SENATE—*Monday, December 15, 1969*

The Senate met at 10 o'clock a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

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

Almighty God, who hast brought us to the beginning of a new week, strengthen us in all our endeavors in this place to the end that this Nation and the world may be well served. Bless the Members of this body with the higher insights which come from an awareness of Thy pervading presence. As they draw near to Thee may they be drawn nearer to one another in a firm spiritual alliance for service to their fellow citizens. Keep them strong and steadfast in all that is just and righteous. And finally, O Lord, grant to all that inner assurance that having labored here they have been fellow laborers with Thee in the kingdom whose builder and maker is God. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, December 12, 1969, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

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

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be dispensed with.

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

COMMITTEE MEETING DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet during the session of the Senate today.

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

CLARIFICATION OF THE FOOD STAMP PROGRAM

Mr. AIKEN. Mr. President, I am glad that the President has committed his administration to end hunger and malnutrition.

In his speech to the White House Conference on Food and Nutrition, the President urged enactment of his $1,600 cash assistance program, the food stamp bill now in the House Agriculture Committee, and his proposals for improved family planning services.

These are good goals, but we would do well to consider the details of the food stamp bill, for the plan the President has embraced goes much further than is generally supposed.

When the bill was passed by the Senate, an entirely new measure had been substituted for the genuine food stamp bill reported by the Agriculture Committee and which provided for a 400-percent increase in the food stamp program over the next 2 fiscal years.

The substitute bill approved by the Senate would actually make persons of wealth eligible to receive benefits, and the food stamp proposal would not be a food bill but a broadly based welfare program providing Government scrip for the purchase of countless nonfood items.

The President said that he wants this so-called food stamp program expanded until $2.5 billion in additional purchasing power is made available to persons in need.

Actually, the bill passed by the Senate is so broad in its coverage that $2.5 billion would not begin to do the job.

Twenty-five billion dollars annually would be a more realistic estimate.

The substitute, as passed by the Senate and now in the House committee, calls for almost immediate expansion of the program into every county in the Nation, without regard for how the stamps are distributed, or what they can buy.

During the debate, the Senate was fully advised that by including the terms "sanitation" and "personal cleanliness," the stamps could be used to purchase kitchen equipment, refrigerators, bathrooms, and septic tanks, and a wide variety of toiletries.

I do not believe it was generally understood that food stamps could also be used for housing, clothing, and medicines.

I asked the staff counsel of the Senate Agriculture Committee to prepare a detailed analysis of the substitute bill which I submit for the record so that one can see exactly how far-reaching this so-called food stamp bill actually is.

Most disturbing is the extension of use I have just described—namely, that the term "hygiene" as used in the bill would permit stamps to be used to provide adequate levels of shelter, clothing, water, medicines, and other items necessary to health.

Mr. President, if the substitute, as passed by the Senate, is enacted into law, food stamps will in practice become scrip, supplanting currency in the purchase of literally thousands of items.

In fact, there seems to be little or no limit at all on just what you could buy with food stamps if the substitute becomes law.

While I doubt that one could take up horseback riding or buy a pleasure boat under the substitute, yet if it could be shown that these are necessary to health, even these luxury items might be acceptable under the law.

There are other points equally important that are spelled out in detail by the staff counsel.

For example, the rights of the States to control the program are severely circumscribed.

If the coupon allotment increases, the program would become attractive to households with higher incomes which do not need this kind of a subsidy but will be entitled to it, even families with net incomes after taxes of up to $6,000.

This could include wealthy persons with large holdings of tax-exempt securities.

Net worth would not be taken into consideration in determining the eligibility of an applicant.

Even a millionaire could be eligible for food stamps, for, as the staff counsel points out, "section 1(8) would appear to prevent disqualification of a household which had unlimited resources in cash, land, or other assets not currently producing any income."

The substitute also contains a loosely drawn requirement of an affidavit for eligibility that could open the door to widespread abuse and corruption.

I concur in the President's desire to use a genuine food stamp bill in the war to end hunger and malnutrition, but the so-called food stamp bill could divert billions of dollars from food purchases to other nonfood uses.

As I have said, I approve of the President's efforts to end hunger and poverty; but if this requires a program which includes many other items besides food, it should be dealt with as a Federal welfare program and not as a food stamp program.

The changeover would mean that jurisdiction should be transferred from the Department of Agriculture, which has done a fine job in administering the food stamp program, to some other agency of Government; and most certainly the costs should not be charged to Agriculture, which is already loaded down with costs of many programs which are primarily for the benefit of nonfarm people.

Mr. President, I ask that this analysis by the staff counsel, Mr. Harker Stanton, be printed in the RECORD at this point.

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

MEMORANDUM FOR SENATOR AIKEN

This responds to your inquiry concerning S. 2547. As passed by the Senate, it would—

(1) permit use of food stamps to purchase products necessary for personal cleanliness, hygiene and home sanitation;

(2) permit issuance of food stamps to persons over 65 (without cooking facilities but otherwise eligible) for use in obtaining meals from nonprofit organizations engaged in serving or bringing meals to such persons;

(3) extend the Act to Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific;

(4) limit the authority for concurrent commodity distribution in disaster situations to temporary emergencies where commercial food distribution facilities have been disrupted;

(5) require concurrent commodity distribution to continue in areas changing to food stamps until the number of persons receiving food stamps exceeds the monthly average receiving commodities during the 3 months preceding initiation of the food stamp program;

(6) permit concurrent distribution at any time at State cost;

(7) make any household with an income of $4,000 or less per annum (for a family of four) eligible to participate in the program;

(8) prohibit consideration of applicant's assets (except to the extent they produce income) in determining eligibility;

(9) require the coupon allotment to be "not less" than the cost of an adequate diet as determined by the Secretary (which must be not less than the cost of the low-cost food plan established by the Agricultural Research Service);

(10) provide for free coupon allotments to households whose income is less than one half such cost of an adequate diet, with other families paying a reasonable investment or 25 percent of income, whichever is lower;

(11) provide for nutrition, program and home economics counseling;

(12) point to post offices, banks, credit unions and participating stores as possible coupon issuing facilities;

(13) provide for certification of eligibility solely by execution of affidavit and continued validity of such certification for 60 days after the household's removal to another food stamp area;

(14) permit any household to purchase any part of its allotment with a proportionate reduction in price;

(15) require coupons to be issued at least weekly and to be issued with any federally aided public assistance payment if the household elects to have the coupon charge deducted from such payment;

(16) provide for administration by the Secretary through any private nonprofit or Federal, State, or county agency in certain cases;

(17) absolve participants of responsibility for statements in their affidavits, except in the case of fraud;

(18) require the Secretary to pay the State's costs of issuing coupons and collecting payment therefor;

(19) authorize appropriation of $1.25 billion for fiscal 1970, $2 billion for fiscal 1971 and $2.5 billion for fiscal 1972, appropriations to remain available until expended;

(20) authorize obligation 15 percent in excess of appropriation;

(21) repeal the requirement that States reduce coupon issuance when necessary to keep within available funds; and

(22) repeal the provision prohibiting use of section 32 or other funds not appropriated specifically for the purpose of the Act.

You inquired specifically with respect to the following sections:

Sections 1(12) and (17) certification.—Section 1(12) provides that households shall be certified for eligibility "solely by execution of an affidavit". The law does not require an affidavit, so this would impose an additional requirement that the applicant's statement be sworn before a notary or other magistrate.

The affidavit would be "in such form as the Secretary may prescribe", and therefore would be as detailed as is necessary to show eligibility. Since certification would be "solely" by affidavit, this provision would preclude the State agency from considering additional evidence obtained from the applicant or others or information known to it or in its files, or otherwise looking behind the affidavit. Subsequent affidavits might be required as necessary to show changes in eligibility, but as of any particular point in time we believe this provision requires that eligibility be determined solely on the basis of the applicant's affidavit.

Section 1(17) provides that no person shall be charged with a violation of any Act, regulation, or State plan "on the basis of any statements or information contained in an affidavit filed pursuant to section 6(d) of this Act, except for fraud." The reference to section 6(d) is erroneous, since there is no such section. Presumably the reference should be to section 10(c), as amended by section 1(12) of the bill as just discussed. It is difficult to conceive of a prosecution under section 14(c) of the Food Stamp Act of 1964, 18 U.S.C. 1001, or 18 U.S.C. 287 which deal with knowing misuse of food stamps; false, fictitious, or fraudulent statements knowingly and willfully made; and false, fictitious, or fraudulent claims, which would be prohibited by this provision since it excepts prosecution for fraud. The use of the words "or information" might indicate that information as to illegal gains, income tax evasion, or other crimes contained in an affidavit could not form the basis for prosecution for such crimes; but nothing in the legislative history of this provision would indicate that such is its purpose.

It is questionable whether this provision could in any way prevent prosecutions for perjury under State laws.

The net effect of sections 1(12) and 1(17) may be that applications will have to be sworn to, false statements may subject the affiant to State perjury laws (as well as applicable Federal fraud laws), and the State agency will be prohibited from looking behind the affidavit in determining eligibility.

Secton 1(8) Eligibility. Section 5(a) of the Act, as amended by section 1(8) of S. 2547, makes every household whose income is insufficient to permit it to purchase an adequate diet absolutely eligible to participate in the program. Existing law limits participation to such families, but does not make them absolutely eligible. Section 5(b) of the Act, as amended by section 1(8) of the bill requires a limitation on resources, but provides "such limitation shall apply to the income, if any, realized from such resources and not to any income which might be realized through liquidation of such resources." Since the language quoted reduces the resource limitation to an actual income limitation, section 1(8) would appear to prevent disqualification of a household which had unlimited resources in cash, land, or other assets not currently producing any income.

Section 1(15) local administration by the Secretary.—This section authorizes the Secretary to administer the program in any political subdivision of a State if—

(1) the State agency fails to administer the program in compliance with the law;

(2) the State agency does not request a program after the Secretary has made an offer of Federal payments as authorized by this section;

(3) on or after January 1, 1971, a program is not in operation;

(4) the ratio of participants to persons classified by O.E.O. as low income is not adequate to effectuate the Act.

Item (2) appears to be meaningless, since the section does not authorize "an offer of Federal payments."

Section 2(9) value of coupon allotment.—Section 1(9) provides that the face value of the coupon allotment issued to any eligible household shall be "not less" than the amount necessary to purchase an adequate diet. This would be the minimum value that could be issued. There is no maximum specified. Section 1(2) provides that coupons may be used for "such products as the Secretary may determine to be necessary for personal cleanliness, hygiene, and home sanitation." Webster's New International Dictionary, Second Edition, defines "hygiene" as "a system of principles or rules designed for the promotion of health". It might be difficult for the Secretary to determine that shelter, clothing, water, medicine, and other items generally considered as necessities are not necessary to health. Section 1(1) of the bill makes provision of "adequate levels of food consumption . . . among low-income households" a purpose of the Act. Since section 1(2) defines food to include items necessary for hygiene, this makes it the purpose of the Act to provide for adequate levels of shelter, clothing, water, medicines, and other items necessary to health. Section 1(9) authorizes the Secretary to make the coupon allotment large enough to carry out this purpose of the Act.

To the extent that the charge for a coupon allotment is based on household income, an increase in the coupon allotment to cover health items would not result in an increase in the charge made to the participant.

As the coupon allotment is increased the program would become attractive to households with higher incomes. Section 1(8) of the bill provides for imposition of a maximum income on eligibility, but sets forth no criteria. Based on the Secretary's statements that the limit would have been $4,000 per year under S. 2547, as reported to the Senate ($1,200 coupon value divided by 30 percent maximum charge) the limit under S. 2547 as passed by the Senate would probably be $6,000 per year on the basis of coupons for food alone (not including health items), a low-cost diet of $125 per month ($1,500 per annum), and a maximum charge of 25 percent. As the value of the coupon allotment is increased above $1,500 to include health items it would seem likely that the maximum income would be increased above $6,000.

Respectfully,

HARKER T. STANTON,
Counsel.

SECRETARY OF STATE ROGERS DISCUSSES THE MIDDLE EAST SITUATION

Mr. FULBRIGHT. Mr. President, on December 9, before the 1969 Galaxy Conference on Adult Education, in Washington, D.C., Secretary of State Rogers delivered a statesmanlike address which I ask unanimous consent to have printed at this point in the RECORD.

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

ADDRESS BY THE HONORABLE WILLIAM P. ROGERS, SECRETARY OF STATE, BEFORE THE 1969 GALAXY CONFERENCE ON ADULT EDUCATION, SHERATON PARK HOTEL, WASHINGTON, D.C., TUESDAY, DECEMBER 9, 1969

Dr. and Mrs. Charters, Members of the Central Planning Committee, and ladies and gentlemen of the 1969 Galaxy Conference on Adult Education.

I am very happy to be with you this evening and be a part of this impressive conference.

The Galaxy Conference represents one of the largest and most significant efforts in the nation's history to further the goals of all phases of adult and continuing education.

The State Department, as you know, has an active interest in this subject. It is our belief that foreign policy issues should be more broadly understood and considered. As you know we are making a good many efforts toward providing continuing education in the foreign affairs field. I am happy tonight to join so many staunch allies in those endeavors!

In the hope that I may further that cause I want to talk to you tonight about a foreign

policy matter which is of great concern to our nation.

I am going to speak tonight about the situation in the Middle East. I want to refer to the policy of the United States as it relates to that situation in the hope that there may be a better understanding of that policy and the reasons for it.

Following the third Arab-Israeli war in twenty years, there was an upsurge of hope that a lasting peace could be achieved. That hope has unfortunately not been realized. There is no area of the world today that is more important because it could easily again be the source of another serious conflagration.

When this Administration took office, one of our first actions in foreign affairs was to examine carefully the entire situation in the Middle East. It was obvious that a continuation of the unresolved conflict there would be extremely dangerous; that the parties to the conflict alone would not be able to overcome their legacy of suspicion to achieve a political settlement; and that international efforts to help needed support.

The United States decided it had a responsibility to play a direct role in seeking a solution.

Thus, we accepted a suggestion put forward both by the French Government and the Secretary General of the United Nations. We agreed that the major powers—the United States, the Soviet Union, the United Kingdom, and France—should cooperate to assist the Secretary General's representative, Ambassador Jarring, in working out a settlement in accordance with the resolution of the Security Council of the United Nations of November 1967. We also decided to consult directly with the Soviet Union, hoping to achieve as wide an area of agreement as possible between us.

These decisions were made in full recognition of the following important factors.

First, we knew that nations not directly involved could not make a durable peace for the peoples and governments involved. Peace rests with the parties to the conflict. The efforts of major powers can help; they can provide a catalyst; they can stimulate the parties to talk; they can encourage; they can help define a realistic framework for agreement; but an agreement among other powers cannot be a substitute for agreement among the parties themselves.

Second, we knew that a durable peace must meet the legitimate concerns of both sides.

Third, we were clear that the only frame work for a negotiated settlement was one in accordance with the entire text of the UN Security Council resolution. That resolution was agreed upon after long and ardous negotiations; it is carefully balanced; it provides the basis for a just and lasting peace—a final settlement—not merely an interlude between wars.

Fourth, we believed that a protracted period of no war, no peace, recurrent violence, and spreading chaos would serve the interests of no nation, in or out of the Middle East.

For eight months we have pursued these consultations, in Four Power talks at the United Nations, and in bilateral discussions with the Soviet Union.

In our talks with the Soviets, we have proceeded in the belief that the stakes are so high that we have a responsibility to determine whether we can achieve parallel views which would encourage the parties to work out a stable and equitable solution. We are under no illusions; we are fully conscious of past difficulties and present realities. Our talks with the Soviets have brought a measure of understanding but very substantial differences remain. We regret that the Soviets have delayed in responding to new formulations submitted to them on October 28. However, we will continue to discuss these problems with the Soviet Union as long as there is any realistic hope that such discussions might further the cause of peace.

The substance of the talks that we have had with the Soviet Union have been conveyed to the interested parties through diplomatic channels. This process has served to highlight the main roadblocks to the initiation of useful negotiations among the parties.

On one hand, the Arab leaders fear that Israel is not in fact prepared to withdraw from Arab territory occupied in the 1967 war.

On the other hand, Israeli leaders fear that the Arab states are not in fact prepared to live in peace with Israel.

Each side can cite from its viewpoint considerable evidence to support its fears. Each side has permitted its attention to be focused solidly and to some extent solely on these fears.

What can the United States do to help to overcome these roadblocks?

Our policy is and will continue to be a *balanced* one.

We have friendly ties with both Arabs and Israelis. To call for Israeli withdrawal as envisaged in the UN resolution without achieving agreement on peace would be partisan toward the Arabs. To call on the Arabs to accept peace without Israeli withdrawal would be partisan toward Israel. Therefore, our policy is to encourage the Arabs to accept a permanent peace based on a binding agreement and to urge the Israelis to withdraw from occupied territory when their territorial integrity is assured as envisaged by the Security Council resolution.

In an effort to broaden the scope of discussion we have recently resumed Four Power negotiations at the United Nations.

Let me outline our policy on various elements of the Security Council Resolution. The basic and related issues might be described as peace, security, withdrawal and territory.

PEACE BETWEEN THE PARTIES

The Resolution of the Security Council makes clear that the goal is the establishment of a state of peace between the parties instead of the state of belligerency which has characterized relations for over 20 years. We believe the conditions and obligations of peace must be defined in specific terms. For example, navigation rights in the Suez Canal and in the Straits of Tiran should be spelled out. Respect for sovereignty and obligations of the parties to each other must be made specific.

But peace, of course, involves much more than this. It is also a matter of the attitudes and intentions of the parties. Are they ready to coexist with one another? Can a live-and-let-live attitude replace suspicion, mistrust and hate? A peace agreement between the parties must be based on clear and stated intentions and a willingness to bring about basic changes in the attitudes and conditions which are characteristic of the Middle East today.

SECURITY

A lasting peace must be sustained by a sense of security on both sides. To this end, as envisaged in the Security Council resolution, there should be demilitarized zones and related security arrangements more reliable than those which existed in the area in the past. The parties themselves, with Ambassador Jarring's help, are in the best position to work out the nature and the details of such security arrangements. It is, after all, their interests which are at stake and their territory which is involved. They must live with the results.

WITHDRAWAL AND TERRITORY

The Security Council Resolution endorses the principle of the nonacquisition of territory by war and calls for withdrawal of Israeli armed forces from territories occupied in the 1967 war. We support this part of the Resolution, including withdrawal, just as we do its other elements.

The boundaries from which the 1967 war began were established in the 1949 Armistice Agreements and have defined the areas of national jurisdiction in the Middle East for 20 years. Those boundaries were armistice lines, not final political borders. The rights, claims and positions of the parties in an ultimate peaceful settlement were reserved by the Armistice Agreement.

The Security Council Resolution neither endorses nor precludes these armistice lines as the definitive political boundaries. However, it calls for withdrawal from occupied territories, the non-acquisition of territory by war, and for the establishment of secure and recognized boundaries.

We believe that while recognized political boundaries must be established, and agreed upon by the parties, any changes in the preexisting lines should not reflect the weight of conquest and should be confined to insubstantial alterations required for mutual security. We do not support expansionism. We believe troops must be withdrawn as the Resolution provides. We support Israel's security and the security of the Arab states as well. We are for a lasting peace that requires security for both.

By emphasizing the key issues of peace, security, withdrawal and territory, I do not want to leave the impression that other issues are not equally important. Two in particular deserve special mention—the questions of refugees and of Jerusalem.

There can be no lasting peace without a just settlement of the problem of those Palestinians fhom the wars of 1948 and 1967 have made homeless. The human dimension of the Arab-Israeli conflict has been of special concern to the United States for over twenty years. During this period the United States has contributed about $500 million for the support and education of the Palestine refugees. We are prepared to contribute generously along with others to solve this problem. We believe its just settlement must take into account the desires and aspirations of the refugees and the legitimate concerns of the governments in the area.

The problem posed by the refugees will become increasingly serious if their future is not resolved. There is a new consciousness among the young Palestinians who have grown up since 1948 which needs to be channeled away from bitterness and frustration towards hope and justice.

The question of the future status of Jerusalem, because it touches deep emotional, historical and religious well-springs, is particularly complicated. We have made clear repeatedly in the past two and one-half years that we cannot accept unilateral actions by any party to decide the final status of the city. We believe its status can be determined only through the agreement of the parties concerned, which in practical terms means primarily the Governments of Israel and Jordan, taking into account the interests of other countries in the area and the international community. We do, however, support certain principles which we believe would provide an equitable framework for a Jerusalem settlement.

Specifically, we believe Jerusalem should be a unified city within which there would no longer be restrictions on the movement of persons and goods. There should be open access to the unified city for persons of all faiths and nationalities. Arrangements for the administration of the unified city should take into account the interests of all its inhabitants and of the Jewish, Islamic and Christian communities. And there should be roles for both Israel and Jordan in the civic, economic and religious life of the city.

It is our hope that agreement on the key issues of peace, security, withdrawal and territory will create a climate in which these

questions of refugees and of Jerusalem, as well as other aspects of the conflict, can be resolved as part of the overall settlement.

During the first weeks of the current United Nations General Assembly the efforts to move matters toward a settlement entered a particularly intensive phase. Those efforts continue today.

I have already referred to our talks with the Soviet Union. In connection with those talks there have been allegations that we have been seeking to divide the Arab states by urging the UAR to make a separate peace. These allegations are false. It is a fact that we and the Soviets have been concentrating on the questions of a settlement between Israel and the United Arab Republic. We have been doing this in the full understanding on both our parts that, before there can be a settlement of the Arab-Israeli conflict, there must be agreement between the parties on other aspects of the settlement—not only those related to the United Arab Republic but also those related to Jordan and other states which accept the Security Council Resolution of November 1967.

We started with the Israeli-United Arab Republic aspect because of its inherent importance for future stability in the area and because one must start somewhere.

We are also ready to pursue the Jordanian aspects of a settlement—in fact the Four Powers in New York have begun such discussions. Let me make it perfectly clear that the U.S. position is that implementation of the overall settlement would begin only after complete agreement had been reached on related aspects of the problem.

In our recent meetings with the Soviets, we have discussed some new formulas in an attempt to find common positions. They consist of three principal elements:

First, there should be a binding commitment by Israel and the United Arab Republic to peace with each other, with all the specific obligations of peace spelled out, including the obligation to prevent hostile acts originating from their respective territories.

Second, the detailed provisions of peace relating to security safeguards on the ground should be worked out between the parties, under Ambassador Jarring's auspices, utilizing the procedures followed in negotiating the Armistice Agreements under Ralph Bunche in 1949 at Rhodes. This formula has been previously used with success in negotiations between the parties on Middle Eastern problems. A principal objective of the Four Power talks, we believe, should be to help Ambassador Jarring engage the parties in a negotiating process under the Rhodes formula.

So far as a settlement between Israel and the United Arab Republic goes, these safeguards relate primarily to the area of Sharm al-Shaykh controlling access to the Gulf of Aqaba, the need for demilitarized zones as foreseen in the Security Council Resolution, and final arrangements in the Gaza Strip.

Third, in the context of peace and agreement on specific security safeguards, withdrawal of Israeli forces from Egyptian territory would be required.

Such an approach directly addresses the principal national concerns of both Israel and the UAR. It would require the UAR to agree to a binding and specific commitment to peace. It would require withdrawal of Israeli armed forces from UAR territory to the international border between Israel and Egypt which has been in existence for over a half century. It would also require the parties themselves to negotiate the practical security arrangements to safeguard the peace.

We believe that this approach is *balanced* and fair.

We remain interested in good relations with all States in the area. Whenever and wherever Arab States which have broken off diplomatic relations with the United States are prepared to restore them, we shall respond in the same spirit.

Meanwhile, we will not be deterred from continuing to pursue the paths of patient diplomacy in our search for peace in the Middle East. We will not shrink from advocating necessary compromises, even though they may and probably will be unpalatable to both sides. We remain prepared to work with others—in the area and throughout the world—so long as they sincerely seek the end we seek: a just and lasting peace.

Mr. FULBRIGHT. The Prime Minister of Israel, on the following day, I believe, or on Friday, as reported by Mr. James Feron in the New York Times, took Mr. Rogers to task, and alleged, as the headline says, that the United States is "moralizing." I ask unanimous consent that this article, and those immediately related thereto, be printed at this point in the RECORD.

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

MRS. MEIR, REPLYING TO ROGERS, SAYS THAT UNITED STATES IS "MORALIZING"

(By James Feron)

JERUSALEM, December 12.—Premier Golda Meir accused the United States today of "moralizing" on the subject of Middle East peace.

Replying to the speech Tuesday by Secretary of State William P. Rogers, Mrs. Meir warned of the dangers of trying to equate Arab and Israeli intentions.

Mr. Rogers had said that United States policy was "to encourage the Arabs to accept a permanent peace based on a binding agreement and to urge the Israelis to withdraw from occupied territory when their territorial integrity is assured."

Mrs. Meir, addressing a convention of Histradrut, the Israeli labor federation, said of the Americans: "They put us both on the scales of justice so that, God forbid, they shouldn't appear to be favoring one nation over another."

She commented caustically as to what she saw as the problem facing the Nixon Administration.

"On the one hand, our neighbors do not want peace and are preparing for war," she said. "On the other hand, peace is precisely what Israel wants. Because of these two factors there is no peace. So then the two sides are equal and one must treat both sides with the same friendship."

"In these days when people preach to us," the Premier said, alluding to Mr. Rogers, "it might be worthwhile recalling that Israel did not rise up one clear day and decide she must go out and conquer."

She reviewed the "real, physical dangers" that faced Israel in the weeks before the Arab-Israeli war of June, 1967. "Now they are moralizing that expansion is not nice," she said.

ARAB LEADERS' ROLE CITED

Major powers such as the United States "cannot make peace on behalf of the Arabs," Mrs. Meir continued. "It was the Arab leaders who took their people to war and they must now declare their willingness for peace. It will not help if the big powers say it for them," she declared.

The Israeli Cabinet met in emergency session Wednesday night and issued a post-midnight statement sharply critical of "extrenal efforts and influences." Mr. Rogers, mindful that "peace rests with the parties to the conflict," had said the major powers could serve as a catalyst, "stimulating the parties to talk."

Israeli leaders contend that such efforts only encourage the Arabs to believe that peace can be imposed on the area. The Israeli position is that only when the Arabs are prepared to negotiate directly, and therefore recognize Israel's sovereignty, will resultant agreements have any meaning.

Mrs. Meir said that Israel would not accept any proposals "that fall short of real peace." Nor, she added, would Israel "agree to borders that make the nation vulnerable."

"All we want is what dozens and dozens and dozens of other nations have: peace with borders that are defendable," the Premier added.

Mrs. Meir, alluding again to the United States, said: "We don't want anybody to come and fight our battles, either, but we have the right to demand that we not stand emptyhanded against better and better tanks, planes and cannons."

Mr. Rogers, in his speech in Washington before a conference on adult education, had indicated that the United States favored almost complete Israeli withdrawal, from occupied areas, with "roles for both Israel and Jordan in the civic, economic and religious life" of Jerusalem.

Israel has absorbed the former Jordanian sector of Jerusalem and has said that she would accede only to a Jordanian role in the city's Moslem religious shrines. Israel has also effectively absorbed the occupied Golan heights of Syria and has indicated that she will also retain the Gaza Strip.

U.S. POSITION EXPLAINED

WASHINGTON, December 12.—A State Department spokesman said today that Mrs. Meir's criticism of the United States for "moralizing" over peace prospects in the Middle East missed the point of American policy.

"When we talk of an Israeli withdrawal from occupied territory," he said, "we talk in terms of a binding Arab commitment to a permanent peace and acceptance of recognized political boundaries by all parties."

"On matters of basic security—on the prime, but issues—we leave the matters entirely to negotiations between the Israelis and the Egyptians," he added.

