MacGinitie, based on the fossil flora. We intend to complete these studies in the near future in hopes of providing a better understanding of the sequence of geologic events involved in the formation of the Thirty-nine Mile volcanic field, the Florissant Lakebeds, and the nearby Cripple Creek volcano.

Following is a brief sketch of the geologic history of the Florissant Lakebeds as we now know it. During and after Laramide mountain building activity in late Cretaceous—early Paleocene time, the Front Range and adjacent areas to the west were subjected to considerable erosion, and near the end of the Eocene epoch the resulting terrain was one of moderately low relief underlain primarily by Precambrian crystalline rocks. Early in Oligocene time volcanic eruptions commenced in the Thirty-nine Mile volcanic field southwest of the Florissant area, and outflow material from these eruptions disrupted existing drainage regimes. Andesitic and basaltic lavas and mudflows spread laterally from local centers and such deposits created a barrier to a southerly drainage system now occupied by the Florissant Lakebeds. Ancient Lake Florissant formed behind this volcanic dam which is located about 7 miles south of Florissant. Continuing volcanic activity in the Thirty-nine Mile field contributed the abundant pyroclastic and volcaniclastic material which showered and poured into the lake, quickly entombing existing life forms. The intensity of volcanism increased and built a large composite volcano centered in the vicinity of Guffey about 18 miles southwest of Florissant. Lava flows and breccias along the northeastern flank of the Guffey volcano eventually reached the site of Lake Florissant; they are primarily responsible for preservations of the lakebeds as they finally engulfed the lake and buried its deposits beneath them. Erosion since Oligocene time has stripped away nearly all of this volcanic cover and exposed the lakebeds as we see them today.

SELECTED REFERENCES

Chapin, C. E., and Epis, R. C., 1964, Some stratigraphic and structural features of the Thirty-nine Mile volcanic field, central Colorado; The Mountain Geologist, v. 1, no. 3, p. 145–160.

Cross, Whitman, 1894, Description of Pikes Peak sheet (Colo.): U.S. Geol. Survey Geol. Atlas, Folio 7, 5 p.

Epis, R. C., and Chapin, C. E., 1968, Geologic history of the Thirty-nine Mile volcanic field, central Colorado: Quart. Colo. School of Mines, v. 63, no. 3, p. 51–85.

Gazin, C. L., 1935, A marsupial from the Florissant beds (Tertiary) of Colorado: Jour. Paleontology, v. 9, no. 1, p. 57–62.

MacGinitie, H. D., 1953, Fossil plants of the Florissant beds, Colorado: Carnegie Inst. Washington Pub. 599, Contr. Paleontology, 198 p.

McLeroy, C. A., and Anderson, R. Y., 1966, Laminations of the Oligocene Florissant lake deposits, Colorado: Bull. Geol. Soc. America, v. 77, no. 6, p. 605–618.

Peale, A. C. 1874, Report (on the South Park region, Colo.): U.S. Geol. Geog. Survey Terr., 7th Ann. Rept., p. 193–273.

Scudder, S. H. 1885, The Tertiary lake basin at Florissant, Colorado, between South and Hayden Parks: U.S. Geol. Geog. Survey Terr., 12th Ann. Rept., pt. 1, p. 271–293.

U.S. Dept. of the Interior, National Park Service, May 1967, Master Plan for Proposed Florissant Fossil Beds National Monument, 39 p.

U.S. Senate, Feb. 4, 1969, A Bill to Provide for the Establishment of the Florissant Beds National Monument in the State of Colorado: U.S. Senate Bill S. 912, 3 p.

[From Science magazine, June 6, 1969]

FAMOUS FOSSIL BEDS ARE ENDANGERED

Scientists fear that the Florissant fossil beds in central Colorado—considered one of the finest fossil concentrations in the world—may be destroyed in the near future by real estate development. Efforts are under way to preserve the fossil area as a national monument. But, on the eve of congressional hearings on the monument proposal, a Colorado real estate firm purchased roughly 30 percent of the land involved and revealed plans to subdivide the land for housing development. Almost all scientists familiar with the area agree that the construction of housing would destroy the fragile beds. "It will be an irreparable loss—just terrible," Harry D. MacGinitie, a paleobotanist who has worked in the area for more than 3 decades, told *Science*.

The fossil beds lie in a mountain valley, about 35 miles west of Colorado Springs, near the small community of Florissant. Some 34 to 38 million years ago, during the Oligocene period, an ancient lake covered much of the area. Volcanic eruptions apparently rained down clouds of dust and ash upon the lake and its forested shores, thus capturing and preserving thousands of insects, plants, and other forms of life with rare delicacy.

MacGinitie, who is an associate in the Museum of Paleontology at Berkeley, said the site is "known all over the world" as having "one of the finest concentrations of fossil plants, insects, and fishes all in one area." He said the insect fossils are "almost unrivaled" and that the plant specimens are "beautifully preserved." There are also unusual fossiles of *Sequoia* stumps, but only a few small mammals.

Estella Leopold, a paleobotanist with the University of Colorado, finds the area "unique in the enormous diversity of organisms present—everything from algae to higher plants." She also said there is an "incredible abundance" of fossils. "I worked an hour recently and got 40 really marvelous leaf specimens and two bugs," she said. "Usually you have to work hard to find one or two specimens an hour at even the best localities." According to the National Park Service, Florissant has yielded some 60,000 specimens of more than 1,000 different species of living things.

Three bills are currently pending in Congress that would designate 6,000 acres of the fossil bed area—which is known to exceed 12,000 acres—as a national monument. Similar legislation died in three previous congresses—largely because of apathy rather than outright opposition. But this year there seems to be more steam behind the proposal.

Colorado's two Republican senators—Gordon Allott and Peter H. Dominick—have cosponsored one of the bills. Allott, who is ranking Republican on the Senate Interior Committee which is handling the legislation, has expressed "a sense of urgency about the passage of this bill." Dominick has warned: "We must protect the area before it is too late." Last week the Interior Committee's parks and recreation subcommittee held hearings on the legislation in Colorado Springs.

Shortly before the field hearings began, however, Central Enterprise Realty Company of Colorado Springs purchased some 3000 acres in the Florissant vicinity from an out-of-state owner. Interested scientists say about 1800 of these acres lie within the boundaries of the proposed monument. K. C. Wofford, a partner in the firm, told *Science* his company plans to subdivide the land and sell it off "immediately" to people interested in putting up housing. Wofford said he had a "firm purchase contract" with the previous owner of the land and expected to close the deal "in a few days." He also said he is bargaining for more land in the area.

Meanwhile, Colorado conservation groups have asked the realtors to delay development until Congress has a chance to act. If negotiations fail, they plan to file suit. "We'll have to do something," one attorney said. "The bulldozers are ready to cut the road."

Mr. ALLOTT. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I will be brief in my remarks in support of this bill. My distinguished senior colleague from Colorado, with whom I am honored to cosponsor this legislation, has fully stated the case for passage of this bill to authorize the Florissant Fossil Beds National Monument.

I participated in the hearings recently held in Colorado Springs. The support for this bill was overwhelming. Not a voice was raised in opposition. This support came from civic groups, local and State government, and the academic and private community. The distinguished senior Senator from Colorado has mentioned the efforts of Dr. Bettie Willard and Dr. Estella Leopold. I wish to underscore those remarks. Mention should be made also of the work and support of Mr. Joe E. Burns, chairman of the Teller County Board of County Commissioners and the other Teller County commissioners, John Bermingham, State senator for district 7, Carol M. Kenny, mayor of Woodland Park, Colo. In addition I would like to mention the support of the many clubs and organizations throughout the State, including the Colorado Women's Club, Colorado Open Space Council, the Sierra Club and the Izaak Walton League. Time does not permit mention of all the people and groups who have contributed in bringing this legislation to this point.

Mr. President, one point must be made very clear. The historic and scientific value of this site is unrivaled in this country. Commercial development is even now threatening its very existence. I wish to stress that unless immediate action is taken not only the scenic benefits of this site will be ruined, but the fossil beds themselves may be physically destroyed. We cannot permit such a tragedy to occur.

The site consists of 6,000 acres. We can place in the hands of the Secretary of Interior the authority to move rapidly in protecting this whole site. It is essential to preserve the whole 6,000 acres for this site to retain its true and intrinsic value.

I wish to express my sincere appreciation to Senator BIBLE, chairman of the subcommittee, and Senator JACKSON, chairman of the full committee for their realization of the value of this project. This realization is clearly evident by the prompt action taken by the committee to bring this matter promptly before the Senate. The Senate leadership has also recognized the need for timely and immediate action.

I urge your support for this bill. I wish only that each of you could visit and explore this site. We must pass this legislation today so that this scientific storehouse may be preserved for all people for all time. I thank my colleagues for their consideration.

The VICE PRESIDENT. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for the third reading, was read the third time, and passed.

Mr. ALLOTT. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 742) to amend the act of June 12, 1948 (62 Stat. 382), in order to provide for the construction, operation, and maintenance of the Kennewick division extension, Yakima project, Washington, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

S. 2461—INTRODUCTION OF A BILL TO AMEND THE RANDOLPH-SHEPPARD ACT, WHICH OPERATES SUCCESSFULLY FOR BLIND PEOPLE—AMENDMENTS OFFERED TO STRENGTHEN PROGRAM

Mr. RANDOLPH. Mr. President, 33 years ago today, President Franklin Delano Roosevelt signed into law the Randolph-Sheppard Act. This measure, authored by Senator Morris Sheppard and myself, established the program granting preference to blind persons in the operation of vending facilities in Federal buildings.

It was a privilege as a Member of the House of Representatives to sponsor with Senator Sheppard this legislation to provide the opportunity for blind men and women to become self-supporting, tax-paying citizens while demonstrating to the public that individuals with this handicap can be capable and productive workers. The Randolph-Sheppard Act was later broadened to cover stands on Federal property. I recall the pioneering work for the blind of many persons, in and out of Government, including Leonard P. Robinson, who first brought the vending-stand concept to my attention.

Congress authorized the program. Blind persons themselves did the rest. They have worked diligently as small business entrepreneurs serving Government employees and the public in snack bars and other types of vending facilities. In the late thirties, when employment opportunities for blind persons were severely limited and the public equated blindness with helplessness and the beggar on the street corner, these blind concessionaires contributed greatly to changing that image of helplessness into one of ability. Their demonstrations of ability facilitated the acceptance of all types of handicapped workers by industry and influenced the establishment of public policy to provide training and job opportunities for our handicapped citizens.

Since 1936, the vending stand program has grown, until now there are nearly 3,300 blind persons in the overall effort. On Federal property, there were 836 stands employing 972 blind persons at the end of the last fiscal year. In addition, the State agencies for the blind and State vocational rehabilitation agencies which license blind stand operators have opened employment opportunities for blind concessionaires in State and municipal buildings, as well as in nongovernmental buildings. There are 2,084 stands employing 2,287 blind persons on non-Federal installations. During fiscal year 1968, these concessions operated by blind persons did a gross business of $78,966,880. The average income of the blind operators was $5,580.

It is gratifying to have participated in establishing this program, which makes it possible for blind people to know the dignity and self-worth which comes from earning their own way. It is understandably a source of satisfaction for me that the law is known as the Randolph-Sheppard Act for the Blind.

But, as we know, the passage of time brings change; and laws establishing programs to serve people must be periodically revised in accordance with changing needs. Since its enactment in 1936, the Vending Stand Act has been amended only once—18 years later in 1954, when improvements to it were included in the Vocational Rehabilitation Amendments of 1954. Now, 15 years later, there is need for additional improvements. Today, I am introducing a bill to affect those changes.

This bill would change the term "vending stand" to "vending facility" to more accurately cover the wide variety of concessions operated on Federal property by blind persons. It also defines a vending facility to include various types of concessions, including vending machines. Since the assignment of vending machine income has adversely affected blind vending stand operators in some instances, the bill tightens the procedure for making this assignment.

Present law requires licensed blind operators to be at least 21 years of age. My bill would make it possible for the State licensing agency to license responsible and capable blind men and women who are under 21. Such individuals are now actually employed in vending stands but, because of the restrictive language, they are designated as trainees until they are 21.

The bill authorizes food, beverages, and other items—as may be determined by the State licensing agency—to be prepared on the premises, as in fact, is presently being done in many locations. It also eliminates the 1-year residence requirement as a prerequisite for licensing of blind concessionaires, an archaic provision already eliminated from the Vocational Rehabilitation Act.

An important new provision is the requirement for inclusion of sites for vending facility locations in the design, construction, or substantial alteration of Federal buildings or those leased by Federal agencies. This provision will help to assure growth of employment opportunities for persons while providing a valuable service to employees and the public. The requirement for consultation between the officials of the agency controlling property, the Department of Health, Education, and Welfare, and the State licensing agency will insure installation of the proper facility, if one is justified on the basis of potential business.

The fair hearing mechanism for aggrieved licensed blind operators now in the law is expanded to include an arbitration procedure if there is a dispute which cannot be settled otherwise. There is also a provision for arbitration of disputes between agencies controlling Federal property and State licensing agencies. In addition, a blind person or State licensing agency is authorized to seek judicial review of any agency action if they are adversely affected by that action.

Mr. President, these are the major provisions of my measure. If enacted into law, the bill will bring present law into conformance with accepted practice in the vending stand program and effect additional needed improvements. I ask unanimous consent that a section-by-section analysis be printed in the RECORD at the conclusion of my remarks.

The need for improvements in the Randolph-Sheppard Act was called to my attention by representatives of organizations of blind persons, and organizations of workers who serve blind persons in every State. Its provisions were carefully arrived at and agreed on after several conferences. The organizations giving active support are the major national organizations of and for the blind—the American Association of Workers for the Blind, American Council of the Blind, American Foundation for the Blind, Blinded Veterans Association, National Council of State Agencies for the Blind, and National Federation of the Blind. Their cooperation in working together to solve problems and meet changing needs is an excellent example of cooperation between consumers of service and providers of service.

Mr. President, I ask unanimous consent that the section-by-section analysis of my amendments and the most recent summary of the vending stand program be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the material will be printed in the RECORD.

The bill (S. 2461) to amend the Randolph-Sheppard Act for the blind so as to make certain improvements therein and for other purposes, introduced by Mr. RANDOLPH, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

The material, presented by Mr. RANDOLPH, follows:

SECTION-BY-SECTION ANALYSIS

Section 1. Short title. This section provides that the Act may be cited as the "Randolph-Sheppard Act for the Blind Amendments of 1969."

Section 2. Preference for Vending Facilities on Federal Property. This section amends Section 1 of the Act of June 20, 1936, as amended, under which preference is granted to blind persons licensed by state agencies designated in the Act to operate vending facilities on Federal property. It provides for exclusive assignment of vending machine income in order to assure, achieve, and protect the preference granted. Inconvenience to departments and agencies of the Federal government is eliminated as a criterion for the establishment of a vending facility; however, such a facility would not be authorized if the interests of the United States would be adversely affected thereby.

Section 3. Concession Vending Surveys. This section amends Section 2(a)(1) of the Act by changing the term "concession-stand" to "concession vending".

Section 4. Vending Facility. This section substitutes the term "vending facility" or "vending facilities" for "vending stand(s)" or "stand(s)" throughout the Act in order to reflect the broader variety of concessions in the program.

Section 5. Age Requirements; Articles and Services Available. This section amends Section 2(a)(4) of the Act to eliminate the requirement that a licensed blind operator must be at least 21 years of age. It also alters language in the same section of the Act to broaden the types of articles and services available in vending facilities to accord with current actual practice.

Section 6. Deletion of Limitations. This section amends Section 2(b) of the Act to eliminate the unnecessary one year residence requirement before blind persons can become licensed operators. It also eliminates archaic wording contrary to rehabilitation principles referring to blindness as an infirmity.

Section 7. Provision of Locations. This section adds a new subsection (d) to Section 2 of the Act, providing for inclusion after January 1, 1970, of sites for vending facilities operated by blind persons, after consultation with the state licensing agency, in the design, construction, or substantial renovation or alteration of public buildings for use by the Federal government. Similar provisions cover public buildings rented or leased by the Federal government. The new subsection also requires agencies controlling Federal property to consult with the Secretary of Health, Education, and Welfare (or his designee) and the state licensing agency to insure inclusion of suitable vending facility sites unless it is determined that the number of persons using the building will not justify operation of a vending facility.

Section 8. Arbitration Between Operators and Licensing Agencies. This section amends Section 3(6) of the Act to expand fair hearing procedures for aggrieved licensed blind operators to include binding arbitration. It provides that the arbiters shall consist of one person named by the head of the state licensing agency, one person named by the licensed blind operator, and a third person selected by the two.

Section 9. Definitions. This section amends Section 6(b) of the Act to substitute the current legal definition of blindness for the obsolete terminology presently in the Act. It also adds a new subsection to Section 6 of the Act defining the term "vending facility" to cover the broad variety of concessions presently in use in the program, including automatic vending machines.

Section 10. Arbitration Between Agencies. This section redesignates Section 8 of the Act as Section 9 and establishes a new Section 8 providing for arbitration of disputes between a state licensing agency and an agency controlling Federal property. It provides that the three arbiters shall consist of a person designated by the Secretary of Health, Education, and Welfare; one person designated by the head of the agency controlling Federal property over which the dispute has arisen; and a third person selected by the two who is not an employee of the departments concerned. It also provides that all decisions of the arbitration board shall be published.

Section 11. Judicial Review. This section adds a new Section 10 to the Act providing for judicial review in the event a blind person or state licensing agency suffers a legal wrong or is adversely affected or aggrieved by the action of an agency.

Section 12. Effective Date. This section provides for an effective date of January 1, 1970, for the amendments made by the bill.

VENDING STAND MEMORANDUM 69–1

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SOCIAL AND REHABILITATION SERVICE,

Washington, D.C., December 9, 1968.

To: All State Licensing Agencies under the Randolph-Sheppard Act.

Subject: Vending Stand Report for Fiscal Year Ending June 30, 1968.

An analysis of the vending stand program for fiscal year ending June 30, 1968, shows substantial growth in all major areas. *Continued momentum is evidenced by a 10.5 percent increase in gross sales, 4 percent in new locations, and 6.4 percent in average operator earnings, with total gross sales in excess of* $78.9 million.

It is gratifying to report a national 4.6 percent increase in the number of operators and a 12.5 percent increase in net proceeds to operators, with an *average income of $5,580* (an increase of $348 over last year). These gains reflect greater efficiency in management services, training, and supervision of operators.

We are pleased with a 7.2 percent increase in new stand locations on private property. However, we must accelerate our efforts in this direction if we are to achieve our goal of providing employment opportunities through the vending stand program for 5,000 blind persons by fiscal 1970.

We urge you to carefully study this report and evaluate your current efforts in the achievement of our national goal.

Table A presents national statistics comparing the vending stand program of fiscal 1968 with the program of fiscal 1967, showing percentages of increase.

Table B reports detailed figures on a State and regional basis relating to number of stands, operators, and average operator earnings.

Table C lists the States alphabetically, giving the number of stands per 100,000 population, the average annual income for operators, national ranking, and the set aside funds collected, less minimum return.

Table D contains regional data, including the number of vending stands, regional population, and stands per 100,000 population.

Table E shows the classification of vending stands on Federal property by the Federal agency granting the permit.

We hope you will find the attached data useful as you plan for future growth.

D. C. MACFARLAND, Ph.D.,
Chief, Division of Services to the Blind.

ABLE A.—BREAKDOWN OF FIGURES ON A NATIONWIDE BASIS FROM ANNUAL VENDING STAND REPORTS SUBMITTED BY STATE LICENSING AGENCIES FOR FISCAL YEAR 1968

	Fiscal year 1967	Fiscal year 1968	Percent increase over previous year
Total number all stands	2,807	2,920	4.0
Federal locations	814	836	2.6
Non-Federal locations	1,993	2,084	4.6
A. Public	1,241	1,278	3.0
B. Private	752	806	7.2
Total gross sales	$71,482,064	$78,966,880	10.5
Federal locations	$22,255,057	$24,577,224	10.4
Non-Federal locations	$49,227,007	$54,372,459	10.5
Total number of operators	3,117	3,259	4.6
Federal locations	931	972	4.4
Non-Federal locations	2,186	2,287	4.6
Net proceeds to operators	$14,709,595	$16,554,452	12.5
Federal locations	$4,585,095	$5,223,083	13.9
Non-Federal locations	$10,124,500	$11,331,369	11.9
Annual average earnings of operators	5,244	5,580	6.4

TABLE B.—SELECTED DATA ANNUAL VENDING STAND REPORT FISCAL YEAR 1968

Region and State	Total number of stands	Increase or decrease from stands reported as of June 30, 1968	Total number of blind operators	Annual average earnings of operators
National total	2,920	113	3,259	$5,580
I.				
Connecticut	33	−5	38	5,040
Maine	7	+3	7	5,616
Massachusetts	42	−1	44	6,912
New Hampshire	7	+1	7	2,364
Rhode Island	21	−1	24	4,788
Vermont	7	0	6	5,352
Total	117	−3	126	5,628
II.				
Delaware	23	0	28	4,668
New Jersey	54	+5	54	4,440
New York	121	−4	146	5,784
Pennsylvania	187	+7	187	6,300
Total	385	+8	415	5,760
III.				
District of Columbia	72	0	84	10,020
Kentucky	31	+4	42	5,856
Maryland	55	+4	55	9,552
North Carolina	117	+2	124	4,236

TABLE B.—SELECTED DATA ANNUAL VENDING STAND REPORT FISCAL YEAR 1968—Continued

Region and State	Total number of stands	Increase or decrease from stands reported as of June 30, 1968	Total number of blind operators	Annual average earnings of operators
III.—Continued				
Puerto Rico	1	0	1	$1,536
Virginia	53	+1	63	8,208
Virgin Islands				
West Virginia	24	+1	36	3,756
Total	353	+12	405	6,888
IV.				
Alabama	164	+1	164	2,604
Florida	107	+1	133	7,056
Georgia	128	+7	166	4,728
Mississippi	81	+4	91	3,984
South Carolina	44	+3	53	3,840
Tennessee	135	+5	152	4,488
Total	659	+21	759	4,500
V. Illinois	83	+4	89	6,408
Indiana	36	0	36	4,596
Michigan	56	+7	55	6,936
Ohio	157	+9	164	5,436
Wisconsin	25	+1	32	6,516
Total	357	+21	376	5,892
VI. Iowa	29	+3	29	4,644
Kansas	28	0	30	5,664
Minnesota	56	+2	58	5,844
Missouri	48	+4	56	6,612
Nebraska	11	+1	13	2,520
North Dakota	2	0	2	2,736
South Dakota	9	0	9	1,968
Total	183	+10	197	5,388
VII. Arkansas	82	+5	92	4,908
Louisiana	96	+5	109	6,756
New Mexico	29	+2	45	3,300
Oklahoma	62	+1	96	3,456
Texas	113	+9	123	4,932
Total	382	+22	465	4,836
VIII. Colorado	44	+4	48	6,396
Idaho	1	0	1	4,800
Montana	10	0	10	2,508
Utah	19	+1	27	2,700
Wyoming	7	0	7	3,192
Total	81	+5	93	4,704
IX. Alaska	4	0	4	7,476
Arizona	16	+1	16	7,860
California	277	+10	284	7,044
Hawaii	33	+1	37	4,596
Nevada	9	+1	11	5,856
Oregon	25	−1	30	6,828
Washington	35	+4	37	6,768
Guam	4	+1	4	4,200
Total	403	+17	423	6,780

TABLE C.—SELECTED COMPARATIVE DATA ON STATE VENDING STAND PROGRAMS

	Vending stands per 100,000 population [1]	Average net proceeds to operators	Set-aside less minimum return	Management positions [2]
National average	1.46	5,580		

State	Number fiscal year 1968	Rank fiscal year 1967	Rank fiscal year 1968	Amount fiscal year 1968	Rank fiscal year 1967	Rank fiscal year 1968	Amount	
Alabama	4.63	2	2	$2,604	51	49	$15,117	7.5
Alaska	1.47	23	26	7,476	4	5	4,648	
Arizona	.97	38	40	7,860	5	4	5,678	1.5
Arkansas	4.11	5	6	4,908	29	28	32,107	9
California	1.47	26	27	7,044	6	7	170,776	19
Colorado	2.15	16	16	6,396	10	16	42,926	5.8
Connecticut	1.13	30	35	5,040	23	26		1
Delaware	4.39	3	3	4,668	24	32	32,538	7
District of Columbia	8.91	1	1	10,020	1	1	267,940	15
Florida	1.77	18	19	7,056	14	6	109,739	13
Georgia	2.84	9	10	4,728	31	31	80,955	11.75
Guam	4.26	6	5	4,200	43	40	506	1
Hawaii	4.34	4	4	4,596	28	34		1.75
Idaho	.14	52	52	4,800	47	29		
Illinois	.76	43	44	6,408	15	15	74,144	15
Indiana	.72	44	46	4,596	33	35		1
Iowa	1.35	39	29	4,644	35	33		2
Kansas	1.23	33	33	5,664	19	22	45,733	4.5
Kentucky	.97	40	41	5,856	25	18	24,226	5
Louisiana	2.62	11	11	6,756	12	12		6.25
Maine	.71	50	47	5,616	20	23	1,688	1
Maryland	1.41	28	25	9,552	2	2	91,060	4.4
Massachusetts	.78	42	42	6,912	9	9		5.1
Michigan	.65	48	50	6,936	34	8	23,471	3
Minnesota	1.54	24	23	5,844	18	20	28,586	5
Mississippi	3.46	8	7	3,984	38	41	52,596	10
Missouri	1.05	37	37	6,612	17	13	30,201	
Montana	1.43	27	28	2,508	49	51	1,312	
Nebraska	.76	46	45	2,520	46	50	8,105	3.5
Nevada	2.05	17	17	5,856	16	19	1,818	
New Hampshire	1.01	41	39	2,364	39	52	3,012	1
New Jersey	.77	45	43	4,440	26	37		5.20
New Mexico	2.87	10	9	3,300	42	45	4,648	3
New York	.67	47	48	5,784	22	21	105,508	17
North Carolina	2.31	14	14	4,236	37	38	176,632	13.5
North Dakota	.32	51	51	2,736	50	47		
Ohio	1.50	25	24	5,436	21	24	155,293	25
Oklahoma	2.47	12	12	3,456	40	44	28,327	4.5
Oregon	1.26	31	32	6,828	13	10	17,048	3
Pennsylvania	1.60	22	22	6,300	8	17	160,753	20
Puerto Rico	.04	53	53	4,236	53	39	309	1
Rhode Island	2.43	13	13	4,788	30	30	11,508	5.3
South Carolina	1.65	21	21	3,840	44	42		6
South Dakota	1.35	29	30	1,968	52	53		2.5
Tennessee	3.43	7	8	4,488	36	36	44,320	6
Texas	1.04	36	38	4,932	32	37	52,974	5
Utah	1.86	19	18	2,700	48	48	7,965	1
Vermont	1.68	20	20	5,352	27	25	894	.9
Virginia	1.17	34	34	8,208	3	3	37,617	11.4
Washington	1.09	35	36	6,768	7	11		5
West Virginia	1.33	32	31	3,756	41	43	8,843	4
Wisconsin	.60	49	49	6,516	11	14	13,263	2.5
Wyoming	2.19	15	15	3,192	45	46	1,130	1.5

[1] Based on population as of July 1, 1967, as per Commerce Release Series P-25, No. 403 dated Sept. 19, 1968.
[2] These management positions are as reported by each State agency; however, some agencies included only day-to-day management personnel while others included fiscal or clerical staff.

TABLE E.—CLASSIFICATION OF VENDING STANDS ON FEDERAL PROPERTY—NAME OF FEDERAL AGENCY GRANTING PERMIT

Name of Federal agency	Stands at beginning of year	New stands established during year	Stands closed during year	Stands at end of year
Atomic Energy Commission	12	1	2	11
Department of Agriculture	8	1		9
Department of the Air Force	10	1		11
Department of the Army	14	1	3	12
Department of Commerce	1			1
Department of Defense	4			4
Department of Health, Education, and Welfare	30	1		31
Department of Interior	2	4		6
Department of the Navy	17	2	3	16
General Services Administration	359	41	18	382
Post Office Department	273	9	14	268
Tennessee Valley Authority	7		1	6
Treasury Department	7			7
Other	72	9	9	71
Total	816	70	50	835

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. BYRD of West Virginia. Mr. President, I compliment my very able senior colleague on offering the amendments he has offered today to the original Randolph-Sheppard Act. I compliment him most of all for the great leadership he has long provided in this humanitarian endeavor. I believe it was over three decades ago that he, while serving as a Member of the House of Representatives, coauthored this act with the late Senator Sheppard from Texas. In so doing he rendered a service to thousands of people throughout the country who have been denied that most wonderful and most useful physical faculty, the faculty of sight.

TABLE D.—NUMBER OF VENDING STANDS PER 100,000 POPULATION BY REGION

Region	Number of stands	Population	Number of stands per 100,000
I	117	11,324,000	1.03
II	385	37,172,000	1.04
III	353	21,823,000	1.62
IV	659	23,042,000	2.86
V	357	39,199,000	.66
VI	183	15,988,000	1.14
VII	382	20,037,000	1.91
VIII	81	4,761,000	1.70
IX	403	27,304,000	1.48
National	2,920	200,650,000	1.46

Through his efforts at that time and since, many, many thousands of these less-fortunate individuals have been able to utilize their talents and to earn for themselves and their families an income at the vending counters in Federal installations, State installations, county installations, and in private facilities.

Mr. President, not very long ago I spoke at the Schools for the Deaf and Blind in Romney, W. Va. I was greatly impressed by the marvelous interest displayed by those youngsters in current events. I was even more greatly impressed and moved by the display of determination on the part of those young people, some of whom cannot see, some of whom have never seen, some of whom cannot hear, and some of whom cannot speak, to do for themselves and to make their own way. They start out with a disadvantage in life that none of us, who are more fortunate, can comprehend. Yet, they are desirous of getting an education and developing the talents they possess, so that they may then be better equipped to go out and make their own way, and earn a living for themselves.

The PRESIDING OFFICER (Mr. SPONG in the chair). The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time of the Senator be extended by 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, as I watched those students and listened to them, I thought how wonderful it could be if other young people throughout the country, and some who are not so young, who have all the God-given faculties of sight, hearing, and speech, could just see how these children react. Perhaps there would be fewer in this country who would so complain about problems that confront them. Perhaps fewer people would look toward the Federal Government for this, that, and something else.

I noted that some of those young people, who could just barely see, apparently did not want to be helped; they wanted to find their own way. The children do not want sympathy. All they want is an opportunity to develop their talents and they will do the rest.

Mr. President, if we had more people like them in this country, who would display such an interest in utilizing the talents that are within them, and developing whatever God-given potential is theirs to begin with, and working and sweating and staying on the job, even though it involves a little overtime, we would not have witnessed, often in these recent years, so many people out in the streets breaking store windows, overturning cars, beating the drivers, and demanding that the Federal Government outlay more and more funds and that society owed them something in return for nothing. How different an attitude from that which I sensed in talking with these deaf and blind students. I was so favorably impressed by their attitude in the face of such incalculable disadvantages I wanted to say something about them.

In closing, the Senator's act 33 years ago was beneficial to such people and made it possible for them not to be burdens on society, but to contribute to society. I must compliment those people. My heart goes out to them. I must also compliment a man who foresaw 33 years ago a way in which to give the blind an opportunity to contribute, to serve, to build, and to develop. Not only the blind, but also the Nation for a long, long time, will remember with gratitude the services of JENNINGS RANDOLPH and the late Senator Sheppard in connection with this far-seeing, humanitarian, progressive, legislative act.

Mr. RANDOLPH. Mr. President, I deeply appreciate the thoughtful comments of my colleague. I am grateful for his references to me, but I am particularly grateful for the tribute that he expresses to the blind. They are the productive members of our society who have realized accomplishments under the programs I have discussed today.

Perhaps this is not the occasion, but as I look back upon legislative activities in which I have participated in the House of Representatives and in the Senate, I wonder sometimes if we have not tended to lessen the responsibility of the individual and to place the responsibility on Government. Possibly, we have created a sort of nebulous umbrella—so to speak—under which people live. My colleague from West Virginia has emphasized critical points in this regard.

Mr. President, in closing, I return to my earlier statement that there are reasons for amending the original bill. New situations and complexities, the type living in which we engage, and the operation of our buildings themselves, make it necessary to consider very promptly the amendments which will serve the blind and, through the blind, serve the public.

I think it important to state to my colleague from West Virginia and to the Senate that nearly 3,300 blind persons are now entrepreneurs and active members in society, conducting their own businesses. I hope that within the next year we shall have at least 5,000 persons carrying on this effort.

Mr. BYRD of West Virginia. Mr. President, I simply add one sentence with reference to the action that was taken 33 years ago. Generations will rise to bless my colleague's name.

WEST VIRGINIA MOVES AHEAD AS ITS PEOPLE CELEBRATE THE 106TH ANNIVERSARY OF STATEHOOD

Mr. RANDOLPH. Mr. President, this date marks the 106th anniversary of West Virginia statehood. Hence, we mountaineers are 6 years into the second century of our State and we feel that we are headed truly on a course of making the second century vastly more productive than was the first.

As Henry J. Kaiser—who brought to West Virginia one of her great industries—once noted:

> Count me among those who look upon our future as a great opportunity which can fill men's souls with hope.

It is obvious, as we take inventory of our payroll-producing industries, that many large corporations have shown their confidence in West Virginia and its people.

Again recalling Mr. Kaiser and his cogent and meaningful expressions, he said that there are other valleys just as wide as is the Ohio Valley—and there are other rivers just as deep as is the Ohio River, but the real reason why Kaiser Aluminum located its West Virginia plant near Ravenswood, in Jackson County, was faith in the stability and the productivity of the people.

Kaiser's Ravenswood plant, incidentally, is the largest integrated aluminum plant in the Kaiser industries complex. It had a relatively modest beginning in 1955 and now employs approximately 3,200 citizens with an annual payroll in excess of $21 million.

Then, too, Mr. President, it is appropriate that I call attention to the new General Motors Corp. facility off Interstate 81 near Martinsburg, W. Va. Dedicated only last week, the GM plant there will add to the local economy nearly $16 million annually, including a payroll in excess of $10 million per year. Edward N. Cole, GM president, stressed his confidence in the quality and character of our people.

American Electric Power, the Allegheny Power System, and the Virginia Electric & Power Co. have all announced substantial expansions to their systems in West Virginia. The AEP alone is launched upon a huge project west of Charleston that will cost approximately $200 million and bring to $750 million the total construction costs of all current projects of that system in West Virginia.

TWENTY-FIFTH ANNIVERSARY OF THE GI BILL OF RIGHTS

Mr. LONG. Mr. President, this coming Sunday marks the 25th anniversary of the signing of the World War II GI bill. This bill marked the culmination of more than a quarter century of Finance Committee efforts to help veterans adjust to civilian life.

Before World War I almost all veterans' benefit measures in the Senate fell within the jurisdiction of the Committee on Pensions. But as the Committee on Finance assumed jurisdiction of World War I veterans' benefits at the beginning of the war, an effort was made to bring about a change in the nature and philosophy of the whole system of benefits. The committee participated in the enactment of legislation to provide insurance and to provide new benefits in the form of vocational rehabilitation designed to return disabled veterans to useful employment.

The World War I programs had provided a new direction for veterans' benefits, but it was during the Second World War that the Finance Committee originated what was to become the best known veterans' legislation of all time: the Servicemen's Readjustment Act of 1944, better known as the GI bill of rights.

This act was based on the philosophy that veterans whose lives have been interrupted by military service, or who have been handicapped because of this military service, should be provided assistance for a limited time to aid them in becoming self-supporting and useful members of society. The act provided for unemployment allowances, education and training benefits, and home, farm, and business loan guarantee benefits through the Veterans' Administration. In addition, mustering-out payments were provided through the military departments. The Veterans' Administration has expended almost $20 billion in assisting World War II veterans to return to civilian life in this remarkably successful program.

The GI bill has served as a model for all subsequent legislation aimed at providing adjustment assistance to exservicemen. It is fitting that we mark the passage of a quarter century since the enactment of this legislative milestone.

Mr. President, I see in the Chamber the distinguished junior Senator from Georgia (Mr. TALMADGE). It was my pleasure to appoint Senator TALMADGE, a true friend of the veteran, chairman of the new Subcommittee on Veterans' Legislation which we established within the Committee on Finance. I must say that Senator TALMADGE is certainly aiming to continue his fine record of legislation on behalf of veterans. Four years ago a bill he initiated established the servicemen's group life insurance program, and he is now proposing to increase its value. Another of his bills would make comprehensive changes in the dependency and indemnity compensation.

As the Senator knows, I have introduced a few veterans' bills of my own recently. I know he plans to have hearings on these matters as soon as possible. I applaud the Senator for his initiative.

Mr. TALMADGE. Mr. President, I join the distinguished chairman of the Committee on Finance (Mr. LONG) in marking the passage of a quarter century since enactment of the GI bill of rights. The bill originated in the Committee on Finance, a committee of which I am proud to be a member, and on which I now serve as chairman of the newly created Subcommittee on Veterans' Legislation.

Our great Nation has never made a bigger or better investment in human resources than it did under the GI bill, and Congress has wisely chosen to use the

original Finance Committee's measure as a model for legislation affecting veterans of subsequent conflicts. I suspect that a good portion of our country's economic growth during this past quarter century may be attributed to this tremendous investment in human resources.

Under the original GI bill of rights, 7,800,000 veterans received $14.5 billion in educational assistance. More than 2¼ million World War II veterans use this program for college and university training, while 3,400,000 took below-college training. About 3½ million veterans of subsequent wars have received educational assistance under legislation patterned after the original GI bill.

The GI bill paid more than $3 billion in unemployment compensation to GI's while they sought employment, and provided loan guarantees so that veterans could purchase homes, farms, and businesses.

The GI bill has proven the value of our Government's investment in the future of dedicated, motivated persons. Because of the money our Government invested in these veterans, they were able to command higher paying jobs. The Veterans' Administration estimates that each year, these veterans trained under the GI bill pay a billion dollars more in taxes than they would have paid if they had not received this training. Thus, the Government has already profited from its investment. And the economic advantages do not show the immense benefits we have reaped in terms of human happiness and self-satisfaction.

RADIO STATEMENT BY SENATOR BYRD OF WEST VIRGINIA ON ESTABLISHING A MINE HEALTH AND SAFETY INSTITUTE

Mr. BYRD of West Virginia. Mr. President, on June 4, 1969, I made a statement for radio regarding the establishment of a Mine Health and Safety Institute.

I ask unanimous consent that the transcript of that statement be printed in the RECORD.

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

MINE HEALTH AND SAFETY INSTITUTE

Coal miners in West Virginia and elsewhere have long suffered the hazards and ill-health that for centuries have been associated with their occupation. And yet, remedies for many of these critical problems have still to be found. Though work in these areas has gone forward for some time, only recently has national attention focused on the largely forgotten miner and his working conditions. The reason for this attention is due in some measure to the terrible disaster last year in our state at Mannington. A renewed effort is now underway to eliminate the occupational hazards of mining.

The task of improving health and safety standards in the mines involves a coordinated effort among the state and federal governments, operators and miners themselves. But to do an effective job in eliminating the hazards of coal mining, we need qualified, highly skilled, specialized personnel to conduct mine inspections, and we need highly trained mining engineers, and superior caliber laboratory technicians. These are the people who will lead the way toward solving the health and safety problems plaguing miners today.

And so for this reason I am pressing for a program aimed at providing these sorely needed highly professional people to work in mine safety. The program would involve creation of a Mine Health and Safety Institute. The Institute will be designed to give specialized, long-term training to new federal, state, and other inspection people as well as short-term refresher courses to existing federal and state employes. In addition, the Institute would provide courses to auxiliary persons not actually engaged in underground operations.

Finding qualified people for these jobs has become a major problem. The Bureau of Mines must now rely on a pool of students graduating from mining schools throughout the country. But the number of mining schools has declined sharply from about three dozen just 15 years ago, to only 17 schools at the present time. This year, these 17 schools are graduating only about 120 mining engineers. So even if all these graduates went to the Bureau of Mines as inspectors (which of course they will not), this would still leave a considerable gap between supply and demand.

Obviously, something must be done very soon to remedy the critical shortage of trained personnel whose talents and training are of supreme importance to the health and safety of miners.

A Mine Health and Safety Institute would constitute a great step in the right direction. The recruiting and training of people to work in the field of mine safety is absolutely essential. Questionnaires have gone to various colleges and universities, and to nonprofit groups enlisting their views and suggestions on how best to establish and operate such an Institute. I am pressing for planning money for the Institute through the Senate Appropriations Subcommittee of which I am the chairman, and I will do everything in my power to see that this request gains approval in the United States Senate.

Also, I am urging additional funds to accelerate research on dust production and control. This research will include the gathering of dust samples during mining operations and the study of variables relating to dust production—such as mining machines, ventilation, and the kinds of coal being mined. The purpose is to solve the dust problem.

If we are ever to overcome the hazards both of accidents and of illness that daily threaten every coal miner in West Virginia and throughout the country, we must have the trained human resources necessary to carry out the job.

THE NATIONAL TRANSPORTATION ACT OF 1969

Mr. PELL. Mr. President, earlier this week the senior Senator from Washington introduced the National Transportation Act of 1969, S. 2425.

I rise today to commend the distinguished chairman of the Commerce Committee on his leadership in bringing forth this proposal. To my mind, this bill ranks as the most significant and potentially most beneficial transportation legislation to come before the Congress since the establishment of the Department of Transportation.

The proposed legislation, I believe, would provide at long last a mechanism for bringing into reality the long-sought goal of an adequate and balanced transportation system for our country.

As Senator MAGNUSON said in introducing it:

Our transportation needs will not be well served if we continue to develop each mode of transportation without due consideration to the overall transportation needs of our communities and careful appraisal of the appropriate mixing of alternate modes of transportation.

Mr. President, I have been advocating better balance in our transportation systems since I came to the Senate 8 years ago. My primary concern has been the utter neglect of the vast potential of ground transportation, the failure to modernize and utilize existing rail passenger transportation systems, and the need to begin development of high-speed ground transportation systems for the future.

The need and desirability of such high-speed ground transportation systems has appeared to me to be almost self-evident. In the northeast corridor, the prototype of developing megalopolitan corridors throughout our country, there is little question that almost exclusive reliance on highways and airport systems has reached a point of increasing public resistance and decreasing public convenience.

The High Speed Ground Transportation Act of 1965, to which I am proud to claim a paternal relationship, was a first and highly important step to redress the balance in transportation services. The Metroliner and turbo demonstrations of improved rail passenger service being conducted under that act has achieved a most gratifying public response. Indeed, the only complaints now voiced about that program is that it is not ambitious enough.

In advocating development and utilization of the potential of ground transportation systems, Mr. President, I have in essence been calling for a correction of the existing imbalance in our transportation systems.

The imbalance that exists, I would emphasize, is not the result of policy, but rather the result of a lack of policy. It is the result of having separate policies for each mode of transportation without reference to the overall transportation needs and requirements of our Nation, its regions, States, and communities. This is a fact that is widely recognized and acknowledged. What has been lacking is a mechanism that can provide for the formulation of balanced policies, a mechanism that can be effective while avoiding the creation of a central transportation bureaucracy with excessive powers.

The National Transportation Act, I believe, offers a most promising approach to this problem, by providing for establishment of regional transportation commissions, to prepare comprehensive regional transportation plans, and to conduct research, development, and demonstration programs in accordance with those plans.

The establishment of regional commissions is similar in its approach to the proposals I have made for the crea-

tion of regional rail transportation authorities, formed by States through interstate compacts to provide for the development of intercity rail passenger services. I might add that the National Transportation Act proposal for regional commissions is not incompatible with my proposal for regional rail authorities. Indeed, I think the proposals could well be considered complementary.

Mr. President, I again congratulate the senior Senator from Washington on his introduction of the National Transportation Act of 1969.

THE LATE SENATOR GUY CORDON

Mr. ANDERSON. Mr. President, I was saddened to hear of the death of our former colleague, Guy Cordon, of Oregon.

It was my pleasure to serve with Senator Cordon on the Committee on Interior and Insular Affairs. There I gained a great respect for his prowess as a legislative draftsman. I think that I have not met another man who, when given an assignment to prepare a piece of legislation, could put together wording so precise and exact as Guy Cordon. When he proposed language to tighten any measure before the committee, we could feel secure that it would satisfactorily explain the legislative intent we desired.

He was an active participant in matters related to the Interior. I especially remember his diligent assistance on two important pieces of legislation—the Submerged Lands Act and the Continental Shelf Act.

Mrs. Anderson joins me in expressing our condolences to Mrs. Cordon and his family.

JOE McCAFFREY—25 YEARS OF ABLE SERVICE

Mr. MUNDT. Mr. President, I am happy to join Senators in saluting Joe McCaffrey's 25th year as a Washington correspondent.

That the month of June—a particularly pleasant time of year—is the month of this anniversary is appropriate, for it typifies to some degree the type of person Joe McCaffrey is—a pleasant, warm individual, one whom we are happy to have as a friend.

Yet it should be noted that this great attribute of personal warmth and friendship never stands in the way of Joe McCaffrey's first obligation: to report the news fairly and fully.

So, in addition to a salute to mark the milestone of a quarter century of service, we also pay tribute to 25 years of honest, diligent, and fair reporting by Joe McCaffrey, reporting conducted in the highest standards of the journalism profession.

His record stands as a splendid example of service to all who are members of his profession. May he enjoy many more productive years as one of our important commentators on the Washington scene.

CPL. LARRY E. SMEDLEY, MEDAL OF HONOR

Mr. TALMADGE. Mr. President, today at the White House, the President of the United States conferred the Nation's highest military honor on a brave marine and a onetime resident of Georgia, whose father lives there now. Cpl. Larry E. Smedley, in an act of supreme gallantry and heroism, gave his life in Vietnam, and today the President presented him, posthumously, the Medal of Honor.

I praise his bravery and devotion, and extend my deepest sympathies to his family. All the Nation, and indeed all the free world, is indebted to the young men of America who are fighting so gallantly in Vietnam, and we are especially proud of those valiant men who have gone above and beyond the call of duty.

Corporal Smedley's gallant action is recorded in the citation accompanying his medal. I know the entire Senate joins me in my condolences to his family.

I ask unanimous consent that the citation be printed in the RECORD.

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

The President of the United States in the name of The Congress takes pride in presenting the Medal of Honor posthumously to Corporal Larry E. Smedley, United States Marine Corps for service as set forth in the following citation:

For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty while serving as a squad leader with Company D, First Battalion, Seventh Marines, First Marine Division, in connection with operations against the enemy in the Republic of Vietnam. On the evening of 20–21 December 1967, Corporal Smedley led his six-man squad to an ambush site at the mouth of Happy Valley, near Phouc Ninh (2) in Quang Nam Province. Later that night, an estimated 100 Viet Cong and North Vietnamese Army Regulars, carrying 122mm rocket launchers and mortars, were observed moving toward Hill 41. Realizing this was a significant enemy move to launch an attack on the vital Danang complex, Corporal Smedley immediately took sound and courageous action to stop the enemy threat. After he radioed for a reaction force, he skillfully maneuvered his men to a more advantageous position and led an attack on the numerically superior enemy force. A heavy volume of fire from an enemy machine gun positioned on the left flank of the squad inflicted several casualties on Corporal Smedley's unit. Simultaneously, an enemy rifle grenade exploded nearby, wounding him in the right foot and knocking him to the ground. Corporal Smedley disregarded this serious injury and valiantly struggled to his feet, shouting words of encouragement to his men. He fearlessly led a charge against the enemy machine gun emplacement, firing his rifle and throwing grenades, until he was again struck by enemy fire and knocked to the ground. Gravely wounded and weak from loss of blood, he rose and commenced a one-man assault against the enemy position. Although his aggressive and singlehanded attack resulted in the destruction of the machine gun, he was struck in the chest by enemy fire and fell mortally wounded. Corporal Smedley's inspiring and courageous actions, bold initiative, and selfless devotion to duty in the face of certain death were in keeping with the highest traditions of the Marine Corps and the United States Naval Service. He gallantly gave his life for his country.

CPL. LARRY E. SMEDLEY, U.S. MARINE CORPS (DECEASED)

Larry Eugene Smedley was born March 4, 1949, in Front Royal, Virginia. He attended elementary schools in Berryville, Virginia; Augusta, Georgia; Union Park, Florida; and Howard Junior High School in Union Park, leaving the latter in 1964.

He enlisted in the U.S. Marine Corps, March 18, 1966, at Orlando, Florida; then reported to the Marine Corps Recruit Depot, Parris Island, South Carolina, and underwent recruit training with the 1st Recruit Training Battalion. In July 1966, he completed Individual Combat Training with the 2d Infantry Training Battalion, 1st Infantry Training Regiment, Marine Corps Base, Camp Lejeune, North Carolina.

Upon completion of recruit training, Private Smedley served as a Rifleman and Fire Team Leader with Companies "D" and "C", respectively, 1st Battalion, 8th Marines, 2d Marine Division, FMF, Camp Lejeune. He was promoted to private first class, September 1, 1966; and to lance corporal, January 1, 1967.

In July 1967, Corporal Smedley arrived in the Republic of Vietnam. He was assigned duty as a Rifleman and Squad Radio Man with Company "D", 1st Battalion, 7th Marines, 1st Marine Division; and was promoted to corporal, September 1, 1967. While on patrol in Quang Nam Province on December 21, 1967, he was mortally wounded.

His medals and decorations include: the Purple Heart; the Presidential Unit Citation; the National Defense Service Medal; the Vietnam Service Medal with one bronze star; and the Republic of Vietnam Campaign Medal.

Corporal Smedley is survived by his parents, Mr. Russell E. Smedley of Albany, Georgia, and Mrs. Mary E. Willis of Orlando, Florida; and a sister, Mrs. Vicki Whipple, of Honeye Falls, New York.

(Prepared June 1969 HQMC.)

RADIO STATEMENT BY SENATOR BYRD OF WEST VIRGINIA ON THE ANNOUNCED TROOP WITHDRAWAL FROM VIETNAM

Mr. BYRD of West Virginia. Mr. President, on June 12, 1969, I made a statement for radio regarding the announced withdrawal of 25,000 American troops from Vietnam.

I ask unanimous consent that the transcript of that statement be printed in the RECORD.

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

VIETNAM TROOP WITHDRAWAL

The announced withdrawal of 25,000 American troops from Vietnam is an encouraging step, hopefully toward eventual disengagement of our forces in Southeast Asia. While the withdrawal is relatively small by comparison with the more than 500,000-man force now in Vietnam, there can be no dispute that the action represents a further de-escalation in the war. Now we are waiting to see concrete evidence of a corresponding de-escalation on the part of North Vietnam. When and if that comes, President Nixon is likely to announce, as he has said, plans for additional replacements as such decisions are made.