EBAN BARS OUTSIDE DICTATION

The Israeli Foreign Minister, Abba Eban, emphasized in New York yesterday that "we shall not allow our future to be written from the outside."

Mr. Eban, addressing a luncheon audience at the Overseas Press Club, 54 West 40th Street, stressed that neither friendly nor unfriendly powers could dictate a course of action for Israel that would infringe on her sovereignty.

Mr. FULBRIGHT. At this point, I ask unanimous consent to have printed in the RECORD an article by Mr. Irving Spiegel, entitled "$500 Million Drive Is Set by U.J.A."

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

$500-MILLION DRIVE IS SET BY U.J.A.

(By Irving Spiegel)

The executive head of the United Jewish Appeal reported yesterday that more than $500-million would be needed next year in philanthropic funds to cope with the humanitarian needs of Jews the world over, with special emphasis on Israel.

Rabbi Herbert A. Friedman, executive chairman of the appeal, told Jewish leaders attending the appeal's annual national conference at the New York Hilton Hotel that most of the money must be raised in this country.

While the appeal did not fix a goal, it was explained that next year's requirement was based on the budgetary needs set forth by the appeal's constituent agencies, of which the Jewish Agency for Israel is the major beneficiary.

At Thursday night's session, Louis A. Pincus, chairman of the Jewish Agency, said that American Jewish support was needed "to help meet the humanitarian needs of the people of Israel." He was inaccurately reported to have said that the support was needed to help meet Israel's defense expenditures.

The Jewish Agency carries out resettlement and rehabilitation programs and other projects among those who have arrived in Israel from various counties and who are recent arrivals.

FIGURES DETAILED

In pointing out that 60,000 immigrants were expected to arrive in Israel next year, Rabbi Friedman said it "was the obligation of their fellow Jews to make their arrival part of a fruitful renaissance of Jewish life in a war-harassed state."

In a breakdown of financial requirements, Rabbi Friedman said that $135-million would be needed in Israel for social welfare services, immigration and absorption, $60-million for health services, $75-million for education, with various other large sums needed for youth care and training, and immigrant housing.

The Joint Distribution Committee, the major American agency aiding needy Jews overseas, has adopted a budget of $24.1-million for next year to provide a broad range of health and welfare services for more than 300,000 needy Jews in 27 countries. Part of this money is earmarked for special projects among the elderly and ill immigrants in Israel.

Mr. FULBRIGHT. Mr. President, the purpose of this is to illustrate what seems to me a rather unseemly attack by the Prime Minister of Israel upon the Secretary of State while, at the same time, the U.J.A. is promoting a program to raise $500 million in this country, which, as everyone knows, is tax deductible and which adds to the foreign exchange of Israel, for the purchase of anything, including arms.

NOTICE OF OBJECTION TO LIMITATION OF DEBATE ON DEFENSE APPROPRIATION BILL

Mr. FULBRIGHT. Mr. President, I wish to give notice to the leadership that I have a conference with the House on the foreign aid bill, but I do not wish an agreement on limitation of time to be entered into without my being here. I will be nearby. I want an understanding with the leadership that there be no agreement on limitation on time, because I wish to make some remarks on the Defense appropriation bill after the debate begins.

Mr. President, I want it very clearly understood that I be notified before any agreement on limitation of time is entered into on the Defense appropriation bill, which I understand is the pending business. I am in a conference downstairs with the House. I can be reached, and I can be here in a few minutes if any proposal for a limitation of time is made.

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

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

The bill clerk proceeded to call the roll.

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

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

THE VOTING RIGHTS ACT OF 1965

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate for second reading H.R. 4249, which the clerk will state.

The LEGISLATIVE CLERK. H.R. 4249, an act to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

Mr. HART. Mr. President, it is my intention to object to further proceedings, involving rule XIV, and I make this announcement now in order to protect my rights under the actions prescribed under rule XIV, but withhold that objection to permit any colloquy with respect to disposition of the bill.

First, Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Michigan will state it.

Mr. HART. Having noted this intention to object, are my rights under rule XIV now protected?

The ACTING PRESIDENT pro tempore. The Chair will protect all rights of the Senator under rule XIV. It is the understanding under rule XIV and other precedents that if objection is heard, the bill will be placed on the calendar.

Mr. HART. Any subsequent motion under the conditions now established, with objection under rule XIV, will send the bill to the calendar; is that correct?

The ACTING PRESIDENT pro tempore. The Chair is not sure about any subsequent motion. The precedent, as the Chair understands it, is that if objection is made before any action is taken after a bill is received from the House of Representatives and after receiving second reading, it shall then be placed on the calendar.

Mr. HART. Another parliamentary inquiry, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Michigan will state it.

Mr. HART. Specifically, if, hereafter, a motion is made to refer that bill to committee, with or without instructions, and the Senator from Michigan having given this notice of objection to further proceedings under rule XIV, the bill then would go to the calendar; is that correct?

The ACTING PRESIDENT pro tempore. The Parliamentarian informs the Chair that the Senate does not have any exact or precise precedent on that specific point, and until the point is raised, the Chair will not resolve the question in advance on a parliamentary inquiry.

Mr. HART. The Senator from Michigan is anxious not to foreclose discussion but is anxious equally that at no stage shall he now, having announced his intention to object under rule XIV, lose the protection of that rule.

The ACTING PRESIDENT pro tempore. The Chair will protect the Senator by submitting any stated unanimous-consent request to the Senate, but preliminary announcement of intention has no parliamentary standing.

Mr. HART. Could I ask unanimous consent that my right under rule XIV continue to be available, notwithstanding the fact that I do not now raise objection under rule XIV, withholding it only for purposes of discussion?

Mr. ERVIN. Mr. President, reserving the right to object——

The ACTING PRESIDENT pro tempore. May the Chair first make a statement before the question is propounded. The Chair is going to protect the rights of the Senator from Michigan or any other Senator under rule XIV. Before any action is taken, there will be an inquiry if there is objection to further consideration of the bill, and if objection is heard it is the Chair's understanding, under previous precedent, that the bill will then immediately go to the calendar.

Now, if the Senator from Michigan wants to nail it down by unanimous consent, the Chair will propound the unanimous-consent request, but it would seem that it is unnecessary.

Mr. ERVIN. Mr. President, I should like to ask the Senator from Michigan, who has the floor, that he make a parliamentary inquiry as to whether it is obligatory under Senate rules to undertake the bill on second reading today.

The ACTING PRESIDENT pro tempore. The Chair has already placed the bill before the Senate for second reading, and second reading has been had.

Mr. ERVIN. The point I am trying to make is this: Of course, the objection, as I understand it, to the bill at the present time, would place it automatically on the calendar; is that not correct?

The ACTING PRESIDENT pro tempore. That is the understanding of the present occupant of the Chair.

Mr. ERVIN. Thus, an objection places it upon the calendar so that it would be subject, then, after the passage of 1 legislative day, to a motion to commit either, with or without instructions, after, of course, the bill has been called up before the Senate.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ERVIN. After the Senate—that is, a majority of the Senate—votes to call the bill up, a motion to commit the bill to the committee, either with or without instructions, would be in order.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. ERVIN. The motion to commit could be made at any time after the motion to take up has been adopted.

The ACTING PRESIDENT pro tempore. The motion is debatable.

Mr. ERVIN. And that could be at any time before final passage of the bill.

The ACTING PRESIDENT pro tempore. The Senator is correct. The Senator has properly stated the parliamentary situation.

Mr. ERVIN. Mr. President, I should like to make one further parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina will state it.

Mr. ERVIN. Is it obligatory at this time for the Senator from Michigan to

make his objection? Can he not make that at a later time?

The ACTING PRESIDENT pro tempore. The Chair has called up the bill for a second reading. Until action is taken on the bill, the Senator from Michigan has time to interpose his objection. If he does interpose such an objection, it will go on the calendar.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Michigan has the floor, despite the fact that the Chair has indulged the Senator from North Carolina in parliamentary inquiries.

Mr. MANSFIELD. Mr. President, I think we are wasting a lot of words and a lot of time, and if no other Senator is going to object to bring this matter to a head, I will object. What is the Senator's intention?

Mr. HART. Mr. President, the Senator from Michigan had hoped his rights under rule XIV could be protected. That having been established, other Senators could have an opportunity to make suggestions or raise inquiries. It was only in the hope that, having assured rule XIV protection would remain available, I indicated an intention to object, but did not in fact object.

As I understand it, if objection is not made today, the bill, having been laid down, will then be referred to committee.

The ACTING PRESIDENT pro tempore. If objection is not heard; the Senator from Michigan is correct. The Chair would refer the bill to the appropriate committee. Until such action is taken, the Senator from Michigan has the right, under rule XIV, clause 4, to interpose an objection.

It is the intention of the Chair to permit the Senator from Michigan, or any Senator, by asking if there is an objection, and if objection is offered, to place the bill on the calendar.

Mr. HART. Mr. President, perhaps we can accommodate the interests of all here by my making this inquiry. The Senator from Michigan having given notice, as he has, if discussion develops and a motion then is made to refer to committee, either with or without instructions, will the Senator from Michigan have the opportunity, before action is taken on that motion, to make objection under rule XIV?

The ACTING PRESIDENT pro tempore. The Chair is informed, as the Chair has stated before, that there is no precise and exact precedent for the situation that has been hypothetically stated by the Senator from Michigan. And if objection is not heard at the present time, and if during the course of colloquy or discussion a motion is made, that is a hypothetical situation that the Chair is not at the present time ready to rule on.

Mr. HART. It is that hypothetical and unanswered question that would compel the Senator from Michigan to object under rule XIV.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar under rule XIV, clause 4.

Mr. MANSFIELD. Mr. President, at the request of a Senator, I ask unanimous consent that H.R. 4249 be referred to the Committee on the Judiciary with instructions to report back not later than March 1, 1970, and that on that date, or the first date the Senate is in session following March 1, 1970, H.R. 4249 be made the pending business immediately upon the completion of the morning hour on that day.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HART. Mr. President, reserving the right to object, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. HART. Is the motion in order today?

The ACTING PRESIDENT pro tempore. The bill has been placed on the calendar, and a motion would be in order tomorrow. After the bill has been referred to the Senate Calendar, unanimous consent is in order today, but a motion is not in order.

Is there objection to the request of the Senator from Montana?

Mr. HART. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from Michigan has reserved the right to object.

Mr. HART. Is the answer to my parliamentary inquiry that a motion at this time is not in order?

The ACTING PRESIDENT pro tempore. The Senator is correct. A motion at this time is not in order.

Mr. HART. A unanimous-consent request, then, is made because of the fact that a motion itself is not in order?

The ACTING PRESIDENT pro tempore. The Chair has no way of knowing the motive for putting the unanimous-consent request.

Mr. MANSFIELD. The motive is a promise made to a fellow Senator, and it is being entered at his request.

The ACTING PRESIDENT pro tempore. The Senator has a right to propound a unanimous-consent request.

Is there objection?

Mr. HART. Mr. President, reserving the right to object, is this motion not in order today——

The ACTING PRESIDENT pro tempore. Which motion?

Mr. HART. The motion that was first made by the Senator from Montana.

The ACTING PRESIDENT pro tempore. The Senator from Montana has made a unanimous-consent request.

Mr. HART. I apologize. I thought it was in the form of a motion.

If this unanimous-consent request were phrased as a motion at the next or any subsequent legislative day, it would then be in order, after the bill had been taken off the calender?

The ACTING PRESIDENT pro tempore. The Senator is correct, after the bill is before the Senate.

Mr. HART. Reserving the right to object, I think it is due the Senate that Senators who are reluctant to grant the unanimous consent make brief explanation of the reason. The track record of bills that are denominated civil rights bills in the Judiciary Committee makes us understand clearly that having the votes to report a bill, having the votes to adopt an amendment or a substitute, is no guarantee that we shall have the right to vote. And to refer a bill to a committee of this character, but without instruction that inside the committee each member shall have the right to have a decision made, to have a vote taken on any amendment or substitute—unless that explicit protection and assurance is given, it compels those of us who have a concern in this area to be unwilling, until opportunity at least has been had here in the course of a few days to develop an agreement that would give assurance inside the committee, to object.

With that explanation; namely, that we would hope that in the course of a few days an agreement might be developed, whether on the floor of the Senate or internally in the committee, to insure that votes be had in the committee, objection is made to the unanimous-consent request.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

Mr. ERVIN. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from Michigan objects.

Mr. HART. Mr. President, the Senator from Michigan will withhold it momentarily in order that the Senator from Montana or other Senators may make a comment.

Mr. MANSFIELD. No.

Mr. HART. I object.

The ACTING PRESIDENT pro tempore. The Senator from Michigan objects.

Mr. MANSFIELD. We can make comments without reservations, because the matter in question is now on the calendar.

I would think that the suggestion made by the distinguished Senator from Michigan would be a matter which would call for the whole Senate to decide, because what he is suggesting is, in effect, that the Senate tell a proper committee of this body what its members should do within a certain length of time within the committee on the matter of votes.

In that regard, Mr. President, it is hoped—and I am speaking for myself this time—that the Senators primarily charged with responsibility for the merits of H.R. 4249 will be able to work out an accommodation with respect to referral of the bill to the Committee on the Judiciary. The bill is now on the calendar under rule XIV, awaiting that agreement, and when it is worked out, if it is worked out, the bill can be taken off the calendar and referred at that time, with the instructions agreed upon. Otherwise, the bill will remain on the Senate Calendar.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SCOTT. Mr. President, I am delighted to have the recognition here which might have been more difficult to obtain in the Committee on the Judiciary.

I think there is something very definitely and favorably to be said about the competing bills which are both actually before the Senate. One of them, the simple extension of the Voting Rights Act, is in the committee already, and I believe in the subcommittee of the Sena-

tor from North Carolina; and no action has been taken on it of which I am aware. The other bill has come over from the House of Representatives, and is subject to objection. The President of the United States, in a letter sent to the House of Representatives before the other bill was acted upon, indicated that he had in mind two major and overriding concerns about this bill, both of which I can accept: The provision for voting in national elections where a citizen has moved to another State more than 60 days before the election, and the national ban on illiteracy tests.

There are other things in the House bill which this Senator, for one, could not accept. I was hopeful that we could either get action within the committee, which we have not had, on the committee bill, or that we could have an agreement to refer this bill—as to which I would be glad to support the administration on those points I have mentioned, together with the extension of the Voting Rights Act, as a package or compromise solution.

But it seems to me that the way to arrive at a solution on which reasonable men could agree, in due process and in keeping with the rules of the Senate, is to permit the bill to be referred to the committee, under instructions that it be reported back on a day certain, in February or March, for example, and with further instructions to the committee to extend to each member of the Judiciary Committee the right to vote on the bill, or amendments or a substitute, or if that seems too much, perhaps only the right to vote for a single substitute for the bill.

It seems to me, first, that the denial of that right could only be interposed for the purpose of preventing a vote; and second, that the instruction does not violate the rules of the Senate, since it is in keeping with the prerogatives of the committee, and does not instruct the committee how anyone shall vote, or even when they shall vote, except that it shall occur prior to the agreed upon reference back to the Senate.

I am stating this fully because I shall not be moved by any appeal which would argue that somebody's rights are being violated under this proposal. The proposal extends to Senators in committee the right to consider, to debate, to vote, and to report out. There is nothing unusual about that; we do it every day. And it retains in the Senate its right to act after full and free debate, every Senator being protected in his rights therein.

But to uphold the right to vote in a committee is illustrative of the very thing I have been fighting for, for 27 years, and that is to uphold the right of any man or woman anywhere in America, otherwise qualified, to exercise the franchise. To me the right to vote in the Senate is important, the right to vote in the committee is important, and the right to vote in the Nation is important; and I lay that down as the precept that I shall follow.

I hope, therefore, that Senators can find a way to agree on a procedure whereby after full discussion, this bill or the other one can be reported out of the committee on a day certain, after the extension of the purest and simplest right which a man can have, which is the right to vote.

Mr. ERVIN. Mr. President——

The ACTING PRESIDENT pro tempore. Let the Chair make a statement first. To be sure that the parliamentary situation is clear to all Senators, the Senator from Montana propounded a unanimous-consent request, it was objected to by the Senator from Michigan, the bill having previously been placed on the calendar. That is the present parliamentary situation.

The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, some 108 years ago the States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Louisiana attempted to secede from the Union. The country was plunged into a bloody fratricidal war, which lasted 4 years, and which was fought by the Union on the ground that those States did not have the right to secede from the Union, because they were perpetually members of the Union.

Since the war ended in 1865, those States have been waiting for the privilege of being allowed to be full-fledged members of the Union, and I have hoped that in the year of our Lord 1969, those Senators who profess to fight for equal rights for all the American people would be willing to admit Virginia, and North Carolina, and South Carolina, and Georgia, and Alabama, and Mississippi, and Louisiana back into the Union as full-fledged members, and would be willing to give the Senators from those seven States equality of rights under the rules of the Senate with all other Members of the U.S. Senate.

I think everyone who is familiar with the workings of the Senate, at least since I came here and was sworn in as a Member on June 11, 1954, knows that no bill has ever been held on the calendar by the invocation of this procedure except so-called civil rights bills.

The House-passed administration bill, in my judgment, is unconstitutional, because the Constitution, in section 2 of article I, in the first section of article II, in the ninth and 10th amendments, and in the 17th amendment, says the right to prescribe qualifications for voting belongs to the States, and not to Congress; and any Supreme Court that is willing to give the words of the Constitution their obvious and plainly intended meaning would hold both of these bills unconstitutional.

The administration bill, though unconstitutional, is at least a fairer bill than the other, because it applies to all of the Union. It puts all of the States on an equality with each other, and I have more respect for an unconstitutional law that applies in like manner to everyone in like circumstances than I do for a bill which proposes to deny seven States, or parts of those States, rights that belong to every other State similarly situated.

I hope that my friends who advocate equal rights for all men will have a moment of repentence, and agree to allow Senators of the United States, even those who come from these seven conquered provinces, an equality of rights under the Senate rules, and let the bill go to the committee, and thus permit the committee to hold hearings on the bill and all amendments which may be proposed to it and study whether they be constitutional or unconstitutional or whether they be wise or unwise.

Mr. President, there are only four southerners on the 17-man Judiciary Committee. I happen to be one of them. We could not obstruct Senators from exercising any of their rights to offer and vote on amendments even if we wished to do so. As chairman of the Subcommittee on Constitutional Rights to which the bill would go first, I will secure to all Senators their rights in these respects. I believe in due process for all men. I even believe in due process for those who profess to believe in equal rights for all men, but are unwilling to give equal rights to other Senators under Senate rules.

I guarantee them a hearing and opportunity to vote, as far as my power as chairman of the subcommittee is concerned, I shall do this because I believe in equal rights for all men and in equality of Senate procedures for all men. I believe in due process for all men. And I believe in legislative fairness for all men.

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

Mr. ERVIN. I yield.

Mr. MANSFIELD. Mr. President, the Senator, I believe, has gone about as far as he can reasonably go.

I would hope that it would be possible to work out some arrangement by means of which the bills that are now sitting on the calendar could be referred to the Judiciary Committee under certain instructions.

It appears to me that the blocking point is the fact that those who are objecting to a referral to the committee are doing so because they have the idea that the subcommittee and the full committee may not allow votes to be taken on substitutes or amendments thereto.

On that basis, of course, the Senator is able only to give his own personal assurances. He cannot give any assurances that the other members of the subcommittee or that the members of the committee as a whole will not in some way or other stall, delay, postpone, and thereby achieve nothing in the way of votes as far as the members of the subcommittee or full committee are concerned.

That, we think, is the stumbling block. I hope that something can be worked out.

If that point can be met and overcome, then I daresay that possibility for referral to the Judiciary Committee would be enhanced considerably.

Mr. ERVIN. Mr. President, I agree with the distinguished majority leader. I take this occasion to commend him on his unfailing fairness to all Members of the Senate and for his faithful observance of the rules of the Senate.

I do not think that in the absence of a faithful observance of the rules of the Senate, the Senate can function properly

or in a manner consistent with the welfare of the Nation.

I thank the distinguished majority leader for his absolute fairness to all Senators under all circumstances.

Mr. MANSFIELD. Mr. President, I thank the Senator. That is part of my job. It is a part of every Senator's job. I think that every Senator is, to the best of his ability, trying to carry out that duty.

LEAVE OF ABSENCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Washington (Mr. JACKSON) be given official leave of absence from the Senate for Monday and Tuesday because of a death in the family.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental Relations and the Subcommittee on National Security and International Operations of the Committee on Government Operations be authorized to meet during the session of the Senate today.

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

PROPOSED RESTUDY OF FOREIGN POLICY COMMITMENTS

Mr. MANSFIELD. Mr. President, the other day our distinguished colleague, the Senator from Maryland (Mr. MATHIAS), submitted a resolution which I found very appealing and which indicates to me a way to a reorientation and reassessment of the relationships that should exist under the Constitution between the executive and legislative branches.

The resolution calls for a reconsideration of the Gulf of Tonkin joint resolution, the Formosa resolution, and others. And it also calls for a reconsideration of the extraordinary powers which now rest in the hands of the President because of action taken by Congress in recent years.

The resolution calls for a study which is long overdue and which I think we should face up to, especially as far as the Gulf of Tonkin joint resolution is concerned.

I think that some have outlived their usefulness. Some have been misinterpreted. The best way of facing up to the situation is to hold hearings and, on the basis of improved understanding, bring about a better relationship between the executive and legislative branches of the Government.

Mr. President, I ask unanimous consent that an article entitled "A Change of Heart on Tonkin Gulf Vote," written by Merlo J. Pusey, and published in the Washington Post of yesterday, be printed in the RECORD.

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

A CHANGE OF HEART ON TONKIN GULF VOTE

(By Merlo J. Pusey)

(NOTE.—The writer is a member of the editorial page staff of The Washington Post.)

Senator Mathias's bid for repeal of the Tonkin Gulf resolution has found warm support in the Senate for two good reasons. First, a substantial number of legislators would like to bind President Nixon to his present policy of withdrawing American troops from Vietnam as rapidly as feasible. The Mathias resolution would serve this purpose. Second, members of Congress are eager to wipe out the chagrin they feel from having abdicated their power in the Tonkin Gulf document.

Repeal of the Tonkin Gulf resolution even a year ago would have seemed unthinkable. Critics of that resolution, which cleared the way for large-scale war in Vietnam, were frequently reminded by the Johnson administration that they could ask Congress to repeal it. But this was only another way of saying they could bump their heads against a stone wall. Now the climate has changed. Probably a majority in Congress as well as in the country recognizes the Tonkin Gulf resolution as a blunder of the first magnitude.

The basic reason for this change of sentiment is the spreading disillusionment in regard to the war. The fact that the United States is having to pull back from South Vietnam after its vast expenditure of lives and money there is causing millions to ask how we got into the mess in the first place.

Members of Congress are well aware of the fact that LBJ rushed the resolution to Capitol Hill after two encounters between American destroyers and North Vietnamese patrol boats in the Tonkin Gulf in August, 1964. Although the Americans involved suffered no injuries and the destroyers sustained no appreciable damage, the President ordered a severe bombing raid against North Vietnam by way of reprisal before seeking the support of Congress. His resolution was generally interpreted at the time as a bid for national unity designed to discourage Hanoi from further aggression against South Vietnam.

Secretaries Rusk and McNamara went to Congress with reports of the Tonkin Gulf encounter that were at best half truths and distorted interpretations. There was almost no attempt on the part of the congressional committees involved to elicit the facts or to consider the momentous step they were taking. Nor was there any meaningful debate on the floors of the House and Senate.

The exchanges which did take place seemed designed largely to reassure skeptical legislators who feared that they might be giving a green light for war. Senator Brewster wanted to know whether "there is anything in the resolution which would authorize or recommend or approve the landing of large American armies in Vietnam or in China."

Chairman Fulbright of the Foreign Relations Committee responded:

There is nothing in the resolution, as I read it, that contemplates it. I agree with the senator that that is the last thing we would want to do. However, the language of the resolution would not prevent it. It would authorize what the commander-in-chief feels is necessary.

A similar reply was given to Senator Nelson when he sought to amend the resolution so that it would allow the President to continue aiding South Vietnam while attempting to avoid "any direct military involvement" in the Southeast Asian conflict. Senator Fulbright thought that the proposed amendment expressed about what was intended, but he rejected the amendment itself because it might mean delay and embarrassment for the President. It was widely assumed and expressly stated at the time that the President would go back to Congress if any need for direct and large-scale participation in the war should arise.

When these soothing words are matched against five years of war in Vietnam, escalated in accord with the President's discretion, many members of Congress now conclude that they were deceived and euchered of their right to the last word in war-making. They want at last to set the record straight.

Beyond this is an extra dividend in the Mathias resolution. He would also nullify the Formosa, Middle East and Cuba resolutions acquiescing in the use of American forces abroad at the President's discretion. Likewise he would terminate President Truman's proclamation declaring a state of national emergency at the beginning of the Korean war in 1950. The Korean war was initiated and carried on for three years by the White House without any authorization from Congress. When the current murmuring about this and other examples of presidential war-making was recently brought to Mr. Truman's attention by C. L. Sulzberger of the New York Times, the gist of the former President's reply was: "Someone has to make decisions—and that someone is the President."

Well, there is a growing sentiment in Congress that the President will not again be allowed to commit the country to war by executive decree. The great significance of the Mathias resolution is that it may give Congress precisely the formula it needs to wipe out the evidence of its previous abdications and to inject itself into the withdrawal from Vietnam. It would approve the President's existing policy and, having withdrawn its blank check (Tonkin Gulf), would put Congress on record for "accelerated withdrawal."

As sentiment for the resolution mounts will not President Nixon also be inclined to support it? He would earn great credit by disassociating himself from the theory that the White House has authority to commit the country to war whenever the President may think that a full-scale declaration of war is not necessary. The President has shown himself very sensitive to public opinion in his Vietnamization-of-the-war policy and in his renunciation of germ warfare. Will he not also lead the way back to the constitutional formula in war-making?

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON EXPORT CONTROL

A letter from the Secretary of Commerce, transmitting, pursuant to law, the "89th Quarterly Report on Export Control" covering the third quarter of 1969 (with an accompanying report); to the Committee on Banking and Currency.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improvements suggested in accounting methods used in establishing fees for reimbursable testing and related services, Food and Drug Administration, Consumer Protection and Environmental Health Service, Department of Health, Education, and Welfare, dated December 12, 1969 (with an accompanying report); to the Committee on Government Operations.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. MAGNUSON, from the Committee on Commerce, with amendments:

S. 2543. A bill to protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes (Rept. No. 91-609).

BILLS INTRODUCED

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

By Mr. RIBICOFF:

S. 3243. A bill to be cited as the "Federal Pesticide Control Act of 1969"; to the Committee on Agriculture and Forestry.

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

By Mr. HARRIS:

S. 3244. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians, and for other purposes; and

S. 3245. A bill to provide for the disposition of funds to pay a judgment in favor of the Sac and Fox Tribe of Oklahoma in Indian Claims Commission docket No. 220, and for other purposes; to the Committee on the Judiciary.

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

S. 3243—INTRODUCTION OF FEDERAL PESTICIDE CONTROL ACT OF 1969

Mr. RIBICOFF. Mr. President, the phaseout of all but essential uses of DDT removes from the marketplace a major hazard to man and his environment. But this must not be the last chapter in the struggle to regulate pesticide production and use.

Pesticides have been a mixed blessing to man. They help to produce the abundant food supply which we enjoy and are instrumental in controlling harmful insects and plants. But pesticides are also a threat to man. In Florida, seven children in one family died from contact with parathion, a virulent poison. When this substance contaminated the bread supply in Mexico, 17 people were killed.

Pesticides have taken an even greater toll of nature. Dr. Ralph Mac Mullan, director of the Michigan Department of Conservation, says it is likely that pesticides are responsible for the alarming decline of many species of birds, such as the bald eagle, osprey, and sparrow hawk.

Pesticide use has grown rapidly in recent years. Americans spent nearly $1 billion on them in 1965. This year we will spend $1.7 billion for these products. Today, we use 800 million pounds of economic poisons to control plant and insect life. This is the equivalent of 220 pounds for every square mile of soil and water in the country. There are more than 300 organic pesticides in thousands of different formulations.

All of this makes it evident that pesticide manufacture and use must be closely regulated. Every reasonable precaution must be taken to guard the public safety and preserve nature.

The bill I introduce today will significantly strengthen pesticide regulation. It was developed from the hearings and report of the Subcommittee on Executive Reorganization. It carries out the recommendation of the report, "Pesticides and Public Policy."

The bill contains six major provisions.

First, it requires that every establishment engaged in the manufacture or processing of an economic poison be registered with the Secretary of Agriculture.

Second, it permits the inspection of any establishment in which economic poison or devices are manufactured, or any means of conveyance of economic poisons.

Third, it provides that an economic poison shall be deemed misbranded if it is manufactured in an establishment which is not duly registered.

Fourth, it states that an economic poison shall be considered adulterated if the manufacturing methods do not conform to good manufacturing practice.

Fifth, it empowers the Federal courts to issue injunctions to restrain violations of the act.

And sixth, it adds civil remedies to the existing criminal sanctions.

These new tools will improve the regulatory efforts of the Department of Agriculture.

This legislation is identical to the bill I have introduced twice before, with administration support. I regret it has not been acted upon. I believe the time is now ripe for action. The growing public concern over pesticides indicates this is an idea whose time has come. I hope the Congress will meet its responsibilities and move quickly.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 3243) to be cited as the "Federal Pesticide Control Act of 1969," introduced by Mr. RIBICOFF, was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

S. 3244 AND S. 3245—INTRODUCTION OF BILLS RELATING TO JUDGMENTS IN FAVOR OF THE SAC AND FOX TRIBE OF INDIANS

Mr. HARRIS. Mr. President, I send to the desk, for appropriate reference, two bills relating to judgments in favor of the Sac and Fox Tribes.

The first bill provides for the payment to the Sac and Fox Tribes of the Mississippi in Iowa and the Sac and Fox Tribe of Oklahoma, of judgments by the Indian Claims Commission in docket No. 219.

The second bill provides for the payment to the Sac and Fox Tribes of Oklahoma of a judgment by the Indian Claims Commission in docket No. 220.

These funds are urgently needed by the Sac and Fox Tribes, and I request that prompt action be taken to pass this legislation.

The ACTING PRESIDENT pro tempore. The bills will be received and appropriately referred.

The bills, introduced by Mr. HARRIS, were received, read twice by their titles and referred to the Committee on the Judiciary, as follows:

S. 3244. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians, and for other purposes; and

S. 3245. A bill to provide for the disposition of funds to pay a judgment in favor of the Sac and Fox Tribe of Oklahoma in Indian Claims Commission docket No. 220, and for other purposes.

ADDITIONAL COSPONSORS

S. 3234

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Wisconsin (Mr. NELSON) I ask unanimous consent that at the next printing, the name of the Senator from California (Mr. CRANSTON) be added as a cosponsor of S. 3234 to amend the Fish and Wildlife Act of 1956, to provide a criminal penalty for shooting at certain birds, fish, and other animals from an airplane.

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

ESTABLISHMENT OF A DEPARTMENT OF NATURAL RESOURCES—AMENDMENTS

AMENDMENT NO. 427

Mr. MOSS. Mr. President, I am today submitting an amendment in the nature of a substitute for my bill, S. 1446, to establish a Department of Natural Resources. The amendment would expand the title to "Department of Natural Resources and Environment."

The cosponsors of S. 1446—Senators CASE, DODD, HART, METCALF, YARBOROUGH, and KENNEDY—support this change, and cosponsor the substitute.

I first introduced a bill to create a Department of Natural Resources in 1965—in the 89th Congress—and I have sponsored a bill in each Congress since that time. The bill has been refined and improved many times, but inherent in each version has been the assumption that the new department would deal with total management of the environment—that it would coordinate and direct a rational use of all of our natural resources.

There is no need to repeat in any detail what is happening in this country because Members of this body know all too well. We are ruthlessly exploiting our environment. The magnitude of our ecological blunders becomes more evident each day. The debasement of the air we breathe and the water we drink continues almost unabated. Rubbish is burying the affluent society which produced it. We are not reconciling the needs of man with the preservation of our environment.

In the past 10 years we have enacted a number of Federal laws, we have expanded our technology, and we have spent some money in an effort to save what is left of our life-support system. We have not done nearly enough. We fall further behind each year.

There are many things which we must do—many enlightened and expensive steps which we must take—but one of the most important is to reorganize the Federal structure which deals with our resources and our environment. Overlapping, waste and duplication must be eliminated. We must stop spinning our

wheels. Policy on all programs must be pointed in a single direction. There must be overall coordinated thinking, planning, and execution of all programs which serve the environmental needs of man.

After 5 years of advocating such a reorganization of our governmental structure—part of the time feeling I was almost a single voice speaking in a wilderness of apathy and often outright opposition—I am now delighted to learn that Secretary of the Interior Hickel has embraced the concept and that he has won over the President to his point of view. I understand that the State of the Union message will contain a recommendation for a Department of Natural Resources and Environment—or perhaps it will be simply called a Department of the Environment—which will include all resource and environmental problems in one department which could rival the Department of Defense in size.

In other words, like many other proposals developed by an individual Member of the House and Senate, and pursued for many years often without too much support, the single department combining all of the resource activities of the Federal Government in one organizational unit is an idea whose time has come.

I naturally hail this indication of support in the Department of the Interior and at the White House for this vitally needed reorganization of the Federal structure. I would hope that the bill which has been before Congress for 5 years, and which has been updated and improved each session, might provide the framework upon which the administration proposals can be built, and that its contribution to increasing dialog and growing awareness of the need for such reorganization will be recognized.

Some hearings have already been held on the Moss bill—in the 90th Congress, the distinguished Senator from Connecticut (Mr. RIBICOFF) chaired hearings on the bill in the Subcommittee on Executive Reorganization of the Senate Committee on Government Operations—and the bill has been studied by many individuals and groups interested in establishing a Government organization adequate to do the work necessary to protect and enhance the human environment.

I look forward to a much wider discussion next session of how to use our environment wisely and safely—a discussion which will be broadened to include population control and how our environment is threatened by the sheer numbers and mobility of our people and the impact of their technology on our surroundings. And I am more hopeful than ever before, that we are now moving toward reorganization of our governmental machinery so that it can efficiently manage man's environmental relationships.

Perhaps we can follow the "Great Society" with a "Clean Society."

I ask unanimous consent that my substitute amendment be printed in the RECORD.

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

The amendment (No. 427) was referred to the Committee on Government Operations, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"SHORT TITLE; FINDINGS

"SECTION 1. (a) This Act may be cited as the "Department of Natural Resources and Environment Act."

"(b) The Congress hereby finds that—

"(1) expanding population and a rising standard of living combine to place unprecedented demands on the natural resources of the United States;

"(2) the natural environment is suffering a progressive deterioration which affects the air we breathe, the water we drink, the soil which nourishes our food, the areas in which we take our recreation, and the natural beauty of our homeland;

"(3) such deterioration demonstrates a failure in the larger sense of our conservation efforts, even though many successful conservation programs have been undertaken during the past many years by Federal, State, and local governments and by private groups;

"(4) safeguarding the environment—air, water, and land—is a necessity to maintain conditions under which man and wildlife may continue to exist, to provide the raw materials essential to an expanding standard of living, and to maintain the beauty and usefulness for all purposes of our land;

"(5) the responsibility of the Federal Government includes the exercise of leadership in water resource development, land management, ocean resource development, and air pollution abatement, as well as the operation of many programs and cooperation with State and local government and private groups in the carrying out of their resource management responsibilities; and

"(6) the Federal agency structure which deals with natural resources grew up during a less demanding period of our history, and must be coordinated and reorganized if today's tasks are to be performed effectively.

"DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT

"SEC. 2. (a) There is hereby established at the seat of government, as an executive department of the United States Government, the Department of Natural Resources and Environment.

"(b) The Secretary of Natural Resources and Environment may approve a seal of office for the Department, and judicial notice shall be taken of such seal.

"PERSONNEL OF THE DEPARTMENT

"SEC. 3. (a) There shall be at the head of the Department of Natural Resources and Environment a Secretary of Natural Resources and Environment (hereinafter referred to in this Act as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) There shall be in the Department of Natural Resources and Environment a Deputy Secretary of Natural Resources and Environment, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary of Natural Resources and Environment (or, during the absence or disability of the Deputy Secretary, or in the event of a vacancy in the office of Deputy Secretary, an Under Secretary or the General Counsel of the Department, determined according to such order as the Secretary shall prescribe) shall act for, and exercise the powers of the Secretary, during the absence or disability of the Secretary or in the event of a vacancy in the Office of Secretary. The Deputy Secretary shall perform such functions as the Secretary shall prescribe from time to time.

"(c) There shall be in the Department of Natural Resources and Environment an Under Secretary of Natural Resources for Water, and an Under Secretary of Natural Resources for Lands, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(d) There shall be in the Department of Natural Resources and Environment a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall perform such functions as the Secretary shall prescribe from time to time.

"(e) The Secretary is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the purposes and functions of this Act.

"(f) The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"TRANSFER OF FUNCTIONS TO DEPARTMENT

"SEC. 4. (a) Except to the extent otherwise specifically provided by this Act, there are hereby transferred to the Secretary of Natural Resources and Environment all functions which were carried out immediately before the effective date of this Act by the Secretary of the Interior, including all functions of the Secretary of the Interior being administered by him through any agency, service, bureau, office, or other entity of the Deparmtent of the Interior.

"(b) The functions of the Secretary of Health, Education, and Welfare under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), the Solid Waste Disposal Act (42 U.S.C. 3251), and all other air pollution control functions of such Secretary are transferred to the Secretary of Natural Resources.

"(c) There are hereby transferred to the Secretary of Natural Resources and Environment all functions which were carried out immediately before the effective date of this Act—

"(1)(A) by the Forest Service, Department of Agriculture; or

"(B) by the Secretary of Agriculture, insofar as the functions relate to functions transferred under this paragraph from such Service;

"(2)(A) by the Soil Conservation Service, Department of Agriculture; or

"(B) by the Secretary of Agriculture, insofar as the functions relate to functions transferred under this paragraph from such Service;

"(3)(A) by the Corps of Engineers, Department of the Army, relating to civil works; or

"(B) by the Secretary of the Army, insofar as the functions relate to functions transferred under this paragraph from such Corps of Engineers;

"(4)(A) by the National Oceanographic Data Center, Department of the Navy; or

"(B) by the Secretary of the Navy, insofar as the functions relate to functions transferred under this paragraph from such Center;

"(5) by the National Science Foundation under title II of the Marine Resources and Engineering Development Act of 1966 (80 Stat. 998) relating to sea-grant programs.

(d) In time of war or such other national emergency as the President determines, he may transfer—

"(1) the functions transferred under paragraph (3) of subsection (c) of this section to the Secretary of the Army, and

"(2) such personnel, assets, liabilities, con-

tracts, property, and records as he determines are used with respect to such functions to the Department of the Army. At the end of the war or the period of national emergency the President shall transfer such functions back to the Secretary of National Resources and Environment together with such personnel, assets, liabilities, contracts, property, and records.

"TRANSFERS FROM THE DEPARTMENT OF THE INTERIOR

"SEC. 5. (a) All functions of the Bureau of Indian Affairs in the Department of the Interior, and all functions of the Secretary of the Interior being administered through the Bureau of Indian Affairs, are transferred to the Secretary of Health, Education, and Welfare.

"(b) All functions of the Office of Territories in the Department of the Interior, and all functions of the Secretary of the Interior being administered through the Office of Territories, are transferred to the Secretary of Health, Education, and Welfare.

"SAVINGS PROVISIONS; MATTERS RELATING TO TRANSFER OF AGENCIES AND OFFICES

"SEC. 6. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

"(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act, by (A) any Federal instrumentality, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction, and

"(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the appropriate officer to whom such functions are so transferred, by any court of competent jurisdiction, or by operation of law.

"(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any Federal instrumentality, functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before such instrumentality. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the instrumentality before which they were pending at the time of such transfer. In either case, orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the appropriate officer to whom such functions are so transferred, by a court of competent jurisdiction, or by operation of law.

"(c)(1) Except as provided in paragraph (2)—

"(A) the provisions of this Act shall not affect suits, commenced prior to the date this section takes effect, and

"(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

"No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any Federal instrumentality, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any Federal instrumentality, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of any such instrumentality as may be appropriate; and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

"(2) If before the date on which this Act takes effect, any Federal instrumentality, or officer thereof in his official capacity, is a party to a suit, and under this Act—

"(A) such instrumentality is transferred, or

"(B) any function of such instrumentality or officer is transferred,

"then such suit shall be continued by the appropriate instrumentality (except in the case of a suit not involving functions transferred by this Act, in which case the suit shall be continued by the instrumentality or officer which was a party to the suit prior to the effective date of this Act).

"(d) With respect, to any function transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any Federal instrumentality or officer so transferred or functions of which are so transferred shall be deemed to mean the instrumentality or officer in which such function is vested pursuant to this Act.

"(e) Orders and actions of any Federal instrumentality or officer thereof, in the exercise of functions transferred under this Act, shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the instrumentality or officer, exercising such functions, immediately preceeding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by any other officer of the United States pursuant to this Act.

"(f) In the exercise of the functions transferred under this Act, the appropriate officer of the Federal instrumentality to which such functions were so transferred shall have the same authority as that vested in the officer exercising such functions immediately preceeding their transfer, and such officer's actions in exercising such functions shall have the same force and effect as when exercised by such offcer having such functions prior to their transfer pursuant to this Act.

"TRANSFER OF AGENCIES AND OFFICES

"SEC. 7. (a) All personnel, assets, liabilities, contracts, property, and records as are determined by the Director of the Bureau of the Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this Act, are transferrred to the appropriate Secretary of the executive department to whom such function is transferred by this Act. Except as provided in subsection (b), personnel engaged in functions transferred under this Act shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

"(b) In any case where all of the functions of any Federal instrumentality are transferred pursuant to this title, such instrumentality shall lapse.

"TECHNICAL AMENDMENTS

"SEC. 8(a). Section 19(d)(1) of title 3, United States Code, is amended by deleting 'Secretary of the Interior' and inserting in lieu thereof 'Secretary of Natural Resources and Environment'.

"(b) Section 101 of title 5, United States Code, is amended by deleting 'The Department of the Interior' and inserting in lieu thereof 'The Department of Natural Resources and Environment'.

"(c) Subchapter II of chapter 53 of title 5, United States Code (relating to executive schedule pay rates), is amended as follows:

"(1) Section 5312 is amended by deleting '(6) Secretary of the Interior' and inserting in lieu thereof '(6) Secretary of Natural Resources and Environment'.

"(2) Section 5313 is amended by adding at the end thereof the following:

"'(20) Deputy Secretary of Natural Resources and Environment.'

"(3) Section 5314 is amended by deleting "(8) Under Secretary of the Interior." and inserting in lieu thereof the following:

"'(8) Under Secretary of Natural Resources for Water.'

"'(8A) Under Secretary of Natural Resources for Land.'

"(4) Section 5315 is amended (1) by deleting '(18) Assistant Secretaries of the Interior (5).', and (2) by deleting '(42) Solicitor of the Department of the Interior.' and inserting in lieu thereof '(42) General Counsel, Department of Natural Resources and Environment.'.

"(d) The first sentence of section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by (1) striking out 'the Chief of Engineers and the Secretary of the Army', and inserting in lieu thereof 'the Secretary of Natural Resources and Environment', and (2) inserting immediately before the period a colon and the following: '*Provided further*, That no license affecting the comprehensive plan of any river basin commission developed pursuant to the Water Resources Planning Act shall be issued until the plans of the dam or other structures affecting any such comprehensive plan have been approved by the Secretary of Natural Resources and Environment'.

"REPORT

"SEC. 9. The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year.

"DEFINITION

"SEC. 10. As used in this Act, the term—

"(1) 'function' or 'functions' includes power and duties; and

"(2) 'Federal instrumentality' means any executive department of the United States or any agency, bureau, office, service, or other entity therein.

"DELEGATION OF FUNCTIONS

"SEC. 11. Any officer of the United States to whom functions are transferred pursuant to this Act may delegate such functions, or part thereof, to such of his officers and employees as he may designate, may authorize such successive redelegations of such functions to his officers and employees as he may deem desirable, and may make such rules and regulations as he may determine necessary to carry out such functions.

"EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

"SEC. 12. (a) This Act shall take effect ninety days after the date of its enactment.

"(b) Notwithstanding subsection (a) of this section, any of the officers provided for in section 3 of this Act may be appointed in the manner provided for in this Act, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates provided for in this Act. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred pursuant to this Act."

ANNOUNCEMENT OF HEARINGS ON "EMPLOYMENT ASPECTS OF THE ECONOMICS OF AGING"

Mr. RANDOLPH. Mr. President, as chairman of the Subcommitteee on Employment and Retirement Incomes, Special Committee on Aging, I announce

that hearings on "Employment Aspects of the Economics of Aging" will be held at 10 a.m., on Thursday and Friday, December 18 and 19, in room 4200, by our subcommittee.

These hearings are a continuation of the study by the full committee, and by individual subcommittees, on aspects of the "Economics of Aging: Toward a Full Share in Abundance."

PUBLIC HEALTH CIGARETTE SMOKING ACT

Mr. MUSKIE. Mr. President, it was necessary for me to leave Washington on Friday before the vote on the Public Health Cigarette Smoking Act. Had it not been necessary for me to leave to keep a longstanding commitment. I would have cast my vote for the Moss bill. In my view, it is imperative that action be taken to curb and decrease cigarette smoking in the interest of public health, especially among our young people.

The Senator from Utah (Mr. Moss), with uncommon and steadfast devotion for years, has kept at the battle to bar cigarette advertising on broadcast media, to warn smokers young and old of the dangers of smoking, and to spread the word of the medical findings of the results of cigarette smoking. I salute him for his originally lonely battle that has now ended so wonderfully with the overwhelming Senate vote. I congratulate Senator Moss and commend him for his devotion and persistance in this great cause.

I ask unanimous consent that an editorial on the cigarette bill published in the Washington Post, and a letter from the Secretary of Health, Education, and Welfare, thanking Senator Moss for his efforts in bringing about the termination of cigarette advertising on radio and television, be printed in the RECORD.

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

SAVE-THE-CIGARETTE BILL

When the House passed its save-the-cigarette bill some months ago, it gave us the impression of a great legislative body jumping through a smoke ring blown by the tobacco industry. The Senate Commerce Committee has not exactly duplicated that feat but it seems to have plunged the issue into a billowing column of smoke as dense as a heavy fog.

Although the committee has reported out a modified version of the save-the-cigarette bill, 10 of its 19 members are opposed to the key provision in that bill. This smudgy situation results from the fact that the committee voted 10 to 9 for a provision that would forbid the Federal Trade Commission to require warnings of the potentially lethal character of cigarettes in newspaper and magazine advertising. But Senator Cotton's doubts about the wisdom of that action, which he expressed at the time, drove him to switch sides and file a statement of opposition. So the Commerce Committee is left in the position of sponsoring a bill which a majority of its own members oppose, so far as its key provision is concerned.

Passage of a better version of the bill would be desirable, for one section would forbid advertising of cigarettes on television and radio by Jan. 1, 1971. But there is no excuse for tying the hands of the FTC so that it could not require the manufacturers of cigarettes to tell the truth about them in newspaper and magazine ads for at least two and a half years. We think the Senate as a whole should knock out this provision. If it should fail to do so, Senator Moss intends to filibuster against the bill.

Certainly no bill at all would be better than the Janus-faced product which the committee has sent to the floor. The Federal Communications Commission could then ban TV and radio cigarette ads as it has indicated an intention of doing, and the FTC would be free to insist that the linkage of cigarettes with cancer and death be given as much prominence in any other ads as their linkage with manhood and springtime customarily gets. Since the issue before it is literally a matter of life and death on a large scale, the Senate's attempt to escape from the smudge the committee has created will be watched with intense interest.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C.

Hon FRANK E. MOSS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOSS: Our Department was indeed gratified at the decision of the cigarette industry to withdraw its advertising from radio and television. You and your Committee played a large part in helping bring this about, and you deserve the thanks of the medical and health community for your success.

For some five years, our Department has carried on a smoking education program and so, for an even longer period, have the American Cancer Society, the American Heart Association, and the National Tuberculosis and Respiratory Disease Association. If newspapers and magazines are now ready to give greater support to our programs, we obviously have the responsibility to make our materials available to them, in whatever is the most effective way. If this appears to call for an Advertising Council campaign, we will ask the Council for this help.

As a beginning, I am asking staff of the National Clearinghouse for Smoking and Health to meet with the voluntary agencies and later with the Advertising Council to explore how an effective campaign in the print media can best be mounted. We will keep you informed of our progress. In the meantime, I would once again express my thanks to you for your continuing support of our smoking and health programs.

Sincerely,

ROBERT FINCH,
Secretary.

TOY SAFETY AND CHILD PROTECTION ACT

Mr. MOSS. Mr. President, in spite of the usual reminders to shop early because Christmas is quickly approaching, I am sure that most Americans are still in the process of purchasing Christmas presents. And since Christmas is primarily for children, many toys are still being purchased for the younger set.

Congress has passed and the President has signed the Toy Safety and Child Protection Act which I introduced and on which I held hearings as chairman of the Subcommittee for Consumers. I am concerned, however, that some parents may not realize that the bill is not yet in effect. In fact, it will not become effective until January 6, 1970.

This means that parents and others buying Christmas toys for children must still exercise caution during this busy shopping season.

While the great majority of toys are safe, and most toy manufacturers take care to build nonhazardous toys, our hearings on the bill showed that a number of hazards are built into some playthings.

The areas where parents should be especially careful include electrical and heat-producing toys; toys that come apart easily, exposing sharp internal objects; and projectiles, especially sharp-pointed ones.

Our hearings disclosed such electrical hazards as a toy oven which heated to 500 degrees, more than most regular ovens in the home. There was a noninsulating wiring connection on a toy and another where water could seep and cause a shock or shortage.

We also saw cute, cuddly stuffed animals, the ears of which could be pulled off, exposing long sharp pins. Little dolls were shown to have long straight pins holding hair ribbons to the head.

Parents should be aware of rattles and other toys which easily break apart, uncovering large, sharp spikes. Many projectiles, such as arrows, have protective rubber coverings, but the coverings easily come off, leaving exposed very sharp points. Some do not even have the coverings.

I urge parents and all stand-in Santa Clauses to examine each toy closely, to see how well it is manufactured, how easily it might come apart, and if it does come apart, what is then exposed to the young child.

HOUSING IN CALIFORNIA

Mr. MURPHY. Mr. President, Mr. Preston Martin, Chairman of the Federal Home Loan Bank Board, recently authored an article that was published on the business and finance page of the Pasadena Star-News regarding the housing situation in the State of California. In this article, he points out that California will have to build a second California by the year 2000 based on population projections in the State, and discusses some of the obstacles to the achievement of the housing needs of the State and the Nation. I was also interested in his remarks regarding legislation enacted by the California Legislature last year which permits people living in certain renewal areas to initiate, plan, and implement their own programs of rebuilding and rehabilitation by voluntary efforts. He calls this legislation a "significant step" toward helping the State to solve its housing needs. To encourage this creative California effort, I have introduced S. 2774, authorizing the Federal Government to guarantee obligations issued by State agencies to finance low- and moderate-income housing as authorized by this new California program.

Chairman Martin is well qualified not only to speak of national housing goals and problems but also intimately familiar with the situation in California. Prior to his present appointment to the Federal Home Loan Bank Board by President Nixon, he so ably served as the commis-

sioner of savings and loan for the State of California. Also, Chairman Martin, on December 10, spoke at the Graduate School of Business at the University of Southern California on the subject of "The Bureaucrat as Innovator." I ask unanimous consent that Chairman Martin's article, from the Pasadena Star-News, the speech at University of Southern California, a biographical note on Chairman Martin, and a résumé on the Federal Home Loan Bank Board be printed in the RECORD.

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

[From Pasadena (Calif.) Star-News, Nov. 30, 1969]

STATE LAGS ON HOUSING GOAL—FINANCING SEEN AS STUMBLING BLOCK

(By Preston Martin, Chairman, Federal Home Loan Bank Board)

It is easier to finance a color television set, a trip to Paris, or the purchase of an automobile than it is to finance the purchase or construction of a home.

This has particular relevance today for California where current and anticipated shortages have approached the critical stage.

The archenemy in the housing shortage is inflation. Inflation sucks the money out of housing and puts it into almost every other line of activity. Until we get inflation under people are not going to be willing to save enough to provide adequate housing.

Fortunately, there are some indications that interest rates will be levelling off or beginning to fall off next year some time. These indications tie in with signs that inflation is beginning to cool off. Nevertheless, the basic problem remains.

Some 500,000 new housing units and the rehabilitation of several hundred thousand existing structures are needed now to ensure that every California family is provided with housing of at least minimum standards. For the future, the statistics are even more dramatic.

Based on a population increase from an estimated 20.6 million people in 1970 to 38.5 million persons in 2000, California housing must nearly double during the same period to meet these demands. The state's Department of Housing and Community Development predicts that "a second California" will have to be built in the next 30 years.

This means that from 6,815,000 housing units available in the state at the beginning of this year, the California total of available housing units must reach 13,398,000—or nearly double—by the end of the century.

Merely to keep up with this population expansion would require a minimum of 225,000 new houses a year.

But homebuilding in California has reached a rate of only 150,000 units a year—75,000 less than is needed to meet the population rise, to say nothing of meeting the existing backlog of 500,000 needed new homes and several hundred thousand needed rehabilitations.

The present housing problem in California, as well as the country as a whole, has two main aspects: The first is the current residential construction crisis caused by the high costs of land, labor, and material coupled with high financing costs and a shortage of mortgage funds. The second is the accumulated need for housing—especially for lower and moderate-income families—that has developed over the past several years.

To combat the problem of mortgage credit, the Federal Home Loan Bank of San Francisco, in the 12 months ended last Sept. 1, put into mortgage credit in California a net of $880 million by going to the money market, selling its obligations jointly with the 11 other banks in our Federal Home Loan Bank System, and relending those funds to member savings and loan associations in the state.

The current rate of such loans in California, on an annual basis, is about $1 billion. This is $1 billion which is being taken from the money and capital markets of this country and pumped directly into the California housing market.

The average loan per mortgage of a savings and loan association is $25,000. Therefore, providing one billion dollars by the Federal Home Loan Bank System in California has furnished funds to savings and loan associations in an amount equal to 40,000 average-size S&L loans for residential purposes. Washington has not forgotten housing and housing goals. It is not a reflex action, it is not a simple carrying out of a statute. It is part of the policy of the Nixon Administration within the over-all financial exigencies of our time. It is a policy to support housing credit.

For example, the FHLBB has tripled the amount of 1966 advances to the savings and loan industry nationally to meet the country's housing shortage. The total will soon reach $4 billion or 160,000 housing loans which would not have been available otherwise.

As a housing credit agency, the FHLBB believes strongly that housing and housing credit be given its proper place in our national priorities, so there is a mortgage credit policy emanating from Washington. It is being carried out—part of this "New Federalism" the President speaks about—through regional banks located close to the demand, close to the taxpayer.

The second aspect of the housing problems—the need for more low- to moderate-income housing—is ironical in that more low- and moderate-income housing has, in fact, been torn down by the "federal bulldozer" under urban renewal programs than has been built. Much of the current housing problem can be identified with the almost total lack of production of homes for people in these income brackets.

Normally, a sizable proportion of low- and moderate-income families are housed by the so-called filter-down process—lower income families moving into housing vacated by families moving into higher priced homes.