Since last year, when former President Johnson ordered a halt to the bombing of North Vietnam, we have seen steady, albeit painfuly slow, steps which seem to be headed toward a de-Americanization of this costly war. There are also slight indications that the forces for reconciliation have gained a little momentum in the Paris talks.

While the negotiations are intricate and often submerged from public view, all parties now seem at least a bit more willing than heretofore to engage in some measure of substantive talks. The North Vietnamese and the National Liberation Front on the

one hand, and the United States and Saigon on the other have publicly put forward certain proposals for discussion. And along with other moves—President Nixon's limited withdrawal, for example—the momentum gives some appearance of picking up, and every American hopes that this will continue.

At the same time, we should not fault our leaders for their cautious approach. Both the previous and present administrations have resisted calls for any immediate unilateral withdrawal or unilateral ceasefire by the United States, and for good reasons, I think. Certainly we must keep in mind that such action would jeopardize the lives of American troops, would work against the possibility of a permanent peace, and would, in effect, reward Communist aggression.

Instead of this type of precipitious action, we should look to reasoned, measured steps for bringing about an honorable and a feasible, workable, more lasting peace in that area. No one wants to see an unnecessary prolongation of the war. And above all, no one should want a capitulatory action which would mean that 35,000 American boys have died in vain.

I wish we had never gotten so deeply involved in Vietnam. But we are there, and we find it exceedingly difficult to extricate ourselves from these most trying circumstances. We must be both patient and prudent—not too quick to criticise the President or find fault with his action. On him will rest the major burden of finding a solution to this terrible conflict—the kind of solution that will better assure us of being free from such conflicts in the future.

While it may be true that this nation with its overwhelming military superiority might with little ffort completely devastate the enemy in North Vietnam, it does not follow that such a victory would bring either peace or disengagement. As President Nixon has said, and President Johnson before him, peace is what we want, not military domination. I want peace for our country, and I want an honorable solution which does not reward Communist aggression in Vietnam.

ADDRESS BY HON. ROGER T. KELLEY, ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS

Mr. GOLDWATER. Mr. President, on May 19, the Honorable Roger T. Kelley, Assistant Secretary of Defense for Manpower and Reserve Affairs, spoke before the City Club of Portland, Portland, Oreg.

Mr. Kelley's broad background in personnel work has brought to this sensitive office a new and thorough understanding.

I ask unanimous consent that his remarks be printed in the RECORD so that Senators might have the opportunity to know him a little bit better.

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

ADDRESS BY THE HONORABLE ROGER T. KELLEY, ASSISTANT SECRETARY OF DEFENSE MANPOWER AND RESERVE AFFAIRS

I want to talk to you today about the military man. I do so from a background essentially the same as many in this audience. Until March 3, when I assumed my present duties, I was a business man and had not been associated with the military since my Navy days in World War II.

My opinions reflect the perspective of a parent. I have five sons—two of draft age and three more coming up. So I, too, have a special vested interest in young people and am concerned for their welfare.

Finally, by way of introduction, I should add that I have great affection for this nation and what it stands for. The invitation to serve it, particularly in a job so closely related to the interests of our young people, was a privilege I could not pass by.

So with this brief background about myself, let me tell you what I see in my recent but extensive contact with the military man.

First, what he is. He is bigger, stronger, better educated, smarter, and more devoted to the American dream than his counterpart of any previous generation. He loves life, but will risk his own to preserve its meaning. His acts of physical and moral courage defy description. He possesses great compassion for other human beings as seen in his many silent acts of mercy in Vietnam on behalf of the innocent victims of war. He responds to effective leadership—and his military leaders are among the very best. He is rich and poor, black and white; he is neither a big spender nor a vicious killer; he is the personification of the American ideal.

That's a quick profile of the typical American military man. You don't often read about him or see pictures of him going through his daily routine. Somehow it seems the untypical type, like the draft card burner, gets the news print instead. So let's spend a few moments talking about the typical GI Joe, 1969 edition—where he comes from, what he does, and why he wears the military uniform.

First, where he comes from. He comes from Everywhere, USA—Portland, Peoria, Phoenix, Pittsburgh—you name it, and he's from there. He comes from schools, factories, public services, banks, and retail establishments. He is the nearest thing to the all-American guy to be found anywhere.

He is not the product of a special military mold—rather, he is essentially a civilian with a strong sense of public service. Most men in military service were raised in civilian society and attended civilian schools. Two out of three service families live off-base among the civilian population. Over 90% of even so-called "career" military personnel assume a career in civilian life when they complete the portion of their life they spend in service. A military man is basically a civilian like you and me who is devoting a portion of his life to public service through military service.

Second, what he does. Contrary to the well advertised myth, our military man does mostly what he is best qualified for, which in many cases is what he has asked to do. I know this to be the fact, because I have reviewed selection and placement procecedures, and have visited with these young military men about their assignments. For those of you close to the placement practices of private business, as I have been, I report simply that the military does a better job of placing people than business does.

Our military man has a widely diverse collection of skills. He is not, as many people still think of him, a man trained only to fire a gun—whose main job is to use it. He is an electronics expert, a metal worker, a ship fitter, an IBM programmer, an aircraft mechanic, a writer, a lawyer, a manager, a skilled administrative specialist. To understand what he does, one needs to know that the majority of military men are engaged in these less visible occupations. Actual figures may surprise you. Even now, with the hostilities in Vietnam, enlisted men serving in jobs that require combat type skills represent only about 17% of the total. The remaining 83% are performing tasks that are directly transferable to many civilian jobs waiting to be filled—such as maintenance and repair 32%, clerical and administrative 19%, communications and intelligence 8%, and medical 4%.

Of course, nothing can or should downgrade the vital role of the combat soldier. It is he who lays his life on the line, and it is his job which all the other jobs support. But when you hear a recruiter talk about the "new Army" or the "aerospace team," realize that he is talking about a highly sophisticated and challenging range of occupations. The American military organization is a team composed of a rich mixture of professionals.

The military man works hard at what he does—putting in longer hours under conditions often more severe than most Americans encounter in a lifetime. And even though he works hard on his assigned task, he has time and heart left over to help those less fortunate than himself. Let me give you an example or two of what I mean.

Boys Town, Danang, is a Catholic home for orphaned boys operated by a native Vietnamese priest. The home is less than two years old and was constructed at a cost of $12,000, which was raised from contributions from individual American servicemen. There are 46 orphans living at Boys Town and receiving elementary and vocational education. $100 per month toward operating costs continues to be contributed by men stationed around Danang.

The Hoa Khanh (Wah Kahn) Children's Hospital was founded by yet another battalion. Two medical officers had the original idea, and a wooden structure with 11 beds was constructed by the Sea Bees. Now a new building has been built for the hospital with 70 beds. Medical service is still provided largely by volunteers on off-duty time.

Our military man is equally public spirited in this country. At Hanscom Field, near Boston, volunteer workers conceived and manned a clinic to discover Amblyopia, or "Lazy Eye," among children. 133 were tested in the first group, and 11 were detected as having eye problems. Plans for further such programs in the Boston area are now in the works.

Third, *why* does our military man wear the uniform. The cynic might say he wears it because he was drafted into it. But the few highly publicized defectors who run away from their draft obligation pale by comparison with the young man who, with countless others, steps up to his obligation either as a volunteer or as a draftee.

Really, our military man wears his uniform for you and me—and for our today. But he also wears it for his own tomorrow—which is to say for the life and kind of society he hopes for. And I'm sure he intends to leave our society in a better state than he found it.

Yes, it's true that he inherited from our generation the highest standard of material prosperity in the world's history. But in the area of moral prosperity, have we given him as much? What does he think of our adult permissiveness and double standards? How does he square the pious church-goer who cheats on his Income Tax? Or the four-martini man who protests righteously against pot smokers? How can he respect those who say the police should stay away even when mobs invade school buildings, give its occupants the physical heave-ho, and rifle through confidential files—and who prefer instead to establish "meaningful dialogue" with the invading forces? He sees many chinks in our moral armor, and many anomalies in our adult society. But he has the stuff of which solid reform is made, if we will but give him the opportunity.

Each year a well publicized few give up on this society. They decide the only alternatives are to destroy or leave this nation. They take the easy way out. The military man has not run away. He recognizes that any free society requires order. He knows that one day his generation will be in positions of leadership, but he has learned to

follow orders and to respect the authority of those that hold those positions today. He recognizes that the United States represents the hope of the world for the kind of nation he seeks. He also recognizes that she is far nearer to achieving her basic ideals than her critics will ever concede. The military man devotes a portion of his life—and if need be he gives his life—to protect the nation from all who would try to deny him the realization of his dream of America.

Now I want to direct my remarks to you as American parents. Each year, thousands of parents face the prospect that their son will become the military man I have been talking about. It is at that point the military man becomes a very special human being to each one of us. When our day comes, I hope we may have the courage and rare wisdom that has been displayed by the vast majority of American parents who have sent their sons to military service.

I want you to know that the Department of Defense and the Military Services accept humbly and responsibly our great trust in the person of your sons. Every effort is made—given the magnitude of the organization and the complexity of the military mission—to make the best possible use of a young man's talent, and to provide him opportunities for further education and personal growth while he is serving in this nation's defense. It is our objective to return to you a better man than you sent to us.

There is one important thing which everyone in this room can do—and I believe should do. That is to speak out on behalf of the American military man. I urge you to do this for two reasons. First, the military man deserves to know that you care, and that you appreciate the sacrifice he makes on our behalf. Second, it is important that civilian America understands the facts about the military profession rather than being misled by the histrionics of a few wild-eyed off-beats.

Even if the critics of the military man number only a few, if theirs are the only voices heard they can sound like quite a chorus. I believe that the quiet majority in this country still feel a sense of gratitude to our military men for their incalculable sacrifices on our behalf. I believe as well that the quiet majority recognizes the military man as the public servant that he is.

However, too often, I'm afraid, silent approval sounds the same to the serviceman as public apathy. The men in this room are among the most important opinion leaders in the Pacific Northwest. Your voices, publicly and among your acquaintances, raised in support of our military men and the significance of a career in military service can help our men to know their sacrifices are not forgotten.

While on the subject of misinformation, let me comment briefly on the Safeguard Anti-Ballistic Missile System. People, not missiles, is my line. I don't have the technical credentials to deal with the subject of missiles, but I have had the opportunity to observe a few things about the President's decision to proceed in the deployment of the Safeguard system and the decision makes great good sense to me.

You and I know that America is so morally constituted that we will never start a nuclear war. Our planning is aimed at deterring other nations from starting such a war. It is, therefore, essential that all other nations have absolutely no doubt about the effectiveness and the survivability of our capacity to strike-back. Safeguard does this by guaranteeing the protection of several hundred of our retaliatory missiles from enemy attack. The enemy thus would know that any attack on the United States would result in certain destruction for him.

There is nothing about the Safeguard System which would cause or start a nuclear war. It provides solely important defensive insurance.

All of us hope the day will come when all nations of the world will see that production of more and more arms is not in anyone's interest. But until that day comes, we cannot afford to be without the protection of the Safeguard System.

I want to thank the City Club for the invitation to address you today on one of my favorite subjects—the American military man.

I'll feel rewarded for coming here if you see our military man as I do, standing tall and doing his part to help rebuild the American dream. I hope that criticism of the military man, including his outstanding leaders, will stir you as it does me—and that you will speak out against the vicious defamation of his character. I hope you feel, as I do, eternally grateful to our magnificient military man.

PRESIDENT NIXON'S CUTS IN THE BUDGET

Mr. METCALF. Mr. President, I have gone over President Nixon's revisions of the budget presented by President Johnson. I note that he recommended cuts in appropriations for the agriculture conservation program, soil conservation, the Veterans' Administration, student loans, hospital and library construction, and Federal assistance to schools in federally impacted areas, among others.

These cuts remind me of the story of the group of artists who created the perfect female. They announced that they had taken Brigitte Bardot's nose, Rita Hayworth's mouth, Lana Turner's eyes, and Grace Kelly's chin.

When the report was read, a voice from the audience said: "I would sure like to have what they threw away."

I think many Americans would like to have what Mr. Nixon proposes to throw away.

NECESSITY FOR ALASKA MARINE HIGHWAY SYSTEM

Mr. STEVENS. Mr. President, the 1969 session of the Alaska State Legislature has passed a resolution relating to the necessity for the Alaska marine highway system, and the need for exempting an Alaska ferry from certain provisions of the Jones Act.

I ask unanimous consent that the resolution be printed in the RECORD.

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

HOUSE RESOLUTION 29

Resolution requesting an amendment to the Jones Act to exempt the ferry vessel *M. V. Wickersham* from several of its provisions

Be it resolved by the House of Representatives:

Whereas the State of Alaska has established, at its own instigation and expense, a modern marine highway system connecting Alaska and the 48 contiguous states through the Port of Seattle; and

Whereas the Alaska Marine Highway System was devised and is operated to take the place of a highway because of the impossibility of actual road building in Southeastern Alaska; and

Whereas there is a tremendous movement in commerce, trade and tourism between the South 48 states and Alaska; and

Whereas, to better handle all of the traffic, the Alaska Marine Highway System purchased a foreign-bottomed vessel, the *M. V. Wickersham;* and

Whereas, due to the provisions of the Jones Act, the vessel is prohibited from transporting passengers and vehicles between U.S. ports, thus creating a burden on the residents of the state, on the flow of commerce and on the visitors to Alaska; and

Whereas, for the continued effective operation of the Alaska Marine Highway System, it is necessary that the *M. V. Wickersham* be exempted from certain provisions of the Jones Act;

Be it resolved by the House of Representatives of the Sixth Alaska Legislature that the United States Congress is respectfully urged to amend the Jones Act to allow the transportation of vehicles and passengers between United States ports on the *M. V. Wickersham.*

Copies of this Resolution shall be sent to the Honorable Richard M. Nixon, President of the United States; the Honorable John W. McCormack, Speaker of the House of Representatives; the Honorable Richard B. Russell, President Pro Tempore of the Senate; the Honorable Harley O. Staggers, Chairman of the House Interstate and Foreign Commerce Committee; the Honorable Warren G. Magnuson, Chairman of the Senate Commerce Committee; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Howard W. Pollock, U.S. Representative, members of the Alaska delegation in Congress.

J. M. KERTTULA,
Speaker of the House.

Attest:

CONSTANCE H. PADDOCK,
Chief Clerk of the House.

U.S. LEGAL OBLIGATION UNDER THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it is important to understand the basic international obligation the United States will assume under the Genocide Convention. In terms of practical application within the United States, genocide means the commission of such acts as killing members of a specified group and thus destroying a substantial portion of that group, as part of a plan to destroy the entire group within the territory of the United States. The convention does not purport to substitute international responsibility for national responsibility, but does obligate each nation to take steps within its own borders to protect entire human groups in their right to live.

The basic implementing language is contained in article V of the convention. This article states:

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in Article III.

A recurring argument against U.S. ratification of the conventions is that they are outside the scope of our treaty-making authority. Of course, the treaty power is expressly delegated to the President and the Senate by article II, section 2, of our Constitution. While the Supreme Court has held in *Geofroy* v. *Riggs* (133 U.S. 258, 267 (1890)) that the treaty power does not authorize what the

Constitution forbids, and again, in 1957, that the President and the Senate together cannot nullify constitutional prohibitions—*Reid* v. *Covert*, 354 U.S. 1, 17—the treaty power has been interpreted by the Court to extend beyond matters on which Congress can legislate.

I should like to answer the legalistic attacks upon these conventions by quoting from a report of the New York State Bar Association's Committee on International Law:

> No provision of any of these Conventions conflicts with express limitations on the United States and the States which are already contained in our Constitution, and particularly in the Bill of Rights.

Mr. President, the legality of this convention is apparent. Let the Senate perceive our moral obligation to mankind and ratify the Human Rights Convention Against genocide.

RECENT ARTICLE BY FORMER SECRETARY OF DEFENSE CLARK CLIFFORD

Mr. COOPER. Mr. President, the former Secretary of Defense, Mr. Clark Clifford, has written for the July issue of Foreign Affairs an important personal view of the situation in Vietnam. Mr. Clifford's role as Secretary of Defense and his growing awareness of the larger issues in our Vietnam policy are analyzed with the apparent purpose of bringing before the public his conclusions about what course this country should follow. His basic thesis is:

> We cannot realistically expect to achieve anything more through our military force, and the time has come to begin to disengage. [That was my final conclusion as I left the Pentagon on January 20, 1969.]

In most respects the intention implicit in Mr. Clifford's proposals to bring about a political solution in Vietnam were voiced by President Nixon in his press conference last night. The views gained by the personal experience of Clark Clifford should be helpful to the President in his most difficult task of bringing this war to a conclusion for which the President is working. President Nixon has taken a first and most important step by the withdrawing of 25,000 of our Armed Forces. I ask unanimous consent that Mr. Clifford's article be printed in the RECORD.

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

A VIETNAM REAPPRAISAL: THE PERSONAL HISTORY OF ONE MAN'S VIEW AND HOW IT EVOLVED

(By Clark M. Clifford)

Viet Nam remains unquestionably the transcendent problem that confronts our nation. Though the escalation has ceased, we seem to be no closer to finding our way out of this infinitely complex difficulty. The confidence of the past has become the frustration of the present. Predictions of progress and of military success, made so often by so many, have proved to be illusory as the fighting and the dying continue at a tragic rate. Within our country, the dialogue quickens and the debate sharpens. There is a growing impatience among our people, and questions regarding the war and our participation in it are being asked with increasing vehemence.

Many individuals these past years have sought to make some contribution toward finding the answers that have been so elusive. It is with this hope in mind that I present herewith the case history of one man's attitude toward Viet Nam, and the various stages of thought he experienced as he plodded painfully from one point of view to another, and another, until he arrived at the unshakable opinion he possesses today.

Views on Viet Nam have become increasingly polarized as the war has gone on without visible progress toward the traditional American military triumph. There remain some who insist that we were right to intervene militarily and, because we were right, we have no choice but to press on until the enemy knuckles under and concedes defeat. At the other extreme, and in increasing numbers, there are those who maintain that the present unsatisfactory situation proves that our Viet Nam policy has been wrong from the very beginning. There are even those who suggest that our problems in Viet Nam cast doubt on the entire course of American foreign policy since World War II. Both schools share a common and, as I see it, an erroneous concept. They both would make military victory the ultimate test of the propriety of our participation in the conflict in Southeast Asia.

I find myself unable to agree with either extreme. At the time of our original involvement in Viet Nam, I considered it to be based upon sound and unassailable premises, thoroughly consistent with our self-interest and our responsibilities. There has been no change in the exemplary character of our intentions in Viet Nam. We intervened to help a new and small nation resist subjugation by a neighboring country—a neighboring country, incidentally, which was being assisted by the resources of the world's two largest communist powers.

I see no profit and no purpose in any divisive national debate about whether we were right or wrong initially to become involved in the struggle in Vietnam. Such debate at the present time clouds the issue and obscures the pressing need for a clear and logical evaluation of our present predicament, and how we can extricate ourselves from it.

Only history will be able to tell whether or not our military presence in Southeast Asia was warranted. Certainly the decisions that brought it about were based upon a reasonable reading of the past three decades. We had seen the calamitous consequences of standing aside while totalitarian and expansionist nations moved successively against their weaker neighbors and accumulated a military might which left even the stronger nations uneasy and insecure. We had seen in the period immediately after World War II the seemingly insatiable urge of the Soviet Union to secure satellite states on its western periphery. We had seen in Asia itself the attempt by open invasion to extend communist control into the independent South of the Korean Peninsula. We had reason to feel that the fate averted in Korea through American and United Nations military force would overtake the independent countries of Asia, albeit in some what subtler form, were we to stand aside while the communist North sponsored subversion and terrorism in South Viet Nam.

The transformation that has taken place in my thinking has been brought about, however, by the conclusion that the world situation has changed dramatically, and that American involvement in Viet Nam can and must change with it. Important ingredients of this present situation include the manner in which South Viet Nam and its Asian neighbors have responded to the threat and to our own massive intervention. They also include internal developments both in Asian nations and elsewhere, and the changing relations among world powers.

The decisions which our nation faces today in Viet Nam should not be made on interpretations of the facts as they were perceived four or five or fifteen years ago, even if, through compromise, a consensus could be reached on these interpretations. They must instead be based upon our present view of our obligations as a world power; upon our current concept of our national security; upon our conclusions regarding our commitments as they exist today; upon our fervent desire to contribute to peace throughout the world; and, hopefully, upon our acceptance of the principle of enlightened self-interest.

But these are broad and general guidelines, subject to many constructions and misconstructions. They also have the obvious drawback of being remote and impersonal.

The purpose of this article is to present to the reader the intimate and highly personal experience of one man, in the hope that by so doing there will be a simpler and clearer understanding of where we are in Viet Nam today, and what we must do about it. I shall go back to the beginning and identify, as well as I can, the origins of my consciousness of the problem, the opportunities I had to obtain the facts, and the resulting evolution of what I shall guardedly refer to as my thought processes.

II

Although I had served President Truman in the White House from May 1945 until February 1950, I do not recall ever having had to focus on Southeast Asia. Indochina, as it was then universally known, was regarded by our government as a French problem. President Truman was prompted from time to time by the State Department to approve statements that seemed to me to be little more than reiterations of the long-standing American attitude against "colonialism." If any of those provoked extensive discussion at the White House, I cannot recall. For the next decade, I watched foreign affairs and the growing turbulence of Asia from the sidelines as a private citizen, increasingly concerned but not directly involved.

In the summer of 1960, Senator John Kennedy invited me to act as his transition planner, and later as liaison with the Eisenhower Administration in the interval between the election and January 20, 1961. Among the foreign policy problems that I encountered at once was a deteriorating situation in Southeast Asia. Major-General Wilton B. Persons, whom President Eisenhower had designated to work with me, explained the gravity of the situation as viewed by the outgoing Administration. I suggested to the President-elect that it would be well for him to hear President Eisenhower personally on the subject. He agreed, and accordingly General Persons and I placed Southeast Asia as the first item on the agenda of the final meeting between the outgoing and the incoming Presidents. This meeting, held on the morning of January 19, 1961, in the Cabinet Room, was attended by President Eisenhower, Secretary of State Christian Herter, Secretary of Defense Thomas Gates, Secretary of the Treasury Robert Anderson and General Persons. President-elect Kennedy had his counterparts present: Secretary of State-designate Dean Rusk, Secretary of Defense-designate Robert McNamara, Secretary of the Treasury-designate Douglas Dillon and me.

At President-elect Kennedy's suggestion, I took notes of the important subjects discussed. Most of the time, the discussion centered on Southeast Asia, with emphasis upon Laos. At that particular time, January 1961, Laos had come sharply into focus and appeared to constitute the major danger in the area.

My notes disclose the following comments by the President:

"At this point, President Eisenhower said, with considerable emotion, that Laos was the key to the entire area of Southeast Asia.

"He said that if we permitted Laos to fall, then we would have to write off all the area.

He stated we must not permit a Communist take-over. He reiterated that we should make every effort to persuade member nations of SEATO or the International Control Commission to accept the burden with us to defend the freedom of Laos.

"As he concluded these remarks, President Eisenhower stated it was imperative that Laos be defended. He said that the United States should accept this task with our allies, if we could persuade them and alone if we could not. Headed, 'Our unilateral intervention would be our last desperate hope in the event we were unable to prevail upon the other signatories to join us.'"

That morning's discussion, and the gravity with which President Eisenhower addressed the problem, had a substantial impact on me. He and his advisers were finishing eight years of responsible service to the nation. I had neither facts nor personal experience to challenge their assessment of the situation, even if I had had the inclination to do so. The thrust of the presentation was the great importance to the United States of taking a firm stand in Southeast Asia, and I accepted that judgment.

On an earlier occasion, in speaking of Southeast Asia, President Eisenhower had said that South Vietnam's capture by the Communists would bring their power several hundred miles into a hitherto free region. The freedom of 12 million people would be lost immediately, and that of 150 million in adjacent lands would be seriously endangered. The loss of South Viet Nam would set in motion a crumbling process that could, as it progressed, have grave consequences for us and for freedom.

As I listened to him in the Cabinet Room that January morning, I recalled that it was President Eisenhower who had acquainted the public with the phrase "domino theory" by using it to describe how one country after another could be expected to fall under communist control once the process started in Southeast Asia.

In the spring of 1961, I was appointed to membership on the President's Foreign Intelligence Advisory Board. In this capacity, I received briefings from time to time on affairs in Asia. The information provided the Board supported the assessment of the previous Administration, with which President Kennedy concurred. "Withdrawal in the case of Viet Nam," President Kennedy said in 1961, "and in the case of Thailand could mean the collapse of the whole area." He never wavered. A year later, he said of Viet Nam: "We are not going to withdraw from that effort. In my opinion, for us to withdraw from that effort would mean a collapse not only of South Viet Nam but Southeast Asia. So we are going to stay there." I had no occasion to question the collective opinion of our duly chosen officials.

After President Johnson took office, our involvement became greater, but so did most public and private assessments of the correctness of our course. The Tonkin Gulf resolution was adopted by the Congress in 1964 by a vote of 504 to 2. The language was stern: "The United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

When decisions were made in 1965 to increase, in very substantial fashion, the American commitment in Viet Nam. I accepted the judgment that such actions were necessary. That fall, I made a trip to Southeast Asia in my capacity as Chairman of the Foreign Intelligence Advisory Board. The optimism of our military and Vietnamese officials on the conduct of the war, together with the encouragement of our Asian allies, confirmed my belief in the correctness of our policy. In the absence at the time of indications that Hanoi had any interest in peace negotiations, I did not favor the 37-day bombing halt over the Christmas 1965–New Year 1966 holiday season. I felt such a halt could be construed by Hanoi as a sign of weakness on our part.

In 1966, I served as an adviser to President Johnson at the Manila Conference. It was an impressive gathering of the Chiefs of State and Heads of Government of the allied nations; it reassured me that we were on the right road and that our military progress was bringing us closer to the resolution of the conflict.

In the late summer of 1967, President Johnson asked me to go with his Special Assistant, General Maxwell Taylor, to review the situation in South Viet Nam, and then to visit some of our Pacific allies. We were to brief them on the war and to discuss with them the possibility of their increasing their troop commitments. Our briefings in South Viet Nam were extensive and encouraging. There were suggestions that the enemy was being hurt badly and that our bombing and superior firepower were beginning to achieve the expected results.

Our visits to the allied capitals, however, produced results that I had not foreseen. It was strikingly apparent to me that the other troop-contributing countries no longer shared our degree of concern about the war in South Viet Nam. General Taylor and I urged them to increase their participation. In the main, our plea fell on deaf ears.

Thailand, a near neighbor to South Viet Nam, with a population of some 30 million, had assigned only 2,500 men to South Viet Nam, and was in no hurry to allocate more.

The President of the Philippines advised President Johnson that he preferred we not stop there because of possible adverse public reaction. The Philippines, so close and ostensibly so vulnerable if they accepted the domino theory, had sent a hospital corps and an engineer battalion to Viet Nam, but no combat troops. It was also made clear to President Johnson that they had no intention of sending any combat personnel.

South Korea had the only sizable contingent of Asian troops assisting South Viet Nam, but officials argued that a higher level of activity on the part of the North Koreans prevented their increasing their support.

Disappointing though these visits were, I had high hopes for the success of our mission in Australia and New Zealand. I recalled that Australia, then with a much smaller population, had been able to maintain well over 300,000 troops overseas in World War II. They had sent only 7,000 to Vietnam. Surely there was hope here. But Prime Minister Holt, who had been fully briefed, presented a long list of reasons why Australia was already close to its maximum effort.

In New Zealand, we spent the better part of a day conferring with the Prime Minister and his cabinet, while hundreds of students picketed the Parliament Building carrying signs bearing peace slogans. These officials were courteous and sympathetic, as all the others had been, but they made it clear that any appreciable increase was out of the question. New Zealand at one time had 70,000 troops overseas in the various theaters of World War II. They had 500 men in Vietnam. I naturally wondered if this was their evaluation of the respective dangers of the two conflicts.

I returned home puzzled, troubled, concerned. Was it possible that our assessment of the danger to the stability of Southeast Asia and the Western Pacific was exaggerated? Was it possible that those nations which were neighbors of Vietnam had a clearer perception of the tides of world events in 1967 than we? Was it possible that we were continuing to be guided by judgments that might once have had validity but were now obsolete? In short, although I still counted myself a staunch supporter of our policies, there were nagging, not-to-be-suppressed doubts in my mind.

These doubts were dramatized a short time later back in the United States when I attended a dinner at the White House for Prime Minister Lee Kuan Yew of Singapore. His country, which knew the bitterness of defeat and occupation in World War II, had declined to send any men at all to Viet Nam. In answer to my questions as to when he thought troops might be sent, he stated he saw no possibility of that taking place because of the adverse political effect in Singapore.

Accordingly, I welcomed President Johnson's San Antonio speech of September 30, 1967, with far greater enthusiasm than I would have had I not so recently returned from the Pacific. I felt it marked a substantial step in the right direction because it offered an alternative to a military solution of the lengthy and costly conflict. Allied bombing of North Viet Nam had by now assumed a symbolic significance of enormous proportions and the President focused his attention on this. The essence of his proposal was an offer to stop the bombing of North Viet Nam if prompt and productive peace discussions with the other side would ensue. We would assume that the other side would "not take advantage" of the bombing cessation. By this formula, the President made an imaginative move to end the deadlock over the bombing and get negotiations started.

I, of course, shared the universal disappointment that the San Antonio offer evoked no favorable response from Hanoi, but my feelings were more complex than those of mere disappointment. As I listened to the official discussion in Washington, my feelings turned from disappointment to dismay. I found it was being quietly asserted that, in return for a bombing cessation in the North, the North Vietnamese must stop sending men and materiel into South Viet Nam. On the surface, this might have seemed a fair exchange. To me, it was an unfortunate interpretation that—intentionally or not—rendered the San Antonio formula virtually meaningless. The North Vietnamese had more than 100,000 men in the South. It was totally unrealistic to expect them to abandon their men by not replacing casualties, and by failing to provide them with clothing, food, munitions and other supplies. We could never expect them to accept an offer to negotiate on those conditions.

III

In mid-January 1968, President Johnson asked me to serve as Secretary of Defense, succeeding Secretary McNamara, who was leaving to become President of the World Bank. In the confirmation hearing before the Senate Armed Services Committee on January 25, I was asked about the San Antonio formula. The interpretation I gave was in accord with President Johnson's intense desire to start negotiations, and it offered a possibility of acceptance which I was convinced did not exist with the extreme and rigid interpretations that so concerned me. I said that I assumed that the North Vietnamese would "continue to transport the normal amount of goods, munitions and men to South Viet Nam" at the levels that had prevailed prior to our bombing cessation. This was my understanding of what the President meant by "not take advantage."

The varying interpretations of the San Antonio formula raised in my mind the question as to whether all of us had the same objective in view. Some, it seemed, could envision as satisfactory no solution short of the complete military defeat of the enemy. I did not count myself in this group. Although I still accepted as valid the premises of our Viet Nam involvement, I was dissatisfied with the rigidities that so limited our course of action and our alternatives.

I took office on March 1, 1968. The enemy's Tet offensive of late January and early February had been beaten back at great cost. The confidence of the American people had been badly shaken. The ability of the South Vietnamese Government to restore order and morale in the populace, and discipline and esprit in the armed forces, was being questioned. At the President's direction, General Earle G. Wheeler, Chairman of the Joint Chiefs of Staff, had flown to Viet Nam in late February for an on-the-spot conference with General Westmoreland. He had just returned and presented the military's request that over 200,000 troops be prepared for deployment to Viet Nam. These troops would be in addition to the 525,000 previously authorized. I was directed, as my first assignment, to chair a task force named by the President to determine how this new requirement could be met. We were not instructed to assess the need for substantial increases in men and materiel; we were to devise the means by which they could be provided.

My work was cut out. The task force included Secretary Rusk, Secretary Henry Fowler, Under Secretary of State Nicholas Katzenbach, Deputy Secretary of Defense Paul Nitze, General Wheeler, CIA Director Richard Helms, the President's Special Assistant, Walt Rostow, General Maxwell Taylor and other skilled and highly capable officials. All of them had had long and direct experience with Vietnamese problems. I had not. I had attended various meetings in the past several years and I had been to Vietnam three times but it was quickly apparent to me how little one knows if he has been on the periphery of a problem and not truly in it. Until the day-long sessions of early March, I had never had the opportunity of intensive analysis and fact-finding. Now I was thrust into a vigorous, ruthlessly frank assessment of our situation by the men who knew the most about it. Try though we would to stay with the assignment of devising means to meet the military's requests, fundamental questions began to recur over and over.

It is, of course, not possible to recall all the questions that were asked nor all of the answers that were given. Had a transcript of our discussions been made—one was not—it would have run to hundreds of closely printed pages. The documents brought to the table by participants would have totalled, if collected in one place—which they were not—many hundreds more. All that is pertinent to this essay are the impressions I formed, and the conclusions I ultimately reached in those days of exhausting scrutiny. In the colloquial style of those meetings, here are some of the principal issues raised and some of the answers as I understood them:

"Will 200,000 more men do the job?" I found no assurance that they would.

"If not, how many more might be needed—and when?" There was no way of knowing. "What would be involved in committing 200,000 more men to Viet Nam?" A reserve call-up of approximately 280,000, and increased draft call and an extension of tours of duty of most men then in service.

"Can the enemy respond with a buld-up of his own?" He could and he probably would.

"What are the estimated costs of the latest requests?" First calculations were on the order of $2 billion for the remaining four months of that fiscal year, and an increase of $10 to $12 billion for the year beginning July 1, 1968.

"What will be the impact on the economy?" So great that we would face the possibility of credit restrictions, a tax increase and even wage and price controls. The balance of payments would be worsened by at least half a billion dollars a year.

"Can bombing stop the war?" Never by itself. It was inflicting heavy personnel and matériel losses, but bombing by itself would not stop the war.

"Will stepping up the bombing decrease American casualties?" Very little, if at all. Our casualties were due to the intensity of the ground fighting in the South. We had already dropped a heavier tonnage of bombs than in all the threaters of World War II. During 1967, an estimated 90,000 North Vietnamese had infiltrated into South Viet Nam. In the opening weeks of 1968, infiltrators were coming in at three to four times the rate of a year earlier, despite the ferocity and intensity of our campaign of aerial interdiction.

"How long must we keep on sending our men and carrying the main burden of combat?" The South Vietnamese were doing better, but they were not ready yet to replace our troops and we did not know when they would be.

When I asked for a presentation of the military plan for attaining victory in Viet Nam, I was told that there was no plan for victory in the historic American sense. Why not? Because our forces were operating under three major political restrictions: The President had forbidden the invasion of North Viet Nam because this could trigger the mutual assistance pact between North Viet Nam and China; the President had forbidden the mining of the harbor at Haiphong, the principal port through which the North received military supplies, because a Soviet vessel might be sunk; the President had forbidden our forces to pursue the enemy into Laos and Cambodia, for to do so would spread the war, politically and geographically, with no discernible advantage. These and other restrictions which precluded an all-out, no-holds-barred military effort were wisely designed to prevent our being drawn into a larger war. We had no inclination to recommend to the President their cancellation.

"Given these circumstances, how can we win?" We would, I was told, continue to evidence our superiority over the enemy; we would continue to attack in the belief that he would reach the stage where he would find it inadvisable to go on with the war. He could not afford the attrition we were inflicting on him. And we were improving our posture all the time.

I then asked, "What is the best estimate as to how long this course of action will take? Six months? One year? Two years?" There was no agreement on an answer. Not only was there no agreement, I could find no one willing to express any confidence in his guesses. Certainly, none of us was willing to assert that he could see "light at the end of the tunnel" or that American troops would be coming home by the end of the year.

After days of this type of analysis, my concern had greatly deepened. I could not find out when the war was going to end; I could not find out the manner in which it was going to end; I could not find out whether the new requests for men and equipment were going to be enough, or whether it would take more and, if more, when and how much; I could not find out how soon the South Vietnamese forces would be ready to take over. All I had was the statement, given with too little self-assurance to be comforting, that if we persisted for an indeterminate length of time, the enemy would choose not to go on.

And so I asked, "Does anyone see any diminution in the will of the enemy after four years of our having been there, after enormous casualties and after massive destruction from our bombing?"

The answer was that there appeared to be no diminution in the will of the enemy. This reply was doubly impressive, because I was more conscious each day of domestic unrest in our own country. Draft card burnings, marches in the streets, problems on school campuses, bitterness and divisiveness were rampant. Just as disturbing to me were the economic implications of a struggle to be indefinitely continued at ever-increasing cost. The dollar was already in trouble, prices were escalating far too fast and emergency controls on foreign investment imposed on New Year's Day would be only a prelude to more stringent controls, if we were to add another $12 billion to Viet Nam spending—with perhaps still more to follow.

I was also conscious of our obligations and involvement elsewhere in the world. There were certain hopeful signs in our relations with the Soviet Union, but both nations were hampered in moving toward vitally important talks on the limitation of strategic weapons so long as the United States was committed to a military solution in Viet Nam. We could not afford to disregard our interests in the Middle East, South Asia, Africa, Western Europe and elsewhere. Even accepting the validity of our objective in Viet Nam, that objective had to be viewed in the context of our overall national interest, and could not sensibly be pursued at a price so high as to impair our ability to achieve other, and perhaps even more important, foreign policy objectives.

Also, I could not free myself from the continuing nagging doubt left over from that August trip, that if the nations living in the shadow of Viet Nam were not now persuaded by the domino theory, perhaps it was time for us to take another look. Our efforts had given the nations in that area a number of years following independence to organize and build their security. I could see no reason at this time for us to continue to add to our commitment. Finally, there was no assurance that a 40 percent increase in American troops would place us within the next few weeks, months or even years in any substantially better military position than we were in then. All that could be predicted accurately was that more troops would raise the level of combat and automatically raise the level of casualties on both sides.

And so, after these exhausting days, I was convinced that the military course we were pursuing was not only endless, but hopeless. A further substantial increase in American forces could only increase the devastation and the Americanization of the war, and thus leave us even further from our goal of a peace that would permit the people of South Viet Nam to fashion their own political and economic institutions. Henceforth, I was also convinced, our primary goal should be to level off our involvement, and to work toward gradual disengagement.

IV

To reach a conclusion and to implement it are not the same, especially when one does not have the ultimate power of decision. It now became my purpose to emphasize to my colleagues and to the President, that the United States had entered Viet Nam with a limited aim—to prevent its subjugation by the North and to enable the people of South Viet Nam to determine their own future. I also argued that we had largely accomplished that objective. Nothing required us to remain until the North had been ejected from the South, and the Saigon government had been established in complete military control of all South Viet Nam. An increase of over 200,000 in troop strength would mean that American forces would be twice the size of the regular South Vietnamese Army at that time. Our goal of building a stronger South Vietnamese Government, and an effective military force capable of ultimately taking over from us, would be frustrated rather than furthered. The more we continue to do in South Viet Nam, the less likely the South Vietnamese were to shoulder their own burden.

The debate continued at the White House for days. President Johnson encouraged me to report my findings and my views with total candor, but he was equally insistent on hearing the views of others. Finally, the

President, in the closing hours of March, made his decisions and reported them to the people on the evening of the 31st. Three related directly to the month's review of the war. First, the President announced he was establishing a ceiling of 549,500 in the American commitment to Viet Nam; the only new troops going out would be support troops previously promised. Second, we would speed up our aid to the South Vietnamese armed forces. We would equip and train them to take over major combat responsibilities from us on a much accelerated schedule. Third, speaking to Hanoi, the President stated he was greatly restricting American Bombing of the North as an invitation and an inducement to begin peace talks. We would no longer bomb north of the Twentieth Parallel. By this act of unilateral restraint, nearly 80 percent of the territory of North Viet Nam would no longer be subjected to our bombing.

I had taken office at the beginning of the month with one overriding immediate assignment—responding to the military request to strengthen our forces in Viet Nam so that we might prosecute the war more forcefully. Now my colleagues and I had two different and longer-range tasks—developing a plan for shifting the burden to the South Vietnamese as rapidly as they could be made ready, and supporting our government's diplomatic efforts to engage in peace talks.

To assess the range of progress in the first task, I went to Viet Nam in July. I was heartened by the excellent spirit and the condition of our forces, but I found distressingly little evidence that the other troop-contributing countries, or the South Vietnamese, were straining to relieve us of our burdens. Although there had been nominal increases in troop contributions from Australia and Thailand since the preceding summer, the Philippines had actually withdrawn several hundred men. The troop-contributing countries were bearing no more of the combat burden; their casualty rates were actually falling.

As for South Vietnamese officials, in discussion after discussion, I found them professing unawareness of shortcomings in such matters as troop training junior officer strength and rate of desertions. They were, I felt, too complacent when the facts were laid before them. I asked Vice President Ky, for example, about the gross desertion rate of South Vietnamese combat personnel that was running at 30 percent a year. He responded that it was so large, in part, because their men were not paid enough. I asked what his government intended to do. He suggested that we could cut back our bombing, give the money thus saved to the Saigon government, and it would be used for troop pay. He was not jesting; his suggestion was a serious one. I returned home oppressed by the pervasive Americanization of the war: we were still giving the military instructions, still doing most of the fighting, still providing all the materiel, still paying most of the bills. Worst of all, I concluded that the South Vietnamese leaders seemed content to have it that way.

The North had responded to the President's speech of March 31 and meetings had begun in Paris in May. It was, however, a euphemism to call them peace talks. In midsummer, substantive discussions had not yet begun. Our negotiators, the able and experienced Ambassador Averill Harriman and his talented associate, Cyrus Vance, were insisting that the Saigon government be a participant in the talks. Hanoi rejected this. President Johnson, rightly and understandably, refused to order a total bambing halt of the North until Hanoi would accept reciprocal restraints. Hanoi refused. With this unsatisfactory deadlock, the summer passed in Paris.

In Viet Nam, American casualty lists were tragically long, week after week. The enemy was not winning but, I felt, neither were we. There were many other areas in the world where our influence, moral force and economic contributions were sorely in demand and were limited because of our preoccupation with out involvement in Southeast Asia.

I returned from a NATO meeting in Bonn on Sunday evening, October 13, to find a summons to a White House meeting the following morning. There had been movement in Paris. There were no formal agreements, but certain "understandings" had been reached by our negotiating team and the North Vietnamese. At last the North had accepted the participation of the South in peace talks. We would stop all bombing of North Viet Nam. Substantive talks were to start promptly. We had made it clear to Hanoi that we could not continue such talks if there were indiscriminate shelling of major cities in the South, or if the demilitarized zone were violated so as to place our troops in jeopardy.

The President outlined the situation to his advisers. We spent a day of hard and full review. The Joint Chiefs of Staff were unanimous in stating that the bombing halt under these circumstances was acceptable. The State Department was authorized to report to Saigon that we had won a seat at the conference table for the Saigon government and to request the earliest possible presence of their delegation in Paris. I felt a sense of relief and hope; we were started down the road to peace.

These feelings were short-lived. The next three weeks were almost as agonizing to me as March had been. The cables from Saigon were stunning. The South Vietnamese Government, suddenly and unexpectedly, was not willing to go to Paris. First one reason, then another, then still another were cabled to Washington. As fast as one Saigon obstacle was overcome, another took its place. Incredulity turned to dismay. I felt that the President and the United States were being badly used. Even worse, I felt that Saigon was attempting to exert a veto power over our agreement to engage in peace negotiations. I admired greatly the President's ability to be patient under the most exasperating circumstances. Each day ran the risk that the North might change its mind, and that months of diligent effort at Paris would be in vain; each day saw a new effort on his part to meet the latest Saigon objection.

To satisfy himself that the bombing halt would neither jeopardize our own forces nor those of our allies, the President ordered General Creighton W. Abrams back from South Viet Nam for a personal report. Finally, on October 31, President Johnson anounced that the bombing of North Viet Nam would cease, peace talks would begin promptly and Saigon was assured of a place at the conference table. However, it took weeks to get the Saigon government to Paris, and still additional weeks to get their agreement on seating arrangements.

By the time the various difficulties had been resolved, certain clear and unequivocal opinions regarding the attitude and posture of the Saigon government had crystalized in my mind. These opinions had been forming since my trip to South Viet Nam the preceding July.

The goal of the Saigon government and the goal of the United States were no longer one and the same, if indeed they ever had been. They were not in total conflict but they were clearly not identical. We had largely accomplished the objective for which we had entered the struggle. There was no longer any question about the desire of the American people to bring the Viet Nam adventure to a close.

As Ambassador Harriman observed, it is dangerous to let your aims be escalated in the middle of a war. Keep your objectives in mind, he advised, and as soon as they are attained, call a halt. The winning of the loyalty of villagers to the central government in Saigon, the form of a postwar government, who its leaders should be and how they are to be selected—these were clearly not among our original war objectives. But these were the precise areas of our differences with the Saigon government.

As Saigon authorities saw it, the longer the war went on, with the large-scale American involvement, the more stable was their régime, and the fewer concessions they would have to make to other political groupings. If the United States were to continue its military efforts for another two or three years, perhaps the North Vietnamese and the Viet Cong would be so decimated that no concessions would be needed at all. In the meantime, vast amounts of American wealth were being poured into the South Vietnamese economy. In short, grim and distasteful though it might be, I concluded during the bleak winter weeks that Saigon was in no hurry for the fighting to end and that the Saigon régime did not want us to reach an early settlement of military issues with Hanoi.

The fact is that the creation of strong political, social and economic institutions is a job that the Vietnamese must do for themselves. We cannot do it for them, nor can they do it while our presence hangs over them so massively. President Thieu, Vice President Ky, Prime Minister Huong and those who may follow them have the task of welding viable political institutions from the 100 or more splinter groups that call themselves political parties. It is up to us to let them get on with the job. Nothing we might do could be so beneficial or could so add to the political maturity of South Viet Nam as to begin to withdraw our combat troops. Moreover, in my opinion, we cannot realistically expect to achieve anything more through our military force, and the time has come to begin to disengage. That was my final conclusion as I left the Pentagon on January 20, 1969.

V

It remains my firm opinion today. It is based not only on my personal experiences, but on the many significant changes that have occurred in the world situation in the last four years.

In 1965, the forces supported by North Viet-Nam were on the verge of a military takeover of South Viet Nam. Only by sending large numbers of American troops was it possible to prevent this from happening. The South Vietnamese were militarily weak and politically demoralized. They could not, at that time, be expected to preserve for themselves the right to determine their own future. Communist China had recently proclaimed its intention to implement the doctrine of "wars of national liberation." Khrushchev's fall from power the preceding October and Chou En-lai's visit to Moscow in November 1964 posed the dire possibility of the two communist giants working together to spread disruption throughout the underdeveloped nations of the world. Indonesia, under Sukarno, presented a posture of implacable hostility toward Malaysia, and was a destabilizing element in the entire Pacific picture. Malaysia itself, as well as Thailand and Singapore, needed time for their governmental institutions to mature. Apparent American indifference to developments in Asia might, at that time, have had a disastrous impact on the independent countries of that area.

During the past four years, the situation has altered dramatically. The armed forces of South Viet Nam have increased in size and proficiency. The political situation there has become more stable, and the governmental institutions more representative. Elsewhere in Asia, conditions of greater security exist. The bloody defeat of the attempted communist coup in Indonesia re-

moved Sukarno from power and changed the confrontation with Malaysia to cooperation between the two countries. The governments of Thailand and Singapore have made good use of these four years to increase their popular support. Australia and New Zealand have moved toward closer regional defense ties, while Japan, the Republic of Korea and Taiwan have exhibited a rate of economic growth and an improvement in living standards that discredit the teachings of Chairman Mao.

Of at least equal significance is the fact that, since 1965, relations between Russia and China have steadily worsened. The schism between these two powers is one of the watershed events of our time. Ironically, their joint support of Hanoi has contributed to the acrimony between them. It has brought into focus their competition for leadership in the communist camp. Conflicting positions on the desirability of the peace negotiations in Paris have provided a further divisive factor. In an analogous development, increased Soviet aid to North Korea has made Pyongyang less dependent on China. The Cultural Revolution and the depredations of the Red Guards have created in China a situation of internal unrest that presently preoccupies China's military forces. The recent border clashes on the Ussuri River further decrease the likelihood that China will, in the near future, be able to devote its attention and resources to the export of revolution.

These considerations are augmented by another. It seems clear that the necessity to devote more of our minds and our means to our pressing domestic problems requires that we set a chronological limit on our Vietnamese involvement.

A year ago, we placed a numerical limit on this involvement, and did so without lessening the effectiveness of the total military effort. There will undeniably, be, many problems inherent in the replacement of American combat forces with South Vietnamese forces. But whatever these problems, they must be faced. There is no way to achieve our goal of creating the conditions that will allow the South Vietnamese to determine their own future unless we begin, and begin promptly, to turn over to them the major responsibility for their own defense. This ability to defend themselves can never be developed so long as we continue to bear the brunt of the battle. Sooner or later, the test must be whether the South Vietnamese will serve their own country sufficiently well to guarantee its national survival. In my view, this test must be made sooner, rather than later.

A first step would be to inform the South Vietnamese Government that we will withdraw about 100,000 troops before the end of this year. We should also make it clear that this is not an isolated action, but the beginning of a process under which all U.S. ground combat forces will have been wtihdrawn from Viet Nam by the end of 1970. The same information should, of course, be provided to the other countries who are contributing forces for the defense of South Viet Nam.

Strenuous political and military objections to this decision must be anticipated. Arguments will be made that such a withdrawal will cause the collapse of the Saigon government and jeopardize the security of our own and allied troops. Identical arguments, however, were urged against the decisions to restrict the bombing on March 31 of last year and to stop it completely on October 31. They have proven to be unfounded. There is, in fact, no magic and no specific military rationale for the number of American troops presently in South Viet Nam. The current figure represents only the level at which the escalator stopped.

It should also be noted that our military commanders have stated flatly since last summer that no additional American troops are needed. During these months the number of South Vietnamese under arms in the Government cause has increased substantially and we have received steady reports of their improved performance. Gradual withdrawal of American combat troops thus not only would be consistent with continued overall military strength, but also would serve to substantiate the claims of the growing combat effectiveness of the South Vietnamese forces.

Concurrently with the decision to begin withdrawal, orders should be issued to our military commanders to discontinue efforts to apply maximum military pressure on the enemy and to seek instead to reduce the level of combat. The public statements of our officials show that there has yet been no change in our policy of maximum military effort. The result has been a continuation of the high level of American casualties, without any discernible impact on the peace negotiations in Paris.

While our combat troops are being withdrawn, we would continue to provide the armed forces of the Saigon government with logistic support and with our air resources. As the process goes on, we can appraise both friendly and enemy reactions. The pattern of our eventual withdrawal of noncombat troops and personnel engaged in air lift and air support can be determined on the basis of political and military developments. So long as we retain our air resources in South Viet Nam, with total air superiority, I do not believe that the lessening in the military pressure exerted by the ground forces would permit the enemy to make any significant gains. There is, moreover, the possibility of reciprocal reduction in North Vietnamese combat activity.

Our decision progressively to turn over the combat burden to the armed forces of South Viet Nam would confront the North Vietnamese leaders with a painful dilemma. Word that the Americans were beginning to withdraw might at first lead them to claims of victory. But even these initial claims could be expected to be tinged with apprehension. There has, in my view, long been considerable evidence that Hanoi fears the possibility that those whom they characterize as "puppet forces" may, with continued but gradually reduced American support, prove able to stand off the communist forces.

As American combat forces are withdrawn, Hanoi would be faced with the prospect of a prolonged and substantial presence of American air and logistics personnel in support of South Viet Nam's combat troops, which would be constantly improving in efficiency. Hanoi's only alternative would be to arrange tacitly or explicitly, for a mutual withdrawal of all external forces. In either eventuality, the resulting balance of forces should avert any danger of a blood bath which some fear might occur in the aftermath of our withdrawal.

Once our withdrawal of combat troops commences, the Saigon government would recognize, probably for the first time, that American objectives do not demand the perpetuation in power of any one group of South Vietnamese. So long as we appear prepared to remain indefinitely, there is no pressure on Saigon to dilute the control of those presently in positions of power by making room for individuals representative of other nationalist elements in South Vietnamese society.

Accordingly, I anticipate no adverse impact on the Paris negotiations from the announcement and implementation of a program of American withdrawal. Instead, I would foresee the creation of circumstances under which true bargaining may proceed among the Vietnamese present in Paris. Unquestionably, the North Vietnamese and the National Liberation Front would do so in the hope that any political settlement would move them toward eventual domination in South Viet Nam. But their hopes and expectations necessarily will yield to the political realities, and these political realities are in the final analysis, both beyond our control and beyond our ken. Moreover, they are basically none of our business. The one million South Vietnamese in the various components of the armed forces, with American logistics, air lift and air support, should be able, if they have the will, to prevent the imposition by force of a Hanoi-controlled régime. If they lack a sense or a sufficiency of national purpose, we can never force it on them.

In the long run, the security of the Pacific region will depend upon the ability of the countries there to meet the legitimate growing demands of their own people. No military strength we can bring to bear can give them internal stability or popular acceptance. In Southeast Asia, and elsewhere in the less developed regions of the world, our ability to understand and to control the basic forces that are at play is a very limited one. We can advise, we can urge, we can furnish economic aid. But American military power cannot build nations, any more than it can solve the social and economic problems that face us here at home.

This, then, is the case history of the evolution of one individual's thinking regarding Viet Nam. Throughout this entire period it has been difficult to cling closely to reality because of the constant recurrence of optimistic predictions that our task was nearly over, and that better times were just around the corner, or just over the next hill.

We cannot afford to lose sight of the fact that this is a limited war, for limited aims and employing limited power. The forces we now have deployed and the human and material costs we are now incurring have become, in my opinion, out of all proportion to our purpose. The present scale of military effort can bring us no closer to meaningful victory. It can only continue to devastate the countryside and to prolong the suffering of the Vietnamese people of every political persuasion.

Unless we have the imagination and the courage to adopt a different course, I am convinced that we will be in no better, and no different, a position a year from now than we are today.

At current casualty rates, 10,000 more American boys will have lost their lives.

We should reduce American casualties by reducing American combat forces. We should do so in accordance with a definite schedule and with a specified end point.

Let us start to bring our men home—and let us start *now*.

GUN REGISTRATION: AN ERRONEOUS PREMISE

Mr. HANSEN. Mr. President, several proposals have been introduced this year which would require either Federal or State registration and licensing of firearms, or both.

The people of Wyoming and other Western States do not feel that registration of firearms is a matter for Federal legislation. In fact, the people of many States share this sentiment. They feel, and I feel, that in this matter, the State legislature can best decide the gun control needs of the people who live in their States.

Ownership of firearms by citizens is an area in which we must recognize that the States have completely different requirements in the different areas of the country.

In Wyoming, for example, at least one firearm of some sort is kept in almost every home. Many of these weapons have

been handed down from generation to generation. At the same time, the knowledge of how to use these firearms safely and for lawful purposes has been handed down from generation to generation. Many families are able to keep meat on their tables for their children through the legal use of these firearms during the hunting seasons when Wyoming's abundant game is harvested.

Firearms also are part of the money economy in Wyoming. Many of our people are professional guides and outfitters, who serve sportsmen from throughout the Nation who visit our State for sport and relaxation.

And while it may seem strange to some from the highly developed States, predators remain a problem in Wyoming. Firearms are necessary for the protection of livestock in our State.

The feeling in our State, and I think in a big majority of the States, is that if a State has a need for stringent firearm control measures and for gun registration, let the State legislature of that particular State decide, not Congress. If the State that a Member of Congress represents has not found it in that State's best interest to enact a firearm registration law, it seems that Member should not ask Congress to inflict such a law on his own constituency, and all the other States as well.

But the main point against the various moves to register guns is made in contained an editorial published in the Washington Evening Star of June 19, 1969, concerning the gun control law in the District of Columbia. The editorial points to estimates that less than a third of the estimated number of weapons in this city have been registered. It notes that the people of Washington readily comply with a "reasonable law," but have not complied with this gun law.

A key sentence in the editorial is this:

The basic failure, however, results from an erroneous premise that this regulation might prove to be of productive help in keeping firearms out of the hands of criminals.

I ask unanimous consent that the editorial be printed in the RECORD.

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

THIS IS GUN CONTROL?

At the last report the formal deadline for registering firearms under the District's new gun-control law has passed with less than a third of the estimated number of weapons in the city signed up.

So what does the city government intend to do now? Launch a house-to-house search, perhaps, for the missing items? The silence from the District Building on the subject is quite deafening.

No doubt the exceedingly cumbersome and time-consuming requirements of the new ordinance contributed in large degree to the poor statistical performance, for the Washington public is not this contemptuous of any reasonable law. The basic failure, however, results from an erroneous premise that this regulation might prove to be of productive help in keeping firearms out of the hands of criminals.

Obviously no such ineffective law can be left unattended, and we await with interest the inventiveness of the city government as to what comes next. As to crime deterrence, however, the City Council should, as a first step, shift its focus on guns from registration to the support of some means of imposing really strong penalties upon anyone who actually uses a gun in the commission of a crime.

HOUSE TASK FORCE PROVIDES REPORT FOR CAREFUL CONSIDERATION OF CONGRESS CONCERNED WITH CAMPUS DIORDERS—SENATOR RANDOLPH STRESSES NEED TO LOWER VOTING AGE TO BRING YOUTH INTO ACTIVE POLITICAL PROCESS

Mr. RANDOLPH. Mr. President, news media yesterday carried extensive reports on the findings of a House task force which has conducted a study and survey of the situation on our Nation's campuses. The 22-Member group, headed by Representative WILLIAM BROCK III, of Tennessee, has performed an extremely valuable service for our Government and the people of this country. I commend them.

Mr. President, this study group submitted to the President a number of affirmative recommendations to resolve our student crisis. They also have said what not to do in calling for "no repressive legislation" which will label and punish the overwhelming majority in the effort to deal with the few perpetrators of violence and unlawful acts. I stress my conviction that the lawbreaker, off or on the campus, must be punished. Violence must not be condoned.

Their warning is clear on the deficiency of dialog with our young people; on the complexity and the variation of campus problems; on the depth of student unrest; on the urgency to act constructively; and more importantly, on the need to recognize the "candor, sincerity, and basic decency of the vast majority of students" who have not lost faith in our system, and wish to contribute to making it work even better.

The danger we face if we fail to recognize that the vast majority of students harbor genuine concerns is stressed in the conclusion of the report:

It is clear that if violence on our campuses does not end, and if the reaction to it is on the one extreme too lax, or on the other extreme too harsh and indiscriminate, the vast moderate student majority may be forced into the arms of the revolutionaries, and those few who seek to destroy the fabric of higher education will have succeeded.

This is a frightening prospect.

Let there be no mistake. Our colleagues in the House have not rationalized violence with high sounding philosophical arguments. They recognize that there are persons—although few in number—who seek to destroy our educational institutions. But they also have forcefully presented a realistic appraisal of the attitude and motivation of the larger segment of our student population. Implicit in their comments is the answer to the question of why our moderate students have not risen in arms to stop disorders. I again quote from the report:

There is on the campus today a new awareness of potential student power and the emergence of a large group, probably the vast majority of student leaders and a substantial number of intelligent, concerned and perplexed young people, which has genuine concern over what it feels is the difference between the promise and performance of America.

While these students have no monolithic leadership or single set of goals, they are fairly united in questioning many of the values of our system. The revolutionaries on campus who desire to destroy our system are few in number. The vast majority of students are not poised on the edge of revolution and have not lost faith in our system.

However, many students can be radicalized when violence or confrontation on campus occurs. Also, disillusionment in our system by students can grow, even without violence, if we place one label on all students and fail to understand that they raise many areas of legitimate concern.

Mr. President, there will be understandable disagreement in this body with my comments on the findings of the House Members. Their statements—especially their emphasis—will be challenged. This is a part of our democratic process. But evaluation of any study or report must be formulated with a view toward the source. In this regard, the comments of our colleagues are particularly significant. The group was not composed of ivory tower theorists. They are not members of a commission who conduct their study, make their report, hold their news conference, and then return to primary occupations which might be a world away from the issue. No, Mr. President, the men who made this report are politicians, whose futures in great part could be influenced by the tone and substance of their statements. They have signed a document which they must justify in response to their constituents who are deeply perplexed, troubled, and in many cases outraged by the happenings on our campuses. Often overreaction can do damage. Because of this danger, I believe the report of the House task force takes on added significance and meaning.

The findings and recommendations indeed merit careful consideration and study by the President and his advisers and by the Congress. Although indirect solutions compose a part of the report, there are realistic proposals which the executive branch and the Congress—in concert—can move to implement. I particularly call attention to the proposal that the voting age be lowered to 18.

The report strongly recommends lowering the voting age to permit "active involvement in the political process which can constructively focus youthful idealism on the most effective means of change in a free society."

To this I say, "Amen." For years in the House and in the Senate, I have advocated lowering the voting age to 18. I have introduced several bills for a constitutional amendment approach to this goal of youth voting. I am now encouraged by 34 Senators cosponsoring my Senate Joint Resolution 7.

Today, I believe this is a crucial issue. And it is one of the most important ways through which our society can express a belief in our young people. Extending the franchise to those between the ages of 18 and 21 would constitute a meaningful and constructive step in allowing the majority of our college students—described in the report as possessing

candor, sincerity and basic decency—to participate in our system.

Mr. President, this is something on which the Congress can initiate action immediately. The mechanism is there. And I place the burden on the Congress because the approval of a constitutional amendment is the only action which will give impetus to lower the voting age. As I have stated time and again, if we wait for the States to act individually, many years will pass before our 18- to 21-year-olds will be voting. But a constitutional amendment will place the issue foursquare before the States. And it is my belief it would be ratified.

Even though it takes time to approve a constitutional amendment, the submission of such a proposal to the States by the Congress will be a vital start toward bringing our young people into full partnership in our society. It will be an appropriate forerunner of other measures which recognize the new awareness, idealism, and talents of our young citizens.

It is particularly critical that we afford our young people the opportunity to seek answers, to express their views, and to use their influence in the development of our national policies. Young persons want to do this—and they want to do it in an orderly and effective manner. That youth can participate—and participate in a constructive manner—was evidenced in the political campaigns of 1968. Those campaigns are over. Now it is not sufficient for us to look back and praise young people for their persevering efforts. Rather, our responsibility is to renew the efforts to bring youth into the discussion, formulation, and implementation of our policies. This is a worthy objective. Its accomplishment will benefit our Republic.

My support for this proposal is basically twofold. It is my belief that those in the age group of 18 to 21 are capable of discharging the right to vote in an intelligent and conscientious manner. And a democracy thrives when its base is broadened and additional persons are brought into the democratic process. Full participation is the ideal for which we strive. We accomplished this in giving women the right to vote, in eliminating the poll tax, in passing the Voting Rights Act, and in other measures. Now is the time to further extend our base by affording young people the opportunity for full participation.

Seven percent of our population is in the age group of 18 to 21. These approximately 13 million persons are actually adults in our society. They are in the education process; they have jobs. And for the most part, they can marry, buy insurance, sign wills, and are treated as adults in the courts of law and are brought into the Armed Forces to defend their country. Additionally, our young persons participate in the Peace Corps, in VISTA, and the community action and charitable programs. I feel the youth of today are better educated and more aware. And, more importantly, I think our young people possess a greater social conscience; are more perplexed by the injustices which exist in the world; and are more anxious to rectify these ills.

The future, in large part, belongs to youth. It is imperative that they have the opportunity to help set the course of that future.

My estimate of young people is high. It continues to grow. I feel that our youth is equal to the challenges of today and tomorrow. They will aid in bringing into being a better world than those of past generations have been able to create.

Mr. President, I realize that voting age lowering is only one facet of the report by the House Members. But I believe so strongly in this proposition that I have commented at length. It is gratifying that our colleagues determined that the recommendation for a lower voting age should be one of their key recommendations.

ABM SUPPORTED WITHOUT RESERVATION

Mr. HANSEN. Mr. President, a great verbal battle has raged in the Senate for many weeks over the merits of the anti-ballistic-missile system proposal.

While some observers have called this a battle for headlines, and because of numerous publications on the issue have also termed the controversy "the battle of books," I am aware of the deep-rooted misgivings some Senators have about the wisdom of the Safeguard proposal.

Nationwide polls have indicated that the American people by a substantial majority favor the deployment of the Safeguard proposal in the interest of the national security, and a vast majority do have an opinion on whether an ABM system is in the best interest of the security of the people.

It is time we heard from the experts whose whole concern is the protection of life and property in these United States. One such organization is the Civil Defense Association of Wyoming. The Wyoming Association on May 15, 1969, approved unanimously a resolution supporting the Safeguard proposal "without reservation." From personal knowledge, I categorically assert that the motives of this association cannot be impugned.

I ask unanimous consent to have printed in the RECORD the complete text of the resolution adopted by the Civil Defense Association of Wyoming.

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

RESOLUTION—APPROVED UNANIMOUSLY BY THE CIVIL DEFENSE ASSOCIATION OF WYOMING, MAY 15, 1969

Whereas Civil Defense is concerned with the protection of life and property under any condition; and:

Whereas the National posture for the protection of all citizens should be the concern of all elected officials at all levels of government, and:

Whereas the proposed Anti-Ballistic Missile System would provide the best known protection from a nuclear threat of an aggressor nation, and:

Whereas the National Fallout Shelter Program is the primary and only element of Civil Defense planning and programming for the protection of the population from nuclear accident or attack, and:

Whereas time is the most limited commodity during periods of international tension:

Now therefore be it resolved that the Civil Defense Association of Wyoming supports without reservation President Richard M. Nixon's proposed Anti-Ballistic Missile System, and encourages the Congressional delegation from the State of Wyoming and all other states in Region Six, Office of Civil Defense, to assist in bringing this protection to the population of the United States at the earliest possible date, and:

Be it further resolved that this resolution be forwarded to the United States Civil Defense Council through its Region Six representatives meeting at Joplin, Missouri, on 17, 18, and 19 June 1969, begging that body to endorse this action in support of President Nixon and his proposed national defense effort.

FACT BOOK ON ANTIBALLISTIC MISSILE

Mr. MONDALE. Mr. President, as the vote on the Safeguard ABM system draws near, it becomes increasingly important for each Senator to inform himself fully on this critical issue.

In recent months we have received a deluge of material on both sides of the question. Unfortunately, much of this material tends to be colored by the views of the author, whether it be a prominent scientist opposing deployment or the Department of Defense trying to justify it.

For a fair, lucid, and factual presentation of the basic facts about the Safeguard system and an excellent summary of the best arguments for and against deployment, I commend to the attention of Senators, particularly those who have not yet made up their minds on the issue, the Democratic study group fact book entitled "ABM." The Democratic study group booklet provides all the basic information one requires to come to an informed judgment on deploying the Safeguard systems, in addition to a bibliography for further study of material available from the CONGRESSIONAL RECORD. It has been praised by Representatives who support and those who oppose the Safeguard system. I have found the booklet most useful.

Mr. President, I ask unanimous consent that the Democratic study group fact book entitled "ABM," prepared by the Democratic study group in the House of Representatives, be printed in the RECORD.

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

ABM—DEMOCRATIC STUDY GROUP, U.S. HOUSE OF REPRESENTATIVES, 1969

I. INTRODUCTION

This DSG Fact Book is designed to provide Members of Congress with a basic understanding of the proposed SAFEGUARD ABM system, a history of anti-ballistic missile development and the ABM debate, and a fair and factual exposition of the arguments for and against SAFEGUARD deployment.

The controversy over the proposal to deploy an anti-ballistic missile system is certain to rank as one of the key issues of the 91st Congress. In addition to the immediate defense and foreign policy considerations involved, the ABM debate has other ramifications as well. It has helped stimulate a critical examination of national commitments and the size of the defense establishment needed to fulfill these commitments, and it is expected to produce closer Congressional scrutiny of future defense proposals.

SAFEGUARD authorization bills are currently being considered by both the House and Senate Armed Services Committees. The first vote on the issue, however, is expected to come in the Senate. If authorization is approved, funds for SAFEGUARD will be included in both the Department of Defense (DOD) and Atomic Energy Commission (AEC) appropriation bills later in the year.

II. HOW SAFEGUARD WORKS AND WHAT IT WILL COST

An anti-ballistic missile (ABM) is a missile armed with a warhead designed to destroy an enemy incoming intercontinental ballistic missile (ICBM) warhead. In order to accomplish its goal an ABM system such as Safeguard depends on the perfect working of three subsystems—radars, computers, and missiles—plus interconnecting communications and controls.

Radars

Safeguard uses two kinds of radar. A long range Perimeter Asquisition Radar (PAR) picks up the incoming ICBM at a range of 1,000 to 2,000 miles (8 to 15 minutes flight time) from its target and fixes its trajectory. As the ICBM closes, a second radar, the Missile Site Radar (MSR) takes over and guides the ABM to the point of intercept. The MSR can handle many ICBMs and ABMs at the same time.

Computers

The computer system involved in Safeguard will be the largest and most complex ever built—the equivalent of 100 large commercial computers. Its function is to interpret radar signals, identify potential targets, track incoming objects, predict trajectories, distinguish between warheads and decoys, eliminate false targets, reject signals from earlier nuclear explosions, correct for blackout effects, program, arm, and fire the ABMs—and correct itself—all in ten minutes.

Missiles

Two kinds of missiles are used in Safeguard. The *Spartan* has a range of about 400 miles and employs a warhead in the megaton range (1 megaton equals 1 million tons of TNT). *Spartan* intercepts its target above the atmosphere and destroys the incoming missile by radiation from the explosion of its warhead.

The second missile, *Sprint*, has a range of about 25 miles. It has an extremely rapid rate of acceleration and is designed to take care of those enemy missiles that get past the *Spartans*. Because it intercepts in the atmosphere, it has a much smaller warhead of a few kilotons (1 kiloton equals 1 thousand tons of TNT) and must therefore come much closer to the incoming missile. *Sprint* does not have to deal with decoys and other penetration aids as they will have burnt up or fallen behind the incoming missile as it enters the atmosphere.

A typical site

An ABM installation in the Safeguard system might have a PAR but would definitely have an MSR, computer installations, 35 or so *Spartans*, slightly more *Sprints* (many more if it were in the Minuteman fields), command and control structures, and personnel barracks. The site itself, particularly the MSR, would be almost as vulnerable as a city or a bomber base and far more vulnerable than a missile silo.

Sentinel and Safeguard Compared

While SAFEGUARD and SENTINEL consist of the same components and are essentially similar in deployment, the following differences should be noted:

1. Most of the SENTINEL installations were to have been near major cities. The SAFEGUARD installations have been moved from the vicinity of cities (except for the National Command Authority at Washington, D.C.), and reduced in number from 15 to 12. The same geographic coverage is given, except that the area around New Orleans, La., is left unprotected. The seven installations not located in the Minuteman fields (Malstrom AFB-Montana, Grand Forks AFB-North Dakota, Warren AFB-Wyoming, Whiteman AFB-Missouri) and Washington, D.C., are to be located at or near SAC bases to protect the manned bomber deterrent.

2. SAFEGUARD would have two additional PARs, located in Southern California and Georgia or Florida, to give the system the capability to respond to attack from any direction. 15 faces have been added to the PARs and the MSRs to permit a 360 degree scan.

3. While SENTINEL had *Sprints* only at the PARs, SAFEGUARD will have *Sprints* at all sites. The sites in the Minuteman fields will have considerably more *Sprints* than the other sites.

4. Work was to have begun on all of the sites in the SENTINEL system. A deployment timetable is attached to the SAFEGUARD proposal; funds requested in Secretary Laird's FY 1970 DOD budget revision are to be used to begin work on the Malstrom and Grand Forks sites and procure land for the other ten installations.

Status of Safeguard components

The PAR is in the design stage; performance will be simulated by a radar operating at the Kwajalein test site and the first PAR built directly at an operational site. The first MSR has completed factory tests and is now being tested at Kwajalein. *Spartan* is in the flight test stage. *Sprint* is in the test firing stage. The computer system is partially operational at the contractor's plant, but the "time shared" approach necessary to govern the complete computer system is still being developed by data-processing theorists. The first two SAFEGUARD sites are expected to be operational by 1973.

Cost

The cost of the complete SENTINEL system was estimated by DOD at $5.5 BILLION. The cost of SAFEGUARD is estimated at between $6.6 and $7 BILLION. However, DOD estimates do not include $1.2 BILLION for Spartan and Sprint nuclear warheads, which appears in the AEC request. Thus SAFEGUARD would cost between $7.8 and $8.2 BILLION. DOD anticipates modifications in the system as it is deployed to take advantage of technological developments and to offset adversary improvements in offensive weaponry which would lead to additional funding requests.

The use of FY 1970 ABM monies is compared as follows:

[In millions of dollars]

	Sentinel	Safeguard
Research and development	335	401
Procurement	736	361
Construction	647	97
Operations and maintenance	70	23
Military pay and allowances		10
Total	1,788	892

In addition, a total of $235 million unobligated FY 1969 SENTINEL money will be allocated for the SAFEGUARD program.

III. THE EVOLUTION OF THE ABM—AND THE ABM DEBATE

Summary

The debate over an ABM began in the mid fifties when the Army instituted studies of the application of the NIKE AJAX and NIKE HERCULES anti-aircraft systems to defense against missiles. Rapid development of the ICBM by both the Soviet Union and the United States at the end of the 1950s provided the impetus for ABM development. By 1959 the official consensus was that an ABM system that would protect the United States from massive missile attack was unworkable. President Eisenhower therefore halted NIKE ZEUS deployment.

Pressure for deployment, however, did not abate. In 1960 Secretary of Defense McElroy rejected Army requests for $400 million for NIKE ZEUS production; when Congress appropriated the money anyway he refused to spend it. The Kennedy Administration opted for a strategy of deterrence through an "assured destruction" capability on each side and kept the ABM in the research and development phase. Technological advances and an emerging Chinese capability, however, caused the Johnson Administration to authorize deployment of a "thin" cities-protecting ABM system in September of 1967. During 1968, heated controversy over the decision to deploy developed in the scientific community, in the Senate, and in the public at large.

In March of 1969 President Nixon announced the deployment of a modified SENTINEL, to be called SAFEGUARD, and in the course of defending this proposal during March, April, and May the Administration developed a number of justifications, some of them contradictory, for going ahead with an ABM. These justifications also represented policy reversals of positions taken by the Johnson Administration.

Chronology

February 1955. DOD contracts feasibility studies for the proposed Nike Zeus ABM with Bell Telephone Laboratories.

July 1955. Research and development focuses on the ICBM as the primary target of any emergent ABM system.

January 1957. Full system deployment of Nike-Zeus is ordered by the Army.

September 1957. The Atomic Energy Commission completes a feasibility study of the Nike-Zeus warhead.

June 1959. Joint AEC-Army activities commence on development engineering for a *Zeus* missile warhead.

August 1959. First *Zeus* missile is fired at the White Sands Missile Range.

November 1959. President Eisenhower orders cessation of Nike-Zeus deployment (radar ineffective, easily overwhelmed by decoys) but authorizes continuation of research and development.

April 1961. The Kennedy Administration decides to keep United States ABM development in the research and development phase.

July 1962. First successful ICBM-*Zeus* missile intercept is conducted.

January 1963. DOD authorizes the Army to begin research and development on the Nike X ABM system, which employs two types of missile and electronically operated radars that can handle numerous targets simultaneously.

March 1963. Contract for the *Sprint* missile—short range, rapid acceleration component of Nike X—is awarded.

Summer 1963. The Senate Armed Services Committee, in an attempt to force an Executive decision for the deployment of an ABM system, seeks the addition of $196 million for ABM deployment to the defense authorization bill for FY 1964. The full Senate, however, rejects the move at the insistence of the Administration.

Fall 1963. The Soviet Union announces that it has produced a prototype of an effective anti-missile missile.

January 1964. President Johnson orders cutbacks in U.S. manufacture of fissionable materials and manufacture of arms, and urges the Soviet Union to do likewise as a step toward the "eventual abolition of arms."

July 1964. Testing of new multiple-array radar (MAR) system, a radically improved radar designed for Nike X, is initiated.

October 1964. Communist China detonates a low-yield atomic bomb—its first.

May 1965. Communist China detonates its second atom bomb, one of low-intermediate yield.

October 1965. NIKE X development study completed by the Army and presented to the Secretary of Defense.

November 1965. First successful flight conducted of the maneuverable *Sprint* missile, short range NIKE X component.

May 1966. China detonates its first hydrogen bomb.

October 1966. China tests its first missile-delivered device, equipped with a low-yield fissionable warhead.

November 1966. Secretary McNamara announces that the Soviet Union has begun deployment of the Galosh (Nike-Zeus-type) ABM defense system around Moscow.

December 1966. China detonates its second hydrogen bomb.

Congress approves $167.9 for ABM procurement without the request of the Secretary of Defense.

January 1967. President Johnson declares that no U.S. ABM deployment will be made until completion of arms control negotiations with the Soviet Union, and requests discussions for control of ABMs.

Defense Secretary McNamara, in his defense posture statement, presents a detailed argument *against* deployment of a complete, Soviet-oriented ABM system: "It is a virtual certainty that the Soviets will act to maintain their deterrent, which casts grave doubts on the deploying of the NIKE X system for the protection of our cities against the heavy, sophisticated missile attack that they could launch in the 1970s."

General Wheeler, Chairman of the Joint Chiefs of Staff, expresses disagreement with the McNamara position and recommends a "measure of defense" for the country. The JCS recommends a two stage deployment plan: (a) $9.9 BILLION to provide 25 cities with ABM defense; (b) $19.4 BILLION to add 25 more cities and thicken *Sprint* defense.

February 1967. The Soviet Union announces that it has developed an ABM system capable of protecting it against attack.

Dr. John Foster, then as now DOD Director of Research and Engineering, says: "As a matter of technical judgment I believe that these larger (ABM) deployments carry with them technical risks. The likelihood of large and sophisticated attacks with the deployment of significant U.S. defense increases the technical uncertainty of the defense system."

June 1967. The House Appropriations Committee report on the DOD appropriations bill for FY 1968 states: "It would appear that the initiation of deployment of 'light' or 'thin' defense, now, may very well be a most useful first step toward whatever level of ballistic missile defense ultimately appears necessary."

At the Glassboro Conference President Johnson declares his hope to work with the Soviet Union in limiting development of strategic nuclear weapons, including ABM systems.

Summer 1967. The FY 1968 military budget, containing a total of $782.9 million for anti-ballistic missiles, is approved by the 90th Congress. Of these funds, $297.6 million are allocated for ABM procurement, $421.3 million for ABM research and development, and $64 million for ABM construction. Of this amount, $366 million is specified for the Sentinel system, an allocation that President Johnson requested in anticipation of a decision to deploy.

Heated controversy over the question of ABM deployment develops in Congressional debate over appropriations for FY 1968.

September 1967. Secretary McNamara outlines the futility of erecting a Soviet-oriented ABM but announces that "there are marginal grounds for concluding that a light deployment against this possibility (a U.S. Chinese nuclear clash) is prudent." Intelligence estimates a Chinese nuclear capability of 20–30 ICBMs by 1975.

November 1967. DOD announces that the ABM system to be deployed (named Sentinel) is a thin configuration of the Nike X system, and identifies the first ten areas to be surveyed as possible site locations.

March 1968. President Johnson says the Sentinel program is of the highest national priority.

April 1968. In opening debate on the DOD appropriations bill for FY 1969 the Senate rejects, by a vote of 28–31, an amendment to delay deployment of the ABM until certified as "practicable" by the Secretary of Defense.

June 1968. The Senate rejects by a vote of 34–52 an amendment to delay ABM construction funds for one year.

Foreign Minister Gromyko announces Soviet willingness to engage in talks with the United States about strategic arms limitations: "The Soviet Union is ready to enter an exchange of opinions . . . (on) the mutual limitation and later reduction of strategic weapons, both offensive and defensive, including anti-ballistic missiles."

The House of Representatives rejects an amendment to the Defense Appropriations Act for FY 1969 to delete acquisitions of property and construction of related ABM facilities 37–106, on a teller vote.

August 1968. A Senate amendment to delete all funds for ABM construction is rejected 27–46.

The Soviet invasion of Czechoslovakia serves to jeopardize proposed arms control talks and stimulates pressure for ABM deployment in the U.S.

September 1968. Secretary Clifford directs that Sentinel be exempted from the expenditures reduction program.

October 1968. The Senate rejects, by a 25–45 vote, a proposal to delay construction of SENTINEL for one year.

December 1968. Citizen opposition to proposed sites at Boston, Chicago, and Seattle becomes vocal.

January 1969. Secretary Clifford in his report accompanying the DOD FY 1970 budget request concludes: ". . . even if the Soviets attempt to match us in numbers of strategic missiles we shall continue to have, as far into the future as we can now discern, a very substantial qualitative lead and a distinct superiority in the numbers of deliverable weapons and the overall combat effectiveness of our strategic offensive forces."

President Nixon takes office and initiates a DOD review of strategic offensive and defensive priorities.

February 1969: President Nixon on the 6th says: "I do not buy the assumption that the ABM was simply for the purpose of protecting ourselves against attack from Communist China."

On the 13th Secretary Laird stresses the priority of a Chinese-oriented ABM: "I am more concerned about that defense (against the Chinese threat) than I am about any other kind of defense at the present time."

On the 20th Secretary Laird says that an ABM system is necessary because the Soviet Union is deploying a "sophisticated new ABM system."

March 1969. At a press conference on March 14 President Nixon announces deployment of a modified Sentinel, to be called Safeguard, because: "The Soviet Union has engaged in a buildup of its strategic forces larger than was envisaged in 1967."

On the 20th Secretary Laird reverses his earlier position and says the Soviet Union is not deploying a "third generation" ABM system around Moscow but is only testing such an improved system.

The following day Secretary Laird says the Soviet Union is "going for a first-strike capability, and there is no question about it."

On the 27th Secretary Laird submits his amendments to the FY 1969 supplemental and FY 1970 DOD budget to the House Armed Services Committee and requests $900 million for Safeguard procurement and construction. In addition to this, $330 million from FY 1969 could be carried over to FY 1970 for Safeguard costs. Secretary Laird estimates the total cost of the system at $6–$7 billion, an increase of $500 million to $1.5 billion over the Johnson Administration request. In the report accompanying his requests, Secretary Laird says Safeguard deployment is necessary because "the option of safeguarding our deterrent forces against this potential threat (the Soviet threat) cannot be preserved by research and development alone."

April 1969. Following Secretary Laird's "first-strike" remark, a controversy develops within the Administration over Soviet capabilities and intentions. Secretary Rogers at a press conference on the 7th seems to contradict Secretary Laird: ". . . insofar as whether they (the Soviets) are doing it (deploying the SS–9 with the intention of actually having a first strike, I don't believe that."

Spokesmen for the Administration contradict Secretary Laird's statement on the necessity for going beyond the research and development stage. On the 15th, Vice President Agnew characterizes SAFEGUARD as "really just a rather small research and development project, with two test sites, at Minuteman bases." Two weeks later, Deputy Secretary Packard echoes Agnew and calls SAFEGUARD "really a prototype deployment—a kind of research and development."

Doubt begins to arise over Secretary Laird's estimate of the Soviet threat. Former Deputy Secretary Nitze, testifying on behalf of SAFEGUARD before the Senate Armed Services Committee, declines to endorse Secretary Laird's view that the Soviet Union is working toward a first-strike capability. CIA Director Helms, testifying before a closed session of the Foreign Relations Committee, reportedly characterizes the Soviet threat as the same that faced the previous Administration.

Public and Congressional controversy continues. Governor William Guy of North Dakota, slated to receive one of the first two SAFEGUARD sites, announces his unqualified opposition to the project and concludes "our Nation is being swept along by contrived hysteria to keep the pipeline of the defense industries full." Administration and opposition head-counters agree that the decision in the Senate will hinge on how six uncommitted Senators divide on the issue.

May 1969. It is learned that the total cost of the SAFEGUARD system as announced by Secretary Laird and Deputy Secretary Packard ($6–$7 billion) does not include the costs of the nuclear warheads. The warheads are in the AEC budget and will add at least $1.2 billion to the original estimate.

Later in the month the Defense Marketing Survey, a McGraw-Hill service for defense contractors, concludes DOD costs for SAFEGUARD will be $12.2 billion.

On the 9th, Governor Forrest Anderson of Montana, site of one of the first two SAFEGUARD installations, states: "I have concluded that the proposed ABM system—called SAFEGUARD—would not be in the best interest of Montana and I seriously question whether the system would enhance our national defense posture."

On the 10th, Rear Admiral Levering Smith, Director of Strategic Systems Projects for the Navy questions Secretary Laird's evaluation of the future vulnerability of the Polaris submarine deterrent: "I am quite positive that the new generation of Russian submarines that are getting close to operational status, that are now being tested, will not be able to follow our Polaris submarines." Admiral Smith also denys that the Soviet Union has new anti-submarine warfare methods,

such as superior sonar or a satellite detection capability, that would make the Polaris fleet vulnerable.

On the 12th, Dr. John Foster, DOD Director of Research and Engineering, upgrades the possible SS–9 threat as stated by Secretary Laird and Packard (500) to 600 by 1975. He takes heated issue with those scientists who question SAFEGUARD's reliability.

May 1969. On the 13th, Deputy Secretary Packard reverses an earlier position and says that SENTINEL monies are being used for production of SAFEGUARD missiles and radars. Packard previously had taken the position that new Congressional authority was required for work on SAFEGUARD.

On the 19th, House Speaker McCormack tells the Democratic and Republican leadership that he prefers to have the House vote on SAFEGUARD after the Senate rather than first.

The nation's two largest unions, the UAW and the Teamsters, announce their opposition to SAFEGUARD deployment, and a number of city councils and big city Mayors question the need for the system.

At the end of the month, new groups supporting SAFEGUARD are founded. Dean Acheson is announced as the organizer of one and it is revealed that a second has been organized among financial supporters of President Nixon by a White House aide. These groups join the American Security Council and the Liberty Lobby in backing SAFEGUARD.

June 1969. Controversy develops over a classified Pentagon chart that reportedly shows SAFEGUARD to be a very poor defense of retaliatory Minuteman Missiles. Sources say that the chart shows the addition of only a few SS–9s would overcome the SAFEGUARD ABM.

Later in the month the Pentagon releases a White Paper that says the Soviet Union is testing MIRVs in the Pacific. The next day other intelligence sources outside the Pentagon, particularly the CIA, support Secretary Roger's contention that the Soviet warheads being tested are not independently targeted.

Secretary Laird tells the House Appropriations Committee that a projected Chinese deployment of 25 ICBMs would justify going from the two-site configuration currently requested to the complete 12-site Safeguard system.

IV. POINTS OF CONTROVERSY

A number of points of controversy have arisen in the course of the debate over the SAFEGUARD system. The following fifteen questions are those that are most often raised by supporters and opponents of deployment. Because in most cases the opposition is responding to arguments for deployment advanced by supporters, the *Con* arguments require somewhat more space than the *Pro* for elaboration.

Will the United States second strike capability be vulnerable by 1975?

Pro

Yes. Recent Soviet developments in the weapons field pose a threat to all three elements of our retaliatory mix (Minuteman and Titan, Polaris, and our manned bomber force):

1. The Soviet Union is continuing to deploy the large SS–9 missile; its present force of 200 may go to 500 by 1975.

2. The Soviet Union is testing Multiple Re-entry Vehicles and will be able to deploy them on SS–9 missiles by 1975.

3. The Soviet Union is developing a fractional orbiting bombardment system (FOBS) and serially producing Polaris-type submarines. A FOBS capability and a large Polaris-type force could neutralize our bomber deterrent in 1975.

4. The Soviet Union is developing an anti-submarine warfare capability (ASW) that by 1975 could neutralize our Polaris deterrent.

5. The Soviet Union has deployed the GALOSH (NIKE ZEUS-type) ABM around Moscow.

Con

No.

Recent developments in the weapons field were known to the previous Administration which concluded that the U.S. second strike capability was invulnerable for the foreseeable future:

1. The accuracy of the SS–9 against hard targets is very doubtful; by 1975 we will still vastly outnumber the Soviet Union in accurately deliverable megatonnage.

2. The Soviet Union is far behind the U.S. in targeting Multiple Re-entry Vehicles independently and their progress in this field is more than matched by ours.

3. The U.S. has discarded FOBS as impractical and is far ahead of the Soviet Union in ASW capability, which will neutralize any Polaris capability they may develop. 40% of our bomber deterrent is on ground alert and could avoid FOBS or Polaris-type attack.

4. There is no evidence that the Soviet Union has made a break-through in the ASW field; on the contrary, the evidence indicates they are far behind us.

5. The Soviet Union has halted work on GALOSH. In any event, we have more than overcome whatever advantage the Soviet Union may have obtained by limited deployment.

Even granting Soviet superiority in all strategic weapons categories and assuming we did not launch on warning, it would still be impossible for the Soviet Union to reduce our second strike capability below a level that would destroy 70% of the industry and 30% of the population of the Soviet Union. A perfectly working SAFEGUARD might increase our retaliatory capability marginally, if it were not offset by Soviet MIRV deployment.

Will Safeguard deter arms control talks?

Pro

No.

The Soviet Union agreed to arms talks only four days after former President Johnson decided to deploy SENTINEL. Since June of 1968, the Soviet Union has been pressing for initiation of these talks, despite the fact that the U.S. was, until March of 1969, proceeding with the full SENTINEL program.

Further, there has been no slackening of Soviet interest during the months SENTINEL was under review by the new Administration.

Finally, the U.S. has agreed to include defensive systems in any arms control discussions and is prepared to abandon SAFEGUARD if an agreement is reached.

Con

Yes.

SENTINEL had a very minor anti-Soviet capability, while SAFEGUARD is increasingly being justified in terms of the Soviet Union.

If the U.S. deploys SAFEGUARD and MIRV, it is likely that Soviet defense planners will assume that the U.S. is going for a first strike capability and delay the start of talks until parity, in their eyes, has once more been achieved. The current Soviet line, perceived from diplomats, is that parity has been reached in offensive and defensive capability. In their eyes a major spending program on new weaponry, such as SAFEGUARD, would upset the balance and make agreement impossible because the Soviet Union refuses to negotiate from a position of inferiority. Soviet comment since March is becoming increasingly critical of SAFEGUARD.

In addition, a newly deployed ABM system and the danger inherent in that deployment seems quite contrary to the spirit and intent of the non-proliferation treaty.

Will Safeguard strengthen our bargaining position with the Soviet Union?

Pro

Yes.

SAFEGUARD will give the Soviet Union an added incentive to come to the bargaining table and enter into meaningful agreement on the limitation of both offensive and defensive strategic weapons systems.

It will also give the U.S. an additional counter to be used in the talks.

Con

No.

The deployment of SAFEGUARD ties the hands of the United States in future negotiations. To deploy the system would strengthen the position of those in the Soviet Union who argue that the U.S. is too committed by its economic system and its pressure groups to an arms race to be seriously interested in its abatement.

The Kremlin defense establishment will certainly demand a new Soviet weapons system to use as a bargaining card against SAFEGUARD. Once new systems are initiated on either side, they become almost impossible to dismantle because they create their own constituencies.

Although both President Nixon and Secretary Laird have talked about using SAFEGUARD as a bargaining card with the Soviet Union, a question on whether or not the U.S. would consider abandoning SAFEGUARD if the Soviet Union showed a similar willingness elicited the following response from the President: "The abandoning of the entire system, particularly as long as the Chinese threat is there, I think neither country would look upon that with much favor."

There is an inherent contradiction in using SAFEGUARD both as a bargaining card with the Soviet Union and as protection against the Chinese threat.

Will Safeguard escalate the arms race?

Pro

No.

SAFEGUARD is defensive in nature and will not provoke the Soviets; the Soviets have always favored defensive systems.

Since the proposed system is designed to protect the nation's retaliatory capability it is not provocative and will require no reaction at all from the Soviet Union.

While U.S. attitudes are presently mixed with some favoring offensive systems and others supporting defensive systems, the Soviet attitude seems almost universally to favor emphasis on defense. Thus, it appears that similar U.S. emphasis on defense would probably be the most stable method of avoiding an offense-defense arms race.

Con

Yes.

We reacted to the Soviet GALOSH (NIKE ZEUS-type) deployment around Moscow by building up our multi-warhead (MIRV) capability with Poseiden and Minuteman III. On March 19, DOD requested authorization of $12.4 million to improve Poseiden's effectiveness against hard targets, or second strike missiles, thus increasing our preemptive first strike capability. $100 million has been requested for an Advanced Manned Strategic Bomber (AMSA) to counter GALOSH. These developments with the deployment of SAFEGUARD will make the Soviet Union extremely uneasy about U.S. first strike intentions and lead them to take similar actions bringing a new and dangerous degree of uncertainty into the strategic balance.

Since the most likely Soviet response to SAFEGUARD will be to accelerate their MIRV program, and ours is proceeding at a rapid pace, the time when the strategic balance can be stabilized by agreements that can be verified is rapidly disappearing. Once MIRVs are operational, unilateral policing by satel-

lite of an arms control agreement will be impossible. It is very unlikely that either the U.S. or the Soviet Union would sign an agreement without a unilateral policing capability.

Do we need Safeguard because the Soviets have Galosh?

Pro

Yes.

SAFEGUARD is necessary to retain nuclear parity with the Soviet Union and to show that we, too, are defense-minded rather than offense-minded.

If we lose the lead time necessary to build and install a defensive system of our own, there would be no way to redress the balance. We would be subject to the Soviet nuclear blackmail we have avoided for 20 years.

If there is no ABM in the Soviet Union or in the U.S., any country with a Polaris submarine becomes a superpower. Therefore, many countries would be tempted to acquire nuclear missiles.

Con

No.

This action-reaction reasoning will only lead to further escalation of the arms race; the U.S. currently has the capability in offensive weapons to easily overcome Galosh, which is deployed only around Moscow.

Former Secretary of Defense Clifford said in 1968 that Galosh resembles "the Nike-Zeus system which we abandoned years ago because of its limited effectiveness." We do not need to react to a Soviet ABM system by building one of our own, particularly as the Soviets have slowed down, if not actually halted, their deployment efforts because of technical difficulties scientists say our system will have.

As for the Tallinn system, which has in the past been used to justify a U.S. ABM, current intelligence shows it to be a very thin Nike-Hercules anti-aircraft defense.

Is Safeguard reliable?

Pro

Yes.

DOD states that all of the components will work and the system as a whole will work. *Spartan* and *Sprint* have both been flown. PAR is a variant of a radar in existence and a prototype MSR is being tested. The complex computer systems required to operate these components are feasible and have been demonstrated in Apollo.

The problems confronting Safeguard are no more insurmountable than those confronting the development of the hydrogen bomb.

Con

No.

The scientific community is almost unanimous in questioning Safeguard's reliability. Safeguard has the most elaborate, sophisticated, dynamic combination of rocketry, radars, computers, electronics, and other technology ever proposed; moreover, it can never be tested as a system.

With regard to the missiles, *Spartan* and *Sprint* have a probability of failure of 34% to 59%, thereby requiring at least 3 missiles to achieve 97 percent probability of destroying an incoming warhead.

As far as the radars are concerned, statistically there is a 72% chance that one or more radars will be out of service at any particular time in a system of 12 MSRs. The remaining 11 are subject to blackout, which even proponents admit has not been overcome. The MSR is ten times as vulnerable to overpressure as the silos it is defending and will therefore be targeted first because its destruction destroys the entire installation.

In the case of the computers, it is debatable whether a program could ever be written to deal with the various forms of attack that can be anticipated.

Moreover, the entire command and control network upon which the system depends is as vulnerable as any of its components.

The hydrogen bomb analogy in specious; the scientific issue over the H-bomb was whether a specific design concept could in theory be developed into a workable weapon. The questions surrounding Safeguard are not theoretical but practical and technological.

Will penetration devices render Safeguard ineffective?

Pro

No.

Penetration devices other than real or dummy warheads of the same size and weight as the real one will fall behind or burn up in the atmosphere and expose the real warhead to *Sprint*.

By forcing an opponent to use penetration devices of weight equal to the weight of a warhead one cuts down the weight of the destructive payload each ICBM can deliver, forcing him to achieve almost pinpoint accuracy if his target is a hardened Minuteman.

Con

Yes.

Against *Spartan*, the following penetration devices could be employed:

1. Decoys and chaff clouds, which need not survive re-entry to fool *Spartan*.
2. Active radar jamming.
3. The defense radar, particularly the PAR, can be blacked out with precursor nuclear explosions. In heavy, well-timed attack the defense's radars could even be blacked out by the defense's own nuclear explosions.

Against *Sprint*, an attacker could send several warheads in the same missile and rapidly exhaust the supply of *Sprints* at a particular installation.

Will Safeguard be obsolete by the time it is operational?

Pro

No.

SAFEGUARD is expected to be effective well into the 1980s against the threats it is designed to counter. Careful study has provided reasonable assurance that the system can evolve to handle future penetration aids developed by China or the Soviet Union.

SAFEGUARD, which will be deployed in phases, takes into account the development of new weapons technology.

Neither China nor any other nation new to the nuclear missile field can leapfrog decades of development of highly sophisticated weapons systems.

Con

Yes.

By the time SAFEGUARD is even partially operational, in 1973, the Chinese will have developed penetration devices, thus rendering the system ineffective against them. It is already obsolete against the Soviet penetration capability, should they choose to deploy it.

While the defense may be able to develop more sophisticated technology which could offset some of the penetration devices, the offense is capable of the same thing. All SAFEGUARD will do is to escalate this technological buildup into a never-ending spiral.

Is SAFEGUARD necessary to meet the Chinese threat?

Pro

Yes.

While the Chinese nuclear program has slipped recently, it is anticipated that by 1975 they could have 20–30 ICBMs. Because the Chinese are more unpredictable than the Soviets, they may make an irrational attack despite such a small force.

There is also the possibility that the Chinese might, in the absence of an offsetting U.S. defensive capability, be able to exploit a limited strategic offensive capability for purposes of nuclear blackmail to the detriment of the U.S. interest in Asia.

It seems both imprudent and unreasonable for the U.S. and the Soviet Union to be completely without protection against any country with less nuclear power, such as China. If both countries have no defensive systems, any country with ten missiles is a superpower—it can destroy ten large cities.

Con

No.

Our deterrent power would certainly prevent the Chinese from launching an attack, the Chinese could penetrate the city-defense aspects of SAFEGUARD in any event, and there is no basis for assuming China would commit national suicide by launching an attack on the U.S.

We have deterred the Soviet Union's very powerful nuclear missile force for many years. There is no need for a system to deter a Chinese nuclear capability that is 1/10 of the Soviets and 1/50 of our own.

The Chinese need to deploy only a small number of ICBMs in order to penetrate SAFEGUARD and attack our cities. It is much more likely that the Chinese are developing ICBMs to be in a position to deter us—something they cannot do now.

As for being irrational, despite verbal support, China has done no more than the Soviet Union in rendering open aggressive support for foreign insurgencies and much less in risking nuclear retaliation on behalf of such insurgencies. If China is determined to attack us, there are more effective methods than ICBMs. A nuclear weapon could be smuggled aboard a neutral ship or a biological weapon carried in a suitcase, for example.

If one were to concede the possibility of blackmail, it would be more likely that China would target her ICBMs against U.S. missile bases on China's periphery or against the cities of our allies than against the continental United States.

Will Safeguard defend the United States against accidentally launched ICBMs?

Pro

Yes.

One cannot eliminate completely the possibility of an accidental launch in a world where thousands of missiles are ready to be launched on a moment's notice.

If such an accident occurred, even a thin ABM system is likely to work well since there would presumably be only one, or at most a few, missiles to destroy.

It could repay the entire cost of the missile system several times over if one accident were prevented.

Con

No.

Unless SAFEGUARD is expanded beyond the Administration's current request, it could only defend against such an accident were the missile launched at one of the two Minuteman sites currently scheduled for deployment, and then not until 1973.

Accidental launch should be controlled instead by an agreement with the Soviet Union on the installation of self-destruct mechanisms so that accidentally launched missiles can be destroyed in flight. Should this be impossible, defense against accidental launch could be obtained at a fraction the cost of SAFEGUARD by deploying a few *Spartans* and unprotected radars designed for this purpose.

Will Safeguard erode Presidential control over the launch of nuclear weapons?

Pro

No.

While specific details of the decision-making process must remain classified, the decision to fire will completely reflect the authority of the President.

While the decision to launch must be made in a short period of time, the decision to arm the warhead of the missile can be made after the missile has been fired.

Con

Yes.

The time from verification to decision to fire would not be more than a few minutes if there is to be any chance of a successful intercept. The President is therefore given only the opportunity to ratify what the computers say is inevitable, and cannot weigh evidence or consult with advisors, particularly if at the moment of attack he is away from the National Command Authority in Washington, D.C. Most proponents of the system maintain that it will not work unless the launch process is begun at the moment of detection. In the case of an accidental launch, the necessity to activate the system with no delay would be even more urgent.

Does Safeguard give the U.S. an extra option?

Pro

Yes.

Instead of having to resort to our retaliatory force in case of attack, SAFEGUARD would give us the option of sending up anti-ballistic missiles to destroy the incoming missiles.

The reliance on a missile to destroy another missile rather than a retaliatory force to destroy people and property is an added protection in preventing nuclear holocaust.

Con

No.