But in many communities in California, as elsewhere, vacancy rates are under 1 per cent. So the needed number of filer-down vacancies does not exist.

Recently, a significant step was taken in California to meet the need for low- and moderate-income housing, particularly in urban areas. This was the passage of legislation by which people living in renewal areas would be encouraged to initiate, plan, finance and carry out their own programs of rebuilding or rehabilitation by voluntary, cooperative efforts. The action is indicative of a willingness within the state to face the critical housing shortage within the state to * * * sures to overcome it. It is a sign of progress on the long road ahead.

The FHLBB is aware also that a larger percentage of housing must be directed into the low- and moderate-income household grasp and, hopefully, into ownership by these families.

The FHLBB has an elaborate inner city housing program for the first time in its 35-year history. The program includes a number of innovations, one of which is a new kind of credit advance for savings and loan associations in the Federal Home Loan Bank System. These are ten-year advances in contrast to the usual one-year loans to member savings and loan associations. They will be made to savings and loan associations on top of their normal borrowing.

The national housing goal seeks "a decent home and a suitable living environment for every American family." In numbers, this means the construction or rehabilitation of 26 million housing units in the country over the ten-year period of 1969 through 1978. Of the total, 20 million are expected to be built in response to market forces. The remaining six million are expected to be new and rehabilitated units provided through public assistance under various housing programs.

The Federal Home Loan Bank Board fully accepts its congressional mandate to further economical home financing. In the context of today's wide fluctuations in the cost, availability and supply of money, this means vigorous mortgage credit policies to ease the problems resulting from extremely tight money markets.

THE BUREAUCRAT AS INNOVATOR

(By Preston Martin, Chairman, Federal Home Loan Bank Board, Washington, D.C., before the Faculty and Graduate Students, Graduate School of Business Administration, University of Southern California, Wednesday, December 10, 1969)

For the "over thirty" generation, the last thing we are looking forward to is another stream of innovations, when we aren't used to the ones which already have impinged on our lives. The 1960's have demonstrated that Americans can survive in a period when their institutions and their life style have been altered and continue to change in many respects. In the 1950's, Walt W. Rostow wondered what Americans would do with their income when they reached the age of affluence. Would they have larger families, he speculated, or would some new expensive consumer goods come along like the automobile and the television set in previous decades (in "Stages of Economic Growth")? The problem today appears to us (and to Mr. Rostow, I am sure) to be quite the reverse: How do we pay for all of our social needs and at the same time keep our sanity when we are bombarded by increasing and incessant stimuli of every kind, most of which requires constant, considerable adjustment?

Americans are adjusting to an increased level of governmental activity in many areas of living which previously appeared to be the responsibility of private institutions, or the state government, or simply individual decision. The University community is one of these areas, and the current controversy over appropriate research activities contracted for by the Federal Government is a good example of this. Our roles as businessmen, as students, as educators, yes and as bureaucrats, have been altered. It isn't likely that they will ever go back to their old configurations. Certainly it is possible to limit the number of decisions that Government makes, especially if our war involvement can be reduced. President Nixon's "new Federalism" is designed to decentralize governmental decision-making to the state and local level. As he explained last August 9th: "A third of a century of centralizing power and responsibility in Washington has produced a bureaucratic monstrosity, cumbersome, unresponsive, and ineffective. The only way to bring about decentralization," he said, "is to do it, and this is the place to begin." But what a stream of protest is stirred up by each move in this direction! The agency I represent, the Federal Home Loan Bank Board, is decentralizing some of its branch licensing information gathering. Some of the response to this sounds as though we are striking at the flag, mother, and apple pie. Try as we will, only a certain amount of Government can be turned back to other institutions and to private individuals. This is certainly true in Government regulation of business enterprise.

In the 1930's, many held that a proper study of man was the rhythmic expansion and contraction of economic activity, then called "the business cycle." However, these days of vast defense budgets, Federal research and development contracts, considered fiscal policy, and the heavy structure of governmental regulation of enterprise. Today, the "business" cycle can be merely a

result of violent Federal fiscal fluctuations—the upswing in expenditures which began in 1966 produced a full employment deficit by fiscal year 1968! Thirty years ago, Harvard's Joseph A. Schumpeter stressed the close correlation between periods of economic expansion and a curious bunching of innovations—qualitatively new capital goods like the steam locomotive and significantly new ways of doing things such as the capital concentration by modern corporations whose stockholders had limited liability. This view characterized innovation as a major disstabilizing force outside the business firm, almost outside, "exogenous" to the mainstream of economic activity.

During the last two decades, the process of innovation has been increasingly brought within the organization, often at the behest of Government. Examples abound among the defense and space supplier companies and within the "think tanks" related to the services. This condition is likely to continue in the 1970's.

As Peter Drucker observes:

"Innovation will increasingly have to be channeled in and through existing business, . . .

"We will, therefore, increasingly have to learn to make existing organizations capable of rapid and continuing innovation. How far we are from this is shown by the fact that management still worries about resistance to change. Existing organizations will have to learn to reach out for change as an opportunity, will have to learn to resist continuity." [1]

I believe what Drucker is talking about may be characterized "management to create innovation." Yet business exists in a milieu in which Government is the most important, and sometimes the most variable, force in aggregate demand. Perhaps more to the point, management increasingly shares its decision-making function with Government bureaucrats, including the internal revenue servacrats. "Consumerism" is just the most contemporary manifestation of the secular trend toward increasing regulation by agencies like my own, the Federal Home Loan Bank Board. From time to time, the political pendulum will swing toward less restrictive and less detailed regulation, as it has in the Nixon Administration. The Board on which I serve has already removed a number of those regulatory "no-no's" promulgated to counter practices and problems of another era. For example, savings and loan associations could not buy loans outside a one hundred mile radius, nor use borrowed funds to buy "parts" of loans or "participations" outside that radius. We found that such prohibitions impeded the free free flow of capital from capital surplus metropolitan areas to capital deficit areas. Further, the saver in the first area often received a lower rate on his passbook, reflecting the low earnings available where capital was abundant.

Despite the periodic "rationalization" of regulation by particular groups of Presidential appointees, the modern mixture of decision-making by businessman and bureaucrat is likely to continue to be very important. Then what of the vital stimulus of innovation, no longer orbiting the business organization? It has landed, and is stamping around the organization chart. I believe in the first place that the bureaucrat has to be innovatively inclined, and make this known to "his" regulated industry. He can't consistently obey Cornford's Law, which dominates so much of the Federal bureaucracy and says that one must "never do anything for the first time because it might set a precedent." He must review his mounds of regulatory manuals to let some innovations slip through. However, this will not be enough in many industries, where the heavy hand, even the dead hand of regulations has burdened management too long. In many regulated industries a more radical approach will most probably be necessary, one which goes against a deeply-rooted American myth. What is needed in many cases is the bureaucrat as innovator.

Let me return to consideration of the first point: an inclination to innovation. A deep-seated characteristic of any bureaucracy, in business, education, and in Government is avoidance of errors of commission. Another "law" along the Potomac is "Murphy's Law" which states that if something can go wrong it will. Its name, let me say, is not derived from our good Senator. However, a genuine innovation exposes the decision-maker to a maximum probability of error, and both the businessman who originates it and the bureaucrat who forbears supervisory interdiction will share in the risk. Is this a "natural" failure of the bureaucratic mind? Not at all. The Bureaucracy is an organizational system in which positive results elude measurement and in which incentive is almost totally lacking. Errors are measurable. On a benefits/costs basis, what rational man will exercise delegated authority and approve that application with the smell of sulphur and brimstone? The innovative one?

My contention is that the answer must be a "bureaucrat as innovator." This is part of the challenge of the appointive executive in government, and indeed part of the rationale for even having such appointees. After all, the technical operation of a Government bureau at any level is best understood by the permanent administrators in that bureau. The "thirty year man," or indeed the forty year secretary, is not unusual in Government. However, these fine folks have seen concepts and proposals come and go. Many newer ones have worked badly. The appointive officer, on the other hand, necessarily has a limited time commitment to Government, and he ideally brings to his post experience from other kinds of organizations which may have undergone change to a higher degree than his new Government agency.

The appointive bureaucrat's task should be to set a climate of management in his agency in a relatively short time, hoping it will encourage and stimulate the innovative process. The first, and the largest step in this simply may be reducing the automatic disappproval of applications from business which appear to lie outside the "three sigma limits" of regular workflows. A page can be borrowed from the business book on this. Top Government management cannot afford to let itself become buried by massive, routine paperwork. The Federal Government, just to give you an idea, generates five million cubic feet of paperwork yearly. Translate this into each working day and we bureaucrats produce more than 40 million pages of paperwork every day we go to our offices. On the other hand, to encourage innovation by regulated business, management needs "exception" reporting up from the firing line. With a "flash report" system, unusual applications can be made visible to the appointive members of a management team. This may permit the "zero defects" mentality of middle management to be bypassed. Responsibility for the actual decision, and the inherent real risk of error, is therefore shifted upward to the level where it probably belongs.

An example may clarify. The most innovative proposal now before my agency is embodied in a series of savings and loan applications from various regions of the country for authority to form special subsidiary corporations. The proposed investments are at, or below, one percent of assets. These corporations were authorized by Congress in the Housing and Urban Development Act of 1968. Where does the innovation come in? The subsidiary corporation has the potential of enabling savings and loan management to experiment with new kinds of services to the public. It is, in short, an innovative *form* of organization. It is the innovative potential of these subsidiary corporations which makes them worthy of careful attention and the "reporting by exception" treatment. The savings and loan subsidiary corporation will certainly be useful in "service" activities such as data processing, appraisal, accounting, auditing, bulk purchasing, and research. Presently, the Federal Home Loan Bank Board is in the process of resolving the "innovative" functions which might also be performed; real estate brokerage; property management; land acquisition and development; loan brokerage and loan warehousing, and inner-city projects for moderate- and low-income families. These are not all of the activities proposed by management.

Our Board is taking a sympathetic attitude toward the need for the industry it supervises to innovate. The Board perceives considerable "action space" within the limits of our Congressional authority to approve activities "whose purpose is to assist savings and loan associations in more fully meeting the mortgage needs of the area," in the language of the House of Representatives report on the subject. Quoting further, Congress did not intend that Federal savings and loans would be permitted to invest in ". . . ordinary profit-making corporations or corporations not closely related in purpose to the savings and loan business." (Report No. 1703, 88th Cong., 2d Sess., p. 28).

Let me borrow an analogy from football, a subject of justifiable pride on this campus. I have argued for an increasing role of the Government bureaucrat as an innovating "pass receiver." Or maybe I mean blocking back for the businessman ball-carrier. But what of his role as quarterback? If the bureaucrat tries to throw the pass himself, will there be anyone out there to pull down the ball? I think they will surely be one of the more aggressive management types who are on the playing field. Let me illustrate again from the savings and loan industry.

Lending on inner-city properties, that is homes and apartments in older neighborhoods close to central business districts, is not new to savings and loans. In fact, title insurance records in this city and in most others indicate that most of the outstanding first mortgage paper on this class of real estate is savings and loan paper. Yet the future of this lending, if unassisted, is not bright. Every leading indicator points to a capital shortage in the 1970's, especially in mortgage credit. Great new initiatives, even innovations, will be required so that our Nation can reach its housing goals. Projections tell us that this Nation will need at least two million new houses and apartments a year in the early 1970's, and the Department of Housing and Urban Development has just said its previous estimates of 26 million new housing units as the national requirement in the next decade may be conservative. The challenge is clear, and imperative. Fail to reach these housing goals, and you pay an unacceptable price in social instability.

It is therefore quite obvious that innovative approaches will be sorely needed in inner-city and relocation lending and construction. Every state and Federal housing official must assume a particularly vigorous role in this process. The Federal Home Loan Bank Board is committed to creating, an innovation, a new way of financing this kind of housing, and we have begun to implement it in the last two months. Through our twelve regional Home Loan Banks, the Board is expediting a completely new kind of loan to member savings and loans, at slightly favorable rates, for ten year terms. Unlike the $8.7 billion of regular advances outstanding to members, these advances have a fixed, rather than the usual variable interest rate.

[1] "Management's New Role," Harvard Business Review: November-December 1969, p. 52.

This is some advantage in this day of discontinuity in market rates. In just sixty days, commitments for more than $150 million in earmarked advances have been made by the Federal Home Loan Banks. When a pool of these mortgages is accumulated in final form in 1970, it is the Board's plan to attempt an initial marketing of a Government National Mortgage Association (GNMA)-FHLBB Inner City security, using the mortgage pool as backing. Of course, market conditions could delay such an offering. However, the measurable progress toward disinflation indicates that a GNMA issue may well be feasible next year.

I believe that the innovative approach to funding the housing needs of moderate- and low-income families will produce a harnessing of the profit motive to accomplish social goals. The two steps in the process I have just described constitute only a beginning, but I am not able to detail other concepts and procedures still on our "drawing boards." Let us not repeat past errors of promising too much and delivering too little in areas with high social explosiveness.

I have been presenting for your consideration today the thesis of the bureaucrat as innovator in two aspects; first, in the administrative activity of fostering a regulatory climate and an internal mechanism conducive to innovation by businessmen in regulated industries. Secondly, I advocate that appointive bureaucrats attempt to act as innovators themselves: to search for new ways of doing the old, unfinished jobs that society needs done so badly. To you who are still on the receiving end of the educational process, I ask you to consider governmental periods in your career development. There is a contribution you can make in many positions throughout Government, but particularly at the state and Federal levels. This can be an exciting and rewarding experience, one which is perfectly compatible with long-term ambitions in the private sector. The old Government-versus-business relationship is softening. In our "mixed society" of business and governmental decision interdependence, this may be an important sign of adaptability and growth.

BIOGRAPHICAL NOTES ON PRESTON MARTIN, CHAIRMAN, FEDERAL HOME LOAN BANK BOARD

Current Appointment: Nonimated by President Richard M. Nixon on March 12, 1969, as a Member of the Federal Home Loan Bank Board to serve the unexpired portion of a 4-year term expiring June 30, 1970, and designated as Chairman; confirmed unanimously by the U.S. Senate on March 13; sworn in at Long Beach, California, on March 15; assumed the office of Chairman on March 18, 1969.

Previous Administrative Experience: Commissioner of Savings and Loan, State of California, January 1967 to March 18, 1969; developer and director of Programs for a Business and Governmental Executives, USC, 1959; developer and administrator of Pakistan Project for graduate business education, 1960–63.

Profession: Economist and university administrator; formerly Professor of Finance, Graduate School of Business, University of Southern California; visiting professor at Turin, Italy, 1957; visiting professor at Karachi, Pakistan, 1960.

Education: Hollywood High School; University of Oklahoma (while in service); B.S. in France, University of Southern California; M.B.A., University of Southern California Graduate School of Business, 1948; Ph. D. in Economics at Indiana University, 1952.

Military Service: U.S. Army, 1943–46.

Personal Details: Born at Los Angeles, California on December 5, 1923; married to Adrienne Hatch on December 15, 1950; three children—Jeffery, 17; Barbara Gay, 15; and Pier, 7; religious affiliation—Presbyterian.

Residence: 8011 Greentree Road, Bethesda, Md. 20014.

THE FEDERAL HOME LOAN BANK BOARD—WHAT IT IS AND DOES

The Federal Home Loan Bank Board, established in 1932, is an independent Federal agency headed by a three-Member Board, appointed by the President of the United States for 4-year terms and confirmed by the Senate. Present Board Members are Preston Martin (Republican) of California, designated as Chairman and executive head of the agency; Carl O. Kamp, Jr., (Republican) of Missouri; and Thomas H. Clarke (Democrat) of Georgia.

The agency supervises the $166 billion savings and homefinancing industry—the country's major private source of funds to finance the construction and purchase of homes.

The funds of some 44,700,000 savers in 4,450 insured member institutions are insured up to $15,000 by the Federal Savings and Loan Insurance Corporation, a permanent Government Corporation under the direction and supervision of the Board.

An association's membership in the Federal Home Loan Bank System assures the homeowner-borrower that the institution to which he applies is a dependable source of economical homefinancing. This System, directed by the Board in Washington and working through Federal Home Loan Banks in 12 Districts, making available long- and short-term credit to more than 4,800 member savings and homefinancing institutions.

The present Board has moved actively in several directions to help the savings and loan industry make a major contribution toward the 10-year goals spelled out in the Housing and Urban Development Act of 1968. To meet the most critical needs, the Board is developing more flexible lending regulations to assist in the financing of lower-priced homes, apartments, and mobile homes. It has made available, from the Federal Home Loan Banks, special 10-year advances for Inner-City Housing to stimulate greater participation by savings and loan associations in long-term renewal and rehabilitation projects.

Following the recommendations of a recent comprehensive study of the savings and loan industry, the Board has provided the associations with additional means of attracting savings, reduced the liquidity requirements for member associations. and expanded credit available from the Federal Home Loan Banks which provide additional loanable funds to support the housing market.

THE GOVERNMENT WORKERS PAY RAISE BILL

Mr. McGEE. Mr. President, on Friday night the Senate passed a pay raise bill for Government workers. The bill had been drawn up after many hours of consultation, trying to achieve a measure which would offer civil servants a measure of equity and yet not prove unacceptably inflationary. The Washington Post, on Saturday morning, observed editorially that the bill as passed by the Senate met the test. Many Members of Congress, it noted, would like to vote for more generous raises. Indeed, I would. But that simply could not be done this year, under present economic conditions. We have gone as far as possible in responding to the needs of Government employees without exacerbating the problem of inflation. I ask unanimous consent that the Post's editorial, entitled "Higher Pay and Higher Prices," be printed in the RECORD.

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

[From the Washington Post, Dec. 13, 1969]

HIGHER PAY AND HIGHER PRICES

The government pay raise approved by the Senate Post Office and Civil Service Committee is a response to the inflation that has become ingrained in our economic system. With prices and wages in general pushing consistently upward, Congress, along with all other employers, must face the consequences. The greatest difficulty that arises out of an inflationary situation is that no group can remain static without serious losses.

All that can be reasonably asked is that governmental adjustments do not themselves exacerbate the problem. The federal pay bill that has emerged on the Senate side seems to meet this test. Employees earning up to $10,000 a year would get a 4 per cent raise on Jan. 1, with lesser increases in the upper brackets, and an additional minimum of 3 per cent next July.

The bill previously passed by the House would have given postal workers a special 5.4 per cent raise retroactive to October and would also have included them in an average 6 per cent raise for all government employees early next year. It fell clearly into the inflationary category and appeared headed for a veto. The more moderate Senate bill seems to have a good chance for enactment, even though it would cost a minimum of $3.2 billion.

Many members of Congress would prefer to vote for more generous raises, just as they prefer a 15 percent across-the-board increase in social security benefits to the 10 per cent favored by the Nixon administration. But the government itself should not be leading the inflation parade. Congress ought to be thinking, as the President hinted in his news conference the other day, not merely about the temporary advantages of higher benefits and lower taxes but about the disadvantages of raising prices for everyone.

HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS—THE WHITTEN AMENDMENT

Mr. CASE. Mr. President, the Senate Committee on Appropriations currently is considering the so-called Whitten amendment to the bill appropriating funds for the Department of Health, Education, and Welfare and other agencies.

Ostensibly, the amendment, in one of its parts, is designed to prevent the Department of Health, Education, and Welfare from forcing local school districts to bus pupils to schools far from their homes in order to obtain racial balance in the schools.

In this, Mr. President, I suggest that the Whitten amendment is shooting at a straw man.

At my request, the Department of Health, Education, and Welfare recently conducted an informal survey of more than 300 desegregation plans which were put into effect by local school districts in September of this year.

Officials in the Department's Office for Civil Rights informed me that most of these plans actually resulted in decreased busing of students and that only eight of them resulted in increased busing.

And even in those eight districts the increase in busing was not great.

In one district which operated 17 buses before putting the desegregation plan into effect, for example, only one additional bus was needed to carry out the plan.

In another district, which had operated 10 school buses before adopting its desegregation plan, the number was increased to 12. A district which had operated 22 buses previously, added only three more to carry out its desegregation plan.

In none of the eight districts which increased busing to accomplish desegregation did the increase reach even 10 percent in terms of the number of pupils involved.

Why, then, has the Department of Health, Education, and Welfare said the Whitten amendment would severely hamper its efforts to afford every child in this country an equal educational opportunity?

One answer is that the Whitten amendment's restrictions on assignment of students fly in the face of a Supreme Court decision which said that so-called freedom-of-choice plans for desegregating schools had to be effective in order to be acceptable.

The futility of requiring desegregation and then permitting acceptance of a plan that does not work is so apparent that I will not develop that point further at this time.

However, there is another answer that may not be so obvious.

The Whitten amendment would prevent any district from requiring the busing of students. In other words, the same buses which had been used to transport all black students to one school and all white students to another school could not be used to overcome that same dual school system.

I do not want to mislead anyone. The figures I have cited in regard to the effects of busing in more than 300 desegregation plans put into effect in September deal only with those plans filed under the voluntary compliance program which HEW carries out under title VI of the Civil Rights Act of 1964. These are the plans worked out by the school districts themselves and accepted by HEW if they are determined to be effective.

The figures I have cited do not include desegregation plans imposed upon local school districts by the courts under title IV of the Civil Rights Act.

I cited only the figures for the title VI program carried out by HEW because this is the program which the Whitten amendment would affect. The amendment is not directed to the courts.

Moreover, I oppose the Whitten amendment not only because it would severely hamper the efforts of the Department of Health, Education, and Welfare in school desegregation, I oppose it also because it would restrict the flexibility of State and local officials who have recognized the unfairness of segregated schools on their own and are themselves trying to do something about it.

In my own State of New Jersey, for example, we have recognized the serious problems of racial imbalance in our schools, even though, as I pointed out a week ago, they are far less severe than the problems in some of the States of the South.

Also, the New Jersey State Board of Education is seeking to do something about the problems in our State.

On November 5, the State board adopted a resolution directing that steps be taken immediately to end de facto school segregation in New Jersey.

As a result of that resolution, representatives of 38 school districts with the most severe racial imbalance problems in New Jersey have been invited to attend a 2-day seminar next weekend in order to obtain advice from State officials on how plans can be formed to desegregate these schools.

State officials have told these 38 districts, plus 61 others with racial imbalance problems, that by February 4 they must submit policy statements adopted by local boards on correcting the imbalance and plans of action to eliminate segregation.

In my view, we should encourage initiatives of the sort being taken in my State, not discourage them by severely limiting our States and local school boards in the choices they may wish to make in determining the method best adapted to their own needs in meeting the goal of desegregating their schools.

MAYOR WALTER WASHINGTON PROCLAIMS DECEMBER 10 TO 17 "HUMAN RIGHTS WEEK"

Mr. PROXMIRE. Mr. President, human rights begin not through international commitment, but through personal conviction. Only when all men affirm the rights of their fellow man to life, liberty, and security will the first step toward these rights be completed.

Mayor Walter Washington has recognized this most important fact in his proclamation declaring December 10 through 17 "Human Rights Week." As he so eloquently stated:

> We must all strive as individuals, in our groups, and on the local, state and national level to see that these human rights of equal justice, freedom and dignity are recognized and respected everywhere, thereby allowing every person to achieve his personal goals, and to better our Nation as a whole.

I ask unanimous consent that the complete text of Mayor Washington's statement declaring December 10 to 17 "Human Rights Week" be printed in the RECORD.

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

HUMAN RIGHTS WEEK, DECEMBER 10 TO 17, 1969, BY THE COMMISSIONER OF THE DISTRICT OF COLUMBIA—A PROCLAMATION

Whereas, the year 1969 marks the 21st Anniversary of the Universal Declaration of Human Rights by the United Nations—a historic document of freedom expressing man's deepest beliefs about the rights every human being is born with, and that no government is entitled to deny; and

Whereas, our great nation was founded and has grown strong on the basis that each man has certain basic human rights which should not and cannot be denied him by others; and

Whereas, we must all strive as individuals, in our groups, and on the local, state and national level to see that these human rights of equal justice, freedom and dignity are recognized and respected everywhere, thereby allowing every person to achieve his personal goals, and to better our nation as a whole:

Now, therefore, I, the Commissioner of the District of Columbia, do hereby proclaim the week of December 10 through 17, 1969 to be "Human Rights Week." In so doing, I call upon all citizens of the District of Columbia to reaffirm our commitment to human rights and ask that we strengthen our efforts at their full realization here in our city, throughout the Nation, and throughout the world.

COMMISSIONER OF THE DISTRICT OF COLUMBIA.

THE BOXCAR SHORTAGE

Mr. CURTIS. Mr. President, the Interstate Commerce Commission, with its ancient tradition for doing nothing and its procedure for delaying action until complainants are either worn out or dead, has led us into serious problems.

It is now estimated that more than 50 million bushels of grain are on the ground in Nebraska because it cannot be shipped out and because the elevators are full.

I again ask the question: How would the members of the Interstate Commerce Commission and their employees like a 10-percent cut in income?

That is what is happening to the Nebraskans whose grain is spoiling on the ground.

Mr. President, I ask unanimous consent to have printed in the RECORD a resolution of the Mid-America Governors' Council on the subject of freight-car shortages.

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

RESOLUTION OF MID-AMERICA GOVERNORS' COUNCIL CONCERNING INTERSTATE COMMERCE COMMISSION ACTION WITH RESPECT TO RAILROAD FREIGHT CAR SHORTAGES

Whereas, the Mid-America Governors' Transportation Council consists of representatives of the governments of the states of North Dakota, South Dakota, Minnesota, Idaho, Montana, Nebraska, Kansas, Missouri, Colorado, Oklahoma and Texas, having an interest in maintaining and developing adequate transportation systems to serve their respective states, and,

Whereas, each of the states represented by the Mid-America Governors' Transportation Council suffers perennial and recurring freight car shortages affecting the movement of many commodities, and,

Whereas, the problem is particularly acute as to agricultural commodities, especially oil seeds, feed and food crops, particularly at harvest time when rail car shortgages prevent these harvested crops from being transported with reasonable expedition, and

Whereas, car service rules to compel the return of freight cars to their owners have been promulgated by the Association of American Railroads and predecessor organizations and have been in effect for more than fifty years, and

Whereas, said rules have not been vigorously enforced, and such failure or enforcement has contributed to the maldistribution

of the national freight car fleet, thus helping to cause recurrent and severe freight car shortages in the midwest and western United States, disrupting the economy of this region and inflicting extreme hardship on numerous producers and shippers, and

Whereas, this situation was recognized by the Interstate Commerce Commission as a problem of long-standing in the proceeding before that Commission identified as *Ex Parte 241, Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution, Rules and Practices,* 335 I.C.C. 264, report and order decided August 21, 1969, served September 3, 1969, to take effect in thirty days, later postponed to take effect November 10, 1969 and thereafter still further postponed until the Commission's further order, and

Whereas, the order of the Interstate Commerce Commission in Ex Parte 241 prescribes as mandatory certain A.A.R. car service rules but does not deal in any way with present unconscionably low per diem rates, and

Whereas, the absence of effective mandatory car service rules and of sufficient per diem charges has encouraged the continued and willful retention by predominantly eastern terminating rail carriers of cars owned by those railroads which have contributed more than their proportionate share of new and rebuilt cars to the national car fleet, and

Whereas, the Interstate Commerce Commission has failed to implement the Congressional amendment of 1966 to Section 1(14)(a) of the Interstate Commerce Act by progression of their proceeding identified as *Ex Parte 252 and Ex Parte 252, Sub 1,* by prescription of incentive per diem rates to encourage return of rail cars of western ownership to their owners, to encourage construction of freight cars and generally to encourage the maintenance of an adequate national car fleet, and

Whereas, the Interstate Commerce Commission has promulgated a new basic per diem formula involving mileage as well as time charges, which will actively discourage the return of empty cars by eastern region railroads (332 I.C.C. 176),

Now, therefore, be it resolved, by the Mid-America Governors' Transportation Council, that the council employ its best efforts through its appropriate state agencies, to petition the Interstate Commerce Commission urging said Commission in the strongest terms possible, to promptly establish, by every reasonable means available, a revised per diem formula which will include substantial incentive elements, and to make effective at an early date mandatory car service rules which will help to cure the aforementioned and serious problem of recurring and acute freight car shortages,

And further, that each state represented in the Mid-America Governors' Transportation Council urge upon its governors and attorneys general, that they consider and take such action as to them may seem appropriate before the Interstate Commerce Commission or the courts, or both, to obtain prompt relief from the repetitive and damaging effects of such shortages and a prompt improvement in the presently inadequate supply of freight cars for the shipping public in the states represented by this council.