Since the system, in its entirety, can never be tested, U.S. planners would be more inclined not to trust SAFEGUARD than to wait out a first strike attack. We would in all probability fire our Minutemen at our attacker in the 10–30 minute warning time available—thus leaving SAFEGUARD defending empty holes.

Having an extra option could actually work against us. If the Soviet Union believed that we would rely on SAFEGUARD and not send up our Minutemen and they thought they could break through SAFEGUARD, they would be more confident of a successful first strike.

Defensive missile systems generally add the option of limited strategic nuclear war and thereby increase its possibility. Very few strategic planners think such an exchange could be kept limited.

Is Safeguard worth the cost—in terms of money and national priorities?

Pro

Yes.

Due to the phased deployment plan for Safeguard, the government will not ask for large sums of money at one time. Therefore, we can afford to deploy the system and still meet our domestic needs.

If the system changes in character, thereby costing more money, the decision would be based on the judgment of a conscious government and public debate.

Con

No.

The Safeguard system will almost certainly increase in cost, as has been the case with virtually every other military project. In the two years since ABM deployment was first proposed, the cost has more than doubled—from $3.5 billion in 1967 to $8.2 billion now. The 12 major systems developed by DOD since 1950 exceeded their original estimated cost by an average of 220% and as much as 700%.

U.S. expenditures can be more effectively used for domestic needs and preventing war through arms negotiations. Also, the continual buildup of armaments, of which Safeguard is a part, has caused the longest inflationary period and the highest taxes in the history of the country.

Will Safeguard eventually grow into a thick system?

Pro

No.

Safeguard does not provide the city base necessary for a thick system and the phased deployment called for preserves the option of curtailing and re-orienting the system.

Safeguard would be more difficult than Sentinel to convert to a thick system because the emphasis has been shifted from the defense of cities to the defense of our deterrent forces.

The President has directed the Foreign Intelligence Advisory Board—a nonpartisan group of private citizens—to make a yearly assessment of the threat which will supplement our regular intelligence estimate. Based on the advice of this group and our intelligence agencies, the President will decide whether to halt or expand the system—but not without the proper public debate.

Con

Yes.

The forces that have been pushing for an ABM system since the late 1950s regard the two initial installations in Montana and North Dakota as just the beginning of a full system. The Pentagon this year is requesting appropriations to purchase land for all 12 Safeguard sites. Once Safeguard has been completed, these same political and economic forces will push for its expansion to a thick defense against all possible contingencies, at a cost of $100 billion.

Because Safeguard already provides some defense for our cities, the addition of more *Sprints* and some re-deployment could convert the system to a thick cities defense fairly easily. The Soviet defense planner must allow for this possibility and expand and adjust his capability accordingly. *Any* cities defense weakens the Soviet deterrent and enhances the U.S. first strike capability.

The cities defense mission of Safeguard must already be considered its primary mission because two thirds of the monies requested by the Administration are to be allocated for components for this type of defense and one third for components designed to defend our deterrent capability.

Is not Safeguard better than no system at all?

Pro

Yes.

SAFEGUARD deployment will create a basis for further improvement, innovation and growth as the threat develops.

Deployment of SAFEGUARD will allow an operating military organization to exist, manufacturers to make equipment, and serious research and development and planning of strategy to take place.

Useful, vital data will be collected, and our understanding of the problems confronting missile defense improved, including estimates of future costs, performance, deployment time, and situational impact.

In matters concerning the national security, it is better to err on the side of over-protection than in the other direction.

Con

No.

Lives are threatened because SAFEGUARD disrupts the nuclear balance, accelerates the arms race, and increases world tension—particularly if it is not effective. By raising the threshold of anxiety, SAFEGUARD will inhibit those shifts in policy necessary to a more peaceful co-existence.

Even conceding the need for defense of the U.S. retaliatory capability, SAFEGUARD is ineffective because it is made up of components designed for the defense of cities. A cost-effective defense of our deterrent would in the first place concentrate on the number of ICBMs needed for assured retaliatory capability—say two Minuteman wings—and not try to defend bomber bases. Secondly, it would not use long range PARs or *Spartans*, which are useless against a heavy and sophisticated attack, but would use cheaper, harder radars and a cheaper, lower altitude-intercept version of *Sprint* deployed in great numbers for terminal defense. Defense of hard targets does not require the range or the cost of the SAFEGUARD system. Finally, such a system could rely on simpler computer programming because the tactics available to an attacker are limited if a hard silo is his target.

V. SUMMARY OF ARGUMENTS ON EACH SIDE

The Case for SAFEGUARD

SAFEGUARD is essential to the national security of the United States. With its recent buildup in offensive and defensive strategic force, the Soviet Union could acquire a first strike capability by 1975. If we are to counter this threat to our retaliatory force in time, it is necessary to begin deployment of the SAFEGUARD system. Sufficient progress in this field cannot be maintained by research and development alone.

Should the U.S. and the Soviet Union reach agreement on the limitation of strategic weapons systems, we are fully prepared to halt deployment of the system. In the meantime, SAFEGUARD provides an added incentive for the Soviet Union to come to the bargaining table and gives us an additional bargaining card for use in the discussions. The Soviet Union generally favors defensive systems and has expressed no concern with SAFEGUARD.

SAFEGUARD will also protect us from attack by China, which is expected to have between 20 and 30 ICBMs with which to strike at the United States by 1975. In addition to guarding our cities from Chinese attack, SAFEGUARD will provide defense against accidentally launched missiles.

There is no question that the United States has the technical capacity to build SAFEGUARD. The components have been developed and tested over a period of fifteen years and there is no doubt that the system as a whole will operate effectively. The system is well within the economic resources of the country. In fact, the current deployment schedule will permit a saving in FY 1970 of $1 billion over the SENTINEL request of the previous Administration.

It is important that the President have the option of countering an attack with defensive missiles. With such an option, the decision to launch a second strike can be delayed and the possibility of nuclear holocaust avoided. Finally the SAFEGUARD system will serve to strengthen any agreement on reducing the level of offensive weaponry by reducing the temptations to cheat on such an agreement.

In sum, it is the judgment of the Administration that the initial deployment of SAFEGUARD system is the minimum step necessary to protect the national security of the United States at this time.

The case against SAFEGUARD

The proposed SAFEGUARD system is unreliable, unnecessary, uneconomical and undesirable in that it would be detrimental to the national security of the United States. The system threatens the national security because it offers no protection from our adversaries while setting off another round in the arms race and making agreement on the control of strategic weapons systems impossible to obtain.

The Soviet Union will clearly respond to SAFEGUARD by accelerating its MIRV program, just as we responded to GALOSH with Poseidon and Minuteman III. Our MIRVs are close to operational; MIRV deployment on both sides will make a unilaterally verifiable agreement impossible. Soviet spokesmen are increasingly expressing concern with SAFEGUARD, once we begin deployment, those in the Soviet Union who oppose Soviet participation in arms control talks will control Soviet defense policy. SAFEGUARD is also undesirable because there is danger it will erode Presidential control over firing of nuclear weapons. In fact, some ABM proponents say delegation of Presidential authority will be required for SAFEGUARD to be effective.

SAFEGUARD is unreliable because it can be easily overwhelmed by an enemy offense and can never be tested except under combat conditions. It is unnecessary because with its Minuteman, Polaris, and bomber forces the United States has more than sufficient power to absorb an attack and retaliate devastatingly against the Soviet Union—and this capability will be retained for the foreseeable future without SAFEGUARD. It is uneconomical because its proponents see it only as the first step toward a thick system which will cost 100 billion and seriously erode our ability to deal with our pressing domestic needs.

China will be incapable of attacking us without committing national suicide for the foreseeable future; should she wish to attack us, she will have by 1975 the capability to wipe out one or two U.S. cities in spite of SAFEGUARD. As for protection against accidental attack, such protection should be obtained by agreement with the Soviet Union on the installation of self-destruct mechanisms on all ICBMs. Finally, if the President had SAFEGUARD and considered it an extra option in the event of attack, an opponent might come to the conclusion that he would use it and not launch our retaliatory capability and thereby be tempted into a first strike.

SAFEGUARD, like NIKE ZEUS, will be obsolete by the time it is deployed. While research and development on ballistic missile defense should continue at the Kwajalein island facility, the decision to deploy should be deferred until the conclusion of arms control negotiations with the Soviet Union. Our national security requires that we give highest priority to bringing the nuclear arms race under control.

VI. SELECTED LIST OF SAFEGUARD SUPPORTERS AND OPPONENTS

Pro

Professor Zbigniew Brzezinski, Columbia University, political scientist.

Dr. Lee Dubridge, Science Advisor to President Nixon.

Dr. Freeman Dyson, Princeton University, nuclear physicist.

Dr. Richard Foster, former Director of Strategic Studies, Stanford Research Institute, strategic analyst.

Dr. Richard Latter, Rand Corporation, nuclear physicist.

Dr. Philip Mosley, Director of the European Institute, Columbia University, political scientist.

Dr. Frederick Seitz, President of the National Academy of Sciences, nuclear physicist.

Dr. Edward Teller, founding Director of the Livermore Laboratories, nuclear physicist.

Dr. Alvin Weinberg, Director of the Oak Ridge Laboratories, nuclear physicist.

Dr. Eugene Wigner, Princeton University, nuclear physicist.

Con

Dr. Jerome Weisner, a former Science Advisor to Presidents Kennedy and Johnson, Provost of MIT.

Dr. George Kistiakowsky, former Science Advisor to President Eisenhower, chemist.

Dr. Donald Hornig, former Science Advisor to President Johnson, physicist.

Professor Marshall Shulman, Director, Russian Institute, Columbia University, political scientist.

Dr. Herbert York, former DOD Director of Research and Engineering, nuclear physicist.

Dr. James Killian, former Science Advisor to President Eisenhower, Chairman of the Board of MIT.

Professor Allen Whiting, Center for Chinese Studies, University of Michigan political scientist.

Dr. George Rathjens, Director of Weapons Systems Evaluation, Institute for Defense Analysis, strategic analyst.

Dr. Wolfgang Panofsky, Director, High-Energy Physics Laboratory, Stanford, nuclear physicist.

Dr. Jack Ruina, former Director of Advanced Research Projects Agency, DOD.

VII. GLOSSARY

ABM (anti-ballistic missile).—A missile, or combination of missiles, radar, and computers designed to intercept and destroy incoming missiles before they reach their intended targets.

Area defense.—A concept of ABM defense in which areas of the country, hundreds of miles across, are given protection from attack by exo-atmospheric interception of incoming missiles by long range defensive missiles tipped with large nuclear warheads. This type of defense is effective only against small attacks.

Assured destruction.—That level and deployment of nuclear capability which serves to deter deliberate nuclear attack by an opponent by maintaining at all times a highly reliable ability to inflict an unacceptable degree of damage upon the opponent, or combination of opponents, at any time during the course of a strategic nuclear exchange, even after absorbing a surprise first strike.

AMSA (advanced manned strategic aircraft).—A Mach II-plus aircraft designed to launch a nuclear missile along a flat trajectory to avoid an opponent's defensive system.

Blackout.—The temporary disabling of defensive radar by ionizing the air at about 45 miles altitude with the beta radiation of a nuclear explosion. This radiation and the fireball itself cause reflection or absorption of radar waves for a ten minute period thereby screening the incoming missiles from the defense.

Damage limitation.—The ability to reduce the damage of a nuclear attack by deploying ABMs to defend cities and/or targeting offensive missiles on an opponent's missiles silos.

Deterrence.—A defense strategy that depends on each side having the ability to inflict unacceptable damage on the other after absorbing a surprise first strike.

First strike capability.—The ability to launch a nuclear attack upon an opponent without receiving an unacceptable loss in return.

FOBS (fractional orbit bombardment system).—A nuclear delivery system intended to deliver its warhead to a target on a trajectory about 100 miles above the earth rather than along a ballistic trajectory outside the atmosphere, in order to avoid defensive radar. A fractionally orbited missile carries a smaller payload and is less accurate than an ICBM.

Galosh.—A Soviet ABM system comparable to the NIKE ZEUS, comprising 67 missiles on launchers around Moscow. It has been partially deployed but work has now ceased on the system.

Hardening.—Re-inforcing the geological surroundings of a missile silo to withstand the overpressure of a nearby nuclear explosion. The harder the silo, the greater the accuracy required on the part of an attacker to destroy the missile in its silo.

ICBM (inter-continental ballistic missile).—A long range (6,000–8,000 miles) multistage rocket capable of delivering nuclear warheads to enemy targets.

Kiloton.—The nuclear explosive equivalent of 1,000 tons of TNT (Hiroshima bomb equals 20 Kilotons).

Launch on warning.—A concept of defense that depends on assuring an opponent that one's retaliatory capability will be launched upon detection of incoming missiles rather than absorbing the first strike and then launching the retaliatory attack.

Megaton.—The nuclear explosive equivalent of one million tons of TNT.

Minuteman.—The basic U.S. ICBM. Minuteman I yields one megaton, Minuteman II has a higher yield and/or trade off with penetration aids, Minuteman III is designed to carry MIRVs.

MIRV (multiple independent reentry vehicle).—A system of multiple warheads in which several carried by one re-entry vehicle can be maneuvered on independent courses to different targets.

MRV (multiple reentry vehicle).—A system of multiple warheads carried in one reentry vehicle but cannot be directed to different targets.

MSR (missile-site radar).—Performs surveillance and detection, target track, missile track, and command functions for the anti-ballistic missiles in the SAFEGUARD system. It is of shorter range than the PAR and takes over from it after initial acquisition.

NIKE X.—The thick U.S. ABM system, designed in 1963 but never deployed, utilizing the components of the SENTINEL and SAFEGUARD systems.

NIKE ZEUS.—A first-generation U.S. ABM system, utilizing unsophisticated radars and the *Zeus* missile, authorized in 1957 but never deployed.

PAR (perimeter acquisition radar).—A long-range detection radar designed to detect incoming missiles at a range of 1,000–2,000 miles and track them until they come into the range of the MSR.

Penetration aids.—Devices such as decoys, chaff, radar jamming, and precursor nuclear explosions used to assist the offense in overwhelming the defensive ABM system.

Polaris.—The basic U.S. submarine-launched missile, with a range of approximately 2,800 miles. 16 Polaris missiles are carried on each of 41 Polaris submarines.

Poseidon.—A U.S. submarine-launched missile, scheduled to replace Polaris missiles on 31 of the 41 Polaris submarines and to carry up to ten independently targeted warheads.

Re-entry vehicle.—That part of an ICBM that separates from the launching stages and carries the warhead(s) along a ballistic trajectory outside the atmosphere and then back into the atmosphere, where it then continues to target.

Reprogram capability.—A system in which an offensive missile signals its launch-control point if it has launched its re-entry vehicle properly thereby allowing the offense to program a backup missile if something has gone wrong.

Sambis (sea-based anti-ballistic missile intercept system).—A concept proposed for future development by the U.S., involving a network of anti-ballistic missiles on surface and/or submarine vessels.

SS–9.—A large (20–25 megaton), reportedly inaccurate, Soviet missile, also capable of delivering a number of smaller yield warheads and capable of knocking out Minuteman missiles in their silos.

SS–11.—The basic Soviet ICBM, equivalent to the Minuteman I.

Safeguard.—An ABM system configured from the components of the NIKE X system, including PAR and MSR radars and Sprint and Spartan missiles, to be deployed in two phases, the first phase to protect U.S. retaliatory Minutemen at two sites and the second phase to protect two more Minuteman sites, seven SAC bases, and Washington, D.C., and to protect U.S. cities from Chinese or accidental attack.

Sentinel.—The Johnson Administration's deployment of the basic NIKE X components, designed to protect U.S. cities from Chinese and accidental attack and provide eventually some protection of the U.S. retaliatory force, now abandoned.

Spartan.—A long-range (400 mile) missile component of SAFEGUARD, three stage, solid fueled with a nuclear warhead in the megaton range, fired from an underground silo.

Sprint.—A short-range (25 mile) missile component of SAFEGUARD, two stage, solid fueled with a nuclear warhead in the kiloton range, fired from an underground silo,

highly maneuverable and with a high rate of acceleration.

Tallinn system.—Soviet anti-aircraft defense system having no ABM capabilities, installed around Moscow and Leningrad.

Terminal defense.—A concept of ABM defense that relies on short range missiles close to the target to intercept those missiles in a heavy attack that get by the long range ABMs. This type of defense is used to protect high value targets (cities, bomber bases, Minuteman fields) tens of miles across.

Thick system.—A thick ABM system provides defense against heavy attack with long range missiles and large numbers of short range missiles located close to targets.

Thin system.—A thin ABM system provides defense for large areas of the country against light or accidental attack with long range missiles designed to intercept the incoming ICBMs outside the atmosphere.

Titan.—A large (5–18 megaton) liquid-propellant U.S. ICBM. (The Titan II, of which 54 are deployed, is to be replaced by 1970 with Minuteman II.)

SELECTED BIBLIOGRAPHY

Pro

Brennan, Donald, statement before the Disarmament Subcommittee of the Senate Foreign Relations Committee, March 28, 1969 (*Congressional Record,* April 1, 1969, pp. 8234–8236).

Brennan, Donald, "The Case for Missile Defense", Foreign Affairs, vol. 47, No. 3, April 1969.

Department of Defense News Release number 183–69 to 190–69, March 14, 1969.

Fink, Daniel, statement before the Senate Foreign Relations Committee, March 6, 1969 (*Congressional Record,* March 20, 1969, pp. 7028–7030).

Kahn, Herman, *The BMD Issue,* available from the Hudson Institute, Inc., Croton-on-Hudson, New York 10520.

Mock, John, *A Framework Within Which to Consider the ABM Problem,* available from the Georgia Science and Technology Commission, Atlanta, Georgia.

Packard, David, Pentagon Press Conference, March 14, 1969 (*Congressional Record,* March 18, 1969, pp. 6776–6781).

Seitz, Frederick, statement before the Senate Armed Services Committee, April 23, 1969 (*Congressional. Record,* May 1, 1969, pp. 10947–10949).

Smith, Gerard, statement before the Disarmament Subcommittee of the Senate Foreign Relations Committee, March 6, 1969 (*Congressional Record,* March 20, 1969, pp. 7027–7028).

Teller, Edward, statement before the Senate Foreign Relations Committee, May 14, 1969 (*Congressional Record,* May 16, 1969, pp. 12817–12819).

Wigner, Eugene, speech before the American Physical Society, April 29, 1969 (*Congressional Record,* May 1, 1969, pp. 11049–11051).

Wohlstetter, Albert, statement before the Senate Armed Services Committee, April 23, 1969 (*Congressional Record,* May 1, 1969, pp. 10955–10957).

Con

Bethe, Hans, statement before the Disarmament Subcommittee of the Senate Foreign Relations Committee, March 6, 1969 (*Congressional Record,* March 20, 1969, pp. 7025–7026).

Bethe, H. A., and Garwin, R. L., "Anti-Ballistic Missile Systems", Scientific American, vol. 218, No. 3, March 1968.

Lapp, Ralph E., "From Nike to Safeguard: A Biography of the ABM", *New York Times Magazine,* May 4, 1969 (*Congressional Record,* May 13, 1969, pp 12241–12243).

Panofsky, Wolfgang, statement before the Senate Armed Services Committee, April 21–22, 1969 (*Congressional Record,* May 5, 1969, pp. 11271–11273).

Panofsky, Wolfgang, statement before the Disarmament Subcommittee of the Senate Foreign Relations Committee, March 28, 1969 (*Congressional Record,* April 1, 1969, pp. 8233–8234).

Rathjens, George W., statement before the Disarmament Subcommittee of the Senate Foreign Relations Committee, March 28, 1969 (*Congressional Record,* April 1, 1969, pp. 8236–8238).

Rathjens, George, "The Dynamics of the Arms Race", *Scientific American,* vol. 220 No. 4, April 1969 (*Congressional Record,* April 14, 1969, pp. 8997–9001).

Rothstein, Robert, "The ABM, Proliferation, and International Stability", *Foreign Affairs,* vol. 46, No. 3, April, 1968 (*Congressional Record,* February 24, 1996, pp. 4257–4261).

Ruina, Jack, statement before the Disarmament Subcommittee of the Senate Foreign Relations Committee, March 6, 1969 (*Congressional Record,* March 20, 1969, pp. 7026–7027).

Stone, Jeremy, "ABM: The Issues Raised and The Questions Unanswered", *The Ripon Forum,* May 1969.

Stone, Jeremy J., "The Case Against Missile Defense", Adelphia Papers # 47, April 1968 (*Congressional Record,* February 24, 1969, 4251–4257).

Wiesner, Jerome, statement before the Senate Foreign Relations Committee, May 14, 1969 (*Congressional Record,* May 16, 1969, pp. 12819–12822).

York, Herbert, statement before the Senate Armed Services Committee, April 22–23 (*Congressional Record,* May 5, 1969, pp. 11273–11275).

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

NATIONAL COMMITMENTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

Senate Resolution 85, expressing the sense of the Senate relative to commitments to foreign powers.

The PRESIDING OFFICER. Without objection, the Senate resumed the consideration of the resolution.

Mr. CHURCH obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator from Iowa yield, without losing his right to the floor?

Mr. CHURCH. I yield.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OF PRESIDENTS AND CAESARS—THE DECLINE OF CONSTITUTIONAL GOVERNMENT IN THE CONDUCT OF AMERICAN FOREIGN POLICY

Mr. CHURCH. Mr. President, the Roman Caesars did not spring full blown from the brow of Zeus. Subtly and insidiously, they stole their powers away from an unsuspecting Senate. They strangled the Republic with skillful hands. Gibbon describes their method in this stately passage from the "Decline and Fall":

It was on the dignity of the Senate that Augustus and his successors founded their new empire . . . In the administration of their own powers, they frequently consulted the great national council, and *seemed* to refer to its decision the most important concerns of peace and war . . . The masters of the Roman world surrounded their throne with darkness, concealed their irresistible strength, and humbly professed themselves the accountable ministers of the Senate, whose supreme decrees they dictated and obeyed . . . Augustus was sensible that mankind is governed by names; nor was he deceived in his expectation, that the Senate and the people would submit to slavery, provided they were respectfully assured that they still enjoyed their ancient freedom.

Senators of the United States may still enjoy their ancient freedom to debate and legislate, but through our own neglect, we have come to deal increasingly more with the form than with the substance of power. Again and again, the Senate has acquiesced, while American Presidents have steadily drawn to themselves much of the power delegated to Congress by the Constitution. In the process, especially in the field of foreign commitments and the crucial matter of our military involvement abroad, Congress as a whole—and the Senate in particular—has permitted a pervasive erosion of the bedrock principle on which our political system was founded, the separation of powers.

For this reason, the national commitments resolution—Senate Resolution 85—may be the most significant measure that the Senate will consider during the current session of Congress. It seeks to set in motion a process pointing toward the restoration of the vital balance in our system prescribed by the Founding Fathers. The erosion of congressional power in the field of foreign policy has gone so far that a full return of the pendulum cannot be expected with passage of a single sense-of-the-Senate resolution. But here we must make our start.

The resolution, as reported with but one dissenting vote by the Committee on Foreign Relations, speaks for itself:

Whereas accurate definition of the term "national commitment" in recent years has become obscured: Now, therefore, be it

Resolved, That it is the sense of the Senate that a national commitment by the United States to a foreign power necessarily and exclusively results from affirmative action taken by the executive and legislative branches of he United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment.

THE CONSTITUTIONAL ISSUE

As crisis has followed upon crisis in these last 30 years, the concentration of power in the hands of the President has grown ever more rapidly, while the Congress has been reduced to virtual impotence in the making of foreign policy. The cause of this change has been the climate of crisis itself, each one of which necessitated—or seemed to necessitate—decisive and immediate action. As each crisis arose, the President assumed, and the Congress usually agreed that the

Executive alone was capable of acting with the requisite speed. No one thought very much about the constitutional consequences of Presidential dominance in foreign policy; we tended to think only of the crisis we were dealing with, of the assumed need for speedy action, and of the importance of national unity in a time of emergency.

Now, however, we must think about constitutional problems, because nothing less than the survival of constitutional government is at stake. Our democratic processes, our system of separated powers, checked and balanced against each other, are being undermined by the very methods we have chosen to defend these processes against real or fancied foreign dangers. There is no end in sight to the era of crisis which began some 30 years ago. We cannot safely wait for quieter times to think about restoring the constitutional balance in our own Government. For as we delay, the fact of prolonged crisis, itself, will further erode our constitutional principles. The extended crisis of our own time was measured by President Nixon in the unsettling remark he made in his speech at the Air Force Academy. He said the United States, since 1941, "has paid for 14 years of peace with 14 years of war."

The corrosive impact that such an exorbitant payment invariably imposes upon democratic systems was described long ago by Alexis de Tocqueville, who wrote:

> No protracted war can fail to endanger the freedom of a democratic country. War does not always give over democratic communities to military government, but it must invariably and immeasurably increase the powers of civil government; it must also compulsorily concentrate the direction of all men and the management of all things in the hands of the administration. If it leads not to despotism by sudden violence, it prepares men for it more gently by their habits.[1]

COMMITTING OUR COUNTRY ABROAD

Our protracted engagement in warfare has produced, first of all, a striking discrepancy between the ways in which many of our foreign commitments have been made in recent years and the treaty process through which they were meant to be made. Article II, section 2 of the Constitution states that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." Keeping this clear language of the Constitution in mind, consider the following:

On August 25, 1966, Secretary of State Rusk told the Senate Preparedness Subcommittee:

> No would-be aggressor should suppose that the absence of a defense treaty, Congressional declaration or U.S. military presence grants immunity to aggression.

The statement was meant to convey a stern warning to potential aggressors. It did that, and that was all to the good, but it also put Congress on notice that, with or without its consent, treaty or no treaty, the Executive will act as it sees fit against anyone whom it judges to be an aggressor, and that is not to the good. It is indeed nothing less than a statement of intention on the part of the Executive to usurp the treaty power of the Senate.

The denigration of treaties goes back at least to 1940, when the current era of world crisis began. In the summer of that year, when France had fallen and Britain was in imminent danger of German invasion, President Roosevelt made an agreement with Great Britain under which 50 overaged American destroyers were given to her in exchange for certain naval bases on British territory in the Western Hemisphere. The arrangement was made by executive agreement despite the fact that it was a commitment of the greatest significance, an act which, according to Churchill, gave Germany legal grounds for declaring war on the United States. It is unlikely that President Roosevelt wished to usurp the treaty power of the Senate; he acted as he did because he thought the matter to be one of the greatest urgency and he feared that Great Britain might be invaded and overrun before the Senate would act on a treaty. In retrospect this seems unlikely but, granting that the danger may have seemed real at the time, the constitutional effects of President Roosevelt's action would have been mitigated if he had frankly stated that he had acted on an emergency basis in a manner which may have exceeded his constitutional authority. Instead, he had the Attorney General prepare a brief contending that the President had acted entirely within his constitutional powers. Instead, therefore, of a single incursion on the Senate's treaty power, acknowledged to be such, the act was compounded into a precedent for future incursions on the constitutional authority of the Congress.

The destroyer deal was the first of a long series of significant foreign commitments made by Executive agreement, each one of which has constituted an added precedent for the taking over by the President of the treaty powers meant to be exercised by the Senate. So far have things gone that treaties are now widely regarded, at least within the executive branch, as no more than one of a number of available methods of committing our country to some action abroad.

Indeed, executive branch officials have at times sought by simple statement to create "commitments" going far beyond those agreed to under normal treaty processes. Thailand is a case in point. Under the SEATO Treaty, the United States is obligated to "act to meet the common danger in accordance with its constitutional processes" should Thailand be attacked, and, should Thailand be threatened with subversion, the United States and other treaty signatories are obligated to "consult." But in 1962, Secretary of State Rusk and the Thai Foreign Minister, Thanat Khoman, issued a joint statement in which Secretary Rusk expressed "the firm intention of the United States to aid Thailand, its ally and historic friend, in resisting Communist aggression and subversion"—a commitment going far beyond that contained in the SEATO Treaty to "consult" in case of subversion.

One of the newest devices used to circumvent the treaty power of the Senate is the congressional resolution, framed in such sweeping language as to give advance consent to unspecified future action by the President. As used in recent years, these resolutions have not been specific and carefully considered grants of power but blank checks on the constitutional authority of Congress written in an atmosphere of commanding emergency. As the Executive has made increasingly extravagant use of these resolutions—about which I shall comment further later on—Congress has begun to develop a belated but healthy wariness of such vague and hasty grants of authority.

Two years ago, for example, the Senate was asked to adopt a sweeping resolution promising large new sums of aid money for Latin America. The Senate was asked to approve this resolution in great haste so that President Johnson might carry it with him to his meeting with the other hemispheric presidents at Punta del Este. The Foreign Relations Committee judged that it simply could not assess the merits of the proposal in the short time allowed and, since the proposed measure was not urgent, the committee declined to act on the President's request, adopting instead a substitute resolution promising to give due consideration, in accordance with its normal procedures, to any proposals for increased aid to Latin America which the President might later submit. The substitute resolution, which the committee adopted by a vote of nine to nothing, was rejected by Presidential Advisor Walt Rostow as "worse than useless." Mr. Johnson went to Punta del Este without his resolution and the effects, I think, were salutary. Having no gifts to dispense, the United States was obliged to deal with the Latin Americans as a friend rather than as a patron; having no new bauble dangled before them, the Latin Americans were obliged to deal with the United States as equals rather than as suppliants.

The significance of the Foreign Relations Committee's rejection of the proposed Latin American resolution had much more to do with executive-legislative relations at home than with the committee's attitudes toward Latin America. The committee was exhibiting a new but well-founded reluctance to grant the Executive any more blank-checks. The Executive was being put on notice that its account with Congress is overdrawn, not only in matters affecting treaties but even more in matters of deciding on war or peace, to which I now turn.

THE WAR POWER

Unlike the treaty power, the Constitution did not divide the war power equally between the two branches of Government but vested it predominantly in Congress. Article I, section 8 of the Constitution states that—

> Congress shall have the power to declare war; to raise and support armies; to provide and maintain a navy; to make rules for the Government and regulation of the Armed Forces; to provide for calling forth the militia to execute the laws, suppress insurrections, and repel invasions; to provide for organizing, arming, and disciplining the militia; and to make all laws necessary and proper for executing the foregoing powers.

[1] Alexis de Tocqueville, *Democracy in America*, London. Oxford University Press, 1946. Translated by Henry Reeve, p. 533.

Article II, section 2 of the Constitution states that the President shall be Commander in Chief of the Army and Navy.

The language of the Constitution is clear and the intent of the framers beyond question: the war power is vested almost entirely in the Congress, the only important exception being the necessary authority of the President to repel a sudden attack on the United States. Only in recent years have Presidents claimed the right to commit the country to foreign wars, under a sweeping and, in my opinion, wholly unwarranted interpretation of their power as Commander in Chief.

The framers of the Constitution very deliberately placed the war power in the hands of the legislature, and did so for excellent reasons. All too frequently, the American Colonies had been drawn, by royal decree, into England's wars. The leaders of the newly independent Republic resolved to make certain that their new country would never again be drawn into war at the direction of a single man; for this reason they transferred the war power to the legislative branch of the newly created Government. In so doing, they recognized that the President might sometimes have to take defensive action to repel a sudden attack on the United States, but that was the extent of the war-making power they were willing for him to exercise.

The intent of the framers is made quite clear in the proceedings of the Constitutional Convention and in the subsequent writings of the Founding Fathers. In a letter to James Madison in 1789, Thomas Jefferson wrote:

> We have already given in example one effectual check to the Dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.[2]

Alexander Hamilton, who generally favored extensive Presidential power, nonetheless wrote as follows concerning the President's authority as Commander in Chief:

> The President is to be commander in chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and Admiral of the Confederacy, while that of the British king extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature.[3]

During the first century of American history most of our Presidents were scrupulously respectful of Congress' authority to initiate war. When President Jefferson sent a naval squadron to the Mediterranean to protect American commercial vessels from attack by the Barbary pirates, he carefully distinguished between repelling an attack and initiating offensive action. When he thought the latter necessary, he sent a message to Congress asking for the requisite authority.

Stating that he himself was "unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense," he requested authority to take offensive action, acknowledging that such authority was "confided by the Constitution to the legislature exclusively."[4]

The Monroe Doctrine is often cited by proponents of unrestricted Presidential power as a precedent for executive authority to commit the country to military action abroad. In fact, President Monroe himself regarded his declaration as no more than a policy statement. When the Government of Columbia inquired, in 1824, as to what action the United States might take to defend the newly independent Latin American states against European interference, Secretary of State John Quincy Adams replied:

> With respect to the question, "in what manner the Government of the United States intends to resist on its part any interference of the Holy Alliance for the purpose of subjugating the new Republics or interfering in their political forms" you understand that by the Constitution of the United States, the ultimate decision of this question belongs to the Legislative Department of the Government . . .[5]

In 1846, President Polk sent American forces into disputed territory in Texas, precipitating the clash which began the Mexican war. Abraham Lincoln, then a Republican Member of the House of Representatives from Illinois, was certain that the President had acted unconstitutionally, and he wrote:

> Allow the President to invade a neighboring nation whenever *he* shall deem it necessary to repeal an invasion, and you allow him to do so, *whenever he may choose to say* he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix *any limit* to his power in this respect, after you have given him so much as you propose . . .
>
> The provision of the Constitution giving the warmaking power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and improverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our convention undertook to be the most oppressive of all kingly oppressions; and they resolved to so frame the Constitution that *no one man* should hold the power of bringing this oppression upon us.[6]

Nonetheless, by the end of the 19th century, precedents had been established for Presidential use of the Armed Forces abroad for certain limited purposes, such as suppressing piracy and the slave trade, "hot pursuit" of criminals across frontiers, and protecting American lives and property, as well as for repelling sudden attack. But in the early 20th Century, Presidential power over the commitment of the Armed Forces abroad was greatly expanded. Presidents Theodore Roosevelt, Taft, and Wilson, acting without authority from Congress, repeatedly intervened militarily in Mexico, Central America, and the Caribbean. The Congresses of that period, most unwisely, failed to resist these Presidential incursions on their constitutional authority, with the result that they became corrosive precedents for the further and much greater incursions that were to follow during and after World War II.

I have already noted how President Franklin Roosevelt usurped the treaty power of the Senate in making his famous destroyer deal with Great Britain; he also went further than any previous President in expanding Executive power over the Armed Forces. In the course of the year 1941, he committed American forces to the defense of Greenland and Iceland, authorized American warships to escort, as far as Iceland, convoys which were bound for Britain, and ordered American naval vessels to "shoot on sight" against German and Italian ships in the western Atlantic. Well before Congress declared war on the Axis Powers, President Roosevelt had already taken the country into an undeclared naval war in the Atlantic. Few would deny that he did these things in an excellent cause, that of assisting Britain in those desperate days when she stood alone against the tide of Nazi aggression. But in doing what he did for a good cause, President Roosevelt enabled his successors to claim the same authority in the furtherance of causes much more dubious.

After World War II, the trend toward Presidential dominance accelerated greatly and the real power to commit the country to war is now exercised by the President alone. As one historian, Prof. Ruhl Bartlett, has pointed out:

> The positions of the executive and legislative branches of the Federal Government in the area of foreign affairs have come very close to reversal since 1789 . . .[7]

In other words, the intent of the Constitution has been virtually negated.

In 1950, President Truman committed the Armed Forces of the United States to the Korean war without any form of Congressional authorization. The President himself made no public explanation of his action, but an article in the Department of State Bulletin, which is the official record of State Department policy, asserted:

> The President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof.[8]

---

[2] *The Papers of Thomas Jefferson*, 17 vols. (Julian P. Boyd, ed., Princeton: Princeton University Press, 1955), vol. 15, p. 397.

[3] *The Federalist*, No. 69 (Henry Cabot Lodge, ed., New York and London: G. P. Putnam's sons, 1908), pp. 430–431.

[4] U.S. Congress, Joint Committee on Printing, *Compilation of Messages and Papers of the Presidents*, 20 vols. (James D. Richardson, ed.. New York: Bureau of National Literature, Inc., 1897), vol. 1, p. 314.

[5] John Quincy Adams to Don Jose Maria Salazar, Aug. 6, 1824, quoted in *The Record of American Diplomacy* (Ruhl J. Bartlett, ed., 3rd edition, New York: Alfred A. Knopf, 1954), p. 185.

[6] Letter to William H. Herndon, Feb. 15, 1848, in *The Collected Works of Abraham Lincoln*, 9 vols. (New Brunswick: Rutgers University Press, 1953,) vol. 1, pp. 451–452.

[7] "U.S. Commitments to Foreign Powers," *Hearings Before the Committee on Foreign Relations*, U.S. Senate, 90th Cong., 1st Sess., on S. Res. 151 (Washington: U.S. Government Printing Office, 1967), p. 20.

[8] *Department of State Bulletin*, vol. 23, No. 578, July 31, 1950, pp. 173–177.

No one in Congress protested at the time, but some months later, in January 1951, Senator Taft asserted that the President had "simply usurped authority" in sending troops to Korea.[9]

When the Korean war went badly, President Truman's political opponents, who had supported him at the outset, charged him with responsibility for the war and accused him of exceeding his authority. In order to protect themselves from this kind of accusation, subsequent Presidents have adopted the practice of asking Congress for joint resolutions when they contemplate taking military action in some foreign country. Presidents Eisenhower, Kennedy, and Johnson all have requested such resolutions and Congress has readily complied. Resolutions were adopted pertaining to Formosa, the Middle East, Cuba and, finally Southeast Asia. Couched in the broadest of terms, these resolutions have generally expressed Congress' advance approval of any military action the President might see fit to take in the area concerned.

The most important and fateful of all these was the Gulf of Tonkin resolution adopted in August 1964, after only 2 days of hearings and debate. The resolution expressed congressional approval of any measures the President might choose to take to prevent aggression in Southeast Asia and further stated that the United States was prepared to take any action the President might judge to be necessary to assist a number of Southeast Asian states, including Vietnam.

The Gulf of Tonkin resolution has been cited, again and again, as proof of Congress' approval of the war in Vietnam. It was later said by Under Secretary of State Katzenbach to be the "functional equivalent" of a congressional declaration of war. In my opinion, Congress neither expected nor even considered at the time of the debate on the resolution that the President would later commit more than half a million American soldiers to a full-scale war in Vietnam.

WHY CONGRESS ABDICATED

How did it come about that Congress permitted itself to be so totally and disastrously misunderstood? And why has Congress tamely yielded to the President powers that, beyond any doubt, were intended by the Constitution to be exercised by Congress?

As to the first question, Congress failed to state its intentions clearly in the case of the Gulf of Tonkin resolution, because it assumed that those intentions were generally understood. A national election campaign was then in progress and President Johnson's basic position on Vietnam was that "we are not about to send American boys 9,000 or 10,000 miles away from home to do what Asian boys ought to be doing for themselves." [10] In adopting a resolution supporting the President on Vietnam, the great majority in Congress believed that they were upholding the position of moderation which President Johnson was expressing in his campaign. The failure of Congress to make its purpose clear was nonetheless a grave error.

With respect to the second question, the abdication of Congress in the field of foreign policy, the reasons are varied and several. To begin with, the politics of crisis is that of anxiety in which Congress, like the country, tends to unite behind the President. Because the United States has exercised its role as a world power for only a short time, we have not really gotten used to dealing with foreign emergencies and, more important still, to discriminating between genuine emergencies and situations that only seem to require urgent action. Lacking experience in dealing with such flaps as the Gulf of Tonkin incident in 1964, we have tended to act hastily with insufficient regard for the requirements of constitutional procedure, assuming, quite wrongly, that it would somehow be unpatriotic to question the President's judgment in a moment of assumed emergency.

Then there is the way our history has been taught since the end of the First World War. It is now part of the conventional wisdom that the Senate's refusal to ratify the Versailles Treaty not only destroyed Woodrow Wilson's dream of world order, but actually accounted for the failure of the League of Nations to prevent World War II. The theory persists, despite the anemic peacekeeping record of the United Nations in which we have so actively participated, and, though outdated, its continued respectability has doubtlessly had an intimidating effect on Congress. But even if the Senate blundered in 1919, it does not follow that the President must, therefore, be regarded as infallible. The myth that the Chief Executive is the fount of all wisdom in foreign affairs today lies shattered on the shoals of Vietnam. The lesson to be learned may well be found in the observation of James Bryce, the British statesman, who said:

> In a democracy the people are entitled to determine the ends or general aims of foreign policy. History shows that they do this at least as wisely as monarchs or oligarchies, or the small groups to whom, in democratic countries, the conduct of foreign relations has been left, and that they have evinced more respect for moral principles.[11]

The "small groups" to whom Bryce refers have themselves induced Congress to underrate its own competence in foreign affairs. The executive branch of our Government is populated with specialists and experts. These men have added greatly to the Government's skill in conducting foreign relations, but they have also shown a certain arrogance, purveying the notion that anyone who is not an expert, including Congressmen, Senators, and ordinary citizens, is simply too uninformed to grasp the complexities of foreign policy. Now, modesty and self-effacement are not characteristics usually associated with politicians but, curiously enough, many Members of Congress seem to have accepted the view that foreign policy is best left to the experts. This view is patently false: Clemenceau said that war was too important to be left to the generals; similarly, the basic decisions of foreign policy are too important to be left to the diplomats. As Professor Bartlett puts it:

> There are no experts in wisdom concerning human affairs or in determining the national interest, and there is nothing in the realm of foreign policy that cannot be understood by the average American citizen.[12]

No discussion of congressional abdication in the realm of foreign policy would be complete, however, without mention of the great impetus given the growth of Presidential prerogative by the general acceptance, following World War II, of the doctrine of bipartisanship in the conduct of our foreign relations. The lure of that beguiling slogan, "politics stops at the water's edge," led us to the erroneous conclusion that any action taken by the President abroad demanded bipartisan backing at home. Ironically, it never seems to have occurred to us that bipartisanship, as actually practiced, has neither eliminated partisanship or politics from foreign policy matters. In 1952, for example, the Republicans rode to power on the issue of Korea, while Castro's takeover of Cuba became a major political argument in the Kennedy campaign of 1960. Far from removing foreign policy from the arena of partisan politics, the doctrine of bipartisanship has simply gathered more power into the hands of the President by eliminating, between elections, any semblance of organized opposition in Congress. When the duty to oppose no longer rests, as it normally must, upon the "loyal opposition" in Congress, the day-to-day responsibility for holding the President to account, for the timely questioning of his chosen course, and for the posing of alternatives, falls much less effectually to the scatterfire of individual Members expressing their personal dissent. All in all, the proposition is well summed up by Mr. James O'Gara, the distinguished editor of Commonweal, who observes:

> As it is usually interpreted, all we get from the exhortation to keep politics out of foreign affairs is the illusion of agreement. This result may make us feel more secure, but it does not really help us. It only papers over real differences and prevents that discussion and debate which could lead to better policies and a stronger, more effective position abroad.[13]

THE CONSEQUENCES OF ABDICATION

As a result of the passing of the war power out of the hands of Congress, perhaps the most important of our constitutional checks and balances has been overturned. For the first time in our history, there has come into view the possibility of our President becoming a Caesar, because, as Gibbon wrote in "The Decline and Fall":

> The principles of a free constitution are irrevocably lost, when the legislative power is nominated by the executive.[14]

---

[9] *Congressional Record*, 82nd Cong., 1st Sess., vol. 97, January 5, 1951, p. 57.

[10] Remarks in Memorial Hall, Akron University, Akron, Ohio, October 21, 1964.

[11] James Bryce, "Democracy and Foreign Policy," *Readings in Foreign Policy*, edited by Robert A. Goldwin, New York, Oxford University Press, 1959, p. 17.

[12] *U.S. Commitments to Foreign Powers*, p. 20.

[13] James O'Gara, "Foreign Policy and Dissent," in *Commonweal*, October 13, 1961.

[14] Edward Gibbon, *The History of the Decline and Fall of the Roman Empire*, 3 vols. (New York: Random House, Modern Library Edition), vol. 1, p. 54.

It is no exaggeration to say that the President of the United States now holds the power of life and death for 200 million Americans and, indeed, for most of the human race. That power is vividly described by the brilliant columnist, James Reston, who wrote of the ascendancy of the Presidency in these words:

On the great acts of foreign policy, especially those involving the risk or even the act of war, he is more powerful in this age than in any other, freer to follow his own bent than any other single political leader in the world—and the larger and more fateful the issue, the greater is his authority to follow his own will.[15]

No human being can safely be entrusted with such enormous powers. Prof. Henry Steele Commager wrote not long ago:

It is that the possession of power encourages and even creates conditions which seem to require its use, and that the greater and more conclusive the power the stronger the argument for its use. Those who possess authority want to exercise it: children, teachers, bosses, bureaucrats, even soldiers and statesmen . . . Men who possess power think it a shame to let power go to waste and sometimes, perhaps unconsciously, they manufacture situations in which it must be used—as in Santo Domingo, for example. All this was dangerous but not intolerable in the pre-atomic age; it is no longer tolerable.

Even the wisest and most competent of Presidents is still a human being, susceptible to human flaws and human failures of judgment. The greatest insight of our Founding Fathers was their recognition of the dangers of unlimited power exercised by a single man or institution; their greatest achievement was the safeguards against absolute power which they wrote into our Constitution.

The resolution before the Senate will not, of and by itself, restore the constitutional balance which has been lost. It will not, of and by itself, restore to Congress the war power, now abdicated away. The resolution is, however, designed to initiate that process; it is designed to remind Congress of its responsibilities and to help create a new state of mind.

What, one may ask, could be expected to come of a new congressional attitude toward foreign policy? First, one may hope that it would encourage Congress to show the same healthy skepticism toward Presidential requests pertaining to foreign relations that it shows toward Presidential recommendations in the domestic field. One may hope that Congress hereafter would exercise its own judgment as to when haste is necessary and when it is not. One may hope that, in considering a resolution such as the Gulf of Tonkin resolution, Congress would hereafter state as explicitly as possible the nature and purpose of any military action to be taken and, more important still, that it would make it absolutely clear that the resolution was an act of authorization, granting the President specific powers which he would not otherwise possess. One may hope, finally, that Congress would never again forget that its responsibility for upholding the Constitution includes the obligation to preserve its own constitutional authority.

One hears it argued these days—by high officials in the executive branch, by foreign policy experts, and by some political scientists—that certain of our constitutional procedures, including the power of Congress to declare war, are obsolete in the nuclear age. This contention, in my opinion, is without merit. Nothing in the Constitution prevents—and no one in Congress would ever try to prevent the President from acting in a genuine national emergency. What is at issue is his authority to order our military forces into action in foreign lands whenever and wherever he judges the national interest calls for it. What is at issue is his right to alter constitutional processes at his option, even in the name of defending those processes.

I do not believe that the Constitution is obsolete; I do not believe that Congress is incapable of discharging its responsibilities for war and peace; but, if either of these conditions ever should arise, the remedy would lie in the amendment process of the Constitution itself. As George Washington said in his Farewell Address:

Let there be no change in usurpation for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed.

Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Joseph C. Harsch, which appeared in yesterday's edition of the Christian Science Monitor, entitled "Which Caesar?"

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

WHICH CAESAR?

(By Joseph C. Harsch)

WASHINGTON.—There is a favorite after-dinner game played here in Washington these days which is always fascinating though never conclusive. It consists of trying to match up Roman emperors with modern American presidents.

The object of the game is to decide when the United States ceased to be a republic and became an empire. Some go further and raise the question whether the republic can be restored.

In practical terms the question is whether the Congress can reclaim a veto over the freedom of the president to make war.

PRESIDENTIAL AUTHORITY

The Constitution specifically reserved to Congress the right to declare war.

Yet twice within the last 19 years the president has committed the United States to war without ever obtaining a declaration of war from the Congress, or ever calling it a war.

According to Sen. Frank Church (D) of Idaho the usurpation by the White House of the power to make war dates from 1940 when Franklin Delano Roosevelt gave 50 destroyers to Britain without the approval of Congress; and claimed that he had acted within his constitutional powers. Actually, the destroyers were in exchange for 99-year leases on eight British bases.

The extreme limit to which the new doctrine of presidential authority has been carried, to date, came in August of 1967.

The Senate Foreign Relations Committee held hearings to review the Gulf of Tonkin resolution (of 1964) on which President Johnson based his commitment of American armed forces to combat in Vietnam. Members of the committee were threatening to repeal the resolution. The then Under Secretary of State, Nicholas Katzenbach, argued that it would be unfortunate, but legally unimportant because, he claimed the president had every right to do what he had done with or without the Tonkin resolution.

EMERGENCY ACT?

There it was. The bald assertion that because of the nature of modern war the president is free to act in any emergency as he sees fit without consulting the Congress.

Members of the committee have been mulling over that assertion of presidential power ever since. They are currently proposing to the Senate a resolution which would attempt to reclaim for Congress some restraint on the war-waging freedom of the president.

Senator Church sees this effort in terms of the occasional efforts made by the Roman Senate during the middle phases of the Roman Empire to reclaim some of the lost power of the senate.

In the case of Rome, it never worked. According to Senator Church, who has been rereading his Gibbon ("Decline and Fall of the Roman Empire") it was Caesar Augustus who "strangled the republic with skillful hands." From the time of Augustus the Roman Senate was always a puppet of the reigning emperor.

Have we gone that far in Washington yet? Was Franklin Roosevelt the equivalent for us of Caesar Augustus? It was during his reign that American armies spread across the face of the earth. And most of them are still posted where he placed them.

MARTIAL CEREMONIES

But the trappings of empire came later. Not until John F. Kennedy did we begin to have those martial ceremonies with honor guards and fanfares of trumpets on the White House backyard every time some visiting celebrity arrived. Harry Truman met his guests on the front porch with a handshake, unaided by "ruffles, flourishes, and 'Hail to The Chief.'"

If Roosevelt was our Augustus where does Richard Nixon fit into the pattern?

Americans have so far been fortunate. They have not had a modern Caligula; although extreme critics of Lyndon Johnson have been heard to mutter "Nero." Perhaps Nixon can be matched to Claudius who sincerely did try to restore the authority of the Roman Senate.

The essential fact is that Rome ceased to be a republic when it became a world empire. It proved to be impossible in those times to manage and administrate an empire by the "collective leadership" of the old senate.

Does that rule apply to the United States today?

It makes for a lively after-dinner game.

Mr. PELL and Mr. McGEE addressed the Chair.

Mr. CHURCH. Mr. President, I am happy to yield first to the Senator from Rhode Island.

The PRESIDING OFFICER (Mr. EAGLETON in the chair). The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I merely wish to say that I was not able to be in the Chamber during the entire time the Senator was speaking. I did have an opportunity to read his speech. I congratulate the Senator on his speech and on the thrust of it. I think it is an excellent speech and he has done a great service to the Senate.

I think the point should be made that in our Government, which is tripartite in form, we sometimes tend to think that

[15] James Reston, *The Artillery of the Press; Its Influence on American Foreign Policy*, New York, Harper & Row, 1967, p. 45.

all three parts of our Government are intended to be equal checks and balances but that is not so in the ever flow of events and personalities.

In previous years, we in Congress have been perhaps a little remiss in not having demanded explicit and as strong authority as we should have.

Perhaps actions, such as the pending resolution, and speeches, such as the speech the Senator has just made, will restore to the Congress the position I believe it should have.

Mr. CHURCH. I thank the Senator for his remarks. I concur completely that the division of powers contemplated by the Constitution is not guaranteed by providence. It depends on the Congress, in general, and the Senate, in particular, in the case of foreign policy, to assert the powers vested in it by the Constitution. If we fail to do that, as we have largely failed, I submit, on many occasions in the last 50 years, precedents are established which steadily erode away the powers themselves, and then it is argued that on the basis of the precedents the powers no longer exist, or that they have come to adhere in the presidency instead of the Congress. To preserve the power of Congress is our responsibility, and I hope this resolution will have the effect of reminding us of that responsibility.

I thank the Senator for his remarks.

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

Mr. CHURCH. I am happy to yield to the Senator from Wyoming.

Mr. McGEE. Mr. President, I wish to join my voice with that of my colleague in applauding the contribution of the distinguished Senator from Idaho to the legislative record of the issues that are attendant to the proposition of the Senate's role in foreign policy, particularly in times like the present. I think that only in this way are we going to be able to answer to ourselves as to what is the wisest way for us to proceed. However, I would like to raise several points specifically with the Senator that his speech has brought out. I not only have read his speech but I listened very carefully to the Senator's eloquent presentation of that speech.

I think that the principal focus in the speech might well hang on the point just raised by the Senator from Rhode Island, namely, that the Constitution does not in absolute terms determine what is the balance between the executive and the legislative branches, and that throughout our history that balance has gone up and down the scale, either reflecting moments of crises at a particular time, or reflecting contrasts between strong Presidents and acquiescent Congresses, or vice versa. Therefore, there is no hard and fast rule we can draw, nor is there an assumption in the Constitution. This is where I think the Senator is in error. There is no hard and fast rule or assumption in the Constitution that prescribes that we have some kind of balance to restore. It seems rather that it is incumbent on us, in the framework of the Constitution, to try to constantly reassesses the processes.

Would the Senator care to respond?

Mr. CHURCH. Yes, I would be happy to respond to the Senator's observation.

First of all, I would agree that the precise limit of the authority delegated to the Congress by the Constitution, or the precise limit of the presidential authority, is subject not only to reasonable argument but, from time to time, in the ebb and flow of history, there have been changes in the precise lines of demarcation.

I have tried to point out that during the last century—with the possible exception of the Mexican War, which I think historians might well agree was a war initiated by Presidential action—there was no substantial incursion by the President on the war power of Congress.

I have tried to point out that, since the turn of the century, Presidential power has grown at the expense of Congress; first, with the action taken by Presidents Woodrow Wilson, Theodore Roosevelt, and William Howard Taft to send American troops into Central America and the Caribbean, where they were, on occasion, committed to combat without authorization from Congress.

I noted in my address that the failure of the Congress to object to this assertion of Presidential prerogative established unfortunate precedents upon which subsequent Presidents have built. Beginning in 1940, with President Franklin Roosevelt's decision to exchange American destroyers for certain leaseholds in British territory in the Western Hemisphere, the power of the Presidency was greatly enlarged. It has nearly swept away the last vestiges of Congress' war power as defined by the Constitution.

I have tried to demonstrate that, far from representing a healthy ebb and flow, in which the legislative branch asserts itself in times of an acquiescent president, while the Presidency asserts itself in times of a strong and determined president, the current has all been in the direction of presidential usurpation of congressional power, to the point where the real decision for war or peace now rests with the presidency. I think it is incumbent upon us to recognize what has happened.

We must look at the extent of the erosion of congressional power. We need a resolution of this kind to remind Congress of its responsibility under the Constitution, so that this process of steady erosion can be reversed, and we can begin to retrieve the prerogative that is ours under the supreme law of the land.

Mr. McGEE. It occurs to me that some of our misunderstanding or confusion, or however we wish to describe it, derives from a mixture in the comments which have been made as to the President's prerogatives under the Constitution in the field of foreign policy, and what they are as delineated in the clause reserving the power to declare war to an act of the Congress.

Mr. CHURCH. Both issues are involved in this resolution.

Mr. McGEE. Would the Senator suggest, then, that in the realm of projecting foreign policy, as he says on the first page of his speech, it involves the basic principle of returning to the separation of powers between President and Congress in the field of foreign policy itself?

Mr. CHURCH. Yes, indeed. I try to spell that out by pointing to the denigration of the treaty power. Take, for example, this account in today's New York Times, regarding the Spanish bases arrangement. The Senator is aware of the background, that we have been committed to a certain relationship with Spain by executive agreement, parts of which were never even disclosed to Congress. I heard the Senator say yesterday that he felt this was a clear case of abuse of Presidential power. I agree with him. But when we are bound to a government like that of Spain by Presidential action, without even so much as a full disclosure to the Senate, and without ever having been called upon either to approve or reject that relationship by passing upon a treaty, when such matters as ordinary commercial and fishery agreements and tax agreements and consular conventions are routinely brought here for our approval, I suggest to the Senator that there has been a very serious abuse of Presidential prerogative in the circumvention of the treaty power.

It used to be a general rule that anything that had major importance came to the Senate in treaty form, and that other matters of lesser importance, such as technical and commercial matters, were often made by Presidential agreement. But the line between the two is no longer observed.

I recall when we were once considering a very technical and relatively unimportant tax treaty with Thailand. It was brought dutifully to the Senate in accordance with constitutional requirements, and we were considering it in the Committee on Foreign Relations. During the same period, the President shipped some 30,000 American troops to Thailand, where they could well be the cause of our becoming involved in a war in that country, and he acted without even consulting the Senate.

I suggest to the Senator that these are examples of serious erosion of what was meant to be the responsibility of the Senate under the Constitution.

Mr. McGEE. May I, then, observe, in response to the Senator, that under the Constitution itself, even the literal words of the Constitution, I would suppose we would have to agree that the initiative in foreign policy, the overwhelming bulk of that responsibility in making foreign policy—I repeat, making it—devolves upon the Executive in the system. That is the reason I asked the preceding question. We must separate policy formulation from the declaration of war.

Let me continue on that. The President is restrained under the Constitution in all foreign policy matters only in three areas; namely, first, in the treatymaking power; second, in the appropriation of funds involved in the execution of foreign policy; and, third, in the actual declaration of war itself.

But more than that, there is no legacy in the constitutional language, as I see it, which requires some kind of separation of powers between the Senate and the Executive. The President has the initiative in that.

President Monroe had the initiative to pronounce a doctrine. President Truman had the initiative to pronounce a doctrine. It did not require, under any terms I know of, a followup by the Senate per se. The lines have already been set. Who could determine what the consequences of either the Monroe Doctrine or the Truman doctrine would ever be? Because of their promise it might well have required a confrontation somewhere down the line, and Congress would have found, in substance, its constitutional prerogatives already limited in terms of what options it could choose between. But there was no questioning of the President's right, or of the President's authority, or of the President's responsibility, if you will, that lay out these lines.

A President can refuse to recognize a nation. He can also recognize a nation. That is policy. Yet, doing that, or failing to do that, can also commit.

What I am getting at is that, in the field of foreign policy, the President has the initiative under the Constitution and probably must continue to have it, especially so in these days; and that the options of Congress are narrowly drawn as a result.

I think that we should keep this in perspective. In my judgment, the Senator threw the whole bag of unpleasantness and unhappiness into this. I think we have to separate it from war declaration.

Mr. CHURCH. Let me say, first of all, that I think the Senator has set up a fine strawman and then has proceeded to demolish him. But the strawman does not relate to the propositions I have advanced.

No one denies that the President has great powers in the field of foreign policy. No one denies that he is the initiator and the chief architect. No one denies that he can recognize or refuse to recognize foreign governments. No one denies that he can declare doctrines.

Mr. McGEE. Without consulting the Congress.

Mr. CHURCH. The argument is not that the President does not have enormous powers which are quite uncontested. The argument is that it was not intended that he have all the powers. He has taken them. That is the argument.

Let us go back to the Monroe Doctrine. The Senator referred to it as an example of presidential power. Let us consider that. It is true that President Monroe, in his own right, declared the doctrine. Then some of the new republics in South America became interested in how it was going to be implemented. They were concerned because of the threat posed by the Holy Alliance against which the doctrine had been, as the Senator well knows, asserted. Thus, they inquired of our Secretary of State as to how the doctrine would be implemented, and he replied in terms completely consistent with the Constitution.

This is what he said:

> With respect to the question in what manner the Government of the United States intends to resist or to prevent any interference of the Holy Alliance for the purpose of subjugating new republics or interfering in their political forms, you understand that by the Constitution, the ultimate decision of the question belongs to the legislative department of government.

What could be clearer?

I simply say to the Senator that he makes a good argument, but I do not think it is relevant. The President has broad power under the Constitution to conduct foreign relations, but it is subject to the right of the Senate to pass upon treaties. I have tried to indicate how that right of the Senate has been circumvented by Presidential policy, by executive agreements and other kinds of resolutions, in order to avoid the necessity of securing a two-thirds vote of the Senate, which treaties require.

History is replete with examples, and we should know them, because they have come so fast and furiously in our own time. I have referred to the war power, to which the Senator also alludes, and the treaty power. Both have been eroded away. Today we must, in all honesty, admit that the war power has been lost. Our last two wars have been Presidential wars. It is not enough to say that Congress still has the power to declare war, if the President wants it declared. I do not think that really is a sensible argument.

Mr. McGEE. I think that puts the finger on part of the problem. Let us go back in terms of what the Senator is saying here. He alone can tell us what he is contending, but if I read his remarks correctly, he talks in his speech about the separation of powers between the President and the Congress having been eroded in a pervasive way. The Executive has, in effect, run away with the ball. I am trying to pin it down as to whether it is in the making of policy or whether it is in the war declaration that that is involved.

If it is the latter, I assume, from what the Senator has said, it is the conflict in Vietnam that has been at least the current element that has triggered concern in this field. He himself talked at some length about the Gulf of Tonkin resolution.

Is it the argument that it was an improper thing or that Congress did not take the right step? Where was this a violation of what the Senator is talking about?

Mr. CHURCH. I think the argument is very clearly set out in the text of my remarks. As far as the Gulf of Tonkin resolution is concerned, the Senator has listened to that part of the remarks—I thank him for it—and he has also read the remarks.

Mr. McGEE. I have also studied the remarks.

Mr. CHURCH. I could repeat them once more.

Mr. McGEE. No; do not read them again. I ask the Senator to answer on the point I have suggested.

Mr. CHURCH. I said that Congress made a grave error, in my judgment, when it worded the Gulf of Tonkin resolution so vaguely and so broadly. I also referred to the event as an example of a trend in recent years, whereby the Executive seeks to secure blank-check authority from the Congress to cover future vague and unspecified Presidential actions.

I think we have learned something from the Gulf of Tonkin resolution, namely, that we ought not to do that. I hope we have learned that lesson. I have learned it. I voted for the Gulf of Tonkin resolution, as did the Senator from Wyoming, as did most other Members of the Senate. There were only two very perceptive Members of the Senate who did not, Senator Morse, of Oregon, and Senator Gruening, of Alaska. But I admit that, when I voted for it, I did so within the context of a situation in which an American destroyer had been attacked on the high seas and retaliation had followed. We were then asked for the resolution.

In all honesty, I do not think many Members of the Congress had it in their minds, when they voted for the resolution, that they were conferring authority on the President for sending half a million combat troops into Southeast Asia. But we must, nonetheless, accept responsibility for having adopted the resolution in that form. I think we must also learn a lesson from it.

Mr. McGEE. Here I think the Senator is straining his remarks and referring to the war-declaring policy, which he has stated articulately, and going into the field of policy, involving congressional action. Let me read the high phrases of the Gulf of Tonkin resolution. I think this is important. Unlike the Senator from Idaho, or the chairman of the committee, who made the declaration yesterday, I think I understood what the Gulf of Tonkin resolution was. I read it and I voted for it. I had no illusions as to what it meant. I am not sure what the Senator's source is for the statement he makes that most Members of Congress did not mean that. It seems to me the Gulf of Tonkin resolution was clear Therefore, I object to its being used as an illustration of some devious device that somehow trapped Congress into adopting it when its Members were unhappy about doing so. Listen to what the Tonkin resolution said:

> That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.
>
> SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Mr. CHURCH. I suggest, respectfully, that the Senator is only pushing an open door. I know what is in the Tonkin resolution. I know it was drafted downtown. We bought it in 2 days. That is where I think we made our mistake.

When it comes to conferring authority on the President to make war anywhere in the world, we should be very careful about the language we use. I think the lesson to be learned from the Gulf of

Tonkin resolution is that we ought not to give carte blanche authority any more.

We could take all afternoon on what the Senate meant when it passed the resolution. I suppose we could not answer that question unless we had the sworn testimony of all who were present at the time, not only in the Senate but in the House.

I can only speak for myself. I remember the occasion very well. The Senator may have voted, as he said, to confer authority to make major war in Southeast Asia. He may have thought that was what he was doing. Certainly, the language would permit it. But at the time a political campaign was underway. Does anybody here fail to remember what the nexus of that campaign was? It was a campaign between Mr. GOLDWATER, on the one hand, and Mr. Johnson on the other, and the whole focus of the campaign was upon Mr. GOLDWATER's proposals, which were dramatized by Mr. Johnson, having to do with defoliation and the wider use of American military forces in Vietnam.

The whole emphasis of Mr. Johnson was upon restraint and responsibility. I am sure the Senator remembers that the President said:

> We are not about to send American boys 9,000 or 10,000 miles from home to do what Asian boys ought to be doing for themselves.

In that atmosphere, I do not think it unreasonable that many of us may have felt that in passing the resolution we were upholding a position taken by President Johnson which was one of restraint. I do not think it unreasonable that many of us may have thought that, having made these statements in the campaign, he did not intend to commit half a million American men to war in Southeast Asia.

Whatever the Senator from Wyoming thought, he can testify to. I testify to what I thought at the time.

The lesson to be drawn is that never again should we confer the war-making powers on the President in such indiscriminate terms, unless that is how it is asked, that is how we consider it, and that is what we want to do.

We were not even acting on a full disclosure of the proper information when we passed the Tonkin Gulf resolution. So I disagree with the Senator. I think there is a very important lesson for this body to learn from the Gulf of Tonkin experience.

Mr. McGEE. May I say first to the Senator, I think a little chronology is probably in order. First, President Johnson's statement about not sending American boys 9 or 10 thousand miles away, I think, was made on the 24th of October or thereabouts. The Gulf of Tonkin incident had preceded that by more than 2 months.

Mr. CHURCH. The Senator makes a debating point there.

Mr. McGEE. No, not at all.

Mr. CHURCH. Yes, because——

Mr. McGEE. No; may I finish my statement?

Mr. CHURCH. I yielded to the Senator, and I think he makes a debating point, because the whole campaign had this character, from start to finish.

Mr. McGEE. But on August 4, the campaign was not really underway. The major part of the campaign began around the first of September.

May I say to the Senator that in his speech, where he voices the opinion that somehow there was violence done here, even by political verbiage of a presidential candidate on the campaign trail, his argument does not hang together. Before the campaign rhetoric had really surfaced in this country, it was not clear that the future of Southeast Asia was really at stake. By election day, in November, there had been no overt breach in Southeast Asia. The first discovery that our side made that the north had committed large numbers of its own regular military forces became obvious only as late as December, after the election. The verification of the introduction of a new family of weapons from the outside into the south, the AK–47 family, came only after the election.

These elements are after the fact; and the point of this, it seems to me, is that the President was protected, and required by the Tonkin Gulf resolution, previously passed by this body, and overwhelmingly to respond to the new developments, uncontrollable by Republicans and Democrats at the voting booth. Those developments, he felt, required the decision that he made, and he was empowered to make it by the resolution itself; and this body had seemed to be conveying it to him.

There was no mandate in the congressional vote anywhere, that I can discover, that said, "The day after the election, you had better come back and see if this squares with what you promised on the campaign trail."

Mr. CHURCH. I would submit to the Senator that, first of all, his argument goes to a different proposition: whether or not the President was justified in taking the action he took in the light of the new evidence that may have come to light.

That really is not the point at issue. I would say, though, even on the basis of the Senator's own argument, that if these changes in circumstances were so important as to justify the reversal of the President's position during the campaign taken immediately after the campaign was over, the President, I think, should have come back to Congress and said, "These dramatic changes have occurred, and in view of them, I am asking Congress for authority to commit a large expeditionary force to Vietnam."

But he did not. So even on the grounds of the argument presented by the Senator, I am not impressed. I believe, however, that his argument goes to a different question.

When we acted upon the Gulf of Tonkin resolution, the language chosen, in my judgment, was too broad; and thus, afterward, the language allowed the President to say that everything he had done was within the embrace of the resolution. I hope the lesson we draw from that experience is that we should become better draftsmen in the future.

Mr. McGEE. Yes. I think that the point that the Senator makes probably comes closest, now, to his definition of where we got into trouble, and that was that we did not use the right words in drafting the Gulf of Tonkin resolution.

But we did the best we could with what we knew at the time, in the circumstances that prevailed at that time. No President that I know of, a GOLDWATER, a Johnson, a Nixon, a Humphrey, a McGOVERN, a McCARTHY, a Kennedy, or whoever it might have been, would have been able or willing to ignore what might transpire after election day.

As I remember, Franklin Roosevelt with the threat of Hitler hanging over us, made his great statement in October of 1940, in his campaign for a third term:

> I promise you fathers and mothers, again and again and again, that no American boys will be sent abroad.

Now, there again, the campaign produced that statement, but it did not remove from him the responsibility to be President of the United States.

Mr. CHURCH. Very well. But before he took the United States into war against Hitler, Mussolini, and Tojo, he came to Congress and asked for a declaration of war.

Mr. McGEE. The Senator is now again shifting the ground over to another point that was not at issue at this particular stage here. Let us take them one at a time.

Mr. CHURCH. Moreover, as I need hardly remind the Senator, the war was precipitated by an attack upon the territory of the United States.

Mr. McGEE. And the United States, as I think the Senator was arguing earlier, had already been committed to war with Hitler by the actions of President Roosevelt, because of the nature of the agreements and the steps he had taken.

Mr. CHURCH. I cite those instances, and the Presidential movement toward a naval war in the western Atlantic, an excessive use of Presidential power.

Mr. McGEE. Right.

Mr. CHURCH. I was documenting the general usurpation of power, toward which my entire address is pointed.

Mr. McGEE. And my point with the Senator is that the President, within the prerogatives of his office, in his responsibility in projecting foreign policy, has it within his jurisdiction under the Constitution—not by stealing something from the Senate—to undertake commitments by laying out lines of policy that circumscribe the free field of options that the Senator suggests in his able address about restoring the balance of the separation of powers between the Executive and the Legislature. That is what it is about. That is what the Tonkin Gulf Resolution is about, because the best I can understand from the Senator's proposal is that the Senate would be asked again to pass another Tonkin Gulf Resolution, only this time we would change the wording.

But there is nothing in the format that the Senator is now proposing that would suggest that the Senate would do any differently the next time; therefore, why fault the circumstances?

Mr. CHURCH. Let me say, first of all, none of us can forecast what future action Congress may take in the matter of

a war. In the second place, let me say there is no question but that the Tonkin Gulf resolution falls within the embrace of the pending commitments resolution. In other words, no one argues that there was no congressional action involved.

I have said I think we should learn from our mistake, that there are lessons in it, and that we ought not to write resolutions that way any more, if the circumstances will permit us to avoid that error.

I cannot forecast whether or not we will learn the lesson. Nor do I undertake to define for the President the limits of Presidential power. The President, depending on who he may be, will assert such power as he believes he possesses; and we cannot, by any words of ours on this floor, either make that decision for the present incumbent in the White House, nor for any future incumbent.

However, our responsibility is to assert our power under the Constitution. That is our duty, and we can do that, if we will. My complaint is that we have been more and more reluctant to do it, and we have thus permitted our power to slowly erode away, until today there are those who say it does not exist any more, and cite the very Presidential usurpations of the power as evidence to demonstrate that it no longer exists.

When we come to that point, as we have now, I think that a responsibility falls upon us to begin to reassert some of our powers within the structure of our Constitution.

Mr. McGEE. Mr. President, I think that our trouble is in what we mean by words. I go back again to the remarks of the Senator in his speech. I think they make the point as to how difficult it is for us to talk the same language with words that have a different meaning.

The Senator said on page 8 of his speech:

> As to the first question, Congress failed to state its intentions clearly in the case of the Gulf of Tonkin Resolution, because it assumed that those intentions were generally understood.

We have already demonstrated here that the intentions were not too well understood, that we each thought we understood how we measured up to what we voted on here for the Gulf of Tonkin Resolution.

Mr. CHURCH. Each of us has his opinion. I expressed mine.

Mr. McGEE. The Senator said, as shown on page 8:

> A national election campaign was then in progress and President Johnson's basic position on Vietnam was that ". . . we are not about to send American boys 9,000 or 10,000 miles away from home to do what Asian boys ought to be doing for themselves." In adopting a resolution supporting the President on Vietnam, a great majority in Congress believed that they were upholding the position of moderation which President Johnson was expressing in his campaign.

It is more than a debating point that it had not already been expressed. It is more than a debating point that the President's language and that resolution simply said that the President, and not the Congress, should be empowered to employ armed forces in Southeast Asia.

It was just as unadulterated as that. So, I object to the Senator's using an incident like the Tonkin Gulf resolution and casting over it an aura of suspicion and having a bit of the black of conspiracy involved in it as the reason for proceeding to this resolution, when in the resolution he is asking that the Senate do again exactly what it did on August 4, 1964, in the Gulf of Tonkin incident, namely the act of ratifying what the President had been requesting, or debating it if that were the case. I do not see where the Senator has advanced a reason for the resolution, Senate Resolution 85. I do not think it is a relevant citation.

Mr. CHURCH. Mr. President, I am sorry. I am unable to follow the Senator's argument. However, I will come back to it in a minute.

Mr. President, I see no point in rehashing again the question of our two interpretations of the events that led up to the congressional decision to approve the Gulf of Tonkin resolution. I have my opinion; the Senator from Wyoming has a different opinion.

I think we made a mistake. He does not. In any case, it was a congressional action, and, as such, it would fall within the purview of the pending resolution. I think it is pointless to continue to belabor our individual interpretations of what may have been congressional intent at the time that the decision was taken. I see it one way. The Senator from Wyoming sees it another way.

Mr. McGEE. Mr. President, I appreciate that point. I think there is a point presented there that makes it more relevant than the mere fact that the two of us have a different interpretation.

What is relevant is that in the process there was no violation, there was no overstraining, and there was no abuse of the procedures already on the books and underway and being practiced, and practiced on those occasions, by the Executive and the Senate regardless of how one interprets the resolution.

Mr. CHURCH. Nor have I contended that. I do not understand why the Senator keeps arguing a proposition that I have not offered or made.

Mr. McGEE. I have to interpret the Senator's paragraph in that way, in the way in which he treats the Gulf of Tonkin resolution; namely, that this is an illustration in his talk about the abdication of Congress and the Executive running away with the ball.

Mr. CHURCH. Mr. President, if the Senator will permit me to correct him, when I referred to the Gulf of Tonkin resolution, I did so in these words:

> How did it come about that Congress permitted itself to be so totally and disastrously misunderstood?

Then I went on to give my reasons for believing that it did so with certain assumptions in mind which were not borne out.

The Senator disagrees with me. He is entitled to his opinion as to why Congress drafted the resolution as it did, and acted in such haste upon it, and what it intended and what it foresaw at the time it enacted it.

That is for history. That is for later Senators to reflect upon if and when a similar resolution is brought before the Senate at a subsequent date.

Mr. McGEE. Mr. President, I think it comes down to the suggestion that there is no point in Senate Resolution 85 in this case.

The Senator has other citations in his speech which have other elements of relevancy in them, but that is not the case with regard to the Gulf of Tonkin resolution.

Mr. CHURCH. The resolution is a very small part of the case. I base the case on the erosion of the senatorial role over the past 40 or 50 years.

Mr. McGEE. Mr. President, I will be glad to turn to each of the others.

As I remember our colloquy on a part of this particular point on yesterday, we referred to some of the decisions that had been made at the time of the Berlin airlift crisis. It was stated then that these decisions stemmed from other commitments we had already made, that were ratified by Congress.

I suppose that would suggest there was no violation or straining of this principle during the Berlin crisis when the President might have decided, instead of an airlift, to have the supplies brought over the ground and challenged the Soviets at that particular point. Is that a fair conclusion?

Mr. CHURCH. Yes. And I said yesterday that our defense of Berlin was a part of an obligation that we had assumed under the NATO treaty.

Now, the Senate approved that treaty. And I have never complained that the President exceeded his authority in attempting to implement the treaty in West Berlin or elsewhere in Europe. But there was a treaty.

Mr. McGEE. Could that have led to war?

Mr. CHURCH. Of course, but it would have been pursuant to a treaty that had been properly ratified, as the Constitution prescribes.

Mr. McGEE. Then it takes us back to this much lamented Gulf of Tonkin resolution. Could that have led to war?

Mr. CHURCH. It did.

Mr. McGEE. This language—could it not?

Mr. CHURCH. Yes.

Mr. McGEE. We are talking about political science now, not the politics of disagreement. Therefore, what does the Senator change?

Mr. CHURCH. I have tried to make it clear. I think the Senator must understand the point. I have reiterated it a number of times.

Mr. McGEE. I am a slow learner but I am not stubborn.

Mr. CHURCH. My argument against the Gulf of Tonkin resolution is not that Congress failed to act or that the President acted beyond the language of the resolution. My argument in the case of the Gulf of Tonkin resolution is that we acted unwisely, that we should learn from that experience. The Senator thinks we acted wisely, but he and I have been in long-standing disagreement about the wisdom of our course in Southeast Asia.

Mr. McGEE. What about President Truman and Korea?

Mr. CHURCH. I think President Tru-

man's initial action in sending American troops into combat in Korea would have to be considered contrary to this sense-of-the-Senate resolution, because it was a commitment to war in a foreign place and it occurred under circumstances which did not constitute an immediate threat to the safety of the United States itself. In other words, it was not a defensive action. It was a decision to go to war in a distant country; and I think that, consistent with our Constitution, the proposition should have been brought to Congress, so that Congress could have exercised its collective judgment on the decision to go to war in Asia.

Mr. McGEE. It was not without some kind of measure of obligation in a pact we had agreed to in the Security Council in the United Nations?

Mr. CHURCH. I think that stretches the matter very far. I suppose you could say that because we are a member of the United Nations and have generally endorsed the principle that countries should not resort to war in the settlement of foreign disputes, the President could walk under the umbrella anywhere, but not go to war at his pleasure, wherever a dispute erupts. I think that would be straining the treaty obligation owed the United Nations beyond the breaking point.

Mr. McGEE. I think what the Senator leaves out is the fact that a policy position that is approved by this body may in fact lead to a confrontation that it was hoped would be avoided, that might not have happened, but that in these particular instances finally did happen. That puts the finger on our problem, does it not—that in this age, in a nuclear age, we do not have the same good old days, when diplomats got together and broke off relations and served an ultimatum, and finally war was declared? You can have a war that is waged, but not declared, and the question is, "Where do you repose the responsibility to make a sudden decision?" If we had had to debate, as the Senator implies, in the Korean crisis, North Korea would have been all over South Korea before we would have had a quorum of the Senate. It is not quite that simple.

Mr. CHURCH. I just do not believe that. I do not believe that Congress is so irresponsible that in an emergency situation it will not act with the dispatch necessary to protect the vital interests of this country. If the Senator believes that, then he really wants to repeal the Constitution. He wants to repose all the power in the President's hands. That is what he argues. When he says that any time the President decides that an emergency abroad is of such urgency that the United States should go to war, and that the requirements of the nuclear age are such that this is necessary and proper, he is simply casting aside the constitutional system.

Mr. McGEE. Not only do I not intend to cast aside the constitutional system, but also, I think we are capable of living up to this new responsibility under the constitutional system. It is the Senator from Idaho who talks about restoring the balance, about restoring a separation of powers which I argue never existed in fact in the foreign policy field.

Mr. CHURCH. Indeed, I do argue for restoring the balance. I find it in the whole history of the United States, plainly set out. I do not want the Presidency to become a Caesardom.

I yield to the Senator from North Carolina.

(At this point Mr. BYRD of Virginia assumed the chair.)

Mr. ERVIN. I invite the attention of the Senator from Idaho to three provisions of the Constitution, and then I will put to him the question whether he does not think that these three provisions of the Constitution answer the question put to the Senator from Idaho by the distinguished Senator from Wyoming.

The first provision is article I, section 8, clause 11, which says that Congress shall have power "to declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water."

Now, that vests the power in Congress to declare war and grant letters of marque and reprisal, and in that way determine what the rules will be for fighting as those ships used to do. This is a general provision.

Now, the Constitution recognizes in at least two places that the United States might be attacked, and I invite the Senators attention to article IV, section 4, which says:

> The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion.

Does not the Senator from Idaho agree with the Senator from North Carolina that under that provision—that is, section 4 of article IV—it recognizes that if a State is invaded, the United States shall forthwith go to the protection of that State and the defense of that State, without any declaration of war?

Mr. CHURCH. The Senator is correct.

Mr. ERVIN. I invite the attention of the Senator from Idaho to another provision of the Constitution which is so seldom mentioned that I think most of us have a tendency to forget it is even in the Constitution. That is article I, section 10, clause 3, which says:

> No State shall, without the Consent of Congress . . . keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

I ask the Senator if that is not a constitutional recognition that in addition to the United States protecting itself against invasion—that is, fighting a defensive war without a declaration of Congress—this is a recognition of the fact that it may be necessary in time of emergency even for a State, itself, to fight a foreign foe which is either invading the State or is putting the State in imminent danger of being invaded; and that it recognizes that even a State, without getting the consent of anybody on a national level, or from Congress, can fight a defensive war.

Mr. CHURCH. I would interpret the language that way.

Mr. ERVIN. My question is this: Does not the Senator from Idaho agree with the Senator from North Carolina that these three provisions of the Constitution provide, in substance, that the United States cannot engage in an offensive war without a declaration of war by Congress, or at least without congressional permission; and on the contrary, that the President, or even the parties of the State can engage in a defensive war without permission from Congress or anybody else?

Mr. CHURCH. Yes, and I would say the Senator has delineated the general argument that took place at the constitutional convention where it was recognized that, as Commander in Chief, the President had a responsibility to defend the Nation should the Nation be attacked; but it would have been quite meaningless to repose the war power in Congress, if the Founding Fathers had not intended that the decision to go to war in a foreign land, made under circumstances which did not involve an immediate threat to our own security in our own land, should be made by many men, the elected representatives of all the people, rather than with one man.

We had had such an unfortunate experience with the kingly power to make war during the period preceding our War for Independence. When we established our republican form of government, the drafters of the Constitution did not want to repose the same war-making power in the hands of the President that they had suffered from at the hands of the British Kings.

Mr. ERVIN. Does not the Senator from Idaho agree with the Senator from North Carolina that these provisions of the Constitution which denied the power of President to place our Nation in an offensive war, but give the right to take steps when we are attacked to fight defensively, without the consent of Congress, are just as valid today as when they were placed in the Constitution?

Mr. CHURCH. I say they are valid. I cannot accept that argument that because nuclear weapons exist, and time and distance factors have shrunk the world, that somehow Congress can no longer or should no longer assert its right to declare war in a case that does not involve an immediate threat to the safety of the United States. It is only in such a case that such an argument has relevancy; not in connection with a decision to send troops into Laos or Thailand. Does anyone contend that Ho Chi Minh was about to drop nuclear bombs on this country, or that this was a factor in sending troops to Southeast Asia? Of course not.

Mr. ERVIN. Does the Senator from Idaho agree with the Senator from North Carolina in the thought that the provision of the Constitution which sets out the right of the President to defend the United States is just as efficacious now as it has been at any time in the past, because if there is a nuclear attack on the United States the President has the power to put the United States in a position to resist that attack as he would

have had at the time the provision was originally adopted?

Mr. CHURCH. The Senator is correct, and no one raises any question about the authority of the President to defend the country when necessary.

Mr. ERVIN. And he has that power without the authority of anybody else if the United States is subjected to an attack by nuclear weapons by anyone on earth.

Mr. CHURCH. As an example, when the Japanese attacked Pearl Harbor, the Armed Forces went into combat without a declaration of war by Congress. But then the President came to the Congress and asked for a declaration of war against, not only Japan, but also Germany and Italy, as well. He complied with the Constitution in that case.

I am only deploring the fact that subsequent Presidents have not always chosen to scrupulously comply with the Constitution.

Mr. ERVIN. So this power of the President to take such steps as necessary to immediately defend the United States against foreign attack exists regardless of whether the attack is made on us with bows and arrows or with nuclear weapons.

Mr. CHURCH. Of course. I fail to see how the choice of weapons has much relevance to the constitutional question involved in this debate.

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

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

Mr. EAGLETON. Mr. President, as a relative newcomer to the Senate, I have not had the privilege of hearing all of the presentations by the Senator on the floor of the Senate. However, I can say that in my brief tenure as a Member of this body I think today's speech of the Senator from Idaho is perhaps the most thought-provoking and erudite that it has been my privilege to hear in this Chamber.

I would like to direct a few questions to the Senator. He is a member of the Committee on Foreign Relations and, of course, is eminently knowledgeable of our mutual assistance commitments.

Does the Senator have a rough figure as to the number of countries with which we have some kind of verbal, Executive, or treaty agreement of mutual assistance, one country to another, in the event of attack?

Mr. CHURCH. As I recall, we presently have treaty commitments to go to the defense of some 42 foreign governments. I think this alone is unprecedented in history. We also have some fuzzy relationships which seem to constitute de facto mutual defense arrangements, as with Spain, which were never brought before the Senate in treaty form for ratification.

With respect to the treaty obligations, the constitutional provisions have been complied with. Whether or not these were wisely assumed is quite a different question. Whether or not we are now overcommitted is quite a different question. As to the Spanish arrangement, I suggest this is another example of Presidential abuse.

Mr. EAGLETON. That was precisely the point I was trying to extract by propounding my question. It is with respect to those arrangements, which the Senator has euphoniously referred to as "fuzzy," that I am so deeply disturbed.

In the 5 months I have been in the Senate, the Senate has ratified four treaties. The most significant treaty, of course, was the Nuclear Nonproliferation Treaty on March 13. In addition, we have ratified a treaty on aircraft defense on May 13, the Niagara Power Agreement on May 13, and two radio agreements with Mexico yesterday, June 19.

Yesterday I was in the Chamber and voted affirmatively, as did 89 other Senators. I am not aware of the knowledge of the other 88 Senators who voted in the affirmative, but I frankly had to ask the distinguished Senator from Alabama who is seated behind me what the treaty was all about and what we were going to vote on. He referred me to our distinguished colleague to his right, and by that time it was too late to get much information, so we voted in the affirmative.

With the exception of the Nuclear Nonproliferation Treaty, we are frequently called upon to ratify trivia, matters which are innocuous and routine. With respect to things that matter and which affect the destiny of the Nation, we frequently leave them up to unilateral executive decision.

Mr. CHURCH. I could not agree more. This has been the sad story of the steady decline of Congress within our constitutional system. Nothing has grieved me more than to be witness to this decline during my 12 years in the Senate. The Senator can be certain that if a treaty is relatively inconsequential; that is, if it has to do with some mercantile arrangement, or the exchange of shoe leather, it will be brought dutifully to the Senate, and we will spend time in hearings, and the matter will be brought to the floor of the Senate and in due course we will ratify it because there is no controversy in it, and there is no importance in it. But, if the matter has to do with the life and death of thousands of American citizens; with young men who will be drafted into the Army and told that they must go and fight or go to prison if they refuse; if it is a matter of great moment to the country, then, likely as not, it will not be brought here at all.

I do not overstate the case. I think my address today illustrates that Presidential authority has grown beyond limits. I do not know of any other free government in the world which vests such vast authority in its chief executive. There is grave danger in this, not because our Presidents are untrustworthy. We have been blessed with great and able men in the Presidency. But they are not infallible men.

Our Founding Fathers understood the importance of recognizing human limitations when they reposed the power of making war in the many elected Representatives who sit in Congress, rather than in the one Executive who sits in the White House. They were wise in doing that. In fact, there is no greater genius to be found in the Constitution than the division of power, the balancing of power, so that its concentration would not come, at last, to usurp the liberties of the people.

But, I submit, we had better get busy. We had better start to reassert some of the constitutional power that was meant to lie with Congress, or we will become an irrelevancy on anything that really matters insofar as the destiny of our land is concerned.

I thank the Senator for making his observation. It is extremely pertinent and bears out the argument I make here today.

Mr. ERVIN. Mr. President, I should like to ask the——

Mr. CHURCH. May I first yield further to the Senator from Missouri, and then I shall be glad to yield to the Senator from North Carolina.

Mr. EAGLETON. I should like to propound two more questions to the Senator from Idaho, if I may have the indulgence of the Senator from North Carolina.

I was very much interested in the exchange between the Senator from Idaho and the Senator from Wyoming with respect to the Gulf of Tonkin resolution which was voted on by the Senate on August 10, 1964, in which the Senator from Idaho and the Senator from Wyoming explained what was on their minds at the time they cast their affirmative votes.

The Senator from Wyoming stated that he was fully cognizant of the implications contained in the very broad language of the resolution, but the Senator from Idaho was not so fully cognizant of the full-blown implications to the extent of having 540,000 troops in South Vietnam.

May I ask the Senator from Idaho this question, which is truly, I admit, in the nature of a hypothetical question. Since the Senator from Idaho and the Senator from Wyoming have engaged in some reflective, soul-searching examinations of what they were thinking about on August 10, 1964, I ask indulgence for that same practice again.

My question is: If, on assuming that the Gulf of Tonkin resolution matter which took place on August 4, 5, and 6, 1964, had occurred in the same way as Pearl Harbor in 1941, and President Johnson on August 7 had come before a joint session of Congress and had opened his remarks with, "Members of Congress, yesterday, August 6, a day that will live in infamy, the mighty armies and armament of the country of North Vietnam, with stealth and in the dark of night, provoked great devastation on the Armed Forces of the United States in a sneak attack and, therefore, I ask that Congress declare a state of war,"—as did, of course, President Franklin D. Roosevelt on December 8, 1941, the day following Pearl Harbor, what would have been on the Senator's mind, insofar as the request of President Johnson was concerned, had he made it in that form?

Mr. CHURCH. I can reply only in personal terms.

What would have been on my mind if President Johnson had said to a joint session of Congress that the Government of North Vietnam had by stealth invaded

and attacked the Government of South Vietnam, on a day that would live in infamy?

I would have said, "Where is the evidence?"

After all, we had been involved in Vietnam for some years prior and debate was already underway as to the nature of the conflict there.

It was my opinion, and indeed the opinion of many of the most eminent authorities on the Vietnam situation, that the struggle was a civil war in character, and that the initial uprising against the South Vietnamese Government had been undertaken by indigenous South Vietnamese. Indeed, even today, by our own figures, we concede that the bulk of those engaged in the Vietcong assaults to overthrow the Saigon government are indigenous South Vietnamese.

In other words, I do not think that the President would have gotten away with such an assertion. It is very much unlike the day that President Roosevelt said would live in infamy, when the territory of the United States had been attacked by the Imperial Government of Japan. I think there would have been a spirited debate in Congress; that we would not have laid back and taken such an interpretation of the circumstances when there was so much evidence to the contrary.

I cannot predict what the final vote would have been, but at least we would have discharged our constitutional responsibilities, debated the question, and made the decision.

That is what this resolution calls for.

Mr. EAGLETON. I thank the Senator, and would like now to ask one final question.

Mr. McGEE. May I ask, was it the Senator's intent for me to respond also to that question, since he bracketed me in with the Senator from Idaho in his question?

Mr. EAGLETON. Yes. May I propound the same question to the Senator from Wyoming?

Mr. CHURCH. The Senator may feel free to respond to that question, so long as I retain my right to the floor.

Mr. McGEE. Of course. The Senator has the floor and I appreciate his courtesy in allowing me to respond, since my name was introduced by the Senator from Missouri.

I think it is obvious that the President did not request this. The circumstances were not those of 1941. Hanoi is not about to take over the world. The point of the Senator's question, I think there is no doubt about it, is that it puts the finger on the changing nature of the tests for some kind of policy position, particularly by a nation that now finds itself cast in a new role in the world; namely, a powerful role, for better or for worse, and that it is to the interest of this debate to try to determine whether, under our present system, we can make the kinds of decisions which have to be made, hopefully to head off the "day that lived in infamy" from ever happening again.

What we surely have learned from that original day of infamy was that its beginnings did not start with the dropping of the first bomb on Pearl Harbor, but began somewhere way back along the road, which caused us to search our consciences to find out whether, in the future, we could act somehow with more wisdom, with greater decisiveness, and avoid another day that might live in infamy.

That is the question that the issue in Southeast Asia raises. In a day of nuclear weaponry, large nations hardly dare—I think dare not, let us be blunt about it—resort to all-out war as an instrument of national policy. But in its place has come the peripheral war, or the fringe war, or the little war—whatever we may call them—even though, as we well know, the price already paid in Southeast Asia is very considerable. But it does not alter the fact that it is one of those tests that may well have been met at another time in history in Manchuria, preceding Pearl Harbor, or at the Rhineland with Hitler, preceding World War II.

I think that is the point of this dialog, whether in a nuclear age we have the wisest processes for protecting the national interest, whether we can repose authority in a different way. Central to the whole question which the Senator from Idaho has brought up so articulately, is the question of where they can best rest. In my judgment, difficult as it it, dangerous as it is, I think the lesser of the evils confronting us is to put the responsibility at least where we can pin it, and that is on the President. Let Congress reestablish its role on a much higher level and in a much more aggressive way in anticipation of the areas of discussion around the world.

I think the question illustrates our point. The answers to that question are quite irrelevant in terms of comparing Pearl Harbor to the issues in Southeast Asia, but the contrast in those answers makes the point that is well made by the injection of the question.

I thank the Senator for the privilege of replying.

Mr. CHURCH. It seems to me the Senator from Wyoming is simply arguing that the nuclear age has replaced the Constitution. I do not share the Senator's view as to where we should repose these life-and-death decisions; that they have to be reposed solely with the Executive in all such situations. Furthermore, I do not think the Senator's views on that question really go to the issue. The issue is: Where does the Constitution repose authority for making such decisions? That is the issue.

President Eisenhower, in the matter of Vietnam, understood the Constitution. Back at the time when Mr. Nixon was calling for unilateral American intervention, I note, from the records of the committee, that President Eisenhower recalled in his memoirs that Vice President Richard Nixon laid the groundwork for unilateral Presidential action in a speech by stating that if necessary to avoid further Communistic expansion in Asia and Indochina—that is the peripheral-type war the Senator from Wyoming refers to—the President should make the politically unpopular decision and do it. The President—that is, Eisenhower—expressed a more reserved attitude by saying that part of his fundamental concept of the Presidency was that, under the American constitutional system, only a "sudden and unforeseen emergency" permitted the President to place the Nation into war without congressional action.

That was Eisenhower's view. It is a sound view historically. How can one read the Constitution and come to any other view?

If the Constitution is obsolete, let us abandon it. Let us amend it out of existence. Let us say the time has come when a President must be Caesar; that all power must be in his hands to decide the life and death of the Nation, under all circumstances, anywhere. But let us at least do it. Let us not permit it to happen by usurpation, which, in truth, we have done.

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

Mr. CHURCH. I yield.

Mr. EAGLETON. I fully share the comments made by the Senator from Idaho. I would add the footnote that to adopt the rationale of the Senator from Wyoming would be to say that the President of the United States has the unilateral, exclusive power to conduct and declare little wars, little wars that we hope do not become big wars, or little wars in Asia, for example, in Korea and Vietnam; but that the only time the declaration of war authority of the Congress comes into play is when it is a big war. Thus, of course, we would be injecting into this situation a very subjective test between black, gray, and white; big, not so big, and pretty big. We would be leaving it solely to the whim of the executive branch, and we would hope the President would always be intelligent and responsible enough to do so, to decide when a war was big enough to take it to the Congress for a declaration of same.

Mr. McGEE. Mr. President, will the Senator from Idaho yield to the Senator from Missouri so he may yield to me to respond to the comments he made about my comments?

Mr. CHURCH. Yes. However, I have a gastronomical problem, it being 25 minutes to 3, and I not having had any lunch. I do not want in any way to inhibit the Senator from participating while I am holding the floor, but I feel the pangs of hunger pounding. I will, nevertheless, yield to the Senator.

Mr. McGEE. I do not want to contribute to any complications. The Senator ought to understand that I have a bowl of strawberries waiting for me. He knows what that means, in my language.

Mr. CHURCH. Yes. The Senator might at least buy my lunch.

Mr. McGEE. In exchange for the strawberries?

My response to the Senator from Missouri in his observation is that, no, the President cannot run around declaring, deliberately, little wars in order to avoid declaring big wars through an act of Congress. I think that is not really the central question. The times set up different threats. The President, I would assume, would hope, in taking a position, that the decisions of some other potential side, whoever is on the other side, would

still hold the balance how far they would go. The President cannot determine that.

That brings us to the basic decision as to whether or not, in a nuclear age, we can really risk declared wars, in the old, formal, rigid sense, or whether we are trapped in a new system in which we dare not declare them, and whether or not this body should consider some other process to deal with such situations. So it is not a matter of reposing this authority in the President in a singular way and letting him dictate it, as the Senator from Idaho declares it; it is a question of how best to preserve the Constitution, rather than shatter it. I think we all agree that the President has this responsibility and power under the Constitution. The question is whether we want him to have it.

Mr. CHURCH. We have not agreed to that. At least the Senator from Idaho did not agree to that.

Mr. McGEE. Mr. President, have I been yielded to?

Mr. CHURCH. No; I have the floor.

Mr. McGEE. I wondered if I had been yielded to, to respond.

Mr. CHURCH. I just wanted to make it clear that the Senator from Wyoming stated a proposition which I did not agree to.

Mr. McGEE. I thought the Senator had yielded.

Mr. CHURCH. I am sorry. I did not mean to offend the Senator, if he wants to continue.

Mr. McGEE. Very well.

Mr. CHURCH. I will be happy to have him take the floor again, if he so desires.

I merely wanted to say that I cannot follow the argument that the distinguished Senator from Wyoming makes. He says that under certain circumstances it may not be advisable to declare a war. Of course that is true. But this resolution does not insist that a war be declared. All that the resolution says is:

> A national commitment by the United States to a foreign power necessarily and exclusively results from affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment.

In other words, it is not necessary; the Constitution does not require that Congress assert its war power by a formal declaration of war.

I think the important point is that the authority to make the decision rests with Congress, though Congress may make that decision either through a formal declaration or by authorizing the President to go to war in some other way.

In the Gulf of Tonkin resolution, at least as interpreted later by the President, we did authorize the President to go to war. It was not a declared war. As I have said earlier in the debate, the fact that Congress did take the action would bring that act within the purview of this resolution.

So I simply cannot accept the argument that the times have somehow rendered the declaration of war obsolete, and that since the interests of the country may require a war to remain undeclared, Congress therefore is without the authority to make the decision.

I think the authority lies with Congress, under the Constitution, to decide whether the war is declared or undeclared. I merely wanted to make that point.

Mr. McGEE. Does the Senator from Idaho have the floor?

Mr. CHURCH. I yield again to the Senator from Wyoming with apologies, and assure him I shall not interrupt him further.

Mr. McGEE. Here, again, I think we are getting close to the nub of the case for Senate Resolution 85. That is why the question was propounded by the Senator from Missouri in terms of a limited war, in terms of a fringe war, or whatever we want to call it. The Senator from Idaho has just clarified the situation for us by saying that it is conceivable it would not require a formal declaration; that it could be done in some other way, I think I understood him to say.

We did it this other way in the case of the Tonkin Gulf resolution. Congress did act; it did vote; it did commit itself, in the case of the Tonkin Gulf resolution, a resolution which says that the President shall be entitled to commit the Armed Forces to the security and peace of Southeast Asia.

So this resolution, I think, makes the point again that Congress has not given up something; someone did not take it away from us. In hindsight, a good many wish we had not done it that way, but again, we do not have the chance to wait for hindsight when we make our decisions on these matters; we have to do it the best we can. There is nothing we cannot communicate as a result of the Gulf of Tonkin incident, or the Southeast Asian war, which the Senator from Missouri has asked his question about—a limited war. That is the reason I say we have got to resolve in our own minds whether we need a new mechanism, or whether we can, in fact, continue under the present method. The Senator is suggesting that in the Gulf of Tonkin resolution we probably now have the mechanism for doing it. I think I agree.

Mr. CHURCH. I submit that the difficulty concerning the Gulf of Tonkin resolution arises from other collateral considerations; that is to say, it came to us at a time when an attack had occurred upon an American destroyer on the high seas. Retaliation had taken place, and the President then asked for the Gulf of Tonkin resolution.

I have no doubt in my mind that the action that Congress then took constitutes congressional action as contemplated by the pending resolution. The difficulty concerning the Gulf of Tonkin matter subsequently developed when the committee discovered what it felt was a failure on the part of the Executive to make a full disclosure of the facts before asking Congress to act. As I have stated in my address, the whole problem was compounded by the haste with which Congress acted and by the great latitude of the language which Congress adopted. That was a mistake on the part of Congress, in my judgment.

In any case, I think that the episode makes it clear that it is not necessary for Congress to declare war in order to exercise its constitutional power.

Mr. EAGLETON. With due deference to the endurance of the Senator from Idaho, and with recognition of the gastronomical niceties and necessities involved, I shall ask one final question, which takes up where the Senator just left off in his remarks.

Each of us is the product of his own individual memory. I think perhaps the incident that caused me to give the most thought to this important concept that is being debated was the action by former Secretary of State Rusk in the summer of 1967, at the request of President Kasavubu, of the Congo, by which we sent to the Congo, as I recall, some 200 or 300 American troops and three or four aircraft. Almost by return phone call, as though Kasavubu had picked up the overseas phone and said, "Mr. Secretary, please send us a few troops," and off they went.

I was not a Member of the Senate at that time. Would the Senator from Idaho, with his privity of knowledge gained as a member of the Committee on Foreign Relations, state how that incident relates to the principle he is espousing in his remarks here today?