RETIREMENT OF ROY TAYS AND JOE PROCHASKA FROM FEDERAL SERVICE

Mr. McGEE. Mr. President, two veteran farm program administrators in my State of Wyoming, Roy Tays, of Gillette, and Joe Prochaska, of Casper, have recently retired, taking with them a total of more than 60 years of experience with the ASCS operation. Today, I want to commend both for their long and loyal service. Each man devoted most of his adult life to farm program work, Mr. Prochaska starting in the county ASCS office at Sheridan, Wyo., then moving to Casper, where for the past 15 years he has served as chief of the administrative division, while Mr. Tays began his service with ASCS 28 years ago, measuring fields and staking reservoirs in Campbell County. He retired as office manager of the Gillete office.

Both men represent the high quality of dedicated service we have come to expect from the ASCS workers in the field. I wish them well in retirement.

CRITICAL BOXCAR SHORTAGE IN MIDWEST

Mr. EAGLETON. Mr. President, on November 26 of this year, the distinguished Senator from Kansas (Mr. PEARSON) called the attention of the Senate to the acute boxcar shortage facing his State and the Midwest. This situation, which has become a recurrent crisis during and following the grain harvest, continues in my own State of Missouri as well as in the other great grain-producing States of the Midwest.

The Senator from Kansas called for effective action to relieve this annual crisis, which creates an economic hardship for farmers, grain dealers, other agricultural businessmen, and, ultimately, consumers.

I join the Senator in calling for action by Congress, the Interstate Commerce Commission, and railroad management and labor to meet this problem.

The boxcar shortage crisis is cogently described in the December 9, 1969, issue of the Southwestern Miller. I ask unanimous consent that an editorial from that issue be printed in the RECORD.

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

ABOMINABLE CAR SHORTAGE

This year's fall grain harvest has created a demand for boxcars and transportation services that railroads have been unable to meet. The consequences are widespread. Flour mills, faced with an exceptional backlog of both domestic and export orders, have found their operations curtailed by inability of carriers to furnish equipment. The most visible evidence of the exceptional shortage is provided by the fact that an estimated 30,000,000 to 50,000,000 bushels of grain are piled on the ground in midwestern producing areas—in ball diamonds, on streets and school grounds. All involved are facing severe economic losses. Spoilage of grain that cannot find a home in regular storage facilities may run as high as five to ten per cent. Grain merchandisers are prevented from participating in their normal business of service to producer and country elevator customers. Millers and bakers are feeling a pinch that could be translated into actual shortages of flour. And the railroads are losing revenues, as represented by the fact that the movement of the minimum of 30,000,000 bushels on the ground would require 15,000 narrow-door, 40-foot cars, representing a train more than 145 miles in length.

The car shortage has attracted much attention in Congress. Senator James B. Pearson of Kansas, who has castigated the Interstate Commerce Commission for not exercising its power to force the return of cars to midwestern lines, says the shortage is the most acute in memory. At a meeting in Kansas City under the aegis of the Board of Trade, officials of midwestern railroads concurred that, with 100 per cent possession of the cars owned by them, they could fairly well handle the grain now awaiting movement in Kansas and Nebraska. The problem is that the western roads now have only 85 per cent of the narrow-door cars owned by them on their lines, while southern needs show a 164 per cent possession rate and eastern carriers 13 per cent. Instead of moving to increase daily car rental charge from the present low rate of $2.79 to $3.58, the I.C.C. has elected to rely on car service orders, assailed in Congress as an "antiquated and slow" procedure. Eight orders have been issued by the commission requiring the return of only 1,470 narrow-door cars to western lines.

Essential to an understanding of the present situation is knowledge of the fact that the total number of grain-carrying cars has been on the decline in recent years and that the current total includes many unsuitable cars.

If no steps are taken to correct the present deficiencies, the problems that have arisen this year can only multiply into the future. In the case of wheat and other grains, the increased quantities that are coming under Commodity Credit Corp. control through the loan program already promise a difficult task next summer. Suggestions for correction are many. Members of Congress have urged that the railroads use a major share of the estimated $600,000,000 in increased revenues from the six per cent rate increase that recently went into effect to finance additions to the fleet. It has been urged that the federal government itself contract for the building of a "boxcar pool" that could be called upon in times of shortage. One essential is the encouragement that could be given carriers to add to their fleets through favorable tax relief.

THE CONTINUING LUMBER CRISIS

Mr. HATFIELD. Mr. President, I invite attention to an article published in the New York Times of December 7 concerning the dilemma faced by the lumber and plywood producers of this Nation. In 1968 our Government set forth the national goal of providing 2.6 billion new housing units per year. The need for such a goal was evident, given the present housing situation in the United States and the projections for immense population growth in the very near future. Due to the current economic situation and the resulting tight credit being experienced at this time, we have fallen far behind this long-term goal. But, should these conditions change, our hopes for achieving adequate and sufficient housing for all Americans will be met by yet another problem: an insufficient timber supply to meet the growing demand.

Mr. Abele's article states the problem most cogently and clearly points to the need of assisting the Forest Service in its management of our lumber-producing areas. If our national forests are to serve such multiple purposes as recreation, reserves for the preservation of our wildlife, watershed production, and the supplier of timber products to meet the grave housing needs of this Nation,

then we must adopt now the means and determination to manage our forests well. It is to this end that I again reiterate the need for passage of S. 1832, the National Timber Supply Act. This bill would enhance the Forest Service's management policies. It would help the lumber industry, which in my State alone employs 85,000 people, to produce enough timber to meet our Nation's growing lumber needs. It would help our homebuilding industry and our many new home buyers by keeping down the price of new houses. And by making better use of the land now classified as commercial timberland, it will benefit the conservation groups who want to protect our timberlands from encroachment by the lumber industry.

It is with these thoughts in mind that I recommend this article to Senators. We must remember that the problems faced by our Nation's timber suppliers are not just the problems of the States with timberlands. In the near future a housing crisis will affect every part of the United States. Without timber, houses cannot be built. Without sufficient and adequate housing, our Nation will suffer immeasurably. I ask unanimous consent that the article be printed in the RECORD.

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

[From the New York Times, Dec. 7, 1969]

CREDIT EASE WOULD TIGHTEN VISE ON TIMBER SUPPLIES

(By John J. Abele)

Lumber and plywood producers have two big problems these days. One is tight credit; the other is tight timber. If the first problem eases, the second is likely to get worse.

Tight credit is the more immediate and pressing problem. Demand for lumber and plywood has eased substantially in the face of tight credit and high interest rates that have curtailed the building of new homes, a major market for the two wood products.

Prices for lumber and plywood skyrocketed last winter amid a variety of production, supply and transportation difficulties. But prices have declined as rapidly as they rose, because of the downturn in new housing construction, and current prices are about the same as they were a year ago.

HOUSING STARTS TO DROP

New housing starts this year are expected to total between 1.4 million and 1.5 million units. That would be slightly below last year's level and well below the nation's long-term goal of building 2.6 million new housing units a year. The current level of housing starts is probably less than one-half that figure.

If credit conditions ease to the point where enough mortgage money is available to build the number of housing units set by the long-term goals, the problem will become one of achieving a sufficient supply of timber to meet the increased demand for lumber and plywood.

Experts in the forest-products industry see a distinct possibility of an acute shortage of timber developing in the next few years.

The National Association of Home Builders, for example, estimates that the demand for timber for all new housing will increase 65 percent in the next decade. It projects demand in 1980 at 26.5 billion board feet against 16.1 billion board feet this year.

Unless this sharply increased demand is met by increased yields of timber from the nation's public and private forests, industry observers say, prices of lumber and plywood are likely to soar again.

Ironically, the situation finds the forest-products industry, traditionally noted for its political conservatism and rugged individualism, engaged in a continuing confrontation with the Federal Government.

In a speech last summer, Dr. John Muench Jr., an economist for the National Forest Products Association, observed:

"The Federal Government has established housing goals; the Government regulates the economy, including the availability of mortgage and construction money, and the Government controls the largest source of timber needed to supply the market."

Last winter's price upsurge touched off a series of hearings in both houses of the Congress: President Nixon, concerned at the impact of the price increases on his anti-inflation program, appointed a special task on lumber supply and demand headed by Robert P. Mayo, director of the Bureau of the Budget.

The task force has not yet completed its work, but legislation designed to increase the future supply of timber has begun to move through Congress.

Among other things, the legislation seeks to increase the harvest of timber from national forests, which are operated by the United States Forest Service, an agency of the Department of Agriculture.

Although the harvest of timber from national forests has increased sharply in the last decade, industry sources have long contended that the harvests could be increased substantially more. The increased supply, they say, would tend to dampen the long-range trend toward higher prices for standing timber.

NATIONAL FORESTS CONTRIBUTE

The national forests account for about 19 per cent of the commerical forest land in the country. They account for 54 per cent of the inventory of softwood timber but only 30 per cent of the cutting.

On the other hand, forests owned by forest-industry companies account for 13 per cent of the forest area, 17 per cent of the inventory of softwood sawtimber and 33 per cent of the cutting. Forests held by other public and private owners account for the remainder.

The national forests currently are producing timber harvests of about 11 billion board feet a year. According to some estimates, this could be increased by 2 billion board feet through increases in forest maintenance and improvement projects, the construction of access roads and other development measures.

One of the bills currently being considered in the Congress would provide for the establishment of a "high timber yield fund." The fund would receive the proceeds of sales of timber from national forests—the money now goes directly to the Treasury—and use them to carry out additional development projects.

The Nixon Administration, however, has opposed the use of special funds whose receipts are earmarked for specific projects. Other critics contend that the Forest Service has already a large backlog of development projects for which it has received appropriations.

The Forest Service itself has expressed some reservations about the proposal. It has pointed out that, under law, it is responsible not only for timber harvests from national forests but also for the development of other uses, such as outdoor recreation, watershed development and the protection of wildlife and fish.

SIERRA CLUB OPPOSED

The proposal also has stirred opposition from conservation groups, such as the Sierra Club, which fear that increasd cutting of timber in national forests would imperil some stands of virgin timber and sections that could eventually be incorporated into national wilderness areas, where timber harvesting is not allowed.

Yet another source of controversy in the timber supply problem has been the rapid rise in the export of American logs to Japan, whose housing construction objectives are almost as ambitious as those of this country.

Exports of logs to Japan from the West Coast have increased more than tenfold in the last decade. They amounted to about 2.2 billion board feet last year and will probably show another increase this year.

The exports have been a boon to the nation's sagging balance of trade, but forest industry sources contend they have been an important factor in raising the price of timber on the West Coast.

TAX REFORM?

Mr. DOLE. Mr. President, last week the Senate passed what has been loosely described as a tax reform bill. Many Americans have been led to believe that the Senate was acting responsibly in approving amendments, particularly those with reference to social security and increased personal exemptions.

While it may be politically popular to increase the personal exemption and increase social security benefits, there is also the danger of more inflation and ultimately causing serious economic distress for senior citizens in America who live on fixed incomes. Unquestionably, a raise in social security benefits is necessary because of inflation caused by policies of the last Democrat administration, but, in my opinion, the proposal made by President Nixon is far superior to the one adopted by the Senate. It permits an increase in earnings, raises social security benefits 10 percent, and provides for an automatic increase when the cost of living rises.

Notwithstanding, the Senate has acted. In an effort to underscore the irresponsible action, the distinguished senior Senator of Delaware (Mr. WILLIAMS), the ranking Republican on the Committee on Finance, declined to serve as a conferee. In my opinion, every Member of this body would agree that Senator WILLIAMS is truly an advocate of tax reform. The following editorials, one entitled "The World's Greatest Deliberative Body," from the Wall Street Journal of December 15, 1969, and the editorial entitled "John Williams' Dilemma," in today's Washington Daily News, point up the folly of the Senate's action last week.

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

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

[From the Wall Street Journal, Dec. 15, 1969]

THE WORLD'S GREATEST DELIBERATIVE BODY

We have never been particularly enamored of the tax reform bill in any of its various reincarnations. But if our governors are going to do something we don't like, we wish at least they would act as if they knew what they were doing. Take tax reform or leave it, the spectacle of the last few weeks is a depressing reflection on the manliness of the Senate.

In those weeks, the "tax reform" bill completed its tranformation into the Political Giveaway Act of 1969. By bedecking the bill with one provision after another giving away Federal revenues, the Senate in effect voted for a tax cut of $5 billion in fiscal 1971 in the teeth of still rampant inflation. The House

bill, by contrast, would produce a revenue gain of $2.7 billion in the same period.

Assuming the bill's supporters would rather be hanged as knaves than fools, there cannot be one of them that does not know this is an utter abdication of responsibility. Some apparently do not care—hang responsibility, if I can tell the voters I cut taxes. Others, it seems, voted for damage on the Senate floor in the expectation that the House-Senate conference committee will repair it for them.

Either way, it's crass politics. Senator Williams was admirable in upbraiding his colleagues, "You can go home and tell your constituents 'I voted for it,' and then say here on the floor of the Senate 'I've got confidence in the conferees.'" It's depressing to see only 31 Senators support the Delaware Republican motion to strip the giveaways from the bill. More depressing still because one must doubt that anything so transparent as the majority action is even good policies.

We can't get too excited about the fate of tax reform bill itself, but land's sake, the Senate is supposed to pass on the great affairs of this nation. We like to think it's made up of mature men with a modicum of character, but here it is, acting less like the world's greatest deliberative body than like a bunch of wanton ward heelers at Christmastime.

[From the Washington (D.C.) Daily News, Dec. 15, 1969]

JOHN WILLIAMS' DILEMMA

Sen. John J. Williams of Delaware is the ranking Republican on the Senate Finance Committee. In point of service on this committee he is even senior to the chairman, Sen. Russell Long of Louisiana (who holds his position because he is a Democrat and the Democrats control the Senate).

Because of this seniority, Sen. Williams was an automatic choice to be a member of the conference committee which will try to compromise the differences between the House and Senate on the so-called "tax reform" bill.

But Sen. Williams refused. In principle, at least, Senate members of the conference committee are supposed to do all they can to win over the House representatives to the Senate version of the bill. Since Sen. Williams opposed the main features written into the bill by the Senate, he could not in good conscience go on the conference committee.

"I couldn't defend a bill that I find indefensible," he said.

The bill is indefensible.

Just the same, we would feel a great deal more comfortable if John Williams were on that conference committee helping House representatives try to restore some logic and balance to the Christmas tree the Senate created.

As Sen. Hugh Scott, the Republican floor leader, said:

"His expertise is unquestioned. His commitment to a responsible fiscal policy is nationally recognized. His knowledge of intimate details of the bill is unparalleled."

John Williams has been replaced on the conference committee by Sen. Jack Miller of Iowa. Sen. Miller voted for the bill in the end. But earlier he had voted to strip out the far-out amendments which if enacted into law would deprive the Government of $10 billion or $12 billion in revenue, erase any chance of balancing the budget and produce even more inflation.

We just hope Sen. Miller will take to the conference some of Sen. Williams' know-how, determination, persistence and all-around courage. As passed by the Senate, the "reform" aspects of the bill have been minimized, and the give-aways enormously increased. Unless the bill is modified drastically in conference it could turn out to be a fiscal calamity.

WHERE HAVE WE GONE WRONG?

Mr. MONTOYA. Mr. President, in the past week, the attention of the world has been brought to focus on shocking atrocity allegations against Americans for the alleged massacre at Mylai in South Vietnam.

We have enough information for us to know that—

First. A citizen's letter triggered a preliminary investigation by the Army's Inspector General, and the matter was ultimately turned over to the Provost Marshall General after careful inquiry.

Second. A criminal investigation was ordered, and charges were brought and published.

Third. The machinery of due process of justice is now in motion while providing all possible protection to those being charged. Others have suggested that there be further investigations by a congressional investigating committee and/or a special presidentially appointed investigating committee.

Mr. President, whatever went wrong on March 16, 1968, should and must be heard. Meanwhile, there are some who believe the fault lies with the American system. Some say that atrocities are a fact of war, and only the defeated can ever be said to have committed war crimes. Still others would have the world believe that Mylai was only one small indicator of how the United States fights its battles.

That the conflict in Southeast Asia has been bloody is undeniable, but it is hard to detect on the American side anything that could be called a policy of atrocity. Indeed, I am proud of and most humbly acknowledge the great debt we owe the thousands wearing the American uniform who have served with honor and responsibility and given their lives in this tragic Vietnam war. I am confident they are among those who would demand that it is time the field of international politics ceased to be reserved for violence, brutality, falsehoods, selfishness, and other heinous practices. I am confident that they would ask that the world be assured that we have not failed to live up to the international law which we helped shape; that the principles of justice continue to prevail in the United States of America; and that we continue to act for the greater good of the world community.

There is something close to certainty that a war will produce an atrocity of one kind or the other, if for no other reason than the fact that all men share a general fallibility with every man, friend or foe alike. It is for these reasons that international standards were established for the conduct of military operations and the treatment of those captured which are best expressed in article 3 of each of the four Geneva Conventions of 1949.

The Hague Conventions of 1907 mark the first effort to uphold the principles of humanitarian warfare, and the noncombatant civilian population, as distinguished from the Armed Forces, was to be spared insofar as possible the effects of war. However, it has also been held that an individual not enrolled in the military organization of a nation but engaged in hostile activity against another nation cannot at the same time be treated as part of the civilian population of the nation to which he belongs. Nevertheless, the Geneva Conventions of 1949 state that with respect to the protection of civilian persons, even those suspected of or engaged in hostile activities should "be treated with humanity."

A number of individuals have raised very legitimate questions asking: Where are the reports of investigations by the enemy of allegations by the Republic of South Vietnam concerning mass murders of innocent civilians by the National Liberation Front and other North Vietnamese auxiliaries—at Hue in 1968; regarding attacks on the hospital at Cam Ranh Bay; at the Montagnard village reported as being leveled by enemy flamethrowers; the treatment of our prisoners of war?

The December 5 issue of Congressional Quarterly published a comparative list of previous Vietnam atrocities by both the Vietcong and U.S. forces, which I ask unanimous consent to have printed in the RECORD following the conclusion of my remarks. An examination of that list shows that there is no question about it—the enemy has made no effort to determine whether those allegations constitute illegal acts violating a cherished and humane rule observed in war by even the most bitter antagonists.

It also reveals that even if we accept that the enemy has used terrorism, sabotage and selective murder as a matter of policy, still the true difference between us and the enemy lies in what we do about these criminal acts. We condemn and punish our citizens, whether in war or peace, for murder or any other violation of the customary laws of war. It can be seen that whenever criminal acts of this nature occur among the U.S. military, they are investigated promptly and justice dispensed.

It is to our credit that we bring the Mylai incident out in the open, as we did, for example, in the case of the enemy's allegations of mass murder at Tay Ninh, permitting the International Committee of the Red Cross to make its own investigation of the incident as well. I am heartened by signs of courage and willingness on the part of officials of our Government to thoroughly investigate into the Mylai incident, with a view toward making explicit arrangements for preventing such atrocious deeds in the future.

No reasonable person is likely to disagree that the public and world confidence in our institutions can be increased only if the actions of our Government in this and similar cases are fair and impartial; only if roadblocks are not thrown in the way of taking action against those who exceeded their authority and/or act contrary to the authority of the U.S. Government in such matters.

If a crime has been committed, then let the remedy be found in our system of justice. And prudent will be those who monitor how the military justice system fares through this extreme crisis. If justice is done, no more need be said; but vigilant we must be to see that justice is done. We of the Senate need to ask ourselves whether we have adequately

equipped that system of justice. We should, therefore, carefully examine the facts presented during the trial of those who stand accused. And the world will also see whether the enemy, in turn, attempts to verify its claims of humanitarian treatment and to act for our war captives in their hands.

Mr. President, I believe we must also consider the "kind of world" in which we raise questions associated with the alleged civilian massacres in South Vietnam.

Nations, including our own, are coming to recognize that their institutions are not yet adequate to maintain peace, eliminate fear, ignorance, bigotry and poverty, master technology, and so on. But only gradually are they becoming interested in establishing meaningful formulas and standards that will result in civilizing and refining military power through knowledge and appropriate legal institutions.

The absence of precise standards for defining unjust expressions of power will logically give other nations the opportunity to use actions by another nation as an excuse for violations of principles of human decency, thus further exacerbating international tensions. Means must be found for persuading nations that certain problems, because they involve actions upon other people, become questions of ethics and morality rather than military problems. Indeed, our own lack of leadership in these areas can—even though not condoned by our Government—be interpreted as signifying that unrestrained terrorism, raiding, assassination of innocent civilian noncombatants, and other grave acts against humanity, are permissible, thus helping to create uncertainty of reference and confusion.

I believe legal guidelines and exactness must be the means for making ground rules of conflict available to the participants, as well as interested observers, thus in turn making it difficult for a small handful of military personnel and policymakers to hide from themselves or others erroneous information and present irrational arguments, or to promote capricious or criminal policies or acts.

Still another step in the right direction would be to establish in our own elementary and secondary schools instruction in "human rights" along with studies in intercultural ideas and civic responsibilities. On December 17, 1968, the United Nations General Assembly adopted a resolution proclaiming 1970 as "International Education Year," and I believe it would be entirely appropriate for us to insure that our youngsters know what "human rights" are and that we do not take these important principles for granted. I am currently looking into possibilities of introducing legislation to amend the International Education Act of 1966 along these lines.

In short, by devoting appropriate attention to and throwing all possible light on this and related problems, we will be aiding the purposes of the United States, the United Nations, and other nations and authorities whose true aim is to establish world peace and justice.

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

[Excerpt from Congressional Quarterly Magazine]

PREVIOUS VIETNAM ATROCITIES

VIETCONG

Hue massacre, Feb. 1968: More than 2,700 civilians murdered during 24-day Communist occupation of the city. Bound bodies, including women and children, found in mass graves.

Dak Son massacre, Dec. 5, 1967: More than 250 inhabitants of Montagnard refugee hamlet, mostly women and children, burned to death by Viet Cong guerrillas using flamethrowers.

Polling places, Sept. 3, 1967: 48 South Vietnamese civilians killed in election morning attacks on polling places.

Prisoners, April 7, 1966: 25 chained and padlocked prisoners of the Viet Cong, including three women, shot by escaping guerrillas.

My Canh restaurant, June 25, 1965: 43 persons killed, 80 injured, as Viet Cong dynamited crowded Saigon floating restaurant.

Sports Stadium, Oct. 4, 1965: 11 civilians killed, 42 injured, including many children, as Viet Cong bomb explodes at Cong Hoa national sports stadium.

Village Chiefs, 1961–60: Official U.S. sources estimate that more than 25,000 South Vietnamese civilians have been murdered by the Viet Cong since 1961. Principal victims have been village and hamlet chiefs, schoolteachers, police, medical and welfare workers and other local leaders or "potential sources of resistance."

U.S. FORCE

Suspects killed, Sept. 1968: Seven Marines were given prison sentences varying from relatively short periods to life imprisonment for the hanging of one Viet Cong suspect and the shooting of two others.

Prisoner killed, Nov. 1967: A Marine sergeant was sentenced to life imprisonment for shooting a Viet Cong prisoner.

Mutilation, Oct. 7, 1967: Two G.I.'s were filmed by CBS–TV crew as they cut ears from dead enemy soldiers. At court-martial, one was found guilty of violating Geneva Convention "laws of war"—the first such case in Vietnam. Both men were fined and demoted.

Rape-murder, March, 1967: Four Air Cavalrymen were given sentences ranging from eight years to life for the rape-murder of a Vietnamese farm girl.

Murder, Jan. 1967: Three Marines were given sentences ranging from 10 years to life for the murder of two unarmed Vietnamese civilians encountered while on patrol.

Courts-martial: The following totals for courts-martial involving murder of Vietnamese since 1961 were made available by Pentagon sources, Dec. 3:

Army: 51 men tried, 27 convicted.
Marines: 28 tried, 17 convicted.
Navy: 4 tried, 3 convicted.
Air force: 1 tried, not convicted.

THE WORLD'S GREATEST DELIBERATIVE BODY

Mr. HANSEN. Mr. President, the Wall Street Journal, in an editorial entitled "The World's Greatest Deliberative Body," published on December 15, 1969, criticizes the inequities of the Senate-passed version of the so-called tax reform bill of 1969.

The editorial states that the House version would have produced a revenue gain of $2.7 billion in 1971, while the Senate version is in effect a tax cut of $5 billion in the same period—or fuel for the inflation problem which is most severe in this Nation.

The newspaper charges the bill was transformed in the Senate to "the Political Giveaway Act of 1969." 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:

THE WORLD'S GREATEST DELIBERATIVE BODY

We have never been particularly enamored of the tax reform bill in any of its various reincarnations. But if our governors are going to do something we don't like, we wish at least they would act as if they knew what they were doing. Take tax reform or leave it, the spectacle of the last few weeks is a depressing reflection on the manliness of the Senate.

In those weeks, the "tax reform" bill completed its transformation into the Political Giveaway Act of 1969. By bedecking the bill with one provision after another giving away Federal revenues, the Senate in effect voted for a tax cut of $5 billion in fiscal 1971 in the teeth of still rampant inflation. The House bill, by contrast, would produce a revenue gain of $2.7 billion in the same period.

Assuming the bill's supporters would rather be hanged as knaves than fools, there cannot be one of them that does not know this is an utter abdication of responsibility. Some apparently do not care—hang responsibility, if it can tell the voters I cut taxes. Others, it seems, voted for damage on the Senate floor in the expectation that the House-Senate conference committee will repair it for them.

Either way, it's crass politics. Senator Williams was admirable in upbraiding his colleagues, "You can go home and tell your constituents 'I voted for it,' and then say here on the floor of the Senate, 'I've got confidence in the conferees,' " It's depressing to see only 31 Senators support the Delaware Republican's motion to strip the giveaways from the bill. More depressing still because one must doubt that anything so transparent as the majority action is even good politics.

We can't get too excited about the fate of tax reform itself, but land's sake, the Senate is supposed to pass on the great affairs of this nation. We like to think it's made up of mature men with a modicum of character, but here it is, acting less like the world's greatest deliberative body than like a bunch of wanton ward heelers at Christmas time.

AWARD TO SENATOR FRANK W. MOSS

Mr. MUSKIE. Mr. President, my good friend the distinguished Senator from Utah (Mr. Moss), recently received the Bronze Medal for Distinguished Service to the Aging, from the American Association of Homes for the Aging. The award was presented during the group's eighth annual meeting, in recognition of Senator Moss' long and distinguished work for the benefit of the aging.

I have the honor of serving with Senator Moss on the Special Committee on the Aging, and I have observed firsthand his outstanding work, especially as chairman of the Subcommittee on Housing.

In presenting the award, the Reverend William T. Eggers, president of the American Association of Homes for the Aging, mentioned in precise terms why Senator Moss deserves this award. I

ask unanimous consent that the remarks be printed in the RECORD.