Mr. CHURCH. Yes, I shall be glad to comment on that case. I have to rely upon my memory; but as my memory serves me, the use of American personnel in the Congo, if this is the incident to which the Senator refers, was in connection with a rescue operation. The American Armed Forces, it was claimed, were needed to bring out certain people who were endangered by the civil war in that country, including citizens of the United States. In the 19th century, the President came to use American Armed Forces for rescue operations in foreign lands. That came to be pretty much accepted as within the prerogative of the Presidential office.

I have tried to show in this address that the serious transgression of congressional authority commenced at the turn of the century with the administrations of Theodore Roosevelt, William Howard Taft, and later Woodrow Wilson, when the President went further than to use American military forces for the purpose of a rescue operation, and actually committed them, sometimes, to combat in the Caribbean and in Central America.

Then, I have tried to show how the Presidential authority has grown still larger under President Franklin Roosevelt and subsequent Presidents.

The resolution refers to national commitments; and necessarily implied in that is a commitment of a grave and important nature to a foreign government. I should not think that a rescue operation represents a grave and weighty commitment to a foreign government of the character contemplated by the resolution.

However, the Senator from Missouri (Mr. EAGLETON) does touch upon one of those points where a Presidential decision might commit the United States to a position which, in turn, might lead to the involvement of the United States in fighting in a foreign land. We cannot

prescribe in advance the exact limits of Presidential authority. Suffice to say that, if we concede the right of the President to conduct a rescue operation, it seems to me that the character of such an operation is quite different from the intent of the resolution, which seeks to prevent the combat forces of this country from fighting on foreign soil without congressional authorization.

Mr. HOLLAND. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I am happy to yield to the distinguished Senator from Florida.

Mr. HOLLAND. I commend the Senator from Idaho, and I commend the chairman of the Committee on Foreign Relations, the distinguished Senator from Arkansas (Mr. FULBRIGHT). I think they are subjecting us to a soul-searching operation, as the Senator from Idaho has described it, and that it will be good for the Senate and for the country if we are subjected to that kind of operation.

I wish equally to commend the Senator from Wyoming (Mr. MCGEE). As a matter of fact, his standing out as the one member of the committee who was present when the resolution was reported to dissent from his associates on the committee was an act of courage, and I find strong reason to commend him for the action then taken and for what he has been saying in the course of the debate.

I shall not trespass further upon the desire of the distinguished Senator from Idaho to consult with an Idaho potato in the dining room, or with the desire of the Senator from Wyoming, who seems already to have gone to find the strawberries he was talking about awhile ago.

Mr. MCGEE. I am here.

Mr. HOLLAND. I see the Senator from Wyoming now. I shall not trespass upon their time by discussing any lengthy questions. But there is one subject that interests me greatly. I have spoken with the chairman of the committee, the Senator from Arkansas, and with the chief of staff of the committee, Dr. Marcy. I have not received any great enlightenment on the subject.

What is the number and what is the significance of the outstanding executive agreements that have been entered into in recent years and are now current? The reason I ask that question is that I realize perfectly well that what might have been a reasonable course of action some years ago, when we had diplomatic relations with only a few countries, and when our problems were few, could not govern us now, when we have diplomatic relations, as I am told, with well over 100 countries, and when an enormous group of problems concern us.

I realize that there must be a place in the picture for executive agreements. From what I know about some executive agreements, I think they do constitute what are stated in the resolution to be national commitments of the United States.

The question I ask first is, Can we have by next week, when this debate will be resumed, an authoritative statement of the number and—if we can have it—the classification in any manner that the Senators may care to classify them, of the group of outstanding executive agreements, of which I have been told by the chief of staff there are probably thousands at this time? Can we secure such information?

Mr. CHURCH. Yes. I have the list that the Senator asks for. And I will be happy to have it printed in the RECORD.

Mr. HOLLAND. My reference to the figure of several thousands comes from my discussion with Dr. Marcy on yesterday afternoon, when he indicated to me that there were probably several thousands outstanding. I would be glad to have any information that the Senator has.

Mr. CHURCH. The Senator is quite right in his understanding. Between 1942 and 1967, there were a total of 5,477 treaties and executive agreements in existence. Of those entered into between 1963 and 1967, 47 were treaties, while 1,136 were executive agreements.

In 1968, 283 treaties and executive agreements were entered into, of which 57 were treaties and 226 were executive agreements.

Mr. President, I ask unanimous consent to have the list printed at this point in the RECORD.

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

TREATIES AND EXECUTIVE AGREEMENTS: NUMBERS EXECUTED, 1942-67

	Treaties and executive agreements	Treaties	Executives agreements
1942-62	4,294		
1963	257	9	248
1964	244	13	231
1965	202	5	197
1966	252	10	242
1967	228	10	218
1942-67	5,477	47	1,136
1968	283	57	226

Source: Information from Department of State, Treaty Division, Sept. 2. 1968.

Mr. HOLLAND. Mr. President, I thank the Senator for having the list printed in the RECORD.

My second question is this, In the opinion of the able Senator, are any of those executive agreements of such a nature as to constitute, in his opinion, national commitments? I think those are the words used in the pending resolution.

When I began the colloquy, the Senator from Arkansas had been called off the floor. I had intended to address the whole series of questions to the Senator from Arkansas, as I think I indicated yesterday. The reason I am going into it now is that I hope that any information which may not be readily available now may be made available when we resume the debate on next Monday.

Mr. CHURCH. Yes, indeed. That is very important. We did have a list prepared of these agreements that in the opinion of the committee were of such gravamen and importance that they ought to have been submitted in treaty form for the ratification of the Senate.

I am happy to have that list printed at this point in the RECORD so that it will be available to the Senator for his review between now and the time the debate resumes on Monday.

Mr. HOLLAND. I appreciate that.

Mr. CHURCH. Mr. President, I ask unanimous consent to have the list I have referred to printed at this point in the RECORD.

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

U.S. DEFENSE COMMITMENTS AND ASSURANCES—MULTILATERAL

This table has been derived from the compilation of U.S. Defense Commitments and Assurances, August 1967, prepared by the Department of State and inserted in the Senate Foreign Relations Committee Hearings on U.S. Commitments to Foreign Powers, Aug. 17, 1967, pp. 49-71.

Treaties	Joint declarations	U.S. statements of policy

CHARTER OF THE UNITED NATIONS, JUNE 26, 1945

Parties

United States 122 other countries (as of Jan. 1, 1968).
122 members: The following 123 countries were members of the U.N. at the beginning of 1968:

Afghanistan
Albania
Algeria
Argentina
Australia
Austria
Barbados
Belgium
Bolivia
Botswana
Brazil
Bulgaria
Burma
Burundi
Byelorussia
Cambodia
Cameroon
Canada
Central African Republic
Ceylon
Chad
Chile
China (Nationalist)
Colombia
Congo (Brazzaville)
Congo (Kinshasa)
Costa Rica
Cuba
Cyprus
Czechoslovakia
Dahomey
Denmark
Dominican Republic
Ecuador
El Salvador
Ethiopia
Finland
France

U.S. DEFENSE COMMITMENTS AND ASSURANCES—MULTILATERAL—Continued

Treaties	Joint declarations	U.S. statements of policy

CHARTER OF THE UNITED NATIONS, JUNE 26, 1945

Parties—Continued

Gabon	Madagascar	Somalia
Gambia	Malawi	South Africa
Ghana	Malaysia	Southern Yemen
Greece	Maldive Islands	Spain
Guatemala	Mali	Sudan
Guinea	Malta	Sweden
Guyana	Mauritania	Syria
Haiti	Mexico	Tanzania
Honduras	Mongolia	Thailand
Hungary	Morocco	Togo
Iceland	Nepal	Trinidad and Tobago
India	Netherlands	Tunisia
Indonesia	New Zealand	Turkey
Iran	Nicaragua	Uganda
Iraq	Niger	Ukraine
Ireland	Nigeria	U.S.S.R.
Israel	Norway	United Arab Republic
Italy	Pakistan	United Kingdom (Britain)
Ivory Coast	Panama	United States
Jamaica	Paraguay	Upper Volta
Japan	Peru	Uruguay
Jordan	Philippines	Venezuela
Kenya	Poland	Yemen
Kuwait	Portugal	Yugoslavia
Laos	Rumania	Zambia
Lebanon	Rwanda	
Lesotho	Saudi Arabia	
Liberia	Senegal	
Libya	Sierra Leone	
Luxembourg	Singapore	

EUROPE

NATO NORTH ATLANTIC TREATY, APR. 4, 1949

Parties

United States	Italy	United Kingdom
Belgium	Luxembourg	Greece
Canada	Netherlands	Turkey
Denmark	Norway	Federal Republic of Germany
France	Portugal	
Iceland		

London 9-Power Conference: Final Act, London 9-Power Conference, Declaration by the Governments of the United States, the United Kingdom, and France, Oct. 3, 1954. (regarding Berlin).

Western European Union: Statement by President Eisenhower on U.S. Policy toward the Western European Union, Mar. 10, 1955.

(In a message to the Prime Ministers of the signatories to the Western European Union protocols: Belgium, France, Federal Republic of Germany, Italy, Luxembourg, the Netherlands, and the United Kindgom. President Eisenhower referred to a similar statement of principles he had made on Apr. 15, 1954, in anticipation of the European Defense Community, and to the fact that the latter had evolved into the Western European Union plan.

Relevant Passages

I am glad to affirm that when the Paris Agreements (establishing the Western European Union arrangements) have been ratified and have come into force, it will be the policy of the United States:

• • • • • • •

(3) To continue to maintain in Europe, including Germany, such units of its armed forces as may be necessary and appropriate to contribute its fair share of the forces needed for the joint defense of the North Atlantic area while a threat to that area exists, and will continue [sic] to deploy such forces in accordance with agreed North Atlantic strategy for the defense of this area;

• • • • • • • •

(6) • • • to regard any action from whatever quarter which threatens the integrity and unity of the Western European Union as a threat to the security of the parties to the North Atlantic Treaty calling for consultation in accordance with Article 4 of that Treaty.

NATO: Communique, North Atlantic Council ministerial session, Athens, May 6, 1962 (regarding nuclear weapons).

LATIN AMERICA

Monroe Doctrine: Seventh Annual Message of President Monroe to Congress ("The Monroe Doctrine"), Dec. 2, 1823.

Relevant Passages

• • • The occasion has been judged proper for asserting, as a principle in which the rights and interest of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers. • • • The political system of the allied powers [the "Holy Alliance"] is essentially different • • • from that of America. • • • We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. • • • With the Governments who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny by any European power in any other light than as the manifestation of an unfriendly disposition toward the United States. • • •

U.S. DEFENSE COMMITMENTS AND ASSURANCES—MULTILATERAL—Continued

Treaties	Joint declarations	U.S. statements of policy
RIO PACT **INTER-AMERICAN TREATY OF RECIPROCAL ASSISTANCE (RIO PACT), SEPT. 2, 1947** Parties United States, Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba [1], Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay, Venezuela		Monroe Doctrine. Statement by the Department of State on the Monroe Doctrine July 14, 1960. Relevant Passage * * * * * * * * * The principles [of the Monroe Doctrine] which the United States Government enunciated in the face of the attempts of the old imperialism to intervene in the affairs of this hemisphere are as valid today for the attempts of the new imperialism. * * * Today, nearly a century and a half later, the United States is gratified that these principles are not professed by itself alone but represent through solemn agreements the views of the American community as a whole. Cuban Resolution: Joint resolution expressing the determination of the United States with respect to the situation in Cuba (Cuban resolution) October 3, 1962.
ASIA **ANZUS PACT (SECURITY TREATY BETWEEN AUSTRALIA, NEW ZEALAND, AND THE UNITED STATES (ANZUS PACT) SEPT. 1, 1951)**		
SEATO (SOUTHEAST ASIA) COLLECTIVE DEFENSE TREATY, SEPT. 8, 1954 Parties United States, Australia, France, New Zealand, Pakistan, Philippines, Thailand, United Kingdom, Cambodia [2], Laos [2], Free territory under the jurisdiction of the State of Vietnam	Manila Conference on Vietnam: Communique of 7 nations Manila Conference Oct. 25, 1966 (Australia, Korea, New Zealand, Philippines, Thailand, United States, Republic of Vietnam).	Tonkin Gulf Resolution: Joint Resolution To Promote the Maintenance of International Peace and Security in Southeast Asia (Tonkin Gulf Resolution) August 10, 1964. Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty the United States is therefore prepared as the President determines to take all necessary steps including the use of armed force to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.
MIDDLE EAST	Baghdad Pact—CENTO: Multilateral declaration respecting the Baghdad Pact July 28 1968. Parties United States, Pakistan, Iran, Turkey, United Kingdom The United States is a member of the military economic and antisubversion committees of CENTO and an observer at the Council meetings.	Truman Doctrine: Message of President Truman to Congress ("The Truman Doctrine") March 12, 1947. Statement on Jordan and Saudi Arabia by Secretary of State Rusk in a News Conference March 8 1963.
GENERAL U.S. STATEMENTS OF POLICY AND DECLARATIONS ON THE MIDDLE EAST		
	Tripartite declaration (United States-United Kingdom-France) regarding security in the Near East, May 25, 1950. The 3 Governments take this opportunity of declaring their deep interest in and their desire to promote the establishment and maintenance of peace and stability in the area and their unalterable opposition to the use of force or threat of force between any of the states in that area. The 3 Governments, should they find that any of these states [i.e. the Arab States and Israel] was preparing to violate frontiers or armistice lines, would, consistently with their obligations as members of the United Nations, immediately take action, both within and outside the United Nations, to prevent such violation.	Joint Resolution to Promote Peace and Stability in the Middle East ("The Eisenhower Doctrine"), March 9, 1957. Geographic Scope of the Joint Resolution I.Excerpt from Report of the Senate Committees on Foreign Relations and Armed Services. The phrase "the general area of the Middle East" recurs throughout the resolution and requires some definition. It would be unwise to attempt to draw a precise geographical line around the area to which this resolution applies. This follows the pattern of the resolution (Public Law 4, 84th Cong.) authorizing the use of armed force to defend Formosa. That resolution named Formosa and the Pescadores and also covered "related positions and territories of that area."

See footnote at end of table.

U.S. DEFENSE COMMITMENTS AND ASSURANCES—MULTILATERAL—Continued

Treaties	Joint declarations	U.S. statements of policy

GENERAL U.S. STATEMENTS OF POLICY AND DECLARATIONS ON THE MIDDLE EAST—Continued

Joint Resolution to Promote Peace and Stability in the Middle East ("The Eisenhower Doctrine"), March 9, 1957—Con.

Geographic Scope of the Joint Resolution—Continued

As used in Senate Joint Resolution 19, "the general area of the Middle East" means the area between Libya on the west, Turkey on the north, Pakistan on the east, and Saudi-Arabia and Ethiopia on the south. Any attempt to be more precise, or to spell out the nations in the resolution itself, would raise further questions as to inclusions and omissions and would carry an inference of lack of American concern over nations not specifically named.

II. Excerpt from Report of the House Committee on Foreign Affairs.

This legislation involves the general area of the Middle East. The term "Middle East" like the more familiar term "Near East" has had no precise definition. Secretary of State Dulles in our hearings said, "The term 'Middle East' as used in this resolution includes the area lying between and including Libya on the west, Pakistan on the east, Turkey on the north, and the Arabian Peninsula on the south." Ethiopia and the Sudan are also in the area. This identification of countries does not rule out the inclusion of other countries around the perimeter. The committee decided, however, to accept the view of the executive department that a complete listing of countries would restrict the freedom of action of the United States in carrying out the purposes of this resolution.

Reply by President Kennedy to a news conference question concerning the Middle East, May 8, 1963.

Relevant Passage

* * * * * * *

We strongly oppose the use of force or the threat of force in the Near East, and we also seek to limit the spread of communism in the Middle East which would, of course destroy the independence of the people. This Government has been and remains strongly opposed to the use of force or the threat of force in the Near East. In the event of aggression or preparation for aggression, whether direct or indirect, we would support appropriate measures in the United Nations, adopt other courses of action on our own to prevent or to put a stop to such aggression, which, of course, has been the policy which the United States has followed for some time.

Remarks of President Johnson during exchange of toasts with President Shazar of Israel, August 2, 1966.

Relevant Passage

* * * * * * *

[Reaffirming President Kennedy's statement of May 8, 1963, which expressed American support for the security of both Israel and her neighbors, President Johnson said:]

We subscribe to that policy.

Statement by President Johnson on the Near East Situation, at the White House, May 23, 1967.

To the leaders of all the nations of the Near East, I wish to say what three American Presidents have said before me—that the United States is firmly committed to the support of the political independence and territorial integrity of all the nations of that area. The United States strongly opposes agression by anyone in the area, in any form, overt or clandestine.

Address by President Johnson at a Foreign Policy Conference for Educators Sponsored by the Department of State, June 19, 1967.

Relevant Passages

* * * * * * *

Our country is committed—and we here reiterate that commitment today—to a peace [in the Middle East] that is based on five principles:

First, the recognized right of national life;
Second, justice for the refugees;
Third, innocent maritime passage;
Fourth, limits on the wasteful and destructive arms race; and
Fifth, political independence and territorial integrity for al\

[1] Resolution VI, of the Final Act of the Eighth Meeting of Consultation of Ministers of Foreign Affairs of the American Republics, Punta del Este; signed Jan. 31, 1962, excluded "the present Government of Cuba, which has officially identified itself as a Marxist-Leninist government" from participation in the inter-American system.

[2] Included (for the purposes of article IV) by the protocol to the Southeast Asia Collective Defense Treaty, TIAS 3170, signed Sept. 8, 1954; entered into force, Feb. 19, 1955. Cambodia has indicated disinterest in the protection of the Southeast Asia Treaty. In the Geneva Declaration on the Neutrality of Laos, the Royal Government of Laos declared that it will not "recognize the protection of any alliance or military coalition including SEATO," and the United States and other nations agreed to "respect the wish of the Kingdom of Laos not to recognize the protection of any alliance or military coalition, including SEATO."

U.S. DEFENSE COMMITMENTS AND ASSURANCES BY COUNTRY

This table has been derived from the compilation of U.S. Defense Commitments and Assurances, August 1967, prepared by the Department of State and inserted in the Senate Foreign Relations Committee Hearings on U.S. Commitments to Foreign Powers, Aug. 17, 1967, pp. 49–71

Country	Treaties	Executive agreements	Joint declarations	U.S. statements of policy
Afghanistan				See Above, Eisenhower Doctrine and General Statements on the Middle East.
Argentina	Rio Pact			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Australia	ANZUS Pact, SEATO			See Tonkin Gulf Resolution above.
Bahrain				See above, Eisenhower Doctrine and General Statements on the Middle East.
Barbados	In Rio Treaty area but not a party			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.

U.S. DEFENSE COMMITMENTS AND ASSURANCES BY COUNTRY—Continued

This table has been derived from the compilation of U.S. Defense Commitments and Assurances, August 1967, prepared by the Department of State and inserted in the Senate Foreign Relations Committee Hearings on U.S. Commitments to Foreign Powers, Aug. 17, 1967, pp. 49–71

Country	Treaties	Executive agreements	Joint declarations	U.S. statements of policy
Belgium	NATO		Communique, North Atlantic Council ministerial session, May 6, 1962.	Western European Union.
Bolivia	Rio Pact			Monore Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Brazil	do			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Canada	In Rio Treaty area but not a party. NATO.	The Ogdensburg Agreement: Joint statement by President Roosevelt and Prime Minister Mackenzie King of Canada, Aug. 18, 1940. Relevant Passages The Prime Minister and the President have discussed the mutual problems of defense in relation to the safety of Canada and the United States. It has been agreed that a Permanent Joint Board on Defense shall be set up at once by the two countries. This Permanent Joint Board on Defense shall commence immediate studies relating to sea, land, and air problems including personnel and materiel. It will consider in the broad sense the defense of the north half of the Western Hemisphere.	Joint announcement on defense, United States-Canada, Feb. 12, 1947. Communique, North Atlantic Council ministerial session, May 6, 1962.	
Chile	Rio Pact			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
China, Republic of	Mutual defense treaty between the United States and the Republic of China, Dec. 2, 1954.			Formosa Straits Resolution: Joint Resolution Authorizing the President to Employ the Armed Forces of the United States for Protecting and the Security of Formosa, the Pescadores and Related Positions and Territories in that Area (Formosa Straits Resolution), January 29, 1955. Statement on Formosa and the offshore Islands by President Kennedy in a Press Conference, June 27, 1962. Our basic position has always been that we are opposed to the use of force in this area. * * * [In the event of] aggressive action against the offshore islands of Matsu and Quemoy * * * the United States will take the action necessary to assure the defense of Formosa and the Pescadores. * * * In my own discussion of this issue in the campaign of 1960, * * * I stated this position very plainly, for example, on October 16, 1960: "The position of the Administration has been that we would defend Quemoy and Matsu if there were an attack which was part of an attack on Formosa and the Pescadores. * * * " Under this policy sustained continuously by the United States Government since 1954, it is clear that any threat to the offshore islands must be judged in relation to its wider meaning for the safety of Formosa and the peace of the area. Exactly what action would be necessary in the event of any such act of force would depend on the situation as it developed. * * *
Colombia	Rio Pact			Monroe Doctrine. Monroe Doctrine reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Costa Rica	do			Monroe Doctrine. Monroe Doctrine reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Cyprus				See above, Eisenhower Doctrine and General statements on the Middle East.
Denmark	NATO	Agreement Between the Government of the United States and the Government of the Kingdom of Denmark, Pursuant to the North Atlantic Treaty, Concerning the Defense of Greenland, Apr. 27, 1951	Communique, North Atlantic Council Ministerial Session—May 6, 1962.	
Dominican Republic	Rio Pact			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Ecuador	do			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
El Salvador	do			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Ethiopia				See Above, Eisenhower Doctrine and General Statements on the Middle East.
France	NATO		Communique, North Atlantic Council Ministerial Session—May 6, 1962.	Western European Union.,

U.S. DEFENSE COMMITMENTS AND ASSURANCES BY COUNTRY —Continued

This table has been derived from the compilation of U.S. Defense Commitments and Assurances, August 1967, prepared by the Department of State and inserted in the Senate Foreign Relations Committee Hearings on U.S. Commitments to Foreign Powers, Aug. 17, 1967, pp. 49–71

Country	Treaties	Executive agreements	Joint declarations	U.S. statements of policy
Germany, Federal Republic of (including Berlin).	NATO		London 9-power conference regarding Berlin, Oct. 3, 1954.	Western European Union. Statement by President Kennedy Regarding Berlin, in address to the Nation, July 25, 1961. Relevant Passage We are there [Berlin] as a result of our victory over Nazi Germany and our basic rights to be there deriving from that victory include both our presence in West Berlin and the enjoyment of access across East Germny.*** But in addition to those rights is our commitment to sustain—and defend, if need be—the opportunity for more than 2 million people to determine their own future and choose their own way of life.*** The NATO shield was long ago extended to cover West Berlin, and we have given our word that an attack in that city will be regarded as an attack upon us all. Address by Vice-President Johnson before the West Berlin House of Representatives, August 19, 1961. Relevant Passage I have come to Berlin by direction of Presiden Kennedy. He wants you to know—and I want you to know—that the pledge he has given to the freedom of West Berlin and to the rights of Western access to Berlin is firm. To the survival and to the creative future of this city we Americans have pledged in effect, what our ancestors pledged in forming the United States: "* * * our Lives, our Fortunes and our Sacred Honor". * * * Statement by Secretary of State Rusk Regarding Berlin, in Address at Davidson College, February 22, 1962. Relevant Passage The Western allies, backed by all the NATO powers have the most solemn obligation to protect the freedom of the West Berliners. * * * To protect this freedom requires the continued presence of Allied troops and free rights of access. * * *
			Communique, North Atlantic Council Ministerial Session, May 6, 1962. Joint Communique, President Kennedy and Chancellor Adenauer of Germany, Nov. 15, 1962. Relevant Passage It is agreed * * * that the freedom and viability of Berlin will be preserved in all circumstances and with all means. Joint Communique, President Johnson and Chancellor Erhard of Germany, June 12, 1964. Relevant Passage The President restated the determination of the United States to carry out fully its commitments with respect to Berlin, including the maintenance of the right of free access to West Berlin and the continued freedom and viability of the city.	Concurrent Resolution 570 (Berlin Resolution) October 10, 1962.
Greece	do		Communique, North Atlantic Council Ministerial Session, May 6, 1962.	Truman Doctrine–March 12, 1947.
Guatemala	Rio Pact			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Guyana	In Rio Treaty area but not a party			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Haiti	Rio Pact			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Honduras	do			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Iceland	NATO	Defense agreement pursuant to the North Atlantic Treaty between the United States and the Republic of Iceland, May 5, 1951.	Communique, North Atlantic Council Ministerial Session, May 6, 1962.	
India				Letter from President Eisenhower to Prime Minister Nehru of India, February 24, 1954. Relevant Passage • • • • • • * * * I am confirming publicly that if our aid to any country, including Pakistan, is misused and directed against another in aggression I will undertake immediately, in accordance with my constitutional authority, appropriate action both within and without the U.N. to thwart such aggression. * * *
Iran			Multilateral declaration respecting the Baghdad Pact—July 28, 1958. Joint communique, President Kennedy and the Shah of Iran (Mohammed Reza Pahlavi), Washington, April 13, 1962.	See Above, Eisenhower Doctrine and General Statements on the Middle East.

U.S. DEFENSE COMMITMENTS AND ASSURANCES BY COUNTRY—Continued

This table has been derived from the compilation of U.S. Defense Commitments and Assurances, August 1967, prepared by the Department of State and inserted in the Senate Foreign Relations Committee Hearings on U.S. Commitments to Foreign Powers, Aug. 17, 1967, pp. 49-71

Country	Treaties	Executive agreements	Joint declarations	U.S. statements of policy
Iraq				See Above, Eisenhower Doctrine and General Statements on the Middle East.
Israel				See above Eisenhower Doctrine and General Statements on the Middle East.
Italy	NATO		Communique, North Atlantic Council Ministerial Session—May 6, 1962.	Western European Union.
Jamaica	In Rio Treaty area but not a party			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Japan	Treaty of Mutual Cooperation and Security between the United States and Japan, Jan. 19, 1960.			
Jordan				Statement by Secretary of State Dean Rusk (on Jordan and Saudi Arabia)—March 8, 1963. See Above, Eisenhower Doctrine and General Statements on the Middle East.
Korea	Mutual Defense Treaty between the United States and the Republic of Korea, Oct. 1, 1953.			Reply to question at Press Conference in Korea by Vice President Humphrey, February 23, 1966. Relevant Passage The United States Government and the people of the United States have a firm commitment to the defense of Korea. As long as there is one American soldier on the line of the border the demarkation line, the whole and the entire power of the United States of America is committed to the security and defense of Korea. Korea today is as strong as the United States and Korea put together. America today is as strong as the United States and Korea put together. We are allies, we are friends, you should have no questions, no doubts.
Kuwait				See above, Eisenhower Doctrine and General Statements on the Middle East.
Lebanon				See Above, Eisenhower Doctrine and General Statements on the Middle East.
Liberia		Agreement of cooperation between the Government of the United States and the Government of Liberia, July 8, 1959.		
Libya				See Above, Eisenhower Doctrine and General Statements on the Middle East.
Luxembourg	NATO		Communique, North Atlantic Council ministerial session, May 6, 1962.	Western European Union.
Mexico	Rio Pact			Monroe Doctrine. Monroe Doctrine, Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Muscat and Oman				See Above, Eisenhower Doctrine and General Statements on the Middle East.
Netherlands	NATO		do	
New Zealand	ANZUS Pact, SEATO			See Tonkin Gulf Resolution Above.
Nicaragua	Rio Pact			Monore Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Norway	NATO		Communique, North Atlantic Council Ministerial Session, May 6, 1962.	
Pakistan	SEATO	Agreement of Cooperation Between the Government of the United States and the Government of Pakistan, Mar. 5, 1959.	Multilateral Declaration Respecting the Baghdad Pact, July 28, 1958.	See Above, Eisenhower Doctrine and General Statements on the Middle East. Assurances to Pakistan Respecting the Extension of Military Assistance to India: Statement by the Department of State, November 17, 1962. Relevant Passages [Referring to an exchange of notes between the United States Government and the Government of India released the same day (November 17), which concerned the provision of military aid to India, and citing the assurances given to India in 1954 when similar aid was extended to Pakistan, the statement continued:] * * * * * The Government of the United States of America has similarly assured the Government of Pakistan that, if our assistance to India should be misused and directed against another in aggression, the United States would undertake immediately, in accordance with constitutional authority appropriate action both within and without the United Nations to thwart such aggression. Needless to say, in giving these assurances the United States is confident that neither of the countries which it is aiding harbors aggressive designs.
Panama	General treaty between the United States and Panana, Mar. 2, 1936, Rio Pact.			See Tonkin Gulf Resolution Above. Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Paraguay	Rio Pact			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Peru	do			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.

U.S. DEFENSE COMMITMENTS AND ASSURANCES BY COUNTRY—Continued

This table has been derived from the compilation of U.S. Defense Commitments and Assurances, August 1967, prepared by the Department of State and inserted in the Senate Foreign Relations Committee Hearings on U.S. Commitments to Foreign Powers, Aug. 17, 1967, pp. 49–71

Country	Treaties	Executive agreements	Joint declarations	U.S. statements of policy
Philippines	Mutual Defense Treaty Between the United States and the Republic of the Philippines, Aug. 30, 1951.	Memorandum of Agreement, Ambassador Bohlen and Foreign Secretary Serrano of the Philippines, Oct. 12, 1959.	Joint communique, President Johnson and President Macapagal, Oct. 6, 1964.	See Tonkin Gulf Resolution Above. Exchange of Notes Between Secretary Rusk and Foreign Secretary Ramos of the Philippines, September 16, 1966. Relevant Provision [Referring to the Memorandum of Agreement of Foreign Secretary Serrano and Ambassador Bohlen of October 12, 1959:] . . . I have the honor on behalf of my government to reaffirm the policy of the United States regarding mutual defense expressed in the 1959 Memorandum. * * *
	SEATO		Joint Communique, President Johnson and President Marcos of the Philippines, Sept. 15, 1966.	
Portugal	NATO		Communique, North Atlantic Council Ministerial Session, May 6, 1962.	
Qatar				See Above, Eisenhower Doctrine and General Statements on the Middle East.
Saudi Arabia				Statement by Secretary of State Dean Rusk (on Jordan and Saudi Arabia)—March 8, 1963. See Above, Eisenhower Doctrine and General Statements on the Middle East.
South Yemen				See Above, Eisenhower Doctrine and General Statements on the Middle East.
Spain		Joint Declaration concerning the Renewal of the Defense Agreement of Sept. 26, 1953, United States-Spain, Sept. 26, 1963.		
Sudan				See Above, Eisenhower Doctrine and General Statements on the Middle East.
Syria				See Above, Eisenhower Doctrine and General Statements on the Middle East.
Thailand	SEATO		Joint statement, Secretary of State Rusk and Foreign Minister Thanat Khoman of Thailand, Mar. 6, 1962. Relevant Passages * * * * * The Secretary of State reaffirmed that the United States regards the preservation of the independence and integrity of Thailand as vital to the national interest of the United States and to world peace. He expressed the firm intention of the United States to aid Thailand, its ally and historic friend, in resisting Communist aggression and subversion. The Foreign Minister and the Secretary of State * * * agreed that the Treaty [Southeast Asia Collective Defense Treaty] provides the basis for the signatories collectively to assist Thailand in case of [direct] Communist armed attack against that country. The Secretary of State assured the Foreign Minister that in the event of such aggression, the United States intends to give full effect to its obligations under the Treaty to act to meet the common danger in accordance with its constitutional processes. The Secretary of State reaffirmed that this obligation of the United States does not depend upon the prior agreement of all other parties to the treaty, since this treaty obligation is individual as well as collective. In reviewing measures to meet indirect aggression, the Secretary of State stated that the United States regards its committments to Thailand under the Southeast Asia Collective Treaty and under its bilateral economic and military assistance agreements with Thailand as providing an important basis for U.S. actions to help Thailand meet indirect aggression. In this connection the Secretary reviewed with the Foreign Minister the actions being taken by the United States to assist the Republic of Vietnam to meet the threat of indirect aggression.	See Tonkin Gulf Resolution Above. Remarks of President Johnson in offering a toast To the King of Thailand, Bangkok, October 28, 1966. Relevant Passages * * * * * Tonight we stand as allies in a common cause. * * * We know the risks that we both run to meet the common dangers. But we know, also, that we act from a joint conviction of common interest. Let me assure you in this regard that Thailand can count on the United States to meet its obligations under the SEATO treaty. The commitment of the United States under the SEATO treaty is not of a particular political party or administration in my country is but a commitment of the American people. I repeat to you: America keeps its commitments.
Trinidad and Tobago	Rio Pact			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State, July 14, 1960. Cuban Resolution, October 3, 1962.
Trucial States				See Above, Eisenhower Doctrine and General Statements on the Middle East.
Turkey	NATO	Agreement of cooperation between the Government of the United States and the Government of the Republic of Turkey, Mar. 5, 1959.	Multilateral declaration respecting the Baghdad Pact, July 28, 1958. Communique, North Atlantic Council ministerial session, May 6, 1962.	Truman Doctrine, March 12, 1947. See Above, Eisenhower Doctrine and General Statements on the Middle East.
United Arab Republic				See Above, Eisenhower Doctrine and General Statements on the Middle East.
United Kingdom	NATO		Communique, North Atlantic Council Ministerial Session—May 6, 1962.	Western European Union.
Uruguay	Rio Pact			Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.

U.S. DEFENSE COMMITMENTS AND ASSURANCES BY COUNTRY—Continued

This table has been derived from the compilation of U.S. Defense Commitments and Assurances, August 1967, prepared by the Department of State and inserted in the Senate Foreign Relations Committee Hearings on U.S. Commitments to Foreign Powers, Aug. 17, 1967, pp. 49–71

Country	Treaties	Executive agreements	Joint Declarations	U.S. statements of policy
Venezuela	Rio Pact		Joint Statement at Washington by President Kennedy and President Betancourt of Venezuela, February 20, 1963. Relevant Passage • • • • • • The President of the United States pledged the full support of his country to the Republic of Venezuela in resisting the all-out campaign of the international Communists, aided especially by their Cuban allies, to overthrow the constitutional government of President Betancourt. • • • • • • [When asked at a news conference on Mar. 6, 1963, about the nature of the "full support" in case of a serious or successful revolution against Betancourt, President Kennedy replied: "Well, it would depend a good deal on the conditions and what our obligations might be under the Rio treaty. We strongly support President Betancourt's efforts in Venezuela in a good number of ways. But if you are asking me, I would have to see what the conditions were, what the responsibilities were under the Rio treaty, the OAS, if we knew we were going into a more substantial situation. If you are talking about aggression from the outside, the answer is very clear. If you are talking about internal acts, we would have to judge those acts, and depend a good deal on what the Government of Venezuela decided as the appropriate resopnse."]	Monroe Doctrine. Monroe Doctrine Reaffirmed by Department of State—July 14, 1960. Cuban Resolution—October 3, 1962.
Vietnam, Republic of	SEATO		Declaration of Honolulu, President Johnson, Chairman Nguyen Van Thieu, and Prime Minister Nguyen Cao Ky, Feb. 8, 1966. Relevant Passage The President of the United States and the Chief of State and Prime Minister of the Republic of Vietnam are thus pledged again— To defense against aggression; To the goal of free self-government; To the attack on hunger, ignorance, and disease; To the unending quest for peace; To the work of social revolution; Manila Conference on Vietnam, Oct. 25, 1966.	See Tonkin Gulf Resolution Above. Statement of Congressional Policy, Mar. 16, 1967. The Congress hereby declares— (1) its firm intentions to provide all necessary support for members of the Armed Forces of the United States fighting in Vietnam; (2) its support of efforts being made by the President of the United States and other men of good will throughout the world to prevent an expansion of the war in Vietnam and to bring that conflict to an end through a negotiated settlement which will preserve the honor of the United States, protect the vital interests of this country, and allow the people of South Vietnam to determine the affairs of that nation in their own way; and (3) its support for the convening of the nations that participated in the Geneva Conferences or any other meeting of nations similarly involved and interested as soon as possible for the purpose of pursuing the general principles of the Geneva accords of 1954 and 1962 and for formulating plans for bringing the conflict to an honorable conclusion.
Yemen				See Above, Eisenhower Doctrine and General Statements on the Middle East.

Mr. HOLLAND. Mr. President, as I understand, the list shows, in the opinion of the distinguished Senator and his committee—and I assume that he speaks for the committee in this instance—that a substantial number of executive agreements should have been handled in the form of treaties or legislation.

Mr. CHURCH. The Senator is correct. In fact, this has been one of the very important areas of abuse by which the Executive has circumvented the treaty power of the Senate by making important arrangements with foreign nations by means of executive agreements. And they need not be brought to Congress at all, neither to the Senate nor to the House, for ratification.

Mr. HOLLAND. I think it is the opinion of the Senator that the substance of that particular group of executive agreements which he mentions now was such as to create national commitments on our part toward other nations.

Mr. CHURCH. Yes, indeed. I would also refer the Senator to an illustration in my earlier address of the executive agreement made by President Roosevelt in 1940 whereby he transferred 50 so-called obsolete destroyers to Great Britain in return for leasehold rights on British territory in the Western Hemisphere, on which we subsequently constructed military bases.

At the time of that agreement, Churchill himself said that it was of such importance that it could have legally justified a German declaration of war upon the United States. Yet, it was made by Presidential agreement and never submitted to the Senate in treaty form.

Mr. HOLLAND. The Senator from Florida has known of some matters which began as executive agreements under the War Powers Act during the World War II period that eventually came to the floor of the Senate as legislative matters, because it became his duty at one time to handle the Rama Road matter which had resulted from an agreement made by President Franklin Roosevelt under the War Powers Act which was in force at that time.

I remember that the Senate and the House as well were divided on the question as to whether legislation should be passed affirming the agreement made under the War Powers Act by President Franklin Roosevelt. I strongly felt that it should be affirmed.

I took that position in the debate, and that position finally, as the Senator knows, became law. The fact of the matter is that there was distinct consideration given by the Republic of Nicaragua to the United States for the assumption of the obligations toward Nicaragua which were assumed by President Franklin Roosevelt under that wartime agreement which was subsequently confirmed during the time of peace by legislation passed by Congress.

I realize that there are various types of executive agreements and that they have been made for different reasons. The thing that bothers me is the generality of the terminology of the pending resolution.

Mr. CHURCH. Mr. President, with the permission of the Senator from Florida,

the able Senator from Arkansas, the chairman of the Committee on Foreign Relations, has agreed to take the floor at this point so that I may leave and get some lunch. If that is acceptable to the Senator from Florida, I would ask the Senator from Arkansas to step in. He can handle the questions much more ably than I can.

Mr. HOLLAND. I regret the necessity of the Senator from Idaho leaving, but I respect his desire to leave. So we will gladly allow the Senator from Arkansas to take over.

May I say this one thing, though, before the Senator leaves: The very fact that he picks out of the huge array of executive agreements a certain number which he says he thinks—and his committee thinks—should have been submitted in treaty form indicates that there are a tremendous number of matters which can be handled by executive agreement.

Mr. CHURCH. Without any question. And for many, many years it was understood that the enlargement of American relationships abroad, the growing complexity of those relationships, made it necessary and proper for the President to act by way of executive agreement, with the understanding that any matter of grave importance to the country, of real consequence, should come to the Senate in treaty form; otherwise, the Constitution would be circumvented. That understanding was pretty well adhered to through the years; but I think, as the record will disclose, there has been less and less attention given in the State Department to this old rule. Now, from all appearances, it is the feeling in the State Department that the President is free to decide whether he will proceed by way of executive agreement or treaty, regardless of the importance of the subject matter.

I say to the Senator from Florida that such a position cannot be upheld without conceding that in doing so the President is enabled to circumvent the treaty power of the Senate whenever he so pleases.

Mr. HOLLAND. With that conclusion I certainly agree. One instance which I regard as a flagrant departure is the matter of the Spanish airbases and other United States rights created in Spain.

However, I still have the grave question about the adequacy of this resolution, and I regretfully excuse the Senator from Idaho and will turn to the distinguished chairman of the committee.

I realize from talking with the Senator yesterday or the day before that he thinks—I believe he used this word at that time—that "substantial" matters involving the United States should be committed to treaty and less substantial matters—perhaps I am not quoting him accurately—could properly be handled in executive agreements.

I realize that there is a very difficult question in drawing a line between the two, and I also realize that it is rather dangerous to leave the drawing of that line exclusively to the decision of one man, the President of the United States. But I still think that the wording of this resolution is so general as to perhaps make trouble for the Senate and for the Executive and for our friends in other nations. I have thought so even more strongly after listening to the distinguished Senator's speech yesterday and the various colloquies in connection with it. I did have the pleasure of listening to them, and I complimented the Senator in his absence a few minutes ago because I thought his speech was an exceedingly able one, and I think he has initiated a discussion in the Senate which is soul-searching and which is worthwhile.

But my own feeling is that this resolution, in the first place, does not go far in meeting the announced intention. The intention is in the preamble:

> Whereas accurate definition of the term "national commitment" in recent years has become obscured: Now, therefore, be it resolved,

After reading the resolution, I think that the definition of the term "national commitment" is still obscure and will still be obscured even if the resolution is adopted as written.

But, to proceed to the resolution itself: I noted that in spite of the fact that the resolution speaks of national commitments or a "national commitment," without confining that to the field of national security either of our Nation or of the nation with which we are dealing, without confining it to any stated field, the resolution goes so far that it seems to me to question the right of the Executive to enter into any executive agreement which might later be construed as constituting a national commitment, something to which we in honor are obligated.

I thought that point was well substantiated when I listened to the Senator's debate yesterday and to most of the debate today, because nothing has been mentioned except national security of either our Nation or the powers with which we are dealing; whereas, I think that the Senator means to affect many other fields or at least several other fields. For instance, a commitment that would bind us to pay money for something, to exchange territory with someone, and other objectives could easily be included. I wonder if it is possible to write much more specific language than to have this, which still leaves quite obscure in my opinion, the question of what is the real definition of the term "national commitment."

Mr. FULBRIGHT. First, as to executive agreements, most of these executive agreements have been made in pursuance either of a law or of a treaty, a pre-existing treaty. Very often there will be a treaty, and in subsequent years, in carrying it out, there will be a number of executive agreements that are within the purview of the treaty; or a law will be passed, and a law, of course, could be the basis of an executive agreement. Executive agreements often are made in pursuance of a law.

I once tried to state the difference between an executive agreement and a treaty, both of which would be submitted to Congress, the difference being, on one hand, that the executive agreement is endorsed by a joint resolution approved by a majority of both Houses, and the same material could have been put in a treaty and passed by two-thirds of the Senate.

When I was a Member of the House, I once tried to argue that the Senate arrogated to itself too much authority and that many of these agreements in the form of treaties should have been submitted to both Houses; because when I was a Member of the House, I was a little like the President as to his own powers—I thought the House was the better of the two bodies of the Legislature.

In any case, I did a great deal of research on what kind of agreement should be presented to Congress as an executive agreement and what kind as a treaty. I was not saying that any of these things should be done by the President on his own.

I want to make it clear. Many executive agreements completely comply with the intent of this resolution. They would not be outlawed nor would they be frowned upon in any respect.

All this resolution says is that these matters should be considered by Congress. What we are really considering, or what bothers us, are some of these so-called executive agreements. I do not admit that they are executive agreements which commit this country.

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

How does the Senator think they can commit this country if they are executive agreements and should not be such?

Mr. FULBRIGHT. I would like to complete my thought at this moment, and then answer the Senator.

Look at this hearing on Senate Resolution 151 in August 1967. Look how big it is. This contains a list submitted by the State Department of all these various agreements, some of which are treaties, some of which are executive agreements, and a great many are nothing more than a statement, made by some executive of this Government, which he may have regarded as an executive agreement binding this country. I say it is not an executive agreement binding this country. It was his idea as to what should be done. It was a statement of policy. This occurs in some of these instances. It is difficult to be too precise in the beginning until we gradually find out what we are talking about. I say there are many things mentioned in this list that I do not really agree are commitments of the United States. Perhaps they were statements made by the Secretary of State or the Vice President, and I do not think they had the authority to commit this country in such a fashion. That is what we are talking about.

I shall tell the Senator what I think this resolution means. We are not talking about agreements made in pursuance of law or treaties which were made in the past or which will be made in the future. We are raising a question as to the effects when an executive representative goes off and signs a joint communique in country X and ends up by saying, "We hereby pledge ourselves to support the redevelopment of this country, and so forth." Then we are eternally sworn that we are going to give them whatever they want by way of money, as in the

case of Spain. We say to them, "If you get in trouble, either foreign or domestic, we will come to your aid."

We are trying to say in this resolution, "We are giving you notice that no longer are we going to accept these agreements as binding commitments. You have said they are binding because Mr. X was there in 1949 and made this statement." We say that from here on we are going to look at these agreements carefully and not admit we are bound by them.

I am not trying to say that no executive agreements are binding. In many cases they are binding. The best way I might put it is that in the old days matters of really great importance that required the most serious thought, that really did involve perhaps sending troops and the transfer of territory should be in the form of a treaty. A vote of two-thirds is required in that instance and it is presumed that it is more difficult to get a two-thirds vote than a majority. I do not know if that is true. This is the distinction I found and I think it is still found in the books where they delineate the type of matter that should be submitted to the Congress in the form of an executive agreement or a treaty.

I do not think the Senator should be concerned about executive agreements because there are hundreds of executive agreements that are perfectly agreeable to me and to which I have no objection. This resolution is not trying to say that everything must be put into treaty form, not by any means. What we are trying to say is that we want anything that is a commitment to be in the form of either a treaty or an executive agreement, depending on the degree of solemnity.

The President may choose to take a matter and say, "I want this as an executive agreement." There is no reason why I or anybody else could challenge it. It might have great importance and is so important it should be a treaty, but I could not in any way challenge that. However, at least Congress should have a look at it.

I mention that process in contrast to a situation where he does it on his own authority and says that we are morally bound and that we have to appropriate the money, and we never had anything to do with it either as an executive agreement or as a treaty.

Mr. HOLLAND. I think the Senator is clear but his resolution is not clear. I discussed this matter with the Senator either yesterday or the day before. He then used the words "matters of substantial importance" should be in treaties, and other matters in executive agreements.

Now, I have heard two other words, one relating to "grave importance" and the other—what was the recent term the Senator used? Was it "great dignity"?

Mr. FULBRIGHT. Solemnity. Matters of great importance.

Mr. HOLLAND. Yet I do not find any of those words or anything indicative of those words and I do not find a real difference between those things that do require either a treaty or legislative action.

Mr. FULBRIGHT. That is because that is not the purpose of the resolution. It is not intended to make any such distinction. I am not trying to draw a distinction between an executive agreement and a treaty. I am trying to draw a distinction between those cases where executive agreements and treaties have been submitted to the Senate and where nothing has been submitted to either body. That is the distinction.

What we are saying is that, for any arrangement to be regarded as a significant commitment. Congress, in some form or another, should participate. That is the only distinction.

Mr. HOLLAND. Is the Senator trying to say in the resolution that there cannot be any national commitment except by joint action of the Executive and the Congress, either by ratification of a treaty by the Senate or by legislative action?

Mr. FULBRIGHT. Or by executive agreement.

Mr. HOLLAND. And the Senator feels that none of these executive agreements can create any national commitment upon the United States?

Mr. FULBRIGHT. Will the Senator repeat his question?

Mr. HOLLAND. Does the Senator feel no executive agreement can create a commitment upon the United States?

Mr. FULBRIGHT. Maybe I am clumsy in my semantics. I used the term "executive agreement" to mean agreements by the President, submitted to or authorized by Congress. What I am trying to say is that substantial matters—perhaps that is not the proper word—require congressional consent.

I would not mind the President's going down to greet the President of Mexico on the border and saying, "I am going to send you a flag on July 4." I would be perfectly willing to accept that as a formal agreement, if I may use that term. That is not a national commitment. I do not think that is of enough significance to be in this picture.

There was a time when executive agreements, or most of them, were submitted to, or authorized by, Congress. It is those which were not submitted to Congress that bother me.

Does the Senator understand what I am trying to get at?

Mr. HOLLAND. I am concerned about it. I find it difficult to understand why the matter of preserving wood ducks, which is an important matter to me as a conservationist, should be submitted in the form of a treaty between Canada and the United States and gravely considered, ratified on the floor of the Senate; and the whole matter concerning our relations with Spain and recent relations in connection with our airbases there and naval bases there and other activities there should be regarded as a proper subject for executive agreement.

I share the Senator's concern in such a division. I do not see any division. It seems to me the executive decision in that case is gravest and most substantial and by far the nearest national commitment, on grave grounds, or substantial grounds, whatever grounds the Senator wishes to use——

Mr. FULBRIGHT. I wish to say to the Senator that I am not concerned in this resolution with the distinction between the treaty and the executive agreement. That is submitted to Congress. I do not want to try to make that distinction. I would resist the Senator trying to use this vehicle to draw such a distinction. That is not my purpose. I have my view about whether it should be an executive agreement or treaty. That is a different subject and is not what I deal with here. I would object to trying to lay down in this resolution or any resolution such a distinction in connection with what I am trying to do. If, on another occasion we would develop and attempt to amend the Constitution in a proper way in order to make such a distinction, that is a different matter.

I am trying to say I hope the Senator will not inject in this resolution a distinction between an executive agreement and a treaty. That is not my purpose. I do want to draw the distinction, if I can, as best I can, between those two legitimate ways of making a national commitment and the way used in the Spanish case. It is a classic case. It is a recent case. There was no executive agreement approved or authorized by Congress. I have no objection, under most circumstances, to an executive agreement that is submitted to or authorized by Congress.

Mr. HOLLAND. Many executive agreements are not submitted to either House of Congress, as the Senator well knows.

Mr. FULBRIGHT. If they are of no consequence, I do not regard that as a constitutional matter.

Mr. HOLLAND. Let us have a clear statement on that. Is it the Senator's opinion in his statement, as one of the bedrocks of this debate, that no executive agreement not submitted to Congress can possibly constitute a national commitment?

Mr. FULBRIGHT. And not in pursuance of any existing law or treaty; yes. I want to make that clear, because there are executive agreements made in consequence of previous actions of Congress and which are perfectly legal. But as to one made without reference to existing law, or treaty, which deals with anything of a substantial nature, I do not think the President or his agent has proper authority to make it. That is the whole point.

Mr. HOLLAND. Who supplies the definition of what is substantial?

Mr. FULBRIGHT. I think that is difficult, as we run into them, in many cases. I gave an example of what I did not think was either a treaty or duly authorized executive agreement. I do not know how to define "subtantial" off the cuff. Something of consequence. I could try to enumerate those things which are of consequence, but I think we have to use the rule of reason in this matter in arriving at what is of any consequence. Certain things would clearly be involved, such as the use of troops. That is easy. The expenditure of funds in any large amount.