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

PRESENTATION BY REVEREND EGGERS OF AAHA BRONZE MEDAL FOR DISTINGUISHED SERVICE TO THE AGING TO SENATOR MOSS AT EIGHTH ANNUAL MEETING AND CONFERENCE, RIVERFRONT, ST. LOUIS, MO., NOVEMBER 17, 1969

Today marks the first time the AAHA Bronze Medal for Distinguished Service to the Aging has been given to a public official. And in all the history of our association, no award recipient has been so deserving of our gratitude and our esteem, for his continuing concern for, and service to, all the elderly. Senator Frank Moss has been the recipient of many honors, but I am certain none more sincere than this. He holds the distinction of being the only member of Senate's Committee on the Aging to head two Subcommittees. He is chairman of both the Subcommittee on Housing, and the Subcommittee on Long-Term Care. His civic and charitable affiliations are legion, and would take too long to relate here, so I'll cite just a few: former state director of the Utah Cancer Society; past president of the Utah Association of County Officials, twice president of the National Association of District Attorneys, past director of the Utah Association for the UN, and past vice president of the Air Reserve Association of the US. The Senator received the Furtherance of Justice Award of the National District Attorney's Association in 1960 and the Distinguished Alumni Award of George Washington University, his alma mater, in 1963.

As chairman of the Long Term Care Subcommittee he has stood consistently for establishing standards of quality care for the elderly. He represents more than his state—taking the cause of the elderly throughout the U.S. as his own. He saw the shortcomings in the Title 19 program and the dangers in allowing standards to be lowered, and, deploring this possibility of lower standards, conducted public hearings to develop legislative remedies.

All senior citizens have benefitted from his efforts on their behalf in the Congress; the government has benefitted by his expert knowledge of the field of care for the elderly; and taxpayers benefit by getting the highest quality of care for their tax dollars going to related programs.

We, the members of AAHA, have especially benefitted from Senator Moss's work, because, as representatives of the voluntary nonprofit sector, we have, working alongside us, an elected official of the highest integrity, intelligence, and compassion for the needs of this country's elderly citizens.

It is indeed a privilege to present to you, Senator Moss, AAHA's Bronze Medal for Distinguished Service to the Aged.

FISCAL YEAR 1970 ADVANCE PROCUREMENT FUNDS FOR FIFTH DXGN

Mr. THURMOND. Mr. President, I want to clarify one item addressed in the Senate Appropriations Committee report concerning nuclear frigates. The report on pages 76 and 78 points out that the committee is recommending $77.9 million for advance procurement funds for nuclear-power guided missile frigates to be built in future years; this is $10 million more than the $67.9 million requested in the revised budget and approved by the House bill. I want to make it clear that the purpose of the additional $10 million is to procure long-leadtime items for the fifth ship of the new class of nuclear frigates called DXGN. The presently approved plan to build four DXGN's will provide, in addition to the nuclear-powered missile ships already funded, nuclear-powered escorts for the *Enterprise* and the *Nimitz*. It is important to get started now on the fifth DXGN; this will be the first nuclear escort for the third nuclear-powered aircraft carrier, CVAN–69.

LETTERS TO THE CLASS OF 1970

Mr. HANSEN. Mr. President, a young man who was born in war-torn Poland, and named Richard H. Eibel, had the fortune to come to the United States, learn the English language, and graduate from college in this country.

Mr. Eibel, having lived in Poland, behind the Iron Curtain, is perhaps better equipped than most young men to compare the conditions in a Communist country with the freedoms of our Nation.

In a letter to the editor of the Washington Star, published December 14, 1969, Mr. Eibel presented his message to the young men and women in college this year. His message is perhaps summed up best in this sentence from his letter:

Be proud to call yourself an American.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

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

LETTER TO THE CLASS OF 1970

SIR: Searching for exotic tid-bits—discarded sticks of chewing gum, half-eaten chocolate bars and unfinished oranges—I found in a trash can a few pages torn out of an American magazine. I will never forget one of its pictures. It haunted me very often during the dark days of my life. The picture showed a large group of well-fed, well-dressed, intelligent-looking, smiling young men standing on a mini-bridge in a park. "That's a graduating class of American college students," explained one of my English-comprehending buddies. Later on, secure in the privacy of my secret hideout on the wooded sea shore, I stared at the picture for hours. Everything in it seemed so different and so distant from the realities of my life. To find myself one day among those happy, elegant young men seemed beyond the scope of my dreams, beyond the limits of my imagination.

"God," I thought, "why was I born here"?

I was a teen ager then, fond of roaming through the drab streets of Gdynia, a war damaged harbor in post-war Poland. My future, I knew, would fall into an entirely different league, beyond any comparison with the glamorous futures of the smiling young men in the picture. I could dream of becoming a shipyard technician, a stevedore foreman, perhaps a local school teacher at the best. It was realistic to assume that I would have to spend my life confined forever to a specific geographic area the size of Ohio or Nebraska, to a specific assortment of the topics which I had a liberty to discuss, never forgetting to stick to a specific slant with which I had to interpret everything.

Even the song ". . . will he be pretty, will he be rich . . ." did not fully apply to me. I could dream of being "pretty" but it was silly to dream of being rich. The ultimate wealth in my eyes, as far as material things were concerned, was to have one presentable suit and enough change to buy a ticket to a movie.

God must have been listening to my laments, or something, for during the past dozen years I overcame the barrier of a carefully-guarded border, wide ocean, English grammar, college tuition, and whatever undesirable conditioning rubbed-off on me while in Poland.

Three years ago I posed for my own graduation picture on an American campus. It was a picture somewhat different from the one that inspired the days of my youth.

The times had changed. There were some happy black faces around me, a sign that the injustices of the past were being erased. Not all of the white young men in my picture, though, were well-dressed and neat. Some of them, putting it bluntly, wore weird clothes and were simply filthy. Their shabby appearance, ironically, was not a result of a depression, a foreign occupation, or any other monumental calamity. The GNP, according to the tale my economics teacher told, had doubled and tripled. In the meantime, the astronauts were on their way to the moon and we, the graduates, in the words of my sociology professors "just qualified to be among the best-educated 10 percent of the richest nation in the world."

So we had a reason to look cheerful but we did not. The long-haired ones glanced at me scornfully. In their eyes I was a freak of nature, a low Polack who invaded what they called "ignorant Middle America." I felt hurt and insulted. They did not believe that I too, had a heart and a conscience, compassion, intelligence and a vision. It was not my fault that they did not go through any real hardships in their lives. Yet they hated me for cherishing the things that they discarded.

Well, so much for whining. My message is this: There is only one real basic conflict in the world today, that is the conflict between the world of totalitarianism and the world of freedom. If your vision is not clear enough to decide which is which, go to where I came from, live there for a while, and you will know.

I hate to sound like a zealot at a patriotic rally, but a spade is a spade.

Be proud to call yourself an American. Put your best suit on for your graduation picture and look neat. Someday some boy somewhere might find it and dream an impossible dream.

RICHARD H. EIBEL.

NEW CARROLLTON, MD.

SECRET SERVICE GUIDELINES: PROTECTION OF THE PRESIDENT AND PROTECTION OF INDIVIDUAL RIGHTS

Mr. ERVIN. Mr. President, a few weeks ago I wrote Secretary of the Treasury Kennedy on behalf of the Constitutional Rights Subcommittee about a so-called guideline recently issued by the Secret Service. This guideline was distributed widely throughout the executive branch. Its apparent purpose is to encourage reports to the Secret Service of information that Government employees will assist the Secret Service in its function of protecting the President.

The guidelines seek information on a wide range of people. To quote from the guideline:

A. Information pertaining to a threat, plan or attempt by an individual, a group, or an organization to physically harm or embarrass the persons protected by the U.S. Secret Service, or any other high U.S. Government official at home or abroad.

B. Information pertaining to individuals, groups, or organizations who have plotted, attempted, or carried out assassinations of senior officials of domestic or foreign Governments.

C. Information concerning the use of bodily harm or assassination as a political weapon. This should include training and techniques used to carry out the act.

D. Information on persons who insist upon personally contacting high Government officials for the purpose of redress of imaginary grievances, etc.

E. Information on any person who makes oral or written statements about high Government officials in the following categories: (1) threatening statements, (2) irrational statements, and (3) abusive statements.

F. Information on professional gate crashers.

G. Information pertaining to "Terrorist" bombings.

H. Information pertaining to the ownership or concealment by individuals or groups of caches of firearms, explosives, or other implements of war.

I. Information regarding anti-American or anti-U.S. Government demonstrations in the United States or overseas.

J. Information regarding civil disturbances.

Potentially, at least, I may qualify under the loosely written and even looser interpreted guidelines the Secret Service has issued. Although I am not a "professional gate-crasher," I am a "malcontent" on many issues. I have written the President and other high officials complaining of grievances that some may consider "imaginary." And, on occasion, I may also have "embarrassed" high Government officials. This statement and my letter to Secretary Kennedy may qualify as such an embarassment. I dare say there may be other Members of this body who also may fall into these categories, as many untold other citizens.

When I wrote Secretary Kennedy, I assured him I have no quarrel with the goal of the Secret Service to protect the President. But I also stated that the guidelines raise serious due process problems, they are impractical, and they threaten a mass surveillance system unprecedented in American history.

Secretary Kennedy has replied to my inquiry, and because I believe his answer concerns every Member of this body and every citizen, I ask unanimous consent that his reply be printed in the RECORD following the conclusion of my remarks, together with my original letter, and the guidelines of the Secret Service which are the subject of our correspondence.

In brief, Secretary Kennedy calls on the authority of the Warren Commission to support this program. He cites the Commission's disapproval of tentative guidelines issued by the Secret Service in 1964 as "unduly restrictive" because they required "some manifestation of animus" by an individual before he could properly be included within the Secret Service surveillance network.

In effect, as Secretary Kennedy's letter demonstrates, the Commission urged the widest possible surveillance in order to reveal malcontents. In the Commission's words:

It will require every available resource of the government to devise a practical system which has any reasonable possibility of revealing such malcontents.

Despite the great reputation of the Commission's Chairman as a protecter of civil liberties, it is clear that the Commission saw no first amendment difficulties in encouraging the most widespread surveillance of which the Government was capable. Even so the Commission recognized no matter how thoroughly the Secret Service did its work that "all potential assassins" could not be discovered.

However sobering this latest effort of the Secret Service and however dangerous it potentially may be to our liberties, we may at least be thankful that, as yet, they have not followed the Warren Commission's urging literally. By urging all possible efforts of surveillance and yet recognizing that absolute safety for the President could never be guaranteed despite those efforts, it is apparent that the Commission's remarks could be used as support for unconstitutional excesses in the name of protecting the President.

The current Secret Service program itself demonstrates how abuses may creep into the best-intentioned surveillance system. First, Secretary Kennedy says that the guidelines were issued only to heads of Federal security and enforcement agencies. Yet clearly, these guidelines have been circulated to all Internal Revenue personnel and not only security offices in that agency. This is because the guidelines are ambiguously addressed to other law enforcement and Government agencies. Considering the importance of the Secret Service mission, it is not surprising that the guidelines have been given widespread, though apparently unintended circulation, throughout the Government.

The guidelines seek a wide variety of information of any tangential significance for discovering possible assassins. Requesting information on people taking part in demonstrations, be they "anti-American," "civil disturbances," or just plain "demonstrations," opens the possibility at least of having everyone of the hundreds of thousands who peacefully marched in recent months entered into Government security computer files. Added to this are the many citizens who write or criticize high Government officials about grievances in terms which somebody in the Government might consider "threatening," "irrational," "abusive," or "embarrassing." Whether or not these people are actually being recorded by the Secret Service, the possibility that they may be may serve to dissuade citizens from legitimate and peaceful exercise of their first amendment rights.

Secretary Kennedy assures that the information coming under these categories will not be rumor or gossip but will be "evaluated." But neither the guidelines nor his letter informs us how this evaluation will be made, or who will do it. It is common knowledge that some law enforcement and investigative agencies as a matter of policy refrain from evaluating information they receive. Thus, there is a danger that the Secret Service will accept as confirmed, information from other sources which is not verified. And it is probably even more misleading if the information the Secret Service receives has been "evaluated" if we have no knowledge of who does the evaluation and on what basis.

Especially disturbing is the fact that the Secret Service is utilizing computers to assist it in this program. Secretary Kennedy states that unauthorized access and use of the data in the computers is not permitted. We can only hope that the measures taken will be adequate. Apparently, the Secret Service computer is not now interconnected with other data banks containing information on individuals. But there is no guarantee this will not happen in the future. Surely it is a logical development if the Secret Service is to do its job as effectively as the Warren Commission suggests. And it is also a frightening possibility, as well.

The Secretary makes clear that individuals are not informed whether their names appear in the computer security files, nor are they told what information is gathered about them. They are given no opportunity to rebut derogatory information until they are arrested. That there is some opportunity to rebut at this stage is scant comfort. We can only speculate on the consequences to an individual which follow his arrest for being a possible danger to the President. It will be little recompense to the victim's reputation if it later turns out this was a mistake and the Secret Service apologizes.

Mr. President, I repeat I have no quarrel with the Secret Service or Secretary Kennedy in their goal. Like every American, I believe that all reasonable steps should be taken to prevent reoccurrences of the tragic assassination of President Kennedy. But these efforts should be taken in full awareness of the actual and potential dangers that mass political surveillance involves for a democracy.

I am thankful that Secretary Kennedy and the Director of the Secret Service are mindful of the problems of computerization, and of the impact that computers have on personal privacy. While I applaud the assurances that the Secret Service will continue to be mindful of individual rights, I am still concerned over this program. I urge that the Secret Service make clear to all its employees and to all recipients of its guidelines the limitations which should be placed upon this effort.

Mr. President, in a slightly broader vein, I might mention that the impact of computers on individual rights and privacy is receiving continued and increased concern not only in this country, but throughout the world. A number of international conferences are planned in the near future, in particular, one in Japan and one in France. In addition, bills seeking to regulate computer invasions of privacy have recently been introduced in Great Britain and in Canada. For the information of the Senate, I ask unanimous consent that these bills be printed at this point in the RECORD.

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

PERSONAL RECORDS (COMPUTERS) BILL (H.L.)

An Act to prevent the invasion of privacy through the misuse of computer information

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temperal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) A register shall be kept by the Registrar of Restrictive Trading Agreements (hereinafter in this Act referred to as "the Registrar") of all data banks as hereinafter defined which are operated by or on behalf of any of the following:—

(a) any agency of central or local government;

(b) any public corporation;

(c) any person exercising public authority;

(d) any person offering to supply information about any other person's creditworthiness, whether to members of a particular trade or otherwise and irrespective of whether payment is made therefor;

(e) any private detective agency or other person undertaking to carry out investigations into any other person's character, abilities or conduct on behalf of third parties;

(f) any person who offers for sale information stored in such data bank, whether to the general public or otherwise.

(2) The register referred to in the foregoing subsection shall contain the following information concerning each data bank:—

(a) the name and address of the owner of the data bank;

(b) the name and address of the person responsible for its operation;

(c) the location of the data bank;

(d) such technical specifications relating to the data bank as may be required by the Registrar;

(e) the nature of the data stored or to be stored therein;

(f) the purpose for which data is stored therein;

(g) the class of persons authorised to extract data therefrom.

(3) The owner of the data bank shall be required to register the information referred to in paragraphs (*a*) to (*c*) of the foregoing subsection. The person responsible for the operation of the data bank shall be required to register the information referred to in paragraphs (*a*) to (*g*) of the forgoing subsection.

(4) Any person responsible for registering information under this section shall be required to inform the Registrar of any alterations of, additions to or deletions from the said information within four weeks of such alteration taking effect, subject to the provisions of subsection (6) below.

(5) If at any time the Registrar is of the opinion that in the circumstances the information given or sought to be given under paragraph (*f*) or (*g*) of subsection (2) above might result in the infliction of undue hardship upon any person or persons or be not in the interest of the public generally, he may order such entry to be expunged from or not entered in the register. In reaching a decision under this or the next following subsection, the Registrar shall be guided by the principle that only data relevant to the purposes for which the data bank is operated should be stored therein, and that such data should only be disclosed for those same purposes.

(6) An alteration to the register in respect of paragraph (*f*) or (*g*) of subsection (2) above shall be made by application to the Registrar who shall, not earlier than four weeks after receipt of such application, grant or reject the application giving his reasons in writing.

(7) The register together with applications submitted in accordance with the last foregoing subsection shall be open to inspection by the public, including the press, during normal office hours:

Provided that entries relating to data banks operated by the police, the security services and the armed forces shall be kept in a separate part of the register which shall not be open to inspection by the public.

2.—(1) This section shall apply to all data banks which are required to be registered under section 1 above except for the following:—

(a) data banks which do not contain personal information relating to identifiable persons;

(b) data banks operated by the police;

(c) data banks operated by the security services;

(d) data banks operated by the armed forces of the Crown.

(2) The operator of each data bank to which this section applies shall maintain a written record in which shall be recorded the date of each extraction of data therefrom, the identity of the person requesting the data, the nature of the data supplied and the purpose for which it was required.

3.—(1) The Registrar shall submit annually to Parliament a report covering the previous calendar year in which he shall state the number of data banks entered on the register, the number of such data banks which fall within the terms of section 2(1)(a) and of section 2(1)(b)(d) respectively and the number of instances in which he ordered entries to be amended under section 1(5) or refused an application to alter an entry under section 1(6).

(2) The Registrar's report may contain such additional information, statistical and otherwise, as the Registrar may think fit.

4.—(1) Any person about whom information is stored in a data bank to which section 2 above applies shall receive from the operator, not later than two months after his name is first programmed into the data bank, a print-out of all the data contained therein which relates to him. Thereafter, he shall be entitled to demand such a print-out at any time upon payment of a fee the amount of which shall be determined by the Registrar from time to time; and the operator shall supply such print-out within three weeks of such demand.

(2) Every print-out supplied in accordance with this section shall be accompanied by a statement giving the following information:

(a) The purpose for which the data contained in the print-out is to be used, as entered on the register referred to in section 1 above;

(b) The purposes for which the said data has in fact been used since the last print-out supplied in accordance with this section;

(c) The names and addresses of all recipients of all or part of the said data since the last print-out supplied in accordance with this section.

5.—(1) Any person who has received a print-out in accordance with section 4 above may, after having notified the operator of the data bank of his objection, apply to the Registrar for an order that any or all of the data contained therein be amended or expunged on the ground that it is incorrect, unfair or out of date in the light of the purpose for which it is stored in the data bank.

(2) The Registrar may, if he grants an order under the foregoing subsection, issue an ancillary order that all or any of the recipients of the said data be notified of the terms of the order.

6.—(1) It shall be an offence, punishable on summary conviction by a fine of not more than £500, or on conviction on indictment by a fine of not more than £1,000 or imprisonment for not more than five years or both, for the owner or operator of a data bank to which this Act applies to fail to register it in accordance with this Act.

(2) If the operator of a data bank to which section 2 above applies—

(a) fails or refuses to send a print-out when under a duty so to do; or

(b) permits data stored in the data bank to be used for purposes other than those stated on the register; or

(c) allows access to the said data to persons other than those entered on the register as having authorized access; or

(d) fails or refuses to comply with a decision of the Registrar, he shall be liable in damages to the person whose personal data is involved and, where such acts or omissions are wilful, shall be liable on summary conviction to a fine of not more than £500 and on conviction on indictment to a fine of not more than £1,000 or imprisonment for not more than five years or both.

(3) A person who aids, abets, counsels or procures the commission of an offence described in this section or with knowledge of its wrongful acquisition receives, uses, handles, sells or otherwise disposes of information obtained as a result of the commission of such an offence, shall likewise be guilty of the said offence.

7. An operator of a data bank to which this Act applies who causes or permits inaccurate personal data to be supplied from the data bank as a result of which the person to whom the data refers suffers loss, shall be liable in damages to such person.

8. The Register may make rules relating to the implementation of any part or parts of this Act and in particular relating to—

(a) the keeping of the register and records referred to in sections 1 and 2 above;

(b) access by the public to the register referred to in section 1 above;

(c) procedure on hearing objections and argument on a proposal to alter or expunge from the register under subsection 5 of section 1 above;

(d) procedure on application to alter the register under subsection 6 of section 1 above;

(e) verification of the identity of a person demanding a print-out in accordance with section 4 above.

9. An appeal shall lie to the High Court from any decision made by the Register under this Act.

10. In this Act, the following terms shall have the meanings hereby respectively assigned to them, that is to say—

"data" means information which has been fed into and stored in a data bank;

"data bank" means a computer which records and stores information;

"operator" means the person responsible for the operation of a data bank and for the introduction into and extraction from it of data;

"owner" means the person who owns the machinery comprising the data bank;

"print-out" means a copy of information contained in the data bank supplied by the computer and translated into normal typescript.

11. There shall be paid out of moneys provided by Parliament any expenses incurred by the Registrar attributable to the provisions of this Act.

12.—(1) This Act may be cited as the Personal Records (Computers) Act 1969.

(2) This Act shall come into force on the first day of July 1970.

(3) This Act shall extend to Northern Ireland.

BILL 182—AN ACT TO PROVIDE FOR DATA SURVEILLANCE

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

(a) "data" means information that has been fed into and stored in a data bank;

(b) "data bank" means a computer that records and stores information;

(c) "Minister" means the Minister of Financial and Commercial Affairs;

(d) "operator" means the person responsible for the operation of a data bank and for the introduction into and extraction from it of data;

(e) "owner" means the person who owns the machinery comprising the data bank;

(f) "print-out" means a copy of information contained in the data bank supplied by the computer and translated into normal typescript;

(g) "Registrar" means the Registrar of Data Banks.

2. There shall be appointed a Registrar of Data Banks.

3.—(1) A register shall be kept by the Registrar of all data banks operated by,

(a) The Government of the Province of Ontario or any board, commission or agency thereof;

(b) a local municipality or any board, commission or agency thereof;

(c) any person offering to supply information about any other person's credit worthiness, whether to members of a particular trade or otherwise and irrespective of whether payment is made therefor;

(d) any private investigator or other person undertaking to carry out investigations into any other person's character, abilities or conduct on behalf of third parties;

(e) any person who offers for sale information stored in such data bank, whether to the general public or otherwise.

(2) The register shall set forth in respect of each data bank,

(a) the name and address of the owner of the data bank;

(b) the name and address of the person responsible for its operation;

(c) the location of the data bank;

(d) such technical specifications relating to the data bank as may be required by the Registrar;

(e) the nature of the data stored or to be stored therein;

(f) the purpose for which data is stored therein; and

(g) the class of persons authorized to extract data therefrom.

(3) The owner of the data bank shall furnish to the Registrar the information referred to in clauses a to c of subsection 2 and the person responsible for the operation of the data bank shall furnish the information referred to in clauses a to g of subsection 2.

(4) Subject to subsection 6, any person responsible for registering information under this section shall inform the Registrar of any alterations of, additions to or deletions from the said information within four weeks of such alteration taking effect.

(5) If at any time the Registrar is of the opinion that in the circumstances the information given or sought to be given under clause f or g of subsection 2 might result in the infliction of undue hardship upon any person or persons or be not in the interest of the public generally, he may order such entry to be expunged from or not entered in the register and in reaching a decision under this subsection or subsection 6, the Registrar shall be guided by the principle that only data relevant to the purposes for which the data bank is operated should be stored therein, and that such data should only be disclosed for those same purposes.

(6) An alteration to the register in respect of clause f or g of subsection 2 shall be made by application to the Registrar who shall, not later than four weeks after receipt of such application, grant or reject the application giving his reasons in writing.

(7) The register together with applications submitted in accordance with subsection 6 shall be open to inspection by the public, including the press, during normal office hours, provided that entries relating to data banks operated by a police force shall be kept in a separate part of the register which shall not be open to inspection by the public.

4.—(1) This section applies to all data banks that are required to be registered under section 2 except for,

(a) data banks which do not contain personal information relating to identifiable persons; and

(b) data banks operated by a police force.

(2) The operator of each data bank to which this section applies shall maintain a written record in which shall be recorded the date of each extraction of data therefrom, the identity of the person requesting the data, the nature of the data supplied and the purpose for which it was required.

5.—(1) Any person about whom information is stored in a data bank to which section 4 applies shall receive from the operator, not later than two months after his name is first programmed into the data bank, a print-out of all the data contained therein which relates to him and thereafter, he shall be entitled to demand such a print-out at any time upon payment of a fee the amount of which shall be determined by the Registrar from time to time, and the operator shall supply such print-out within three weeks of such demand.

(2) Every print-out supplied in accordance with this section shall be accompanied by a statement setting forth,

(a) the purpose for which the data contained in the print-out is to be used, as entered on the register referred to in section 3;

(b) the purposes for which the said data has in fact been used since the last print-out supplied in accordance with this section; and

(c) the names and addresses of all recipients of all or part of the said data since the last print-out supplied in accordance with this section.

6.—(1) Any person who has received a print-out in accordance with section 5 may, after having notified the operator of the data bank of his objection, apply to the Registrar for an order that any or all of the data contained therein be amended or expunged on the ground that it is incorrect, unfair or out of date in the light of the purpose for which it is stored in the data bank.

(2) The Registrar may, if he grants an order under subsection 1, issue an ancillary order that all or any of the recipients of the said data be notified of the terms of the order.

7. An appeal lies to the Court of Appeal from any decision made by the Registrar under this Act.

8. An operator of a data bank to which this Act applies who causes or permits inaccurate personal data to be supplied from the data bank as a result of which the person to whom the data refers suffers loss, shall be liable in damages to such person.

9.—(1) Every person who fails to furnish to the Registrar any information that he is required to furnish under this Act in respect of a data bank is guilty of an offense and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for not more than five years, or to both.

(2) Where the operator of a data bank to which section 4 applies,

(a) fails to refuse to send a print-out when under a duty so to do;

(b) permits data stored in the data bank to be used for purposes other than those stated on the register;

(c) allows access to the said data to persons other than those entered on the register as having authorized access; or

(d) fails to refuse to comply with a decision of the Registrar.

he shall be liable in damages to the person whose personal data is involved and, where such acts or omissions are willful, is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for not more than five years, or to both.

(3) A person who aids, abets, counsels or procures the commission of an offence described in this section or with knowledge of its wrongful acquisition receives, uses, handles, sells or otherwise disposes of information obtained as a result of the commission of such an offence, shall likewise be guilty of said offence.

10. The Minister, subject to the approval of the Lieutenant Governor in Council, may make regulations,

(a) prescribing the manner of keeping the register and the records referred to in sections 3 and 4;

(b) regulating and governing access by the public to the register;

(c) prescribing procedures for hearing objections and argument on a proposal to alter or expunge from the register under subsection 5 of section 3;

(d) prescribing procedures on an application to alter the register under subsection 6 of section 3;

(e) providing for verification of the identity of a person demanding a print-out under section 5.

11.—(1) The Registrar shall make an annual report to the Minister in which he shall state,

(a) the number of data banks entered on the register;

(b) the number of data banks to which clauses a, b and c of subsection 1 of section 4 apply respectively;

(c) the number of instances in which he has ordered entries to be amended under subsection 5 of section 3 and refused an application to alter an entry under subsection 6 of section 3; and

(d) such additional information, statistical or otherwise, as he may think proper.

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Legislative Assembly if it is in session, or if not, at the next ensuing session.

12. This Act comes into force on the first day of July, 1970.

12. This Act may be cited as The Data Surveillance Act, 1968–69.

Mr. ERVIN. Mr. President, I also ask unanimous consent that my letter to the Secretary of the Treasury and his reply to me be printed at this point in the RECORD.

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

NOVEMBER 10, 1969.

Hon. DAVID M. KENNEDY,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: In connection with the Constitutional Rights Subcommittee's study of data banks and individual privacy, I have been seriously concerned about the guidelines issued by the Secret Service to encourage federal employees' reporting on private citizens for a vast number of reasons. I discussed this last week in a speech on "Computers and Individual Privacy", a copy of which is enclosed for your use.

I have no quarrel with the goal of the Secret Service to perform their duties efficiently. It is clear, however, to anyone educated in our constitutional form of government, that the criteria for filing information about individuals are questionable from a due process standpoint; are impractical; and are conducive to a mass surveillance unprecedented in American history.