The former Senator from Illinois, Mr. Douglas, used to draw the line, the Sen-

ator will remember, at $2.50 as being something of consequence and all below it was of no consequence. All above it was. The Senator will remember that, I am sure. It depends in large part on the circumstances whether it is of consequence or not. I do not think the Senator should expect me to make that definition, off the cuff. I think we should use the rule of reason in a thing of this kind. If it involves U.S. troops, or any substantial amounts of money, or the transfer of territory, they are most clearly items of consequence.

Let me read one sentence here from the committee's report.

> The traditional distinction between the treaty as the appropriate means of making significant political commitment and the Executive Agreement as the appropriate instrument for routine, nonpolitical arrangements, has substantially broken down.

I have drawn this language from the best authorities; that is, writers, historians, constitutional lawyers; they use these words. They are, I suppose we could say, imprecise, but they are the best we can do. The reason I think the language of this resolution fixes the case very well is that I think it is impossible to draw a distinction that would be satisfactory between routine nonpolitical agreements and substantal or important commitments which would require either an executive agreement submitted to or authorized by the Congress or a treaty. But it is clear in those cases which I have in mind, and which are the reason for this resolution. There is no doubt, I think, that the Spanish bases are of such consequence, certainly, to warrant either an executive agreement approved by Congress or a treaty.

Personally, I think it is of such consequence that it warrants a treaty. However, if it is submitted in the form of an executive agreement for the approval of both Houses of Congress, I would not lose too much sleep about it. It is proper practice. It should be achieved.

Mr. HOLLAND. I think I understand what the distinguished Senator is trying to do. I am not out of sympathy with what he is trying to do. I think, however, instead of ending by making a definition of the term "national commitment" which is obscure, as he says it now is, he still leaves it obscure. What I am hoping is that there may be included some specific fields of coverage such as those pertaining to national security, the commitment of troops, and the exchange of territory and perhaps, I assume, others; and then with a general clause. So a general clause would still have to be subject to some of the obscurity. I want the Senator to remove, if possible, as much of the obscurity as he can because I think his resolution is well intended—and I have already commended him for bringing up this soul-searching matter to the people of the United States and particularly to the Senate—but I think he can make his resolution much clearer and much less objectionable to some of us, and much more in fulfillment of his announced intention to remove the obscurity which he says now exists in trying to define "national commitment" by such a course of action. I base that upon two or three things.

First, there have been only three or four fields mentioned here which everyone would clearly say should be within the field of treatymaking. Second, the Senator and the Senator from Idaho, and others, have confined themselves largely, as has my good friend from Wyoming (Mr. McGEE), to the discussion of matters which vitally affect the security of the Nation. Certainly, they should be spelled out as one of the things to be definitely covered. I realize that there are many developments in that field. Congress did not appropriate hundreds of millions of dollars to create a nuclear submarine fleet, to create the nuclear weapons with which they are fitted, and have them cruising around in close proximity to Western Europe on every hand, with any thought that in the event, let us say, of an invasion of Western Germany by our only potential enemy, with the same speed that they recently invaded Czechoslovakia, that we should have to be called back from the various corners of the earth to a special congressional session, 535 of us, to consider the submission of a request for a declaration of war, before any action could be taken.

We all know that no such thing is contemplated. We all know that under NATO, we have some commitments, and that we would be expected to fulfill those commitments. I cite that as only one example of many, many things that could be cited which are as new to the field of defense as are the new things in the field of Federal jurisdiction. We did not have Federal jurisdiction of the airwaves until aviation, radio, and television came into existence. We did not have Federal jurisdiction of the whole nuclear field until we learned how to develop nuclear power. We are going to have other developments which will create new fields of Federal jurisdiction. And we will have changes, I think, in this field, as to what the Executive in a modern world must be expected to do in the event of certain emergencies.

I think it could be easily held that, by implication, we have given him that authority.

Why mention the creation of the fleet of nuclear submarines? Why mention the creation of nuclear weapons with which they are armed and deploy them so as practically to surround as far as the oceans will permit, Western Europe, if we do not expect them to be used quickly in the event of an emergency?

So I am hoping the Senator from Arkansas will give thought to the one suggestion which I am making—and that is all—that thought be given to specifying, as nearly as possible—and I agree with the Senator I do not think it will be possible to specify completely—all the fields of coverage of his resolution. I think, as drawn here, the resolution, instead of making clear the subject matter which he wishes to make clear, leaves it in obscurity. I think it will give trouble to our neighbors and friends around the earth. I think it will give trouble to the Senate and to the Executive in the future. In short, I think it should be more specific.

The Senator realizes that I always listen to him carefully and cordially. I remember having some colloquies with him in connection with the Gulf of Tonkin resolution, and other matters he has handled. I rely greatly upon his much superior wisdom, as compared with mine, in the field of international relations and his scholarship in many fields. I think he can greatly improve his resolution and keep it from being misunderstood in the various quarters on the earth where we might want it understood, and keep us from having a difference with our Executive, by making it much more distinct.

Mr. FULBRIGHT. I agree with the Senator's remarks. Certainly among the senior Members of this body, I think he pays greater and closer attention to matters of this kind, and particularly to my speeches, than any other Member of this body. I am always complimented by that fact.

I know the Senator from Wyoming wants to proceed——

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

Mr. FULBRIGHT. I yield.

Mr. COOPER. I note the inquiry made by the Senator from Arkansas and the Senator from Idaho with respect to executive agreements. The Senators said thousands have been made. I think it is well known, however, that most of those agreements are routine. Many deal with trade, economic and tariff matters.

Mr. FULBRIGHT. They are made in pursuance of law.

Mr. COOPER. Yes. But executive agreements have been made, notably with Pakistan, Iran, and Turkey, in which we do pledge, in case of aggression against these countries, to take appropriate action, including the use of our Armed Forces, in accordance with the Constitution of the United States.

Mr. FULBRIGHT. Thailand is also an example.

Mr. COOPER. I would consider that this resolution addresses itself to the use of any troops under those executive agreements. The President would have to come to Congress under those conditions. Is that correct?

Mr. FULBRIGHT. That is a clear case.

Mr. COOPER. One other point——

Mr. HOLLAND. Mr. President, if the Senator will allow me to interject, I have no difference with him on that. I think the matters he refers to should have been submitted as treaties. That still does not clarify this resolution.

Mr. COOPER. The Senator gave the example of NATO. In addition to the NATO treaty we have entered into a great number of treaties since World War II in which it is agreed that, upon the happening of certain events, the parties would act to meet the common danger in accordance with its constitutional processes. They do not specify the particular action to be taken, but those treaties do require some action. Every one of them, except one that I examined —the Treaty of Rio dealing with the Latin American States—requires action under constitutional processes. They do

not define "constitutional processes." A purpose of the resolution is to define the constitutional process which should be followed before our troops are committed to hostilities.

There might be some cases when there would not be enough time. That is a matter for the President to determine. But the force of the resolution, or any other resolution of this nature, is to bring the views of the Senate to the attention of the President, and that he use the constitutional process of coming to Congress before the sending of our forces into hostilities.

Does the Senator agree with that?

Mr. FULBRIGHT. I do agree with that.

Let me take just a moment to say this further to the Senator from Florida, because he has been, as I have said, very attentive, not only this time, but on other occasions. No man in this body has been more conscientious, in my opinion, in the discharge of his duty to the people of his State and to the Nation than the Senator from Florida.

I hope he will not take amiss what I say. I am only trying to be helpful. Sometimes I express myself too vehemently, but I am only trying to make a point.

Let me say first—and this is no final answer—that this resolution grew out of conversations with our mutual friend, the Senator from Georgia (Mr. RUSSELL). This version was the original version which was approved by the Senator from Georgia. A different version was attempted, primarily at the insistence of the Senator from Iowa at that time, Senator Hickenlooper, who was on the committee last year. He attempted to be more precise, I think at least to some extent, to meet some of the points the Senator from Florida has made.

In my capacity as chairman, trying to work out something that was agreeable and would attract the support of the then Senator from Iowa and other members of the committee, I went along with those changes—not because I felt they improved the resolution, but because the Senator from Iowa felt strongly about it. Since this is only a sense of the Senate resolution, it is intended to affect the attitude of the Senate in the future toward future agreements that may be made. I hesitate now to call them executive agreements. I am referring to the type of agreement that is not submitted to the Congress in any form. I went along with it.

This year I went back to the Senator from Georgia, he being the President pro tempore and chairman of the Appropriations Committee and a very respected Member of this body. I asked him, "Which do you prefer?" We had a little exchange about this. He said, in effect: "On reflection, I prefer the original version. It does not attempt to be restrictive. It does not attempt to draw lines. If you draw it precisely, there is an interpretation around here that everything not mentioned is excluded." He said, "This is a very simple statement of principle on national commitments." He said, "I realize it is difficult, if not impossible, to attempt a definition of 'national commitment' that would not be subject to all kinds of differences of view and cause confusion."

In any case, I relate that as a little background of why I, as chairman of the committee, reintroduced the original version. That is a simple explanation of why I did that. He is very important. He has always been interested in the Constitution. The Senator from North Carolina also had agreed last year to this version. I am not trying to place the responsibility for it. I am only explaining, as a historical matter, why I went back to the original version.

Coming to this resolution itself, the Senator has suggested one or two things that alarm me. I am not sure I understood him. He said we authorized the building of submarines, which may cruise around the world, the implication being that, having authorized them, we have conferred upon the President the right and the constitutional authority to use them whenever he thinks right and proper, to intervene with these submarines wherever he might wish to, because we have given him the power to do so.

I reject that wholeheartedly. I think it is a dangerous doctrine. I would not conclude from the fact that we have given him power in the way of new weapons that we have given him authority to use them under any circumstances other than the circumstances already included in the Constitution long before those weapons were ever heard of—in other words, the right to respond to an attack on this country, whether he would use bows and arrows or the Minuteman or any other missile. The fact that the President has additional instruments does not give him any additional legal power. I reject that doctrine.

Last year the Senator from Georgia (Mr. RUSSELL) objected to the fast logistics supply ships, as I think they are called. I remember one reason why he objected was that if we had them all over the world, with all kinds of modern equipment, there would be a temptation to use them whenever trouble broke out. He succeeded in deleting them from last year's appropriation.

In this case, or any case where a commitment to use those submarines or any other ships is going to be made, I say it should be submitted to Congress, in one form or another, either in the form of an executive agreement for both Houses to pass upon, or a treaty to by acted on by the Senate—one or the other. The President should not have the authority to use them unilaterally, I mean on his own authority, whenever he thinks he should intervene.

Mr. HOLLAND. Will the Senator permit me to intervene at that point?

Mr. FULBRIGHT. In a moment. I do not accept it. I am trying to prevent this President or any other President in the future from believing that he has the authority to intervene because we have provided some kind of instrumentality that will enable him to do so.

One last point, because I am afraid I will forget it. In one of the hearings last year or the year before, the then Secretary of State, Secretary Rusk, made the argument—and it was very offensive to me, not personally, but in a legal or political sense—that, having supported the foreign aid bill, and having given a great deal of aid to South Vietnam, we had created a kind of constitutional climate that gave authority to our Government to do what we were doing.

That really turned me on. If I had dreamed that, by supporting foreign aid, I was giving him or any other administration authority to intervene with 500,000 men, I would have cut my throat. I had no such idea, nor do I have in this case with regard to the submarines.

I wish to make one further distinction, and then I shall yield. The declaration of war is provided for in the Constitution. This resolution does not take away nor add to the requirements of the Constitution with regard to a declaration of war. I think that the President should abide by it.

I do think that this debate and this resolution, in a sort of indirect, oblique manner, should remind the President—any President, of course; this is not directed at the present President, specifically, at all—should remind all of them that we are expecting them to live up to the Constitution, and we hope they will not take us into a war in the future without asking for a declaration. But this particular resolution does not attempt to arrogate to itself or to Congress or to the Senate the powers under the Constitution. Those powers are existing. We say we would like to return to the Constitution.

I yield to the Senator from Florida.

Mr. HOLLAND. Of course, that is fundamental.

Mr. FULBRIGHT. Yes.

Mr. HOLLAND. First, I think the Senator overlooked the fact that my illustration of what might happen in the case of an attack by our only potential enemy involved only West Germany, and that we have some four divisions-plus of American troops there. I think if there were a swift attack made there, similar to the one recently made on Czechoslovakia, and it immediately endangered and destroyed the lives of some of our men there, there would not only be justification, but almost necessity for the President to call into play at once the use of the nuclear submarines.

Be that as it may, I simply wish to say that I have talked to some of the members and the former members of the distinguished Senator's committee. I talked last year to the then Senator from Iowa, Mr. Hickenlooper. I also talked last year to the then Senator from Ohio, Mr. Lausche. I might say that Senator Lausche, as I understand him, had even graver doubts about this resolution than did Senator Hickenlooper. The Senator from Arkansas will know better about that than I.

Mr. FULBRIGHT. As I recall, Senator Lausche objected to it, I think, in either form. I think Senator Hickenlooper approved of it in the form I mentioned a moment ago.

Mr. HOLLAND. With some specifics in it.

Mr. FULBRIGHT. Which he had put in it. It was the version that he had spent much time with.

I think the case the Senator has stated would not be affected in any respect whatever by this resolution. I think, in the example the Senator used, it is not only the President's right, it is his duty to respond. That is why those troops are there; they are certainly there in protection, I think, of our undertaking under the NATO treaty, which was a clear case of the result of a long debate by this body, in which all aspects were discussed and so forth, and it lived up to the Constitution. I do not see why that hypothetical case in any way disturbs them, I mean with regard to this resolution. The resolution certainly would not in any way apply to that situation.

Mr. HOLLAND. It does not disturb me. The point I am making is that I thought the Senator from Arkansas would agree with me that the illustration was a proper one, and a good one when made applicable only to West Germany.

Mr. FULBRIGHT. I do not want to go too far, because I do not quite accept the Senator's characterization of—I assume he meant—Russia as the only possible or potential enemy, whatever word he used. These relationships change quickly. It was not long ago that Germany was our enemy and Russia was our ally. So I do not like to use this language in such definitive, permanent fashion.

I would not say "only" or "only potential." I would say the current, or perhaps the most fashionable, one. I would prefer to limit myself to a little bit different language.

Mr. HOLLAND. The Senator is more expert in the field of semantics than I, but I think we understand each other completely, and there is no difference between us. If there were an attack from that possible enemy, if the Senator will permit me to use that word——

Mr. FULBRIGHT. Yes.

Mr. HOLLAND. With our four divisions of troops stationed in West Germany, under the obligations imposed by the NATO Treaty, I think it would not be regarded as an idle thing that those nuclear submarines were riding in the North Sea or off the North Gate, or wherever they might be.

Mr. FULBRIGHT. Oh, no.

Mr. HOLLAND. And that, without waiting on any declaration of war, the President would be under the duty of immediately using the weapons which they carry.

Mr. FULBRIGHT. I would think the Senator is correct.

Mr. HOLLAND. I thank the Senator.

Mr. FULBRIGHT. I do not think this proposal in any way interferes with that. I thought the Senator said that in the words he used before he had given the hypothetical conditions under which they would be used. Suppose the submarines were lurking off the coast of Africa, and a civil war broke out in Rhodesia; does the Senator think it would be justified, because he thought we ought to intervene, for the President immediately to jump in there, where we have no business whatever in intervening?

Mr. HOLLAND. I certainly do not think that.

Mr. FULBRIGHT. I do not, either.

Mr. HOLLAND. What I said was they would be surrounding Western Europe, meaning they were in range of that only possible or potential enemy, or whatever words the Senator would like me to use relating to that terrible prospect.

Mr. President, I hope the Senator will consider using some words that are descriptive and specific, and I think he will strengthen his resolution if he does so. I think he will avoid misunderstanding by friendly nations all around the world if he does so. I would suggest also that he might consider making this resolution forward-looking only.

Mr. FULBRIGHT. It is forward looking only.

Mr. HOLLAND. Without relation to existing executive agreements.

Mr. FULBRIGHT. We tried to do that, in our report, and so on, and we did it. I have no objection whatever to any way we can make it forward looking. I mean it is not intended to undo any genuine obligations.

On the other hand, I do not wish this resolution to be interpreted as a confirmation of everything that currently may be called an executive agreement and a national commitment, which I do not accept as being such. I think there are a number of things that are called national commitments by persons other than the committee or myself, which I think need examination. There are a lot of them that are clear, either by treaty or otherwise, that are acceptable. There are a number of others that I question, and I question them very seriously. There are some which, if I have an opportunity—and I expect to have—to vote, for example, for funds to implement them, which I do not think are binding, I expect to vote against their implementation.

This is merely an expression of personal views, and making argument about it. But I certainly hope that the Senator will accept the language of the committee and my own assurance, because this was thought of last year.

It has no relation to the present President and contains no criticism of the present President. He has done nothing that I can think of, or that I know of, at least, that has violated the intent of the resolution.

He has initiated nothing. Even the Spanish Bases Agreement was initiated in the former administration. The recent change is of great importance. I still think it ought to be handled as a treaty because it is such an important matter.

Let me inject one thought here. It is a very difficult thing to try to deal with definitions in this area. And when we try to reach precise agreements or to vest grants of authority in the President, I think we fairly well understand the general area and the clear-cut areas and what ought to be executive agreements and what treaties.

Here is a thought that impressed me. It is in the report. I think it is good to read it in the RECORD.

It reads:

> Finally, should the President find himself confronted with a situation of such complexity and ambiguity as to leave him without guidelines for constitutional action, it would be far better for him to take the action he saw fit without attempting to justify it in advance and leave it to Congress or the courts to evaluate his action in retrospect. A single unconstitutional act, later explained or pronounced unconstitutional, is preferable to an act dressed up in some spurious, precedent-setting claim of legitimacy. As a member of the Nation's first Congress, Alexander White, of Virginia, said:
>
> "It would be better for the President to extend his powers on some extraordinary occasions, even where he is not strictly justified by the Constitution, than the legislature should grant an improper power to be exercised at all times * * *."

We have a very sound principle to be applied in the gray area cases that one could not easily define or explain. We can deal fairly well with the obvious cases in which action has been taken, but in the attempt to deal with the extraordinary cases of great complexity and ambiguity, it is better constitutional practice to let the President assume that responsibility and then explain it. In 99 times out of 100, or perhaps even more, the Congress and the courts and the people will understand it and abide by it.

I cannot give an example, because by definition this is an extraordinary case which does not occur very often. However, in general the cases we have in mind to be covered by this resolution, in my opinion, are pretty clear. They are not cases of great urgency. They are cases in which there is plenty of time to consult Congress.

The cases which have offended the committee and me that have given rise to this action certainly were cases in which there would have been time to consult Congress.

Mr. HOLLAND. Mr. President, I am sure I would have no disagreement with the Senator on the matters he has mentioned and perhaps on other cases which he has not mentioned.

I am sure it is made very clear by the report that he is not attacking the present President, because one of his leading paragraphs starts off by saying:

> The denigration of treaties goes back at least to President Franklin Roosevelt's destroyer deal of 1940, referred to in section 3 above.

Then there is another discussion of the same kind through various other administrations.

Mr. FULBRIGHT. It does not relate to this President at all.

Mr. HOLLAND. I find much in what the Senator has said with which I can completely agree. I am still of the opinion that the resolution itself ought to state that it is forward-looking only and not create doubts in the minds of Spain, Pakistan, India, or Iran, to mention just a few, as to what our attitude toward them is. I think from what I have heard and from what I have seen in the papers over the years, that there is general agreement that we have rather close arrangements with them which I would

not like to see questioned and which I do not think the Senator is trying to question, but which I think may be questioned as the result of leaving the resolution in its general wording.

There are two things that I hope may be done. One is to write some specifics into the resolution, and there may be a conditional general clause which would call for decision by the President as to what is grave and what is not, and it would be subject to later review by Congress.

My other suggestion is that it be made completely clear that the resolution looks ahead completely and not at the existing structure.

I thank the Senator for yielding.

Mr. FULBRIGHT. Mr. President, certainly looking forward is the main import. However, does the Senator wish to leave the impression that, if anything has been done up to now, we now approve it, and that we would be foreclosed from questioning any of the agreements that have been made in the past without any reference to Congress?

Mr. HOLLAND. I do not, at all. I think that the words making it clear that the pending resolution looks forward do not have to question anything now in existence, but would simply confine themselves to the future. In a very few words, that is it.

Mr. FULBRIGHT. The Senator knows this resolution does not intend and does not seek to have the force of law. It does not seek to nullify anything in a legal or constitutional sense.

What it seeks to do is to influence the attitude of Senators and executives and other people in the future as to the way they would approach this very difficult area of reconciliation or adjustment between the branches of the Government. It specifically does not intend or pretend to have the force of law.

In any respect, how could it affect any existing agreement if it is an agreement? However, suppose there is something that purports to be an agreement and calls itself an executive agreement which has never been submitted to anyone anywhere. The Senator would not want to make a pronouncement and say that we are foreclosed from even talking about it. That is all we could do about it.

I again emphasize that this is not a legal binding instrument. It is simply a statement of our intentions, of our sense of proper procedure under our constitutional system.

Mr. HOLLAND. Mr. President, the Senator has been extremely kind. I will not detain him further. Of course, I do not want to preclude the Senator or any other Senator from raising questions about anything now existing about which he does not approve.

I would expect him to do so. I would expect to do so. However, to put the other shoe on the other foot, I do not want to do anything here which seems to say in advance, with reference to executive agreements I have never heard of and have never seen, that unless they have been negotiated in the way stated by the resolution, I cannot regard them as national commitments. I would much prefer to look at them in the light of what happened, in the light of what the conditions were at that time, in the light of what has been done since that time and decide for myself. Just as the Senator prefers to decide for himself when such agreements are not national commitments, I prefer to be able to decide that they are or may be national commitments.

So, it would be my feeling that the Senator would make his resolution much more appetizing to some of us if he made it very clear in the terms of the resolution by the use of the words, "in the future," or, "from the date of the passage of this resolution," that this is a principle which is now announced.

Mr. FULBRIGHT. I could pursue the matter further, but I hesitate to impose upon the Senator from Wyoming.

I should like to ask one last question. It is a hypothetical question to the Senator from Florida. I will not pursue it any further.

Can the Senator really imagine an agreement that has already been made that would involve what I would call a national commitment of this country to use our Armed Forces, not in the defense of the country, but abroad in defense of some other country, that he knows nothing about and that I know nothing about, that takes effect in the future and has never been submitted to Congress, that he would be inclined to agree to. Does he believe that a reasonable possibility?

Mr. HOLLAND. My reply to the Senator would be this. I prefer to look at the situation and what has been done. I know that both he and I—at least I—have voted money for the support of our troops in Spain. I know that I have voted money, and I believe the Senator has, for the creation of our airports in Spain and the furnishing of our naval bases in Spain. Those things have doubtless been done since whatever was done in the original instance between the Executive and the Spanish Government. I want to have the chance to look at the whole situation before I decide what the situation is.

Therefore, I think that this resolution becomes much stronger, certainly much less objectionable to anyone, if words are placed in it that show that we are going to follow this policy in the future and that confine it to the future operations of the Senate; because we do have responsibilities under the Constitution both to advise and consent, and responsibilities as part of Congress generally to appropriate and to do other things in that field of legislation. I want to be completely free from any hangover that might result from this resolution as it is now worded, as it may apply to situations now existing.

I thank the Senator. He has been most gracious and most helpful in putting in the RECORD information that is helpful to me. He has not satisfied me entirely. I believe my comments have shown that.

I do ask that the list of executive agreements and a classification of them, if possible, be placed in the RECORD.

I ask that the Senator consider two clarifying statements in the resolution: first, specifically covering certain fields with general words, leaving a practice to develop what they may mean with reference to particular situations; and, second, the inclusion of words making it clear that we are talking about our future actions in the Senate. He is asking Members of the Senate to vote for a resolution. Personally, I think that it applies to our future consideration of national affairs.

I would like to see such words included, so as to make it inescapably clear that that is what we are talking about.

Mr. FULBRIGHT. I may say that a list of commitments has been put into the RECORD by Senator CHURCH.

Mr. HOLLAND. May I ask if that pronouncement in the RECORD by Senator CHURCH, which I did not have the pleasure of hearing, is to be regarded as an official statement from the committee.

Mr. FULBRIGHT. The list of the treaties, executive agreements and declarations was provided by the Department of State.

Mr. HOLLAND. I understand; but not the classification.

Mr. FULBRIGHT. The document I hold in my hand is a report of the hearings of the committee in which the list that we received is printed. We requested the Department to supply us with everything they had in the categories about which we are talking.

Mr. HOLLAND. Mr. President, the fact that I have not been satisfied with that list, flows from the fact that the Senator from Idaho stated that there had been something like 5,000 plus such agreements, and the list copied in the hearing record is by no means of that length.

Mr. FULBRIGHT. We will try to clarify that. I do not know what the discrepancy is. This is supposed to be a complete list. It is what the State Department offered to us as a complete list.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, in the past 20 years, there has been a tremendous extension of Executive authority in foreign affairs. The scope of the President's power in this field has been broadened to such an extent that the Congress has virtually been relegated to the background.

In short, such has been the exercise of Presidential authority in foreign affairs in recent years that the Congress has been put in the position of simply reacting after the fact, rather than being given its constitutional role in helping to make foreign policy decisions that greatly affect the lives of Americans and the security of our Nation.

We have seen the United States become greatly overextended throughout the world, both militarily and economically. Most of our commitments are based on

little more than vague promises. The United States Armed Forces, our national honor, and the American flag have been committed to full-scale shooting wars in two instances—in Korea and Vietnam—which have been fought and paid for with American lives and American tax money, but without any expressed congressional mandate. We have also seen the U.S. Government pursue a policy of armed intervention, such as in the Dominican Republic, again solely at the direction of the Executive.

I have become increasingly concerned like many other Members of Congress over this usurpation of congressional authority. The U.S. Constitution grants Congress the exclusive power to wage war, with only one exception. That exception is to enable the President, acting in his capacity as Commander in Chief of the Armed Forces, to employ them as he sees fit in the event of a sudden and unexpected attack against our country.

Serious questions have been raised about the President's authority to deploy American troops in large numbers as they are now being deployed in Vietnam, as they were utilized a few years ago in the Dominican Republic, and 18 years ago in Korea—in the absence of positive congressional determination. There is in fact no expressed constitutional authority that gives the President such a free hand with U.S. Armed Forces.

I support Senate Resolution 85 in the hope that it will restore the proper constitutional balance between the Executive and the legislative branches in the field of foreign relations.

Neither this resolution nor any of my comments are intended as criticism of the present administration or any previous President in the conduct of U.S. foreign affairs. The past two decades have been troublesome and perilous indeed. I feel that our Government has endeavored to act in the best interests of the United States and the free world in containing the spread of communism and in turning back aggression that threatens our security.

This resolution is an expression of our desire, which I believe reflects the thinking of the American people, that any future involvement of U.S. forces, where they are committed to any battlefield, will directly involve congressional decision and action.

Based on past performances, the President virtually has the power to determine whether we follow a course of war or peace. But it is the people who should decide this course, through their elected representatives. Senate Resolution 85 will be a step in the right direction toward restoring this authority to the people, and it will at the same time create a better and more effective partnership between the Congress and the executive branch in foreign affairs.

ORDER FOR ADJOURNMENT TO MONDAY, JUNE 23, 1969

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL COMMITMENTS

The Senate resumed the consideration of the resolution (S. Res. 85) expressing the sense of the Senate relative to commitments to foreign powers.

Mr. McGEE. Mr. President, I rise to express the reasons why I have serious doubts about the need for the implications of Senate Resolution 85.

The question that I think surfaces, which leaves me apprehensive in some way, is that the executive and the legislative branches often have found it difficult to agree upon the measures of responsibilities that at best are ill-defined and sometimes not defined at all in the Constitution. The issue that we experience here, which does legitimately concern all sides in this question, is in some of its manifestations as old as the history of our Republic. But its currency, at the moment at least, derives from the war in Southeast Asia. Its roots go back very far in the story of our country.

I think it is not without point to remind ourselves that our land began with a basic, ingrained sense of distrust and suspicion of executive authority. When the 13 Colonies broke their connections with the mother country, they did so with a new structure under the confederacy that had no Executive at all. But they learned the hard way, and almost entirely in the realm of foreign relations, that a Chief Executive was very important. It was only after their near debacle as 13 Colonies that they sought to restructure the new Government in ways that would provide for executive leadership.

In that process; namely, in the Constitutional Convention of 1787, they sought, with what wisdom could be commanded by mortals, to separate, divide, and hopefully, in some areas, to balance those responsibilities.

John Marshall probably remains as the most distinguished Chief Justice of the United States in our history. But, as a Member of Congress at the end of the 18th century, he noted that "the President," under our new system, "is the sole organ of the Nation in its external relations and its sole representative with foreign nations."

During his term of office the Nation's first President experienced a run-in with this body—the Senate—in the very first test of what the Constitution may or may not have meant in regard to the separation of powers. When George Washington went in person to submit a treaty for the Senate's advice and consent, he felt that he had been so badly treated at that particular confrontation that he said he would "be damned" if he would ever go back.

The hearts and the spirits of many distinguished leaders in succeeding administrations continued to reflect distrust, suspicion, and jealousy. I underscore jealousy, because it has constantly been present, clear down to the present day.

The issue of executive power in foreign policy has always been present, but it has been present in more intense ways in an uneven pattern throughout the country's history. At times of great national crisis, it would rear its head. In times of strong Presidents and weak legislatures, it would rear its head. I mention this very quickly merely to remind us that it is not something that is a freakish development of current times, but has been constantly present throughout the history of the Republic.

If there be those who support Senate Resolution 85 and believe that the increasing presidential power in foreign relations is a modern phenomenon, I think the record of our history would not support that conclusion. An ascendency of the President over Congress has occurred repeatedly in the realm of foreign relations, even from the first days of the first President and his new Congress. A part of it stems from the conflicts built into the constitutional fabric itself, from ambiguities, from omissions, and from interpretations.

The constitutional powers of the Senate affecting foreign policy, in part, derive from the treaty-making process. But beginning again with the first President's aggravation in 1796, many Chief Executives have developed a counter-disrespect for senatorial activities involving even the treaty process.

Secretary of State John Hay at the turn of the century once noted:

> A treaty entering the Senate is like a bull going into the arena. No one can say just how and when the final blow will fall. But one thing is certain—it will never leave the arena alive.

There is, again, another personal, warm, but overreactive attitude from the executive level toward the senatorial presence. The real point of it all is that it fosters this attitude of hostility between the branches and of suspicion, distrust, and jealousy. In fact, it probably, as much as anything, prompted a whole succession of Presidents to find ways of conducting the responsibilities of the Presidency in foreign relations that did not include advising the Senate.

The most significant changes between the executive and legislative roles have occurred since the beginning of World War II. Under President Franklin Roosevelt the use of executive agreements experienced a sharp increase. In particular his commitments to the transfer of destroyers for bases, the extension of the Monroe Doctrine principle to Iceland and Greenland, and the "shoot on sight" edict to American naval forces in the Atlantic are often cited as serious encroachments by the Executive office on the assumed foreign policy "partnership" between the President and the Congress.

Concomitant with the incidents preceding American involvement in World War II was a second characteristic that had something to do with the increasing frequency of the use of the executive agreement, and that was the emergence of the United States as the most powerful nation in the world—some say the most powerful nation, but certainly a great power—largely as a result of that

conflict. As a great power, American actions cause reverberations all around the globe and must therefore, be carefully weighed and delicately executed. Not infrequently they must be carried out swiftly.

Therefore, we come to the decisionmaking process. Under tradition within the Constitution, and in practice, in the last two or three decades, on more than one occasion the time allotted by a crisis incident to those who had to make the decisions have been less than the time it would take to assemble a quorum of Congress.

At other times the time has been so limited as to render impossible protracted discussion else the crisis that provoked it would long since have produced the debacle that was feared.

This brings me, then, to the developments that conditioned or provided the substance or atmosphere of the setting for these debates, and that is the responsibility of power in a nuclear age. We live in a time when in some instances 15 minutes could spell the difference between life and death for millions of people. The past 25 years have been times when the only thing that could be said with certainty was that no one really knew whether the world would be plunged into the great war, the big war—whatever the phrases are necessary to describe it—within the next 24 hours. So complicated is the nuclear age that large wars in most instances have virtually been eliminated as instruments of national policy. That simply means there was presumably a time in the good old days when a nation could deliberately declare war as a matter of policy in order to achieve its objectives; but with the capabilities that mankind has acquired, that option has been rendered unrealistic.

The place of the old-fashioned war, the big war, has been partially taken at least by the only kinds of conflicts that a nuclear age dare afford—if the word "afford" does not beg the question too severely—and that is the limited or isolated conflict, the police action, whatever one wishes to call it. It can still mean bitterness and war in the old-fashioned sense.

We have learned that allowance can be made for wars that are fought but never declared, and that stems from the conviction that a war, once declared, becomes so rigid and fixed in many of its dimensions that it hampers the possibilities for dampening it down or for discovering options to terminate it readily. This is a complicated and an almost 50–50 kind of question where one cannot be sure, in Southeast Asia or in other crises where there has been an actual loss of life, what the effect of an open declared war would have meant. But, in general, a succession of Executives and many scholars in the field have reasoned that the odds are better for containing an action or quarantining it without a formal declaration rather than with it. But this, too, approaches the heart of the problem in a resolution like Senate Resolution 85. This has been the question in much of the dialog we have had on the floor in the past 2 days. There has been expressed the deepest kind of concern about the warmaking powers of Congress, mainly that clause in the Constitution which reserves specifically to Congress the right to declare war.

What the nuclear age may have thrust at us is the necessity to examine what we have available to us in our constitutional system. First of all we must find out if there is some way under that structure by which we can come to grips with this modern phenomenon, a phenomenon that may have much to recommend resorting to it, and that is the necessity for fighting a warlike engagement without formally declaring it, and thus throwing it into the realm of our traditions, our laws, and all the other things that enter the debate. I think we should be exploring that very carefully, as we see the implications of Senate Resolution 85, because our problem then becomes one of where, under our system, could we best, or with the least disastrous consequences, lodge the responsibilities for making the decisions that might ultimately lead along that path.

I am compelled to interject at that point that no President I know of, with the best of intentions, could know with certainty what may lie along that path, that ever so many times a President with the best of intentions, by his own decision, would have entered into the kind of commitment that would have been salutary, that could have headed off something much worse. If it succeeds, this body is delighted that he did so. No one, to my knowledge, has raised the question of his taking powers away from the Senate whenever those instances may have happened. It is only when something finally goes wrong and the cost goes up that we are, in most instances, determined by a force beyond the control of Democrats, Republicans, and other Americans, or even the Western world, if you will, and that therefore we have that never-never-land in there, that gray area, in which we need to determine, or someone needs to determine, when does a foreign policy become a commitment? What dimensions are envisaged by those supporting this resolution, and at what point has it crossed the line toward an open conflict meeting the criteria for defining war?

To explain or to illustrate the difficulty of that sort of thing, I have alluded to the events that preceded Pearl Harbor. Pearl Harbor was an act of war. It was more than that. Some act might have preceded Pearl Harbor which brought it on or that might have averted it. We cannot know with certainty. History is not kind enough to let us run a replay to see how to do it better the next time around. But we do think that we are entitled to our experiences from the last time, and at least we should learn how not to do it. From the rhetoric we have had on the floor in the past 2 days, I gather the impression that the only thing we really have reached clear agreement upon is that the President can act instantaneously if we are attacked directly on our shores, or in our establishment. But I think from history we are entitled to ask: Is that enough?

Is there not something to be said for trying to head off the tragic sequence of aggressions, for example, in Western Europe that began with Hitler's occupation of the Rhineland in 1936, which led to Austria, which led to Czechoslovakia, which led to Poland, and which finally led to World War II in the West.

What does it mean in the replay of history if we were to experience that luxury? What would it have meant if the Japanese warlords had been stopped in Manchuria in 1931, 10 years in advance of Pearl Harbor? We cannot know.

What we do know is that by not stopping them, it led to a direct attack that united this country. If that is the best we can offer in these times, where the world has been shrunken literally to the size of an apple or an orange by the scientific genius of man, where his destructive capability has acquired the dimensions of a god, are we not entitled to ask if there are not wiser places to stand sooner, even in the remote areas which have been alluded to here, even in faraway places? For, I submit, the proximity of Pearl Harbor requires the presence of ever so many tens of thousands of Americans along the Burma Road, which is about as far away from anything as we can get. The world has not changed. We have not seized control of the world. We have not ordered the relations of nations in a way in which they resort only to peaceful change. So I think what we are calling into questions with this resolution is the heart of our decisionmaking process in the national interest and who should bear that responsibility.

Now, in determining the judgment of this body, I think it is important that we not cling to what I regard as generalities expressed here in this debate which are not borne out historically.

I think one of those generalities is that the Constitution ever intended a 50–50 role for the President and the Congress in foreign policy, that the Constitution ever intended a balance of powers between the executive and the legislative in foreign affairs, that the Constitution ever intended clearly to define the separation of powers that could be added up and sketched. In fact, I think the failure of the Constitution to do precisely that is one of its attributes which has permitted its survival over many generations of men and problems that have continued to change.

I think, likewise, if the assumption continues to prevail, as has been intimated here in this dialog, that Presidents today have invented this complication, that one reaches that conclusion only by blotting out the history that has preceded us to the Senate floor at this time.

I had occasion yesterday to cite a judgment by Prof. Hans Morgenthau. I cited him not because he and I are in agreement on this question—we have real differences on it—or because of the difference which provoked a good deal of our conversation; namely, the fighting in Southeast Asia, but because he is a respected political scientist in the field of political structures, in the implication of those structures in the constitutional procedures.

Hans Morgenthau articulated very

well, in a recent article of his, that in the realm of foreign relations the President of the United States can do almost anything—almost. He is circumscribed by three clauses of the Constitution. One of them requires the Congress to appropriate the moneys for whatever reasons he seeks to do. He is circumscribed by a second proviso that the Senate must approve all of the treaties into which the executive wishes to enter. He is circumscribed in the third instance by being limited in a formal declaration of war. The Congress was assigned that responsibility.

But in the practicalities of trying to live in a world without law, over a period of 180 years now, precedent, practice, and court decisions have sustained the actions of Presidents who have laid out foreign policy positions, set out foreign policy directions, without the advice and consent of the Congress.

The Monroe Doctrine is a case in point of the policy. The Truman doctrine is a case in point of the policy. That is why it behooves the Members of this body to examine how we best must proceed in days when it is imperative that we move quickly sometimes or that we commit ourselves quietly without a show, on some occasions in the interest of heading off a war, or how best we assign responsibilities and perfect the mechanism that will make that possible. In my judgment, Senate Resolution 85 contributes no element to the resolution of that problem. It can even, as I shall suggest in a moment, introduce some complications in regard to it.

The scope of the resolution itself remains, to me at least—and I followed with interest the colloquy of the Senator from Florida—rather substantially ambiguous, and at least lends itself to misunderstanding and misinterpretation.

We are told on the one hand, for example, that the resolution is simply designed to wag a finger of warning at the Chief Executive to be sure to remember Congress in whatever he does. In almost the next breath, we are told that the President has usurped the constitutional processes of the Senate and that this is the first step in restoring the balance under the Constitution—which, in my judgment, begs many questions in history.

I am afraid that, in laboring the cause of the resolution, we are trying to strain all we can out of the many sides of the same question. I do not think we can play it both ways.

According to this national commitments resolution, it is specified that the President can make no move that would involve in any way a commitment without an affirmative action by the Congress—an affirmative action. That does not mean that we have a closed session and we take confidential information and be thus advised. It requires public, almost promiscuous, action on the part of this body itself.

Again, I hark back to this day and age where the chances of avoiding a major blowup are often greater behind the scenes and off the front page and off the floor of the Senate than they are if undertaken in the goldfish bowl of TV cameras and black headlines and senatorial speeches.

The proposal that is pending at least raises some serious questions about the constitutional powers of the President, and because, by its vagaries, it leaves unanswered not only the questions of the Senator from Florida, but leaves unanswered how far the President himself can go under a treaty or under an executive argeement. I think my colleague from Arkansas, the chairman of the committee, suggested to us a while ago, very properly, that he was not proposing to change the procedures under treaties or even under executive agreements. He simply did not want a commitment to be made under either device or agency without an affirmative vote by the Congress.

Mr. President, it seems to me that would place a considerable strain on the realities of trying to avoid explosions in this day and age. At what point, I think we need to ask, does a President, in carrying out his responsibilities, finally arrive at a place where the danger of a war will have been arrived at? Is it at that point that the new resolution comes into play, or does it come into play only when somebody on some other side seeks to strike at an American presence in an area that was not under violence, and even at the request of another country?

There are the fuzzy areas that are present in the pending resolution that do call into question the prerogatives of the President in the projection of foreign policy itself.

The Constitution says the President is the Commander in Chief of the Armed Forces of the United States. Reasonable men may well disagree as to the conditions under which he is the Commander in Chief either inside the country or outside it. The President has the power under the Constitution, however, to send U.S. military forces, when he deems it to be in the national interest, to any part of the world.

Of singular significance, I think, in the dialog that has taken place here in the last 2 days is the recurring suggestion that there has been no real violation of the Constitution until now; but those who are supporting the resolution have left the strong implication that Presidents have stolen the ball away from the Senate. And yet we are agreed, I think, that in the case of the war in Vietnam, as the Senator from Idaho agreed, there may be a case for not declaring war, but there could be a case for an undeclared conflict, and that all was done that was required to be done through the Tonkin Gulf resolution.

In the case of the Korean war, with Mr. Truman, a resolution through the Security Council, endorsed and ratified by the United States as a United Nations action, became the instrumentality, a matter to which we were committed as a member of that body.

In earlier crises in what we have chosen to call the cold war, the President in almost every instance consulted this body and sought to arrive at some kind of consensus in regard to it.

So I think we need to modify or temper our judgment in regard to the executive role in what has transpired up to this point. I seriously question whether the President and Congress can effectively share that responsibility on an equal, 50–50 basis. They have not been able to until now in our history, and I think that the "now" of this moment makes it even less likely that they can work it out.

Senate Resolution 85 would fail, it seems to me, to address itself, then, to the importance of pinning responsibility for fateful decisionmaking in a nuclear age. I suggested yesterday, by citing an article of a few years back, that the problem of producing expeditious action in pinning responsibility in the Senate is one which raises many questions; and by agreement, until now, we have found that when the Senate has been consulted and has voted, as in Tonkin Gulf, it did ratify a Presidential request.

So it leaves one, then, wading through a limbo of confused intentions among those who are sponsoring Senate Resolution 85. That resolution, if this body were to adopt it, is loaded with mischiefmaking as well; for whatever the avowed limitations that some of the sponsors of the resolution ascribe to it, there should be no doubt in our minds as to its impact around the world—that if it is taken seriously here at home, under no circumstances thereafter would any other nation, impelled to move quickly with great force in a specific area, have to fear or contend with a quick response, let us say, from the United States, if that were a relevant area.

Likewise, it could appear to afford the opposite; namely, that at the risk of a quick move, as by the Soviets in Cuba, or as by the Soviets in Berlin, or as by the North Koreans along the 38th parallel, it would seem to suggest that at least if a quick strike could be effected, they might get by with it, and the consequences, at the very most, would be a delay that would allow the consummation of their immediate objective; and only after this body had chosen to debate the matter at whatever length it saw fit would they then have to face the prospect of an open, violent confrontation.

I think, in other words, that through this resolution we would be impinging upon the kind of forthrightness of action, of quickness of action, for which we alone would have to pay a price, rather than someone else. I think this, too, calls the wisdom of the resolution into question. The resolution, as I see it, could hobble the President in the execution of his legitimate duties.

It is conceivable, and has occurred in instances, that, in times of crisis in the last few years, a quiet word from the President of the United States became a deterring voice in a crisis that was, at that particular moment, looming, which might well have acquired more serious proportions. There is no question that President Kennedy's tough speech at the outset of the 1962 Cuban missile crisis served one of those purposes. We were told yesterday that this resolution would not apply to another Cuban crisis, because that would be regarded as an at-

tack on the United States, that it is an obvious case of proximity to our shores.

Does that not suggest, then, Mr. President, that we ought to begin to define where we think our interests are, where they best ought to be lodged, in anticipating the kinds of applications that have a way, historically, of engulfing us in the major conflicts of the world?

At present, the President has a full range of options in the peace-keeping field. But through the process invested in Senate Resolution 85, he could be hobbled, hampered, and slowed down to the point of considerable detriment. In a world in which many of the governments that concern us most are monolithic in structure, a world in which decisions often can be made elsewhere without legislative consultation, I think it is important that we retain for ourselves this optional repository of decisionmaking in that kind of a time of crisis.

It is not fair, in my judgment, to suggest that we have thus created out of this a form of dictatorial monstrosity in the form of a new President. This suggests that he is without power. This suggests that he could become a tyrant, as in the days of old, and acquire the prerogatives of kings. I think that is not realistic, Mr. President. Our President is elected. He is checked in many ways by Congress—in ways specifically alluded to in these remarks—in the Constitution, in the general policy field. He is subject to impeachment. He is subject to being denied funds. But most of all, he is visible, he is judgeable, and there is no evading the responsibility for what he does.

I think perhaps this may have to exercise a major place in our ultimate judgment of the system under which we can best survive and preserve the constitutional principles that we believe in very strongly. In short, what I am trying to say is that I believe we can exercise our responsibilities, we can preserve our national interests under this Constitution, with the existing instrumentalities, provided we do not hamper it, or try to roll back the clock, as it were.

The point that is makes is that the President's executive responsibilities pin that responsibility, and Congress itself then should address its concern to how we can wisely and best retain and develop a role for this body in our policy processes.

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

Mr. McGEE. I yield.

Mr. CHURCH. What is the role that the Senator envisions for the Senate in foreign policy?

Mr. McGEE. The role of the Senate, in my opinion, would well be in readdressing itself now in advance to the big question. We are trying to leave the past behind us, as I understand from the chairman today, and not fight those battles over again if we can avoid it and not try to redo what has already been done in the past, but conduct ourselves more wisely in the future.

In my opinion, the Senate Foreign Relations Committee has illustrated specific ways in the last few weeks how to go about this.

The Symington committee that is taking a broad and sweeping look at the commitments of this country around the world, I think, is making a constructive contribution in the role of the Senate.

I hasten to add in regard to that committee that if it is genuinely looking at our commitments around the world and what our commitments ought or ought not to be, we might well be better placed in our posture and prestige in this august body by suspending our action on the commitments resolution until we see what we find out. That is why we are studying it. We have laid out a 2-year spectrum for that study.

I think the Gore committee, as an illustration, is making a very constructive contribution to a problem area in advance.

I think we ought to be developing completely in every way we can here, publicly in this body, our collective thoughts on what our policy ought to be vis-a-vis China, or what our posture ought to be in the Far East.

These are things we have often failed to do until after we have had a blowup. Therefore, we find ourselves making do as best we can.

We have a Tonkin Gulf joint resolution that we ratified, and then we all get mad at it after the fact.

We have requests that we all approve and then denounce when they do not work well.

I think this is what has contributed in part to a forfeiting of what I would regard as the responsible rule of the Senate in foreign policy.

Mr. CHURCH. Mr. President, the Senator is a good historian and a very able political scientist.

I am sure that senatorial studies, either by the Foreign Relations Committee itself, or by subcommittees thereof, or indeed senatorial debate on policy matters, would be rendered relatively meaningless if the debate is not coupled with the power to decide.

If all of the decisionmaking power resides with the President—and that is how I must interpret the thrust of the Senator's remarks—it really does not matter much what we debate here.

The Senator is recasting the Senate in the role of a kind of debating society. We could discuss indefinitely the grand design of American policy here, there, and elsewhere. But once we lose our power of decision, the debate becomes largely meaningless.

This is the reduced role of the House of Lords in England. Once the power of decision is divorced from inquiry and debate, then the importance attached to whatever inquiry the Senate may make depends entirely upon such notice as the President may deign to give it.

I think the Senator's concept of the senatorial role is one in which he divides the forensics of this country into three categories, high school debate, college debate, and Senate debate. However, that was not the role envisioned by the Constitution for the Senate of the United States.

I am surprised that a Member of the Senate would make an argument which could only reduce the Senate to the level of comparative irrelevance.

I know from our recent experience how reluctant the Executive is to take the advice of the Senate, in cases where the President or the Secretary of State or other agents of the State Department disagree. Once we concede away our power, the Senate is reduced to a level of little consequence.

Mr. McGEE. My response to the Senator is that I do not think he gives the Senate its due in its record, even until now.

I suppose that the vague level at which we find American policy right now in respect of China, as a case at point, both in its implication on Taiwan and the mainland, more than anything else reflects the attitude and the debates in the Senate on another day and that we may still be imprisoned by the debates of the late forties as a consequence. Let us not sell out the importance of the Senate in its impact on the Executive downtown.

Mr. CHURCH. I am not the one, I suggest, who is selling it out. I am not the one who suggests in this debate that we have no power under the Constitution, that we lack the right to place our imprimature on the foreign policy of the country.

The Senator from Wyoming has suggested that. It is he who argues that all the power resides in the Presidency.

I cannot read the Constitution or the history of the country in that way. However, if the Senator is correct, then it follows that the debating role he leaves to the Senate can only have less and less consequence in the future.

Abdicate away the power of decision and the power of policymaking, and the Senate's future role in debate will amount to little more than debate amounts to in the House of Lords in England, where the discussions are extremely erudite. Anyone who takes the trouble to go through the dusty records will find that the Lords are really in there talking. However, no one cares to do so. The reason that no one cares to do so is because it really does not matter. It does not matter because the Lords have no power.

I suggest that this is really the role envisioned for the Senate of the United States by the argument presented here by the Senator from Wyoming.

Mr. McGEE. The position of the Senator from Wyoming is that the Constitution in spelling out its portion of responsibilities among the branches of the Government did not go as far as the Senator from Idaho has spelled out in his very able speech and in his colloquies that followed, that the President—in his powers in making foreign policy, not in declaring war—was placed under the limitations of the Constitution only in the three categories singled out by the Constitution itself, that it left him rather free by court interpretations since, by the experience in the practical art of foreign policy over the generation since, and by the interpretation of many students of constitutional intent even at the time.

I think we make a very serious mistake—this is where I disagree basically with the Senator—in assuming that under the Constitution there was ever a balance of that power or intended to be

a separation of powers in the dimension that the Senator has been talking about. Therefore, I seek in these exchanges to begin in fact where we are under our constitutional system, with a President who can go to great ends if he so desires. Fortunately, a President operates with restraints—all our Presidents have—and with measured consideration.