Your attention is directed to such examples in the guideline as the invitation to Civil Service workers throughout government to supply.

1. Information about individuals who "make oral or written statements about high government officials in the following categories":

1. Threatening statements.
2. Irrational statements.
3. Abusive statements.

2. Information on professional gate crashers.

3. Information on persons who insist upon personally contacting high Government officials for the purpose of redress of imaginary grievances, etc.

4. Information pertaining to a threat, plan or attempt by an individual, a group, or an organization to physically harm or *embarrass* the persons protected by the U.S. Secret Service, or any other high U.S. Government official at home or abroad.

5. Information about people who take part in demonstrations.

Many people, with complete faith in their government, believe that the place to start with a complaint is with the President or Vice President. Yet some of these people who write a strong letter will never know they have been fed into yet another government data system. Similarly, thousands of well-meaning, loyal Americans have engaged in some form of demonstration in connection with the Vietnam war, welfare and civil rights policies of the government, and many other causes.

What the Subcommittee wishes to know in order to respond to complaints about this surveillance is:

Are these records now to be part of standard employment checks for (a) suitability and (b) security clearances? What standards have been promulgated by the Secret Service for maintaining such a data bank? Will this information be computerized? Will it be available for use by other federal agencies? If so, which ones?

What procedures have been established for (1) Preserving the confidentiality of this data; (2) affording citizens subject to such a report the opportunity to review their files and to rebut derogatory information?

Would you also supply copies of any published federal regulations governing this data bank and its use.

Your assistance in our study is appreciated.

With all kind wishes, I am

Sincerely yours,

SAM J. ERVIN, Jr.,
Chairman.

THE SECRETARY OF THE TREASURY,
Washington, D.C., November 21, 1969.

Hon. SAM J. ERVIN, Jr.,
Chairman, Subcommittee on Constitutional Rights, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In reply to your letter of November 10, 1969, concerning the United States Secret Service Liaison Guidelines, I believe that certain background information is pertinent to your inquiry.

After the assassination of President Kennedy, the Secret Service expanded its intelligence gathering capabilities in its efforts to identify potential assassins and other persons similarly dangerous to individuals protected by the Secret Service. In June 1964 the Secret Service sent to a number of law enforcement and intelligence agencies Guidelines describing the nature of information wanted by the Secret Service, believed to be helpful in identifying such potentially dangerous persons.

Those 1964 Guidelines issued by the Secret Service were reviewed by the Warren Commission. The Commission report stated in effect that even with the advantage of hindsight, the letter Oswald wrote to the Secretary of the Navy would not appear to express or imply Oswald's "determination to use a means other than legal or peaceful to satisfy his grievance" within the meaning of the 1964 Guidelines criteria.

The Commission concluded:

"While these tentative criteria are a step in the right direction, they seem unduly restrictive in continuing to require some manifestation of animus against a Government official." (p. 462)

The Commission recommended continuing study to develop adequate criteria, but recognized "that no set of meaningful criteria will yield the names of all potential assassins." (p. 463)

The Commission further stated that:

"It will require every available resource of our Government to devise a practical system which has any reasonable possibility of revealing such malcontents." (p. 463)

It is within the framework of the Commission's recommendations for expanded intelligence gathering that the Secret Service has been developing its Guidelines criteria. The U.S. Secret Service Liaison Guidelines were issued to Federal enforcement and security agencies and were addressed to the heads of the Enforcement and Intelligence Branches of those agencies for their guidance. The Secret Service neither requested nor intended that the Guidelines be furnished to Civil Service workers throughout the Government.

It was the opinion of the Secret Service that information coming to it through a law enforcement agency would receive some evaluation and the Service would not receive gossip, rumors, etc. Law enforcement and security agencies are familiar with the specific requirements of the Service.

Concerning language, the Secret Service does not recall ever having requested "information about people who take part in demonstrations," It has, in its Guidelines, requested "information regarding civil disturbances" and information concerning anti-American and anti-Government demonstrations in the United States and overseas. You will realize, of course, that this information is sought relative to the safety of the President when traveling, and this information is important and used only in the time frame of Presidential travel.

The other four examples of information listed in your letter continue to be sought by the Secret Service from law enforcement agencies that have such information.

In response to the specific questions posed in your letter, the Secret Service receives a great deal of information from law enforcement agencies, Federal, State, and local, as a result of these Guidelines, as a result of its liaison, and as a result of the interest law enforcement has in the responsibilities of the Secret Service. The great majority is disregarded unless it has some direct bearing on the safety of the President or the others for whom the Secret Service has responsibility. The Secret Service wishes that it could receive and process only that information which has a direct bearing on the safety of the President. Despite continuing search and review, it has not, as yet, the means to define the precise criteria which could be furnished to others which would identify, in advance, a potential assassin.

A portion of the Secret Service files has been computerized. The computerized file is dedicated to providing support to the protective mission. Data placed in the computer files is furnished primarily by special agents of the Intelligence Division of the Secret Service, acting in their capacity as intelligence analysts. The computer operation and data files are situated in a secure environment under 24-hour, seven-day-per-week, security surveillance. All personnel engaged in the operation have Top Secret clearance. Access to data contained in the computer files can be made only by Secret Service computer personnel acting upon the request of a supervisor in the Intelligence Division. Intelligence information provided as a result of such requests is furnished to the Special Agent in Charge, Intelligence Division, for his evaluation and action.

At this time there is no direct access capability to the computer files from outside of the Data Systems Division. All responses to authorized Secret Service requests of the computerized intelligence data base, will be channeled to the Intelligence Division for appropriate evaluation and action. No other agency will have direct access capability to the Secret Service computer.

There is no procedure established for affording a citizen who is a subject of a Secret Service report the opportunity to review his file. The opportunity to rebut derogatory information is afforded him before the information is used in an accusatory proceeding (arrest or commitment). Information accuracy is verified during an interview with the subject, at which time the opportunity for rebuttal is given.

The records maintained by the Secret Service are not part of any standard employment checks for suitability and security clearances, but the names of persons or employees who may be required to be in the vicinity of the President are checked against Secret Service records.

The Director of the Secret Service and I share your concern with the problems involved in the computerization of information and the problems of individual privacy. I know of no other government agency which has a greater regard for individual rights than has the Secret Service, and I share with you the belief that we must support them fully in their awesome task of protecting the President.

I assure you that the controversy concerning Guidelines issued by the Secret Service is a result of a misunderstanding as to their application and that no mass surveillance of our citizens will be condoned, nor was it intended, and that no citizen's constitutional rights and privileges will be in jeopardy as a result of actions contemplated by the Secret Service under the published Guidelines.

Sincerely,

DAVID M. KENNEDY.

U.S. SECRET SERVICE LIAISON GUIDELINES

Subject to the direction of the Secretary of the Treasury, the United States Secret Service is charged by Title 18, U.S. Code, Section 3056, with the responsibility of protecting the person of the President of the United States, the members of his immediate family, the President-Elect, the Vice President, or other officer next in the order of succession to the Office of President and the Vice President-Elect; protect the person of a former President and his wife during his lifetime, the person of the widow of a former President until her death or re-marriage, and minor children of a former President until they reach 16 years of age, unless such protection is declined, protect persons who are determined from time to time by the Secretary of the Treasury, after consultation with the Advisory Committee as being major Presidential and Vice Presidential candidates which should receive such protection (unless the candidate has declined such protection).

Detecting and arresting any person committing any offense against the laws of the United States relating to coins, obligations, and securities of the United States and foreign Governments. Several other responsibilities are delegated to the U.S. Secret Service by the Secretary of the Treasury, such as investigation of violations of the Gold Reserve Act, and such other functions as are authorized by law.

Effective liaison with other law enforcement and Government agencies is necessary to insure we receive all information they may develop regarding any of our responsibilities. A Special Agent of the Liaison Division, U.S. Secret Service, will maintain contact with your agency at a headquarters level. Certain

guidelines are set forth below which may assist you in determining our interests.

1. PROTECTIVE INFORMATION

A. Information pertaining to a threat, plan or attempt by an individual, a group, or an organization to physically harm or embarrass the persons protected by the U.S. Secret Service, or any other high U.S. Government official at home or abroad.

B. Information pertaining to individuals, groups, or organizations who have plotted, attempted, or carried out assassinations of senior officials of domestic or foreign Governments.

C. Information concerning the use of bodily harm or assassination as a political weapon. This should include training and techniques used to carry out the act.

D. Information on persons who insist upon personally contacting high Government officials for the purpose of redress of imaginary grievances, etc.

E. Information on any person who makes oral or written statements about high Government officials in the following categories: (1) threatening statements, (2) irrational statements, and (3) abusive statements.

F. Information on professional gate crashers.

G. Information pertaining to "Terrorist" bombings.

H. Information pertaining to the ownership or concealment by individuals or groups of caches of firearms, explosives, or other implements of war.

I. Information regarding anti-American or anti-U.S. Government demonstrations in the United States or overseas.

J. Information regarding civil disturbances.

2. COUNTERFEITING AND FORGERY INFORMATION

A. Information regarding counterfeiting of U.S. or foreign obligations, i.e., currency, coins, stamps, bonds, U.S. Treasurer's checks, Treasury securities, Department of Agriculture food stamp coupons, etc.

B. Information relating to the forgery, alteration and fraudulent negotiation of U.S. Treasurer's checks and U.S. Government bonds.

3. GOLD AND "GOLD COIN" INFORMATION

A. Gold regulations prohibiting the acquisition, holding, transportation, importing, and exporting of gold by persons subject to the jurisdiction of the United States. Gold in its natural state may be purchased, held, sold or transported within the United States and may also be imported without a license.

B. Gold coins of recognized special value to collectors may be acquired, held and transported within the United States and may be imported as permitted by the gold regulations.

Routine reports may be mailed to the U.S. Secret Service, Liaison Division, Room 825, 1800 G Street, N.W., Washington, D.C. 20226, or handled during personal liaison contact.

Emergency information, especially in reference to Presidential protection, should be reported immediately by telephone to the nearest U.S. Secret Service field office, or the U.S. Secret Service Intelligence Division, Washington, D.C. Area Code 202–WO 4–2481; (Government Code 184–2481).

GRAZING FEES

Mr. MONTOYA. Mr. President, I am most pleased to advise that I have received a letter from the Office of the Secretary of the Interior indicating that the Interior Secretary has reached decision to postpone for 1 year—the grazing use year beginning March 1, 1970—implementation of the proposed 400-percent increase in grazing fees established by regulations published on January 10, 1969.

Following publication of those regulations, I introduced, on February 18, 1969, legislation (S. 1063) proposing that the scheduled increases in grazing fees be rescinded for at least 2 years to: First, provide time for the Public Land Law Review Commission—PLLRC—to report to Congress on changes necessary to properly administer our public lands to the best advantage of all concerned; and second, give Congress sufficient time for a full review of the many unanswered questions and dangers to our livestock producers through promulgation of these fee increases.

At that time, I also directed letters to the Secretaries of the Interior and Agriculture vigorously urging that they give serious consideration to administratively suspending the promulgation of these grazing fee increases until full study could be made of the implications of such increases on our agricultural producers, the business community dependent upon their trade, and society in general.

I believe the Interior Department has made a wise decision in taking administrative action to delay implementation of the proposed fee increases until the views of the PLLRC are known and have been evaluated. The PLLRC is scheduled to complete its report on June 30, 1970, and its conclusions are of the utmost importance before decision is finally rendered on the propriety of the 1969 fee schedules.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the letter I received from the Office of the Secretary of the Interior, together with the notice of proposed rulemaking which invites comments and suggestions from interested persons within 30 days of publication of the notice.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., December 9, 1969.

Hon. JOSEPH M. MONTOYA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONTOYA: Being well aware of your great interest in the grazing fee structure and policy in relation to the public lands, we are enclosing for your information a copy of the proposed rulemaking which was published in the Federal Register on December 4, 1969.

As you know, the Public Land Law Review Commission is presently studying the matter and will make its recommendations thereon during calendar 1970. In view of this situation and the great interest this Department has in the results of the Commission's work, we have thought it appropriate to delay implementation of the next increment until the views of the Commission are known and have been evaluated. At that time, this Department will take such further action as it may determine to be proper.

We appreciate your interest and will be glad to receive your views in connection with this proposed rule.

Sincerely yours,

HARRISON LOESCH,
Assistant Secretary.

NOTICE OF PROPOSED RULEMAKING

Basis and purpose. Notice is hereby given that pursuant to authority vested in the Secretary of the Interior by the Act of June 28, 1934, as amended (48 Stat. 1270; 43 U.S.C. § 315), it is proposed to amend and revise the regulations as set forth below.

The purpose of this change is to defer for one year (the grazing use year beginning March 1, 1970) the implementation of annual increment to the range forage fees, in order to permit time for the consideration of the report of the Public Land Law Review Commission.

It is the policy of the Department, whenever practicable, to afford the public an opportunity to participate in the rule-making process. The Department also desires to conform to the provisions of § 18(b) of the Act of June 28, 1934, as amended (48 Stat. 1270; 43 U.S.C. § 315o–1), which provides in part that, except in a case wherein the judgment of the Secretary an emergency shall exist, the Secretary shall request the advice of the advisory board in advance of the promulgation of any rules and regulations affecting the district.

Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Bureau of Land Management, Washington, D.C. 20240, within thirty (30) days of publication of this notice in the Federal Register.

Sub-subparagraph (ii) of subparagraph (1) of paragraph (k) of § 4115.2–1 is amended as follows:

§ 4115.2–1 License and permit procedures; requirements and conditions.

* * * * *

(k) *Fees, payments and refunds.*—(1) *Fees.*

* * * * *

(ii) Fees will be established by the Secretary in 9 equal annual increments, effective with the grazing use year beginning March 1, 1971, to attain the fair market value of range forage at the 1970 grazing use year. Fair market value is that value established by the Western Livestock Grazing Survey of 1966 or as determined by a similar duty which may be conducted periodically to update the fee base, if deemed necessary. Annual adjustments may also be made for any of the 1970–79 grazing use years, and thereafter, to reflect current market values.

THE LIBERTIES OF ALL MEN

Mr. HANSEN. Mr. President, the Washington Star, on December 14, 1969, published an editorial entitled "The Law, Anarchy, and Civil Disobedience."

The editorial commends the National Commission on the Causes and Prevention of Violence for its majority agreement that even "nonviolent civil disobedience could lead to anarchy in the United States."

The editorial contends that those who seek to change the laws through means other than the due process of established law endanger the very "rule of law which in the end is the only guarantor of the liberties of all men, including dissenters."

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:

THE LAW, ANARCHY AND CIVIL DISOBEDIENCE

By a 7–6 vote, the National Commission on the Causes and Prevention of Violence, whose 338-page report is published this weekend, has concluded that nonviolent civil disobedience could lead to anarchy in the United States. We agree.

Predictably, five of the six dissenters are younger than the seven who form the majority. Equally understandably, the two black members of the commission found them-

selves in the minority. As they rightly put it, progress in the civil rights field over the past 15 years almost certainly would have been slower but for the activism of those who flouted unjust laws.

But the fact that the vote could not have been closer, and that the members of the majority happen to be white and a few years older than the dissenters, does not invalidate the logic of their findings.

The argument between the disciples of law and the advocates of that untrammeled liberty which verges on license is as old as the human race. More recently, that is what the French Revolution—but not its American predecessor—was all about.

Insofar as theory is concerned, the side one takes is largely dictated by one's opinion of the nature of man. Those meliorists who—despite events since 1914—still believe in the perfectibility of man and in the inherent repressiveness of institutions are free, like Rousseau, to indulge in fantasies of absolute liberty.

Philosophers such as Burke—and we and the majority of the commission are with him—knowing man's nature to be violent and his appetites to be voracious, viewed civilization as possible only within a framework of carefully guarded institutions and respected laws.

The latter view does not and cannot preclude either the desirability or the inevitability of change. Freedom, social progress and economic development cannot continue to exist without constant examination and renewal of the foundations which make them possible. Men were not placed upon this earth to chew thoughtlessly like cattle upon the cud of passivity.

While the law cannot countenance it, there is a moral case to be made for the citizen who practices nonviolent civil disobedience in protest against what he conceives to be a particular evil in the social order.

His action should be the result of earnest and honest consideration and is permissible, as Terence Cardinal Cooke, one of the minority, puts it, "only as a last resort to obtain justice when all other remedies available in our system of representation" have been exhausted. The dissenter must be fully prepared to accept the legal consequences.

It is this form of protest which the commission's minority defends—and, in that context, rightly so.

But what is developing in this country today is another form of protest: A generalized, aimless, across-the-board attack on the very concept of order. Such indiscriminate squandering of the precious moral capital of civil disobedience debases the value of the act. This is not the exercise of responsible conscience; it is a cop-out on responsibility. It is doubtful whether any society can long survive in a climate of contempt for its own legal framework. This is the mood and attitude which the majority of the commission properly condemned.

The notion that men have a mass of inalienable rights which outweighs their duties to society dates largely from the publication in 1792 of Thomas Paine's "Rights of Man." It is worth noting that the French Revolution which gave political form to Paine's theories resulted in his imprisonment.

And that is the lesson which the majority of the commission is trying to get across to millions of restless young people. By combating what they hold to be hypocrisy and indifference with civil disobedience, they are forging not the foundations of a better world but their own shackles and those of their children.

As the majority of the commission puts it, "erosion of the law is an inevitable consequence of widespread civil disobedience." The consequences are clear: "Violators must ponder the fact that once they have weakened their judicial system, the very ends they sought to attain—and may have attained—cannot be preserved."

The entire commission, including the two black members, came to the conclusion that when civil disobedience "creates social disorder, even the most sympathetic are forced to judge whether and to what extent the ends sought justify the means that are being used."

Another difficulty recognized by Dr. Milton S. Eisenhower and his twelve colleagues is that "the law cannot distinguish between the consciences of saints and sinners." While a moral distinction may exist between the youngster who burns his draft card and the Southern governor who "bars the schoolhouse door" to black children, their actions are equally illegal. And each tends to place in contempt not only the law objected to but all laws.

We believe, as does the commission, that the majority of young dissenters in this country are acting on generous impulses in an attempt to recall this nation to the ideals upon which it was founded. But we have to go along with the commission in its finding that "what is occurring in the United States today will lead to the conclusion that disobedience to valid law as a tactic of protest by discontented groups is not contributing to the emergence of a more liberal and humane society, but is, on the contrary, producing an opposite tendency."

To those "dark forces" which consciously seek not the reform but the destruction of society and its institutions we have nothing to say. Except this: They shall not succeed. Not because of the power of the current establishment, but because the coming generation of Americans, despite the confusions and the contradictions of the hour, is intelligent enough to realize that tyranny, rather than freedom, is the child of anarchy.

When men draw together to form governments which pass laws formulating the social contract to which men subscribe for their common good and mutual protection, there is an inherent, voluntary abridgment of men's rights. We agree, for instance, not to murder each other. The Tate murders have violated that agreement, therefore society will punish them.

But if man has duties, he also has rights. At this troubled time in our history, all of us would do well to reflect upon what those rights might be. Few men have done so in a clearer and more down-to-earth fashion than Burke in the 18th Century:

"Men have a right to live by that rule (of law); they have a right to do justice, as between their fellows, whether their fellows are in public function or in ordinary occupation. They have a right to the fruits of their industry, and to the means to make their industry fruitful. They have a right to the acquisitions of their parents; to the nourishment and improvement of their offspring; to instruction in life, and to consolation in death. Whatever each man can separately do, without trespassing upon others, he has a right to do for himself."

Man, poor creature that he is, lives but a short time, prey to the passions of the moment and to his own self-limiting ignorance. But institutions and laws endure. They are the product not alone of our own intelligence but of the tested wisdom of generations past. They are the only meaningful legacy we have to leave to those who will come after us. Thus it is not for any generation to destroy that which it has not made and of which, as such, it is not full owner.

Burke was a conservative. The Star is conservative. But it is important to understand what we are dedicated to conserving. We are not here to conserve privilege or to defend inequity. Rather the opposite. We are here to preserve that rule of law which in the end is the only guarantor of the liberties of all men, including dissenters.

THE COMPARABILITY PAY BILL: SOMETHING IS BETTER THAN NOTHING

Mr. HARTKE. Mr. President, I wish first to congratulate the chairman of the Post Office and Civil Service Committee, the senior Senator from Wyoming (Mr. McGEE), and the ranking minority member, the Senator from Hawaii (Mr. FONG), for their yeoman service in bringing H.R. 13000 to passage by the Senate in such an efficient and expeditious fashion.

Although the Senator from Wyoming has been chairman of the Post Office and Civil Service Committee for a relatively short time, he has demonstrated not only to the members of the committee, but I think also to the entire Senate as well, his complete grasp of problems relating to Federal employees, and also to the many difficult and complex issues relating to the Post Office Department.

I know that Senator McGEE and Senator FONG have worked practically around the clock, including weekends, for the past several weeks, with representatives of postal unions and other Federal groups, in order that a meaningful pay bill be reported and acted upon by the Senate before the Christmas holidays. Their objective was, and still remains, to give postal and other Federal employees, especially those in the lower grades, a pay raise which would provide salaries commensurate with the important duties and responsibilities they provide our Nation.

Their initial decision to separate salary legislation from legislation pertaining to postal reform, is one that I have supported since the two were joined together in several House measures. It was my feeling, as I am sure it was the feeling of Senator McGEE and Senator FONG, that each issue was separate and distinct from the other, and each must rise or fall on its own merits.

The decision to include the vast majority of Federal employees in this pay bill was a wise and prudent one, which I think the Senate should be quite grateful for. We simply cannot give a pay raise to one group of employees and not to the other. We have tried that system before, and the results have not been favorable.

I want the record clearly to show my strong disappointment over this meager, barebones, 4-percent pay increase which we gave the Nation's dedicated Federal employees. I think the majority of my colleagues on the committee feel the same—it simply is not enough. However, it is a tribute to the members of the committee and the able chairman, that the committee was concerned with reporting out a realistic pay bill which would be acceptable to the administration, rather than a measure which contained a higher percentage increase, but most certainly would have been vetoed by the President. No one here has gained a great victory by recommending a pay increase of 4 percent to the Senate for our Federal employees. The old saying, that "something is better than nothing," could never be more appropriate.

The rationale used by the administration for threatening to veto anything above 4 percent is that it helps to feed the fires of inflation. If this were truly

the case, I would have reluctantly voted against any type of pay raise for Government workers. It is my view, however, that in actuality, the opposite is the case. Statistics have been gathered clearly showing that the Government is spending huge sums of money to replace employees who have left for "greener pastures." Federal employees are today using their Government job only as a temporary stopover point until they can obtain a more satisfactory economic position in private industry.

Supporting this view are the comments by the President's Commission on Postal Organization, which stated in its report of June 1968 that "a single startling statistic summarized postal career prospects: Eight out of every 10 postal workers enter and retire from the service at the same grade level." It further pointed out that "about 85 percent of all postal workers are in the lowest five levels with a top annual salary of $8,094 after 21 years of service."

Those in the service prior to 1962 must serve 25 years before they qualify for entrance into the top step. I think this is a national tragedy, and as much as I do not like to see them leave the Federal service, I cannot say that I blame them. Their Government asks that they perform their task in a professional manner, and in all types of adverse conditions, yet that very same Government will not respond to their economic needs.

One need only to review the pay scale of airline ticket agents, truckdrivers, and most employees of major cities to realize how grossly inadequate and unjust is the pay of Federal workers.

I am afraid that much of the current problem of poor morale within the rank and file of Federal workers stems from the so-called doctrine of comparability instituted in 1967 to bring Federal salaries in line with their counterparts in private industry. While I believe the concept of comparability is a good one, the actual implementation of it has been by and large a failure, creating more problems than it has solved.

The 1967 Comparability Act involves the decisions of three institutions: The Bureau of the Budget, the Civil Service Commission, and the Bureau of Labor Statistics. Of the three, the Bureau of the Budget has played a most important—and in this case, the most oppressive—role, with its tremendous influence with the White House and other agencies. The second most important role was played by the Civil Service Commission, which selected the occupations to be surveyed.

Both the Bureau of the Budget and the Civil Service Commission should have prescribed occupations in private enterprise comparable to occupations in the Postal Field Service. There are many of them and they could have been easily identified.

Throughout the history of the Comparability Act it has been apparent that the Bureau of the Budget interpreted the law in a way highly detrimental to employees in the lowest grades, specifically GS–1 through GS–6.

But the majority of Federal workers fall into the GS–1 to GS–6 range. The salaries and lives of well over 650,000 Federal workers fall within this range, and they are the ones who have suffered the most.

The other unfortunate aspect of the Comparability Act in trying to adjust Federal salaries is the slowness with which Congress receives the Bureau of Labor Statistics reports which are the basis for salary adjustments. Six months to a year lag is considered to be average. This lag, however, coupled with long months of legislative hearings in both Houses of Congress, usually means BLS statistics can be as much as 2 years old when a final measure is signed into law. This method of determining meaningful and equitable salary adjustments is outdated, and a more equitable method must be used if the Government is to hire and retain the type of individual our Nation requires.

In summary, Mr. President, I know that not only the members of the Post Office and Civil Service Committee, who worked so diligently to bring this bill before the Senate, but also the majority of the Members of this body, will not be pleased with this token 4-percent raise for our Nation's Government employees. But in view of the overriding possibility of a Presidential veto of anything above 4 percent, we had to enact this legislation as quickly as possible and now must continue to work to provide Federal workers with the wages to which they are entitled.

INFLATION AND HIGH INTEREST RATES

Mr. HARRIS. Mr. President, the alarm grows daily in this country at the inability of this administration to come to grips with increasing inflation and high interest rates.

There have been optimistic predictions from the administration from time to time, but to date there has not been the kind of positive action which is required.

The noted columnist Clayton Fritchey, in the Washington Star of Friday, December 12, has detailed the administration's optimistic words and lack of results. I ask unanimous consent that that column be printed in the RECORD.

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

INFLATION IS THRIVING, DESPITE NIXON PROGNOSIS

(By Clayton Fritchey)

This is a report on the progress of the Nixon administration's fight against inflation during its first year in office.

The President's intention to halt and roll back inflation was made clear in a campaign statement last year (on Labor Day) in which he condemned Lyndon Johnson for practicing "the politics of inflation—the curse of the working man." At that time inflation was running at an annual rate of 4 percent. Now, 16 months later, the rate has climbed to almost 6 percent, highest since the Korean war.

Since the inauguration of the new administration, it has repeatedly assured the public that its anti-inflation program was working and that relief was just around the corner. As far back as April, Treasury Secretary David Kennedy was saying, "In the next few months we will be seeing clear signs of a turn . . ."

In August, this refrain was echoed by Paul McCracken, chairman of the President's Council of Economic Advisers, Federal Reserve Board Chairman William Martin, and Ronald Ziegler, Nixon's press secretary. The "indicators," Ziegler summed up, "are beginning to look encouraging."

The Consumer Price Index (the nation's best barometer on the cost of living) told a different story. In August, it shot up another 0.4 percent. In September, when McCracken found new "evidence of cooling off," the index again climbed, this time by 0.5 percent. Also, on Sept. 11, General Motors announced the steepest price rise for its cars in a decade. And on Sept. 17 the interest rate on U.S. notes shot up to 8 percent, the highest in 110 years.

On Oct. 14, Nixon told Republican congressional leaders that "we have turned the corner of inflation," and on Oct. 17, in a national radio address, he told the public that "we are on the road to recovery from the disease of runaway prices." On Oct. 20 the Consumer Price Index again went up by another 0.4 percent. Worse, the wholesale price index climbed an ominous 0.4 percent, or double the 0.2 percent of September.

In November, it was the same story. The President told 2,000 businessmen that "we see the first signs that our policies are working." He was "optimistic" because "we are doing the right thing . . ." But the cost of living still went up, especially for food and housing, and, in the wake of a new round of wage increases, it will go still higher unless the administration has the courage to do more than it has done so far.