I just think that the constitutional mechanism gives this body no checks of the types referred to by the Senator from Idaho. I think the limitations are imposed on the declaration of war, under the appropriation of funds, and in the ratification of treaties. I think the Constitution is explicit in that regard. But within the range of foreign policy, projecting policy, the President can inhibit very materially the options that, as individual Senators, we might wish we had. I say that with great care as a Member of this body. I think we all like some measure of power, but we have to be realistic under the terms of the system in which we live.

Mr. CHURCH. The power that the Senator would retain for the Senate is very little different from the power exercised by the members of the Council of Foreign Relations. That is a club that holds meetings and conducts foreign policy inquiries and, from time to time, sponsors debates.

Mr. McGEE. I am a member of that body.

Mr. CHURCH. I am a member, also. If being a Member of the Senate is no more consequential than being a member of the Council of Foreign Relations. I do not know why I worked so hard to come here. Yet, that really is the role that the Senator is suggesting for the Senate, a kind of glorified Council of Foreign Relations, to sponsor symposiums and conduct debates on American foreign policy, which, under such circumstances, would receive no more attention from the Nation than those which are presently sponsored by the Council of Foreign Relations. And I must say that it is a rarefied and limited audience, indeed, that attends them.

Mr. McGEE. Let me say to the Senator that I see it entirely differently. I see it as our chance to involve the Senate in a meaningful role in guidelines, in directions, even in substance, in foreign policy.

No President can ignore the Senate or defy the Senate for long. The whole system requires rapport, cooperation, and consultation. The closer it is, the more successful, usually, the President in achieving whatever his goals may be.

We are confining this now to the matters of foreign policy. The President has always made foreign policy. The Senate has had a role that it exercised in passing judgment upon it, carrying out its constitutional functions in regard to it. So the Senator is not only unfair to the Senate; he is also unfair to the intent of the Senator from Wyoming in trying to compare this either to the House of Lords or the Council on Foreign Relations.

Mr. CHURCH. I think it follows from the general thrust of the Senator's argument. The Senator cannot say, on the one hand, that all the power in the matter of foreign policy really belongs to the President, all the power to make the critical decisions, and that is where it properly belongs—that is what the Senator from Wyoming has said—and then suggest that the Senate is going to have what he has described as a higher role, that of engaging in general debate upon what American policy ought to be.

I know that historically—and the Senator knows it, also—the significance of the role played by the Senate ultimately depends upon the power that the Senate wields in implementing its decisions. If all the power lies with the President, then I have not exaggerated the case a bit to say that the role envisioned for the Senate by the Senator from Wyoming is a kind of glorified Council of Foreign Relations, or a kind of house of lords proposition, insofar as foreign policy decisions are concerned. I cannot accept it. That is not what the Constitution provides.

All that this resolution is for is to reassert the sense of the Senate that the constitutional division of power should be honored. That is why I am for it; that is why I think the Senate, as an institution, should be for it, if we desire to retain our historic place in our form of government.

Mr. McGEE. I think the Senator is begging the question when he talks about restoring a balance of power under the Constitution, when no balance was there. It was not there at the beginning; it has not been there at any time since. The President has had prescribed responsibilities in the field of foreign relations. As John Marshall said, the President has almost the total responsibility in foreign relations. The reservation was on commitment to war, declaration of war; and, as I understood from the Senator's remarks earlier today, this was the field that concerned him.

Mr. CHURCH. The Senator knows that my concern is not limited to declaration of war, because the Senate is given express power to ratify treaties—that is a very important power—unless it is circumvented through the use of executive agreements, so that the President can make his arrangements with foreign countries without coming to the Senate. This is very definitely a power given to the Senate under the Constitution of the United States.

So it does no good to say it is only the war power which is in question, and then define the war power as being confined to declaring war, and then say that declaring war is obsolete, and therefore the power of Congress is obsolete; we do not declare war any more; the Constitution just says that Congress has the power to declare war. This is the argument of the Senator.

Now, inasmuch as the war power was placed in Congress by the Constitution, what must have been intended was the power of decision, the power to authorize war. Whether it be done by formal declaration or by congressional resolution does not really matter. But, in the one case, the Senator ignores the treaty power and, in the other case, he defines the war power in a way that renders it meaningless. Then he objects when I conclude that he has left no role for the Senate which matters.

What else is there to conclude from the Senator's argument?

Mr. McGEE. I would have to ask the Senator from Idaho wherein anything I have suggested here changes what has happened to the Senate over 180 years in a role in foreign policy. Through that history, a President can recognize or refuse to recognize another government, no matter what the Senate thinks. Through that history, the President without consultation with the Senate, can pronounce a new policy, such as the Truman doctrine, such as the Monroe Doctrine. The President has that authorization, that responsibility, under the Constitution at this time. The Senator has not changed anything under the existing role with his resolution.

Mr. CHURCH. I must say that we have gone over this ground several times today. No one here in support of the resolution is arguing that the President does not have vast powers in foreign policy. All we are saying is that under the Constitution he does not have all the power, that the trend has been in the direction of lodging all the power with him, and that this is contrary both to the spirit and the letter of the Constitution.

I think this is well borne out and documented, and would be generally supported by constitutional lawyers.

It simply does not follow from our argument that we contend that the power is divided 50–50, as the Senator has suggested. Of course, it is not. The preponderance of the power in foreign policy matters might well rest with the President under the Constitution from its original conception.

Mr. McGEE. And that is all the Senator from Wyoming said.

Mr. CHURCH. No, the Senator from Wyoming goes much further than that: because substantial power, very important power indeed, was vested with the Senate—the treaty power, while the war power was vested in Congress as a whole.

One cannot dismiss such power as inconsequential. But when one disregards the treaty power and then redefines the war powers as the Senator from Wyoming has done, so as to render it virtually meaningless, the effect is to circumvent the Constitution, to replace it with a consolidation of total power in the hands of the President.

I do not think that one can make a constitutional case, a historical case, or a logical case for it. If the Senator believes that then he has not left much of a role for the Senate to play. The Executive would pay precious little attention to us if we had no more power to exercise than that which the Senator from Wyoming suggests.

Mr. McGEE. Quite to the contrary, I think what I spelled out earlier when the Senator was forced to be absent from the Chamber, which we have insisted on qualifying now, is that the Constitution has given the President a very strong hand, and that limitations imposed upon him we have continued to honor and respect. The two exceptions have been dealt with. One was with regard to executive agreements to get around the treatymaking process. I know nothing along the line which the Senator proposes that would exempt executive agreements. The second exception was

with respect to declarations of war. I was careful to spell out the phenomena of the nuclear age where there has arrived the undeclared war as perhaps the only exception left at all in a world of sovereign nations, and that may not be a wise one, and that this poses a new question of living up to the war declaring proprieties of the legislative body.

At what point does war have to be declared? I think the Senator agreed with me earlier today that there is something to be said for not declaring war in certain crises. It may only complicate the situation. This is what we should be talking about here.

Who, then, has the responsibility, and at what stages for taking steps that might lead to war? The Senator gave me a partial answer with regard to the Berlin airlift where a different decision by the President or a different decision by the Russians in response could have plunged us into a war. That would be a declaration of war that would be different than a commitment we had under NATO. He is willing to go that far. The President could have decided not to send troops in there.

Mr. CHURCH. The Senator knows full well that his illustration does not support his argument because, as I have said several times, the action of the President in that case was taken pursuant to a treaty that had been ratified by the Senate. I may have been overanxious in conceding, for the purpose of raising no rankles this late in the day, that the Constitution places predominate power with the President in foreign affairs. That certainly is an arguable proposition. It can be argued that the tripartite division of power under the American Constitution, as I have previously noted, is not in three equal parts. Historically the ultimate and final power rests in Congress.

Article I, section 8, of the Constitution states that Congress shall have the power to declare war; to raise and support Armies; to provide and maintain a Navy; to make rules for the government and regulation of the Armed Forces; to provide for calling forth the militia to execute the laws, suppress insurrections and repel invasions; to provide for organizing, arming, and disciplining the militia; and to make all laws necessary and proper for executing the foregoing powers. Article II, section 2, of the Constitution states that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur."

I think that a fair reading of the Constitution, without requiring us to decide whether the proponderant power in foreign affairs lies with Congress or with the President, nonetheless compels the conclusion that the powers allocated to Congress were very large, indeed. We are not asserting them as I think we should.

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

Mr. McGEE. I have the floor. I am glad to yield to the Senator.

Mr. COOPER. Mr. President, I have not heard the debate on this important resolution to date in its entirety but I did have an opportunity to review this matter in the Committee on Foreign Relations and I participated in the committee's debate. I have read the speeches made on the floor yesterday. However, the discussion in committee—and I know both Senators remember—and the report bear out the committee's intent. The report states at page 6:

> The primary purpose of the resolution is understood by the committee to be an assertion of congressional responsibility in any decision to commit the Armed Forces of the United States to hostilities abroad, be those hostilities immediate, prospective, or hypothetical. The committee intends the resolution to apply only to future decisions involving the use or possible use of the Armed Forces of the United States. The resolution will not alter existing treaties, acts of Congress including joint resolutions, or other past actions or commitments of the Government of the United States. As used in Senate Resolution 85, the term "commitment" is understood to refer to the use of, or promise to a foreign state or people to use, the Armed Forces of the United States either immediately or upon the happening of certain events.

I believe this to be the first purpose of the resolution. Had it been understood that the debate would go to purposes other than the use of Armed Forces abroad and their commitment to hostilities, if it were limited only to the latter, I think the debate could be made much more direct.

Mr. McGEE. I am afraid it has gone much beyond that. The Senator remembers the history of the evolution of the resolution and how, after this form was first introduced, it was modified with the substitute and that was never actually reported by the committee. Then, this winter we returned to this particular resolution.

Mr. CHURCH. This was the original resolution.

Mr. McGEE. Yes. We are now facing the original form of the resolution. But the committee tried to specify it more carefully in a substitute resolution.

Mr. COOPER. The report reads:

> As used in Senate Resolution 85, the term "commitment" is understood to refer to the use of, or promise to a foreign state or people to use, the Armed Forces of the United States either immediately or upon the happening of certain events.

Of course, the language itself is broad.

Mr. McGEE. The language is exceedingly broad.

Mr. COOPER. It includes or comprehends many other situations. I know it would be much easier for me if the resolution were limited to the use of the Armed Forces, rather than directed to a large area of promises, declarations, or agreements that the President might make.

Mr. McGEE. It would eliminate much of the dialog that has taken place in the last 2 days, because we have ranged over a rather wide field, and the suggestions that have been made address themselves to very broad fields.

Mr. COOPER. Last year, in committee, I think I was the first to offer as a substitute for these general terms, very specific language dealing with the commitment of our Armed Forces abroad. Later, my amendment was not adopted, but language was worked out by the chairman and, by former Senator Hickenlooper, restricting the resolution's scope to the use of the Armed Forces.

Now, with respect to Senate Resolution 85, I thought that that was the purpose, from a reading of the language of the report, which interprets the meaning and intent of the resolution.

Mr. CHURCH. Mr. President, will the Senator from Wyoming yield?

Mr. McGEE. I yield.

Mr. CHURCH. I think the Senator from Kentucky rightly raises the point, and it needs attention. "National commitments," as used in the resolution, does not connote the great range of agreements or understandings that are minor in nature. From the language of the report on page 6, I read:

> As used in Senate Resolution 85, the term "commitment" is understood to refer to the use of, or promise to a foreign state or people to use, the Armed Forces of the United States either immediately or upon the happening of certain events.

Mr. COOPER. The subject of the resolution, however, is national commitments.

Mr. CHURCH. But it is defined in that language.

Mr. COOPER. But the report limits it to just one area—the commitment of the Armed Forces abroad. I would agree that looking at the language of the resolution by itself broadly and generally, it could comprehend almost anything, such as the declaration of Ambassador Goldberg at the United Nations that the United States would go to the assistance of any power threatened by nuclear attack or nuclear blackmail, the declarations by Presidents Eisenhower, Kennedy, and Johnson to defend Berlin and all types of executive agreements. The resolution could cover foreign aid.

It is my view that the concern of the Senate and the American people today relates to wars and the possibility of wars that we may become involved in the nature of our vast global commitments, the stationing of our troops around the world and treaties to which we are a party whereby we promise in some way to come to the assistance of some 43 countries.

It is these situations, in my view, that concern the nation the most today.

To this end I have prepared a substitute resolution. I do not know whether I will offer it. Let me read it as I have prepared it:

> That a national commitment for the purpose of this resolution means the use of, or promise to a foreign country, government, or people to use, the Armed Forces of the United States either immediately or upon the happening of certain events.
>
> SEC. 2. It is the sense of the Senate that a national commitment by the United States involving the use of its Armed Forces in hostilities outside the United States for the purpose of providing military assistance to a foreign country, government, or people results only from affirmative action taken by the legislative and executive branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment.

Mr. President, as I read the report, I understood that it was directed solely to the commitment of troops, and then recognizing the very broad scope of the language contained in Senate Resolution

85, I decided to draft a resolution which I thought, if it became appropriate during debate, I would submit. It proposes that the Armed Forces could not be used in hostilities abroad for the purpose of providing military assistance to a foreign country unless the President has come to Congress for approval in one of the three ways provided in the resolution, recognizing, of course, that the President has powers under the Constitution as Commander in Chief of the Armed Forces in situations involving defense of the country, as well as the protection of American lives and property. But those areas would be left to his judgment and discretion. We cannot anticipate every situation, but we can, by using language similar to this, or that noted in the report, bring to the attention of the President of the United States the fact that we believe, in cases where it is possible, that he should come to Congress for approval.

Mr. President, I wanted to raise this question because I feel the terms of the resolution we are debating are extremely broad and cover, for example, executive agreements, foreign aid, and military arms and equipment.

But I do believe that the commitment of the Armed Forces is what the Senator is talking about more than anything else. Is that not correct?

Mr. CHURCH. Mr. President, this was the prime consideration which led to the committee's adoption of this resolution. The language of the report, which forms a part of the legislative history, should be consulted in interpreting the meaning of the resolution.

Mr. McGEE. Mr. President, let me say in regard to the proposed modified language by the Senator from Kentucky, that it would have narrowed the range of many of the colloquies in the Senate, and many of the very broad and sweeping things which have been said here, and the many suggestions which have been made in regard to the relative powers of the President and Congress and how best to exercise them. At least his proposal would have the advantage of narrowing the field and would leave open, I would suggest, the kind of questions which I think we still have to resolve in this body; that is, the other options to offer to a President that could be made that are of consequence and would require a follow-up with troops, under some circumstances, and at what point, then, does this body become involved, and is there a point at which this is better done in the quiet of a committee room, in an executive session, or with a committee of Senators selected by the Senate in the interest of the national security, or classified information, and that sort of thing.

The promiscuous way in which the machinery of the resolution would bring it about, I think, leaves genuine doubts, and legitimate doubts, as to whether that is the machinery to achieve this.

The sponsors of the resolution say that it does not mean the President does not have to listen to it, that they are not going to do anything about what the President can or cannot do, that it is simply stating a view or a judgment.

If that, in truth, is our motivation, we have not gotten anywhere at all. If it is all as bad, and Caesar is as black as he is beginning to appear, in the vernacular of those who are supporting the resolution, either we should come to grips with the sordid side of the usurpation of power, to borrow a phrase from the supporters of the resolution, and do something about it constitutionally and procedurally, or we should face up to the fact that the resolution itself is not going to do anything about it, and they probably did not even have that intent, that the role of the President in foreign policy is an almost preemptive one. I would hasten to amend the repetitions from the Senator from Idaho, that it was either/or.

We have been very careful to spell out that the Senate has a role, that there are limitations imposed upon the President, that the Senator was merely contending the President has it within his existing power now to go so far in so many areas that he leaves to the Senate, in point of fact, a very limited amount of room in the decisionmaking realm. There is nothing that has been said here today, nothing being proposed here today, that alters that. I am a little bit surprised that some Members of this body would argue otherwise. That is the political history of the country. That is political science as it has emerged in our time. I am simply asking that we make sure we do not go about it in the wrong way.

I have very grave doubts about Senate Resolution 85 at a time of crisis, when it is important to move fast; and whether, because of the existence of it, if we gave it the force of law or direction to the President, it would be possible for a President to cope with an exploding crisis in time, if he had to have a display of senatorial oratory and a vote here in the process.

What would have happened on June 25, 1950, in the case of South Korea, if that had taken place? North Korea would have had all of South Korea before the Senate had gotten into session.

What would it have meant any number of times one could mention in the last 25 years when it was important that quick decisionmaking and immediate action be forthcoming? This is the thing that worries me.

I do not think we ought, by passing a resolution, to complicate and make worse the problems of a democracy trying to live within its constitutional structures in an age of monolithic governments and monolithic decisionmaking in other parts of the world, or in an age in which we are always reminded of the clumsiness of a democracy, and yet when we are required, as a world leader, to move forthrightly and precisely and quickly.

I think we are not making sense by hiding behind a sense-of-the-Senate resolution and not dealing with the problem of decisionmaking in a way that makes realistic sense in a nuclear world. I think this is where there has been a real evasion of the issue.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the speech on this subject that I had prepared, and three editorials.

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

SPEECH BY SENATOR MCGEE

Mr. MCGEE. Mr. President, Senate Resolution 85 is in substance an ill-advised way in which to seek to achieve some sort of balance in foreign policy matters between the executive and legislative branches. It could even jeopardize the fixing of ultimate responsibility in foreign policy decisions.

The issue is not a new one, however. It is as old as the history of the American Republic. Its currency derives from the war in Vietnam, but its roots go back to the founding of our country.

In fact, the American ship of state was launched in 1776 upon waves of discontent with executive authority. The Thirteen Colonies, therefore, embarked upon their new course without a chief executive. Only after the near debacle of colonial independence was the need for strong, centralized control of the national government openly recognized. Nowhere was the necessity for executive power more clearly in evidence than in the realm of foreign relations.

As a Member of Congress in 1799, John Marshall noted that "the President is the sole organ of the Nation in its external relations and its sole representative with foreign nations . . ."

And during his term of office the nation's first President experienced a run-in with the Senate in his very first test of constitutional intent. When George Washington went in person to the Senate to submit a treaty for its advice and consent, he was so badly treated that he stomped out, and would, he said, "be damned" if he ever went back.

There remained in the hearts and souls of the leaders of the new government thereafter an ingrained distrust of the powers of the President. This has continued down to the present day.

The issue of executive power in foreign policy has tended to rear its head during the administrations of strong Presidents and to languish through inattention during the administrations of weak Presidents. And without exception the trend toward a stronger and stronger executive role in foreign policy has coincided with the rising pre-eminence of the United States in world politics during the 20th Century. Presidents Theodore Roosevelt, Taft, and Wilson expanded that role materially.

But if there be those supporting S. Res. 85 who believe that the increase of Presidential power in foreign relations is a modern phenomenon they should disabuse themselves of that notion. As Professor Hans Morgenthau of the University of Chicago has reminded us, the ascendancy of the President over the Congress goes back to the first days of the Republic, and stems from conflicts built into the constitutional fabric and confirmed by constitutional practice.

The constitutional powers of the Senate affecting foreign policy derive from the treaty making process. But, beginning with President George Washington's aggravation in 1796, many chief executives developed a disrespect for Senatorial shenanigans involved with treaties.

Secretary of State John Hay once noted, "A treaty entering the Senate is like a bull going into the arena. No one can say just how and when the final blow will fall. But one thing is certain—it will never leave the arena alive."

As a consequence of this hostility, a whole succession of Presidents has found ways of circumventing the constitutional requirements, principally by means of executive agreements.

The most significant changes between the executive and legislative roles have occurred since the beginning of World War II. Under President Franklin Roosevelt the use of executive agreements experienced a sharp increase. In particular his commitments to the transfer of destroyers for bases, the extension of the Monroe Doctrine principle to Iceland and Greenland, and the "shoot on sight"

edict to American naval forces in the Atlantic are often cited as serious encroachments by the Executive Office on the assumed foreign policy "partnership" between the President and the Congress.

Concomitant with the incidents preceding American involvement in World War II was the sudden emergence of the United States as the most powerful nation in the world, largely as a result of that conflict. As a great power, American actions cause reverberations all around the globe and must therefore, be carefully weighed and delicately executed. Not infrequently they must be carried out swiftly. The decision-making process may be reduced by events to a matter of a single day, or even hours. On more than one occasion the time allotted by crisis incidents to those who must make the decisions have been less than the time it would take to assemble a quorum of the Congress.

Possibly an even greater factor which presses for increasing the power of the President in making foreign policy in recent decades has been the advent of the nuclear age. We live in a time when fifteen minutes could spell the difference between life and death for millions of people—possibly even for life itself on earth. In the past 25 years there have been times when the only sure thing that could be said about the next 24 hours was that no one really knew if we would live through them.

A further complication of the nuclear age, moreover, is that *major* wars virtually have been eliminated as instruments of national policy. Their place has been filled by "undeclared wars," "peripheral wars," or "police actions." A world without law must still face up to the violence of international confrontations—but with one difference. Wars may have to be waged, but rarely declared, especially between the great powers. It is this factor which very largely aggravates of the age-old controversies between the relative warmaking responsibiliites of the President and the Senate.

Because of the limitations of undeclared wars, (a circumstance dictated by nuclear capabilities) the authority to make decisions and take action supporting them must be located in one place. From the rather meager beginnings of our constitutional system when Congress shared more directly with the President some of the policy processes, we have now come to an age when the pressure of time and the multiplicity of other issues scarcely allow the Congress more than a passing glance at some of the most important decisions in the history of mankind.

It is imperative, therefore, that in determining a judgment on Senate Resolution 85 we recast the role of the Congress—and more particularly of the Senate—in foreign affairs against the backdrop of the nuclear age. Whether the division of responsibility between the President and the Senate can follow the lines of other years is a *question central to the present dispute.* Whether Senate Resolution 85 goes to the heart of that dispute moreover, is also open to serious doubts. The implications of its intent, furthermore, may raise more questions than its enactment could resolve.

It is the purpose of the following argument to explain in detail why Senate Resolution 85 should not be adopted by the Senate of the United States.

At the outset, it is necessary that we reexamine the order of things in determining the respective roles of the President and the Senate in modern foreign policy crises. Hopefully, most students of government might agree that the constitutional provisions be reassessed against the backdrop of current circumstances in the nation as well as the world rather than confined to Constitution Hall in 1787. To determine what the times require of us today rather than what the times permitted a century and three-quarters ago should be of paramount importance.

Thus, it is probably more to the point to determine what the national interest requires rather than what the Founding Fathers may or may not have intended. In truth, therein lies the explanation for the successful survival of a constitutional structure which has survived for nearly two centuries—namely, the resourcefulness of each generation to reinterpret the constitution through successive generations in terms relevant to the changing times.

In judging Senate Resolution 85, therefore, the basic question which this body ought to be weighing is: Can the United States in a nuclear age develop relevant foreign policies in the national interest and still preserve the constitutional structures within which our country has existed for 180 years?

I believe the answer to be "Yes."

If "Yes" is to become a relevant response, however, it is necessary to disabuse ourselves of certain notions which lack a substantive base in our history.

One such notion is that the powers of the President and the Senate were ever in balance. Both under the constitution and in practice, the President can do virtually anything in foreign policy. Those powers, according to the Supreme Court, are "exclusive." Only in the expenditure of monies the conclusion of treaties, and the actual declaration of war is the Chief Executive curbed. And in each of those limitations, he has alternatives open to him.

Without consultation he can publicly announce a new policy—like the Truman Doctrine. He can establish relations with a new government or withhold them. Advice, promises, and informal commitments are his to give if he believes it to be a move in the national interest. He can, moreover, send the armed forces anywhere, at anytime, and can commit them to hostile acts short of formal declaration of war. These things the President can, has, and is entitled to do under the Constitution.

So it seems to this Senator, at least, that we are dealing with irrelevancies when we talk about "restoring the checks and balances" which assertedly have been lost or stolen by someone. They never existed either by intent or by application from the very first beginnings of the American republic.

If the sponsors of Senate Resolution 85 really believe a balance of power between the two branches of government would be best for the country, then it would be more forthright of them to propose an amendment to the constitution.

A second notion laden with irrelevancies is that the Congress through its own special insights could prevent a President from taking those steps which, in his judgment, the interest of the country seemed to require.

The President can, without consultation, send troops anywhere and commit them to acts leading to war. Both in the Berlin crisis of 1948 and the Cuban affair of 1962, the President had it within his power to respond with actions which in effect could have forced the hands of Congress on an actual declaration of war. Even if the Senate, for example, had thought otherwise, it would have had little choice.

In World War II American policy toward both Germany and Japan was largely predetermined by Presidential action. What was left to the Congress, in fact, was the process of ratifying accomplished facts.

Or, take the case of the Tonkin Gulf resolution. Assume for the moment that the Senate had not ratified it with only two dissenting votes—but rather had rejected it. A President who believed it important to bomb North Vietnam could have done so in other ways, through other devices.

As Hans Morgenthau has summarized it, the President by his own unilateral actions "can narrow the freedom of choice which constitutionally lies with Congress to such an extent as to eliminate it practically altogether."

SENATE RESOLUTION 85 WOULD ONLY CONFUSE

The scope of the resolution is ambiguous and thus lends itself to misinterpretation and misunderstanding. It would seem to be impossible to pin down the substance of such an attempted codification. Confusion arises from the explanation of intent by the sponsors of the resolution. Its sponsors say specifically that Senate Resolution 85 would not be legally binding upon the President in the conduct of foreign relations. Also, it should go without saying that a sense-of-the-Senate resolution could not change the constitutional responsibilities of the President.

According to the proposed resolution, in creating a national commitment of the United States to a foreign power, such action must be affirmative by both the executive and the Congress. The resolution further specifies that this affirmative" action would have to be taken "through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment." It is easy to understand how the sense of the Senate would be achieved without serious complications in such routine procedures as statutes, advice and consent to treaties, Senate resolutions, and joint resolutions. This already takes place in an orderly and undisputed manner.

What happens, however, when the President proceeds in making commitments by executive order which flow automatically from the authority contained in a prior treaty or in furtherance of a policy stated in an earlier joint resolution of the Congress? Do these subsequent steps likewise require additional affirmative action by the Senate? Like the ripples flowing outward from a falling pebble's impact on the water of a quiet pond, so it must be obvious this could become a farcical process when carried on into infinity.

SENATE RESOLUTION 85 THREATENS CONSTITUTIONAL POWERS OF THE PRESIDENT

It would appear to invade areas of responsibility reserved under the Constitution for the President alone. Two areas of executive responsibility will illustrate the point:

One, the President alone under the Constitution has authority to recognize foreign governments and to enter into commitments which implement that recognition. In the conduct of the foreign relations of the United States, the President necessarily must have the power to make many commitments to foreign governments.

Two, as Commander-in-Chief of the Armed Forces of the United States, the President has the sole responsibility over them either within our country or outside it. Reasonable men may well disagree as to the conditions under which he should do so. The President has the constitutional power to send U.S. military forces abroad when he deems it to be in the national interest.

Because Senate Resolution 85 implies that the President and the Congress together would be the exclusive means by which the government of the United States in the future could enter into commitments with a foreign power, it runs counter to constitutional intent.

The sponsors of Senate Resolution 85 have gone to great pains to assure us that they have no intentions of tampering with the constitutional powers of the President. Yet, the majority report on Senate Resolution 85 is replete with references to and charges against a "constitutional imbalance" which, it is asserted, has resulted from power grabs by a succession of Chief Executives. Whatever the intent of the sponsors, the mere language of the resolution calls to the forefront current constitutional misgivings loaded with serious implications.

It is difficult to believe that the press, or students of constitutional principles for that matter, would permit Senate Resolu-

tion 85 to go by unnoticed. Or that friend, foe, and especially the Chief Executive would take such an ambitious thrust by means of a Senate resolution to mean so little as its sponsors almost apologetically claim to intend it to mean.

MISCHIEFMAKING AT BEST

At best, Senate Resolution 85 has only the capabilities of mischief-making with the responsibilities of the President of the United States in foreign affairs, particularly in times like the present.

Throughout our country's history the rivalry for power between the executive and legislative branches is legendary. Too much of the present thrust behind Senate Resolution 85 appears to reflect a legislative jealousy of presidential power in foreign policy.

It was the late Edwin J. Corwin who said that the U.S. Constitution "is an invitation to struggle for the privilege of directing American foreign policy." To contend openly at this late date in our country's history for the responsibility of shaping policy is open to serious challenge.

In a world of 130-odd sovereign nations, some of the more powerful of which are monolithic in structure and capable of quick decision-making, the need for a President of the United States to act with dispatch has already arisen. It will surely recur again and again. Presidential decision-making in foreign policy provides a quality of leadership superior to the alternatives available under our system. At the very least it becomes the lesser of evils—among the choices available to us.

SENATE RESOLUTION 85 COULD DANGEROUSLY HOBBLE THE PRESIDENT

Does it strengthen the security of our country or serve the national interest to hobble the executive branch in times of crisis? The answer must be no. Mindful as we all are of the risk involved in increasing executive power in the field of foreign affairs, there would appear to be no reasonable alternative to assuming those risks save at the price of confusion, delay, and even inaction through some series of yet unspecified procedures implied in the commitments resolution.

There is no doubt that President Kennedy's tough speech at the outset of the 1962 Cuban missile crisis served its purpose well. This resolution, had it been in existence, would have acted to undermine if not destroy the credibility of the President's words when he announced the missile blockade.

However, Senate Resolution 85 would handcuff the President privately as well as publicly.

At present, the President has the option of talking tough behind the scenes should conditions seem to warrant his doing so. Let no one doubt that this is a vital area of international politics, for when international crises are handled behind the scenes, the prestige of the nations involved is not engaged openly and directly. The President would be weakened in his ability to head off a crisis before it becomes a question of national prestige if Senate Resolution 85 is adopted.

Much as one may hesitate to repose such frightening authority in the executive branch alone, it is necessary to acknowledge that the alternative of joint dialog with the Congress in crisis circumstances would more likely obfuscate rather than clarify the issues. To have to revert to Senate debate and discussion at a time like that would be cumbersome at the very least and disastrous to the national interest in the extreme.

It serves to point up what has happened to the foreign policy-making process in a time of instant communications. The machinery of policy decisions assembled nearly two centuries ago simply has not been able to keep pace with the changing requirements of present-day realities.

SENATE RESOLUTION 85 SMACKS OF NEOISOLATIONISM

At a time when the world is getting smaller and when the problems among nations are becoming more complex, it ill behooves the leader of the Free World to move away from its share of responsibility in coping with international crises. Yet, Senate Resolution 85 would have the effect of doing just that. Its point is not unrelated to the Ludlow amendment of the 1930's, which would have prevented a declaration of war by the Congress and President without first going to the people through a national referendum. As the Ludlow proposal would have diffused national responsibility in relation to the Congress, so the national commitments resolution would water down the responsibility which reposes with the President.

It is conceivable, should this resolution be enacted, that some President at some time would be required to plunge into a military crisis—say of the dimensions of Lebanon or Laos—in which he reached the conclusion that it was in the national interest to commit a limited number of troops in quick order. Two such situations come immediately to mind. Should the Arab-Israeli war threaten to burst out of control, the necessity of a peace-keeping mission in the Middle East would be more than a remote possibility. Or, in another instance, the likelihood of further belligerent moves against South Korea by the North cannot be shrugged off.

In the wake of passage of Senate Resolution 85, an American decision to act quickly would instantly become clouded with an aura of illegitimacy. The public doubts which would quickly surface in that circumstance could only impair the efforts of the President of the United States to act with dispatch and to conclude successfully the commitment. The implications of Senate Resolution 85 are heavily laden with overtones of neoisolationism.

If the democratic process is to be salvaged, we must be prepared to move toward more clean-cut presidential authority in foreign policy.

SENATE RESOLUTION 85 WRONG WAY TO STRENGTHEN THE ROLE OF THE SENATE

Senate Resolution 85 is not the way to redress the balance of power in the making of foreign policy. Yet, its appealing intent is to try to do just that. It fails in that purpose by not binding the President and by flying in the face of the increasing need to repose the responsibility for critical decision-making in a place where it can be exercised quickly in time of crisis and with an opportunity to pin it down in fixing the responsibility for it. Neither of these latter two requirements could be met by simultaneous Senate affirmative action.

What would have been the complications had the above procedures been required at the time of the Lebanon crisis of 1958, or the Laotian crisis in 1962, both of which resulted in the landing of Marines for a short but successful show of force?

Or for that matter, what would the sponsors of Senate Resolution 85 have had the Senate do differently in regard to the Tonkin Gulf resolution of August, 1964? On that occasion there was Senate debate and a vote with only two nays. However that action may be construed by some Vietnam critics in hindsight, it does nothing to enhance either the role of—or confidence in—the Senate to assent that the Members were "duped" by bad or insufficient intelligence.

In fact, Senate Resolution 85 could further weaken the Senate's role in foreign policy. The mere fact of the resolution seems to be a case of "special pleading" in itself. What it implies is that, for whatever reasons, the Senate has failed to respond to the pressing demands of the nuclear age; or, as the sponsors of the resolution would prefer, had their foreign policy role stolen from them. The very intent of the resolution demeans the role of the Senate in foreign policy by begging for such a role.

What's more, regardless of the intent of its sponsors, Senate Resolution 85 is already being interpreted from the outside as (a) an attack on the preceding administration for its policies in Vietnam, (b) a warning to this and future administrations in the same area, and (c) an apology for the unsuccessful efforts of the Senate in thwarting previous policy "mistakes."

Whether these allegations are true or false is irrelevant. Their real point is that, without achieving its intent of redressing the balance of power in foreign policy, Senate Resolution 85 introduces mischievous elements, inspires misinterpretations, and demeans both the high office of the President of the United States and the responsible role of the U.S. Senate in foreign policy.

The decision to bring Senate Resolution 85 to the floor at this time raises some questions concerning the proceedings of the committee. The Foreign Relations Committee only recently authorized an extensive subcommittee study of our national commitments (the ad-hoc committee chaired by Senator Symington for U.S. Security Agreements and Commitments Abroad.) It is as yet difficult to determine what the subcommittee will discover during its investigations. Would not the Foreign Relations Committee have been acting in better grace to have suspended a national commitments resolution until after the in-depth study was completed? Does not the leadership's present action amount to an unfounded presumption that the Symington Subcommittee findings will be entirely in accord with the intent of Senate Resolution 85?

TO STRENGTHEN ITS ROLE THE SENATE NEEDS DEEDS NOT WORDS

Is there, then, a meaningful role for the U.S. Senate in the shaping of foreign policy? The answer, of course, is yes. If the Senate is to succeed in achieving this new role, it, too, must update its sense of responsibility by focusing more and more on larger and larger questions. The Senate could afford to address itself well in advance of crises to the broad outlines and directions of American policy. This becomes far more constructive as well as influential than in responding principally to crisis situations after the fact.

The Senate's role in foreign policy of the future can best be achieved by deeds rather than by words—and least of all by the sense-of-the-Senate resolution.

The role of the Senate Foreign Relations Committee in the policy process is whatever it decides it to be. Thus, the committee can hide behind the shelter of a resolution, or it can stand on its deeds.

In fact, it would seem to be more important that the committee and the Senate involve itself with the decision elements implicit in an ABM system as the current International Organization and Disarmament Affairs Subcommittee has been undertaking (the Gore group); or the question of policy toward Mainland China; or to reexamine our foreign policy assumptions and commitments in many of the critical areas of the world, as the Subcommittee for U.S. Security Agreements and Commitments Abroad (Symington group) is now doing.

In the final analysis, then, the Senate through the Foreign Relations Committee should preserve its role in national policy-making by deeds and actions rather than by lamenting its role in a sense-of-the-Senate resolution.

[From the Christian Science Monitor, May 20, 1969]

A RESTRICTIVE RESOLUTION

By the time Secretary of State Rogers returns from his two-week Asian tour, the Senate may have begun debate on Senate Resolution 85. The Senate had better be

very certain that it knows what it's getting into.

This "National Commitments" resolution was developed by Sen. William Fulbright and his Foreign Relations Committee. It would declare it to be the "sense of the Senate" that the President shall make no commitment to any foreign nation unless that commitment be approved by Congress. A committee report further avers that the resolution's primary purpose is to assert congressional responsibility in any decision "to commit the armed forces of the United States to hostilities abroad, be those hostilities immediate, prospective or hypothetical. . . ."

Obviously the senators were thinking of Vietnam. Some committee members praise the resolution as reestablishing a necessary degree of congressional authority in foreign policy. The aim, they say, is to assure that a president won't again embark on some Vietnam-type of hostilities, with the Senate uncommitted and unconsulted. (Congress of course did give the president wide authority on Vietnam, in the Tonkin Bay resolution—and now wishes it hadn't.)

Critics say the proposed resolution would be almost as dangerous a limitation on presidential authority as was the proposed Bricker amendment—that it represents senatorial pique and carries a strong whiff of isolationism.

Despite good senatorial intentions, the resolution does seem to have dangerous possibilities. (Resolutions don't have to be heeded by the White House, but they are influential.) In a time when swift response is needed, this resolution would mean that the White House would have to await the pleasure of the Senate. An atomic-age crisis might depend on a Senate quorum. Would President Kennedy have been able to move quickly and quietly in the Cuba missile crisis, if such a resolution had been on the books? Would President Roosevelt have been able to consumate his destroyer-bases swap with Britain?

It is of course essential that the Senate increase its influence and responsibility in foreign affairs. There has been overmuch presidential free-wheeling, particularly in the Johnson years. But the Senate can best boost its influence by convening competent committee hearings eliciting able testimony, by holding influential debates on the floor, and by showing its own ability to respond to crises with clarity and dispatch. Congress will not improve matters by curtailing the freedom of the executive—by restricting the President's preeminence in foreign policy and his ability to act speedily in tune with fast-moving events.

[From the Washington Evening Star, June 5, 1969]

SENATE SEEKS PIECE OF THE ACTION

(By Charles Bartlett)

Still lacking a bite to match its barks of frustration at Congress' impotence in foreign affairs, the Senate has embarked on a complex nibbling operation.

The perennial mood to circumscribe executive power is being fanned by disappointment with President Nixon's stand against liberalizing East-West trade, by impatience with the Paris negotiations, and by the surge of popular sentiment against the military, focussed for the moment on the issue of the ABM.

One imminent reaction will be the Senate's consideration and probable passage of Senate Resolution 85, and assertion that a national commitment to a foreign power can only be executed through a treaty or convention that is approved by legislative action.

The resolution is designed to be a turning point in the erosion of Congressional power over foreign policy but it is conceded to be a small step, a splattering of balm which the State Department views with far less apprehension than it nursed toward the Bricker amendment in the 1950s.

The hard fact is that the disinclination of the executive branch to take Congress into partnership in foreign affairs is the growing legacy of a series of presidents whose earlier service as senators taught them that it is a mistake for any president to consult with Congress in a crisis until he knows exactly what he wants to do. As Harry Truman put it, "There can be only one voice . . ."

Congress is too hydrated an animal to be a comfortable partner in close deliberations on a taut situation. The President knows that he will bear the responsibility for the steps that are taken and he suspects that no member of Congress is as deeply immersed in the problem, from the standpoint of having read the cables and intelligence, as he and his staff. Presidents find it expedient to consult key legislators but difficult to take their advice.

Congress is spurred, on the other hand, by constitutional authorities who maintain it has been cowardly in deferring to executive wisdom. The quality of that wisdom is increasingly challenged by the disillusionment in Vietnam and by apprehensions of the entanglements that may arise from other commitments.

Senate Resolution 85 will not go far to balance the uneven tug-of-war. Congress has the constitutional power to declare war but the President holds the options in defending the national security. He is the Commander-in-Chief, empowered to meet the threats which he perceives.

More to the point is the suggestion by Sen. Gale McGee, D-Wyo., that the Senate concentrate on re-examining the assumptions and commitments which guide the President's conduct of foreign policy. The hypotheses on which treaties were ratified and bases were established in the 1950's should be restudied in the light of the new skepticism.

The SEATO Treaty, ratified 16 years ago with one dissenting vote, is a case in point. Few knowledgeable officials believe the end of the war in Vietnam will mark the end of guerrilla incursions against neighboring nations like Thailand and Cambodia. The threat of Communist takeover may be strong and the commitments are firm. How will the United States, fatigued and disillusioned with Southeast Asia react?

The key argument for the SEATO Treaty was derived from the NATO experience. "The pact is inspired," said Chairman Walter George of the Foreign Relations Committee, "by the conviction that a potential aggressor may be deterred from reckless conduct by a clearcut declaration of our intentions." While this premise had worked in Europe, it has proven inapplicable in Asia and the time is ripe for re-examination.

Senate dissent from the course of foreign policy is a valuable contribution when it bears on a situation in which options remain open. The weakness of much of the dissent on Vietnam has been its failure to provide alternatives. The senatorial pressure to reduce the troop commitment in Europe and the current scrutiny of the value of the base agreements in Spain, Greece and Turkey are far more useful.

The Senate obviously has a role to play in a transitional period of American foreign policy. But it will assume that role by dealing with the crucial questions instead of with peripheral issues like Senate Resolution 85.

[From the Washington Evening Star, June 10, 1969]

CONGRESS' FOREIGN POLICY SQUEEZE

(By David Lawrence)

Whether it's a partial withdrawal of troops from Vietnam or other policies of President Nixon in international affairs, the important thing for the American people to bear in mind is that in most countries of the world there's a different conception of how our government functions than prevails in this country.

Many of the peoples abroad are familiar only with the parliamentary system. Thus, when they read that the democratic party has a majority in both houses of the Congress of the United States, they assume that Nixon is subject to the control of his opposition party.

Hitherto, in international crises, Congress has overcome this difficulty by giving unified support to the president irrespective of party. Currently, however, the impression has been developed that President Nixon was compelled to arrange for a pullout of some troops from Vietnam and that this marks the beginning of a total withdrawal without regard to what the enemy does.

Perhaps the most significant thing that has been done in recent weeks to try to tell the world that the President of the United States is subject to the will of the majority party in the Senate and House was the adoption by the Senate Foreign Relations committee, by a vote of 11 to 1, of a resolution informing the President, in effect, how he should hereafter conduct foreign affairs. The declaration approved by the committee reads as follows:

"Whereas accurate definition of the term 'national commitment' in recent years has become obscured: Now, therefore, be it.

"Resolved, that it is the sense of the Senate that a national commitment by the United States to a foreign power necessarily and exclusively results from affirmative action taken by the executive and legislative branches of the United States government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment."

The Department of State is very much disturbed by this resolution and expressed its views in a letter urging that it not be adopted. The State Department in its dissent said:

"The Executive Branch tends to doubt the usefulness of attempting to fix by resolution precise rules codifying the relationship between the Executive and Legislative branches in the broad area of national commitments. . . .

"While it is, of course, for the Senate to decide on the disposition of Senate Resolution 85, the Executive Branch recommends against its adoption."

Within the last few days members of the Foreign Relations Committee, including the chairman, have spoken out in opposition to the President's policies in Vietnam and particularly his support of the present government in Saigon.

The lack of cooperation between the Executive and Legislative branches of the government here has led to the feeling in Europe and Asia that President Nixon does not have the confidence of Congress. The belief is widespread that he will be unable to continue American participation in the war in a manner that will induce the North Vietnamese to begin to withdraw their troops and permit the setting up of a new government in South Vietnam elected by the people.

It may turn out that President Nixon, in order to make headway in the Paris peace talks and bring the Vietnam war to a conclusion, will have to assert his Constitutional authority to press for a negotiated settlement under some form of international supervision.

The simplest solution of all, of course, would be to turn the matter over to the United Nations Security Council. If the Soviets really wish to cooperate, progress could be made there towards ending the Vietnam war and establishing a mechanism to keep the peace, as has been done on other occasions in various parts of the world.

Once the United Nations took over the responsibility, a situation, to be sure, could develop like the one in Korea. While this is

not altogether settled from the standpoint of reunification of the two parts of the country, South Korea is nevertheless at present being protected by a peacekeeping force under the command of the United Nations.

ADJOURNMENT TO MONDAY, JUNE 23, 1969

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon, Monday next.

The motion was agreed to; and (at 5 o'clock and 32 minutes p.m.) the Senate adjourned until Monday, June 23, 1969, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate June 20, 1969:

DIPLOMATIC AND FOREIGN SERVICE

John A. Calhoun, of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 20, 1969:

U.S. MARSHAL

Walter J. Link, of North Dakota, to be U.S. marshal for the district of North Dakota for the term of 4 years.

DEPARTMENT OF DEFENSE

Spencer J. Schedler, of New York, to be an Assistant Secretary of the Air Force.

J. Ronald Fox, of Massachusetts, to be an Assistant Secretary of the Army.

OFFICE OF EMERGENCY PREPAREDNESS

Haakon Lindjord, of Washington, to be an Assistant Director of the Office of Emergency Preparedness.

IN THE ARMY

The U.S. Army Reserve officers named herein for promotion as Reserve commissioned officers of the Army, under provisions of title 10, United States Code, sections 593(a) and 3384:

To be major general

Brig. Gen. William H. Booth, [redacted].
Brig. Gen. Milton A. Pilcher, [redacted].
Brig. Gen. Thomas J. Thorne, [redacted].

To be brigadier general

Col. Leo V. Anderson, [redacted], Transportation Corps.
Col. Wilford L. Bjornstad, [redacted], Infantry.
Col. James R. Compton, [redacted], Medical Corps.
Col. Constant C. Delwiche, [redacted], Infantry.
Col. John J. Dorsey, [redacted], Medical Corps.
Col. James O. Freese, [redacted], Artillery.
Col. David W. Hanlon, [redacted], Infantry.
Col. Leslie W. Lane, [redacted], Infantry.
Col. Ripon W. LaRoche, [redacted], Medical Corps.
Col. Charles S. LeCraw, Jr., [redacted], Transportation Corps.
Col. Wilbur F. Munch, [redacted], Artillery.
Col. James J. O'Donnell, Jr., [redacted] Artillery.
Col. Nicholas W. Riegler, Jr., [redacted] Medical Corps.
Col. Leo R. Weinshel, [redacted], Medical Corps.

The Army National Guard of the United States officers named herein for promotion as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, section 593(a) and 3385:

To be major general

Brig. Gen. John C. Baker, [redacted].
Brig. Gen. Glynn C. Ellison, [redacted].
Brig. Gen. Nicholas P. Kafkalas, [redacted].

To be brigadier general

Col. Benjamin F. Compton, [redacted], Infantry.
Col. J. Frank Cook, [redacted], Artillery.
Col. O'Neil J. Daigle, Jr., [redacted], Corps of Engineers.
Col. Richard L. Dunlap, Jr., [redacted], Armor.
Col. William S. Lundberg, Jr., [redacted], Artillery.
Col. Curtis E. Meland, [redacted], Infantry.
Col. Floyd W. Radike, [redacted], Artillery.
Col. Charles H. Starr, Jr., [redacted], Artillery.
Col. John R. Stephenson, [redacted] Infantry.
Col. Edwin V. Taylor, [redacted], Artillery.

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Laurence B. Adams, Jr., [redacted].
Brig. Gen. Floyd L. Edsall, [redacted].
Brig. Gen. Charles H. Wilson, [redacted].

To be brigadier general

Col. Laurence M. Blaisdell, [redacted], Artillery.
Col. Sylvester T. DelCorso, [redacted], Adjutant General's Corps.
Col. Robert R. Goetzman, [redacted], Artillery.
Col. Francis J. Higgins, [redacted], Judge Advocate General's Corps.
Col. James J. Lison, Jr., [redacted], Infantry.
Col. Roy C. Martin, [redacted], Artillery.
Col. LaClair A. Melhouse, [redacted], Corps of Engineers.
Col. Harold R. Patton, [redacted], Infantry.
Col. Felix L. Sparks, [redacted], Artillery.
Col. Thomas K. Turnage, [redacted], Armor.

The Army National Guard of the United States officers named herein for promotion as Reserve commissioned officers of the Army, under provisions of title 10, Untied States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. John R. Carson, [redacted].

To be brigadier general

Col. Jack W. Blair, [redacted], Staff Specialist Corps.
Col. Larry C. Dawson, [redacted], Artillery.
Col. John N. Owens, [redacted], Armor.
Col. Alberto A. Pico, [redacted], Infantry.

The following-named officer, under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Patrick Francis Cassidy, [redacted], Army of the United States (brigadier general, U.S. Army).

The following-named officer for appointment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3210, 3284, and 3306:

To be brigadier general

Col. Manley Glenn Morrison, [redacted] U.S. Army.

The following-named officer, under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Henry Augustine Miley, Jr., [redacted], Army of the United States (brigadier general, U.S. Army).

Brig. Gen. Hal Bruce Jennings, Jr., [redacted] Army of the United States (colonel, Medical Corps, U.S. Army), for appointment as the Surgeon General, U.S. Army, and for appointment to the grade of lieutenant general, under the provisions of title 10, United States Code, section 3036.

The following-named officer, under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Arthur William Oberbeck, [redacted], U.S. Army.

IN THE NAVY

The following-named captains of the line of the Navy for temporary promotion to the grade of rear admiral, subject to qualification therefor as provided by law:

John D. Chase	Donald C. Davis
David M. Rubel	Donald V. Cox
Robert S. Salzer	Herbert A. Ainsworth
Narvin O. Wittmann	Earl P. Yates
Robert C. Gooding	Donald D. Engen
Paul E. Pugh	Oliver H. Perry, Jr.
John L. Butts, Jr.	Edwin K. Snyder
Charles N. Payne, Jr.	Spencer Matthews, Jr.
John L. Marocchi	Dean L. Axene
William M. Pugh II	Clarence R. Bryan
Ward S. Miller	Patrick J. Hannifin
Roger E. Spreen	James W. Nance
James Ferris	Rembrandt C. Robinson
John H. Dick	Worth H. Bagley
William H. Livingston	
Howard E. Greer	
Jon. L. Boyes	

IN THE MARINE CORPS

Lt. Gen. Richard G. Weede, U.S. Marine Corps, when retired, to be placed on the retired list in the grade of lieutenant general, in accordance with the provisions of title 10, United States Code, section 5233.

Maj. Gen. Frederick E. Leek, U.S. Marine Corps, having been designated in accordance with the provisions of title 10, United States Code, section 5232, for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade of lieutenant general while so serving.

IN THE AIR FORCE

The nominations beginning Charles E. Abbey, to be lieutenant colonel, and ending David G. Wood, to be 1st lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on May 19, 1969.

IN THE ARMY

The nominations beginning James J. Fragala, to be colonel, and ending Violet R. Pfeifler, to be major, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 1969;

The nominations beginning Charles Feuerbacher, to be captain, and ending Daniel F. Wolfe, to be 2d lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 1969; and

The nominations beginning Amelia Garcia, to be captain, and ending William N. Yerkes, to be 2d lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on June 9, 1969.

IN THE NAVY

The nominations beginning James A. Allphin, to be ensign, and ending Hilbert D. Dean, to be lieutenant (junior grade), which nominations were received by the Senate and appeared in the Congressional Record on June 11, 1969.