The pressures of inflation are building up, not receding. Personal income for the first eight months of 1969 was at the annual rate of $737 billion, up $60 billion from 1968. Federal taxes are being slashed on a large scale; Social Security benefits are to be increased 15 percent; welfare expenditures are going up. How is Nixon going to keep all this expanding purchasing power from driving up prices still further?

The administration has been saying all year (and is still saying) that its tight money policy would do the trick. But it hasn't. Noting that interest rates have risen this year to the highest point in a century, Hubert Humphrey said, "I didn't think the Nixon administration would go back that far for its standards."

The predictions on money rates have been no better than those on prices. Months ago, Arthur Burns, presidential adviser and newly appointed chairman of the Federal Reserve, said, "I expect interest rates to move down sometime soon." McCracken said the same. Yet, the rates are still climbing to record heights.

Experience shows that virulent, wartime inflation can be curbed only by stabilizing wages and prices, which means mandatory controls, or voluntary guidelines, or both. Nixon is against government controls "on principle," and, upon taking office, he said he was not going to "jawbone" labor and management to exercise restraint. He has reversed himself on the jawboning, but not on the controls.

So, as 1969 comes to an end, the administration is still pinning its hopes on "hope." Sometime ago Burns was asked if the present rate of inflation could be cut to 3 percent by the end of the year, and he said, "I hope that we can do better than that." It was, at best, a forlorn hope, and now it is palpably an unreal one, on a par with predictions of imminent victory in Vietnam.

THE 25TH ANNIVERSARY OF DEATH OF GLENN MILLER

Mr. MURPHY. Mr. President, today, December 15, marks the 25th anniversary of the death of one of the best-known and best-loved orchestra leaders of all time—Glenn Miller. A talented musician, composer, and arranger, Mr.

Miller was born in Clarinda, Iowa, in 1909. He received his education at Fort Morgan High School in Colorado and the University of Colorado, where he was a member of Sigma Nu fraternity. In 1928 he married Helen Burger.

After working with various bands as a trombone player and arranger, Mr. Miller organized the famed Glenn Miller Orchestra in 1938. During the course of his career, he played on the Chesterfield radio program, served as a band leader for the Army Air Force and composed such musical favorites as "Moonlight Serenade."

Glenn Miller made his home in Tenafly, N.J. He met his death in December 1944, while serving his country during World War II. On a flight from England to France, his plane disappeared over the English Channel and was never found.

Let us pause today and pay tribute to Glenn Miller, not only for his fine musical talent but particularly for the great contributions he made in entertaining thousands of American troops over the years. He did this not only through a sense of patriotic duty, but also because he had a great love for people, especially those who were scattered throughout the world defending the principles of liberty.

UNION'S ROLE IN POLITICS SCORED

Mr. GURNEY. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Union's Role in Politics Scored," written by Mr. David Lawrence and published in the Washington Evening Star of December 9, 1969.

As he has been doing for more than five decades, Mr. Lawrence here again penetrates to the core of a problem—this time labor's role in making and unmaking political candidates. At present, two standards apply to political contributions: one to the public at large; the other, completely different, standard applies when contributions are made by labor leaders, supposedly in the name of union members. The situation cries for reform, but reform unfortunately is not forthcoming.

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

UNIONS' ROLE IN POLITICS SCORED

(By David Lawrence)

Should labor unions be able to collect from their members, directly or indirectly, money to be spent in political campaigns not only in presidential but in congressional elections?

Today the AFL–CIO boasts that it, in effect, controls a majority in Congress and insists that all "contributions" from its members for political activities are "voluntary."

Senator Paul J. Fannin, R-Ariz., offered unsuccessfully an amendment to the tax-reform bill which would have taken away the tax-exempt status of labor unions or other organizations if they continue to use membership dues or assessments to support or oppose political candidates or parties or engage in voter registration.

The real way to tackle the problem is to enforce the law of the land. The Federal Corrupt Practices Act forbids labor unions or corporations from making "a contribution or expenditure in connection with "any election for federal office. The law is being flouted, and no administration has had the courage to seek prosecutions under it since the statute was adopted many decades ago.

In 1961, the Supreme Court of the United States held that one section of the Railway Labor Act denies a union, over an employe's objection, the power to use his exacted funds to support political causes which he opposes: This had reference to what is known as a "union shop," where employes are required to join a union and pay dues regularly if they want to retain a job.

The Supreme Court, moreover, in 1957 held that a labor union's use of union dues to sponsor a commercial television broadcast designed to influence the election of certain candidates for congress violated the Federal Corrupt Practices Act.

It is true that in 1948 the Supreme Court ruled that the Federal Corrupt Practices Act does not forbid publication of periodicals issued regularly by corporations or unions for their customers or members expressing views on candidates or proposed measures. This is regarded as one of the privileges of "free speech."

But the fact remains that the statutes do prohibit any direct or indirect contributions to election campaigns. The labor unions today set up "political action" committees. These units, which solicit and handle donations, are supposed to be separate entities but actually are headed and directed by labor-union leaders. These same committees distribute millions of copies of the voting records of members of Congress and list the votes on key issues which the AFL–CIO considers important. The voting record of each member of the Senate and House on major issues relating to labor is made available to union members in each state. This is considered as "educational," and it is financed to a large extent from union dues.

There have been complaints that some unions force their members to make contributions and that pressure is put on the rank and file through collection of campaign contributions in the plants or offices. Unless evidence can be produced that coercion was used, they continue to be bypassed as "voluntary."

The federal laws apply, of course, only to campaigns for presidential and congressional elections. In state and city elections, union funds collected to support candidates are permitted except in a few states which have laws against it.

Thus, in so-called free America the spectacle is presented each year of a practice of virtually purchasing votes in Congress by means of contributions exacted from many who contribute lest they incur the wrath of the leaders of their unions.

This is a flagrant example of how labor unions violate the spirit, if not the letter, of the Federal Corrupt Practices Act and participate actively in politics by threatening members of Congress with defeat if they do not concur in labor-union demands. The real question, however, is: Why doesn't the Department of Justice, whether under a Democratic or a Republican administration, enforce the laws against such political contributions?

THE PHILADELPHIA PLAN

Mr. ERVIN. Mr. President, on October 30, 1969, 1 day after the Judiciary Subcommittee on Separation of Powers completed hearings on the Department of Labor's Philadelphia plan, I wrote to the Department asking for clarifications of two points which were not adequately discussed in the hearing testimony.

My first question was this: If an employer subject to the Philadelphia plan cannot meet his "affirmative action goal" because the union with which he has an exclusive collective bargaining agreement does not refer enough minority group workers, would that contractor be absolved of responsibility by the Office of Federal Contract Compliance?

My second question was: How does the Department of Labor justify its disregard of a lawful decision of the Comptroller General of the United States, whose determinations of the legality of payments from the public Treasury are "final and conclusive" upon the executive branch of Government?

I asked the first question, Mr. President, for an important reason. Under the provisions of the Taft-Hartley Act, it is an unfair labor practice for either an employer or a union to alter unilaterally the conditions of a collective bargaining agreement during the period that the agreement is in force. Thus, if the Philadelphia plan required a contractor with an exclusive union hiring agreement to employ minority group workers from outside the existing referral system, it would compel him to violate Taft-Hartley. Since the Philadelphia plan is a creature of Executive Order 11246 while Taft-Hartley is an act of Congress, in such a conflict the Philadelphia plan would fall.

Last week, 1 month after I asked the Department this question, I received a reply from the Office of the Solicitor, I quote:

A contractor will be given an opportunity to demonstrate that he has made good faith efforts to meet his goal of minority manpower utilization in the event he fails to meet such goal. However, a contractor may not be relieved of his obligations under the revised Philadelphia Plan on the basis that he has an exclusive hiring arrangement with a union and that such union does not refer minority group persons for employment. A contractor may not continue to rely on established hiring practices which are reasonably expected in continued exclusion of minorities. The Philadelphia Plan places the burden of broadening his recruitment base squarely upon the contractor. Whether he shall do so within or without the existing union referral system is for him to determine but he shall not be relieved of his responsibilities under the Executive Order merely because he has delegated to another entity the power to act on his behalf.

Mr. President, I would like to comment briefly on this statement by the Department of Labor.

First, an exclusive, industrywide collective bargaining agreement can hardly be called an "arrangement." These agreements are protected by the National Labor Relations Act, and if an employer violates them, he is vulnerable to a suit for breach of contract, a possible strike, and the assessment of damages by an arbitration committee provided for within his bargaining agreement. The assessment of such damages was upheld by U.S. District Court Judge J. Skelly Wright in *Local 130 of the International Brotherhood of Electrical Workers, AFL–CIO* v. *Mississippi Valley Electric Company*, 175 F. Supp. 312 (1959). The Department of Labor's statement overlooks this point entirely. In simple terms, the Philadelphia Plan requires an employer to violate an act of Congress in order to comply

with an administrative regulation; and in such an instance, the administrative regulation must yield.

Second, the Department's argument assumes that if a union does not refer enough minority group workers to meet a particular "affirmative action goal," that union necessarily is discriminating. As a lawyer and a former judge, I reject that assumption. It is not founded upon reality or legal reasoning.

Contrary to the assumptions of the Department of Labor, union membership is not organized on a job-by-job basis. We can learn nothing about alleged union discrimination by whether or not a certain number of minority group workers is referred to a specific job. If a union's minority group members are not referred to a Federal construction project on Monday afternoon, they may be referred to a private construction job on Tuesday morning. It is unrealistic to ask that a union produce a certain number of minority group craftsmen at a given place and a given time.

Similarly, construction unions are organized into priority grades according to the experience of their members. These seniority systems are protected by title VII of the 1964 Civil Rights Act.

Suppose, for example, that a union does not have enough minority group craftsmen in "priority 1," the most experienced grade, to meet an "affirmative goal" under the Philadelphia plan. Is the union, in order to refer enough minority group craftsmen to satisfy the OFCC, to bypass the more experienced craftsmen of "priority 1" for the relative newcomers of priorities 2, 3, and 4?

I submit that this demand—which the Philadelphia plan clearly makes—is in open conflict with title VII of the 1964 Civil Rights Act, which explicitly states that it is not meant to interfere with bona fide union seniority systems. In enacting title VII, the Congress intended that legitimate seniority systems not be disrupted by Federal employment programs aimed at job discrimination. I can find no provision of any congressional act or Executive order requiring labor organizations to take affirmative action. As in the case of the conflict between the Philadelphia plan and Taft-Hartley, again the plan must yield.

Mr. President, I repeat my suggestion of 1 month ago: If the Department of Labor feels that union discrimination is the cause of a shortage of minority group workers in the construction industry, then let the Department prevail upon the Department of Justice to file a "patterns and practices of discrimination" suit under title VII. Let the Department's accusations be proved or disproved in open court, with judges, not administrators of the OFCC, to decide whether the unions are guilty.

It is more difficult to unravel the Department of Labor's answer to my second question: How does the Department justify ignoring a lawful decision of the Comptroller General? Mr. President, I read the relevant portion of the Department's statement at this point:

MEMORANDUM ON THE REVISED PHILADELPHIA PLAN

This memorandum prepared by the Solicitor of Labor is submitted to the Subcommittee on Separation of Powers of the United States Senate for the purpose of clarifying certain questions relative to the Revised Philadelphia Plan.

* * * * *

6. *Must the decision of the Comptroller General relating to the Revised Philadelphia Plan (Comp. Gen. Dec., B–163026, August 5, 1969) be obeyed by the Department of Labor whether or not that Department agrees with its legal reasoning?*

In essence the Comptroller looks to Section 304 of the Budget and Accounting Act of 1921—which provides in relevant part, "Balances certified by the General Accounting Office, upon the settlement of public accounts, shall be final and conclusive upon the Executive Branch of the Government"—as vesting in him the exclusive authority to construe any and all laws having any bearing whatever upon expenditures. The Comptroller's interpretation, according to his testimony, must be adhered to by Executive agencies regardless of the Attorney General's views, and his power of disallowance may be invoked to compel their adherence.

We cannot agree with the Comptroller's interpretation. We submit that the Comptroller reads the Act too broadly, even in a situation in which the Attorney General has not spoken, but particularly in this case in which his interpretation fails to take into account the Attorney General's statutory duty to advise the heads of Executive agencies upon questions of law arising in the administration of their departments. 80 Stat. 613 (1966), 28 U.S.C. § 512 (Supp. III, 1965–67).

The language of Section 304 of the Budget and Accounting Act of 1921 was derived from the original Dockery Act which provided, "The balances which may from time to time be certified by the Auditors to the Division of Bookkeeping and Warrants, or to the Postmaster-General, upon the settlements of public accounts, shall be final and conclusive upon the Executive Branch of the Government. . . ." 28 Stat. 207 (1894). During the quarter century between enactment of the Dockery Act and the 1921 Act creating GAO, Attorney General Moody had occasion to rule on the former Act's effect on his own authority to render binding legal opinions:

"I am unable . . . to agree to the proposition that the Act of 1894 establishes a rule which is universal and without exception under all circumstances. While I do not challenge the authority of the Comptroller under that law to determine conclusively the question of the legality of a payment out of the public Treasury, I am nevertheless of the opinion that Congress intended to confine the power of the Comptroller within a relatively narrow range, and did not mean thereby to curtail the occasions for the rendering of opinions by the Attorney-General or to diminish their scope and weight. I do not believe that Congress by that enactment intended to shorten the reach of Sections 354 and 356, Revised Statutes [now codified at 28 U.S.C. §§ 511, 512] as construed to give to opinions of the Attorney-General controlling authority (5 Opin., 97; 6 Opin., 334; 7 Opin., 699; 9 Opin., 37; 20 Opin., 648), or to repeal *pro tanto* those laws.

"If a question is presented to the Attorney-General in accordance with law—that is, if it is submitted by the President or the head of a Department—if it is a question of law and actually arises in the administration of a Department, and the Attorney-General is of opinion that the nature of the question is general and important in other directions than disbursement, and therefore conceives that it is proper for him to deliver his opinion, I think it is final and authoritative under the law, and should be so treated by the accounting officers, even if the question involves a payment to be made." [25 Op. Att'y Gen. 301, 303–03 (1904).]

Mr. Moody's opinion was consistently followed by himself and his successors in the years antedating the 1921 Act. See, *e.g.*, 26 Op. Att'y Gen. 81 (1906); 26 Op. Att'y Gen. 609 (1908); 27 Op. Att'y Gen. 542 (1909).

The Budget and Accounting Act did not effect any fundamental change in the Dockery Act, so far as the powers of the Government's chief accounting officer were concerned. The enactment of the 1921 Act was for the purpose of transferring the powers of the Comptroller of the Treasury to the General Accounting Office. That the statute did not confer on the Comptroller General any authority in excess of that formerly exercised by the Comptroller of the Treasury under the earlier Act is made clear by *Globe Indemnity Co.* v. *United States*, 291 U.S. 476, 479–80 (1934). Consequently Congress' re-enactment of the Dockery Act without change, in light of the Attorney General's long continued construction of that statute, appears to have been an adoption by the legislature of the Attorney General's construction. *United States* v. *Hermanos Y Compania*, 209 U.S. 337, 339 (1908).

The Comptroller's view of Section 304 of the Budget and Accounting Act would nullify the Attorney General's statutory duty to advise the heads of Executive agencies upon any question of law involving the expenditure of public funds. As a practical matter, there are few questions arising in the administration of an Executive Department that do not, in some way, involve expenditures. Acceptance of the Comptroller's interpretation, therefore, would reduce the Attorney General's authority to microscopic proportions, if indeed any remained at all. That this was not Congress' intent seems clear in light of the 1966 re-enactment, without substantive change, of the Attorney General's authority to issue opinions to the heads of Executive Departments. 80 Stat. 613 (1966), 28 U.S.C. § 512 (Supp. III, 1965–67).

The issue at the heart of this controversy is not a new one. There exist two laws dealing with the same subject matter—the power to render binding decisions to the heads of agencies regarding the proper interpretation of laws affecting their operations. The question is what effect shall be given to each. Clearly where, as here, two statutes speak to the same subject matter, they must be construed together and harmonized, if possible, so as to give effect to the intent of Congress. See *United States* v. *Stewart*, 311 U.S. 60, 64 (1940). Only in the event of irreconcilable conflict will the earlier statute yield to the one later in time.

We submit that the statutes in question may be interpreted in accordance with these principles. As the Attorney General has made clear, his jurisdiction over matters involving expenditures is limited to legal questions of general importance directly affecting the performance by Executive agencies of functions independently confided to them and not those simply involving payments. See, *e.g.*, 25 Op. Att'y Gen. 614 (1906); 26 Op. Att'y Gen. 609 (1908); 33 Op. Att'y Gen. 383 (1922). This view affords the Comptroller's functions under the Dockery Act, as amended, the widest possible scope, consistent with the Attorney General's statutory duty. On the other hand, the Comptroller's interpretation would substantially reduce, if not eliminate, statutory harmony, for it strips the Attorney General of his authority to advise Executive agencies and relegates him to a nominal role, subordinate in virtually every respect to the Comptroller.

So far as we are aware, the interpretation of the Attorney General has been followed without variation from 1921 to the present. See 38 Op. Att'y Gen. 555 (1937); 39 Op. Att'y Gen. 25 (1937); 40 Op. Att'y Gen. 193 (1942); 42 Op. Att'y Gen. No. 33 (1969); see also *Graybar Elec. Co.* v. *United States*, 90 Ct. Cl. 232 (1940). Nor has there been any

question as to the binding nature of opinions by the Attorney General on Executive agencies. They "should be respected and followed in the administration of the Executive Branch." 37 Op. Att'y Gen. 562, 563 (1934). "'[A]dministrative officers should regard them as law until withdrawn by the Attorney General or overruled by the Courts'" (20 Op. Att'y Gen. 719, 722 (1894)), even in the face of a contrary decision by the Comptroller General 38 Op. Att'y Gen. 176 (1935).

Thus, upon sound legal principles Executive agencies, including this Department, are bound to follow the Attorney General's Opinion upholding the legality of the Revised Philadelphia Plan.

Moreover, "the Comptroller General, who is clearly an administrative officer of the Government, is likewise bound as a matter of law by the construction placed upon the statute [here, the Civil Rights Act of 1964] by the Attorney General . . . ." *Id.* at 179; (25 Op. Att'y Gen. 301 (1904)). Contra Comp. Gen. Dec. No. B–156192, 8 Gov't Cont. Rep. 82,526 (Feb. 7, 1969); 25 Comp. Gen. 377 (1945). That the Comptroller should consider himself bound by the Attorney General's Opinion is supported by *Smith* v. *Jackson*, 241 Fed. 747 (5th Cir. 1917), aff'd, 246 U.S. 388 (1918), where the Auditor of the Panama Canal Zone withheld from the salary of the Canal Zone's district judge sums he considered due as rent for quarters furnished by the Government and because of the judge's absence from the Canal Zone for a certain period. The judge thereupon sued for a writ of mandamus to compel the Auditor to pay him the sums withheld. The District Court held that the deductions were without authority of law and issued the writ prayed for. This judgment was affirmed by the Court of Appeals and the Supreme Court. The Supreme Court had this to say regarding the legal effect of an Opinion by the Attorney General:

"[W]e are of opinion that it is obvious on the face of the statement of the case that the Auditor had no power to refuse to carry out the law and that any doubt which he might have had should have been subordinated, first, to the ruling of the Attorney General and, second, beyond all possible question to the judgments of the courts below." [246 U.S. at 390–91; see also *Miguel* v. *McCarl*, 291 U.S. 442 (1934).]

In the context of the Revised Philadelphia Plan this Department believes that all Executive agencies and the General Accounting Office must adhere to the ruling of the Attorney General upholding its validity. Certainly the question of the Plan's legality was properly before the Attorney General, since it involved a matter of great importance (the proper administrative interpretation of Title VII and the Executive Order), and only incidentally concerned payments out of the public Treasury. Its importance is underscored by the fact that the Comptroller's view not only affects the procuring activities of every contracting agency, but is contrary to the administrative rulings of the Equal Employment Opportunity Commission and runs counter to the legal arguments under Title VII that the Commission and the Justice Department have urged upon the courts. If sustained, it will have a drastic adverse impact on the administration of the civil rights laws, including the imposition of differing and conflicting standards of conduct under the Executive Order on the one hand and Title VII on the other.

For these reasons, we believe that the Comptroller General's Opinion of August 5, 1969 is not binding on this Department, and that we have no choice but to follow the Attorney General's Opinion upholding the validity of the Revised Philadelphia Plan.

First, I would point out again that the language of the United States Code is clear: the determinations of the Comptroller General are "final and conclusive" upon the executive branch of the Government. Attorney General Moody, whom the Department of Labor so assiduously quoted, admitted this fact when he said:

I do not challenge the authority of the Comptroller under that law (the Dockery Act of 1894) to determine conclusively the legality of a payment out of the public Treasury.

However, the authority of the Attorney General in rendering opinions to the heads of the executive departments is advisory only.

Second, I take issue with the Department of Labor's statement that—

The Budget and Accounting Act did not effect any fundamental change in the Dockery Act, so far as the powers of the Government's chief accounting officer were concerned.

In fact, the 1921 act made a very substantial change: it removed the Office of the Comptroller from the executive branch and made it a part of the legislative branch. When the Congress effected this transfer, the Comptroller lost the power to seek, and lost any obligation to obey, the advisory opinions of the Attorney General.

Mr. President, I would urge the Labor and Justice Departments, which argue that the Comptroller General should defer to the Attorney General on the Philadelphia plan, to study the hearings held in 1919 before the Select Committee on the Budget of the House of Representatives. John Nance Garner, Henry Stimson, William H. Taft, and Franklin Roosevelt: these are the names of some of the men who testified that the main purpose of creating the General Accounting Office was to remove the Comptroller from all influence by the executive branch.

Let me read two of the statements made by the Chairman, James W. Good of Iowa, during those 1919 hearings:

If he (the Comptroller) is allowed to have his decisions modified or changed by the will of an Executive—

Mr. Good said—

then we might as well abolish the office.

I think that is the crux of the entire controversy. Mr. Good also observed:

There ought to be an independent body, independent of the Executives, with an official who could say, "This appropriation can or cannot be used for this purpose."

The same intent of guaranteeing the Comptroller General's independence from the executive was repeated in the committee's report, and in the conference committee's report on the Budget and Accounting Act of 1921. That intent appears in the Budget and Accounting Act itself. The Congress did not believe that the Comptroller General could properly oversee the expenditures of the executive branch if his decisions could be manipulated by the Executive. It was a separation of powers issue then, and it is a separation of powers issue now.

Mr. President, let be excerpt for the Senate several quotations from the final 2 days of House debate on the Budget and Accounting Act which show beyond question the intent of Congress in removing the Comptroller from the executive branch:

Mr. Byrns, May 5, 1921: "The comptroller general is the representative of the Congress. He does not represent the Executive in any sense of the word, and the whole idea of the Budget Committee was to make him absolutely and completely independent of the Executive (Applause)."

Mr. Good, May 3, 1921: "This makes him entirely independent of the departments which spend the money. . . . This feature becomes the backbone of an effective budget system. . . ."

Mr. Bankhead: "(The Comptroller General should be) absolutely free and independent of any restraint by Executive interference."

I would remind the Senate of a quotation by former President Cleveland which contributed to the establishment of the Office of the Comptroller General.

If I cannot change the opinion of my comptroller—

President Cleveland said when the Comptroller of the Treasury declared illegal the expenditure of funds for a purpose which the President approved—

then I can change my comptroller.

It is no longer possible for an Executive to do as President Cleveland desired. The Comptroller General cannot be removed from office by a President. Let us not now grant to the Department of Labor or to the Department of Justice the power which President Cleveland would have liked but did not have, the power to reverse a decision of the Comptroller General.

I must point out that the Department of Labor was not nearly thorough enough in quoting the opinion of former Attorney General Moody.

The Department did not mention, for example, that in five other cases in which executive departments asked the Attorney General to review decisions by the Comptroller, the Attorneys General refused because they viewed the interpretative powers of the Comptroller as complete in the field of disbursement—21 Opin., 178; ibid. 530; 22 Opin., 581; 23 Opin. 468; 24 Opin., 553.

Nor did the Department mention the fact that Attorney General Moody, in the same opinion, stated:

The authority of the Comptroller to decide a question involving a payment to be made from the Treasury . . . is complete.

Nor did the Department choose to observe that the Comptroller himself requested that Attorney General Moody rule on this particular question. The Attorney General himself stated at two points in the opinion that he had reservations about making gratuitous rulings dealing with decisions of the Comptroller. And, of course, when Attorney General Moody was asked for his opinion, in 1904, the Comptroller was still a part of the executive branch and was still authorized to seek the Attorney General's advice.

There were many aspects of the Moody opinion which the Department of Labor did not illuminate—not the least of them that the opinion was only advisory, while the Comptroller General's decision was final and conclusive. I read the full text of Attorney General Moody's opinion at this point:

ATTORNEY GENERAL—OPINIONS—DETAIL OF REGISTRY CLERK TO THE WHITE HOUSE

The authority convened upon the Comptroller of the Treasury by section 8 of the act of July 31, 1894 (28 Stat., 208) to decide questions involving payments to be made from the Treasury is complete; but this act does not establish a rule which is universal and without exception. Congress did not, by that enactment, intend to shorten the reach of sections 352 and 356. Revised Statutes, or to repeal *pro tonto* those sections.

Where a question is presented to the Attorney-General in accordance with law for decision, and he is of opinion that the nature of the question is general and important in other respects than disbursement, and therefore conceives that it is proper for him to deliver his opinion, it is final and authoritative under the law, and should be so treated by the accounting officers of the Treasury, even though the question involves a payment to be made from the Treasury.

When the Comptroller of the Treasury waives his right to determine a matter involving disbursements within the scope of authority under the law, and requests or suggests a ruling by the Attorney-General, the Attorney-General's opinion should be controlled upon the accounting officers of the Treasury, and should be followed by them unless contrary to some authoritative judicial decision.

The Postmaster General had no authority to detail a registry clerk from the Washington post-office on detached service at the White House; and the accounting offices of the Treasury having refused to allow credits to the postmaster for salary paid such clerk for the period covered by the detail, that officer must be remitted to Congress for an appropriation for his relief.

DEPARTMENT OF JUSTICE,
December 22, 1904.

SIR: Your letter of December 15 informs me that, at the request of the Secretary to the President, your predecessor detailed for duty at the White House, in April last, a clerk in the registry division of the Washington post-office; that this detail continued until October, during which period the clerk was paid his regular salary by the postmaster under direction of the Postmaster-General, and that in the settlement of the Postmaster's account for the last quarterly period the accounting officers of the Treasury have refused to allow credit for the payments to the clerk for the period covered by the detail.

The Comptroller of the Treasury has advised you that he is unable to find any authority in law which legalizes or justifies the detail of a clerk from one Executive Department to another; but he has suggested that the question be referred to me for an official opinion, and accordingly you request my opinion on the subject.

In the letter of the Comptroller to you he cites section 166, Revised Statutes, which allows the head of a Department to detail the clerks therein among the various bureaus and offices of the Department as he may find necessary and proper to do; from which the Comptroller draws the conclusion that this grant of authority negatives the idea that any such power exists independent of statutory grant to detail to other branches of the public service, and in this connection he cites section 3678, Revised Statutes, and section 4 of the act of August 5, 1882 (22 Stat. 219, 255), which generally restrict the employment and payment of clerks for services not rendered for the purposes for which an appropriation is made and from which payment is claimed. I may add that the act of March 15, 1898 (30 Stat., 277, 317), even forbids (sec. 9) the detail of clerks or other employees from any branch of the postal service to any of the offices or bureaus of the Post-Office Department at Washington.

The Comptroller, commenting upon his suggestion that the inquiry be referred to me, says that my opinion would no doubt be persuasive to the accounting officers, and would be followed by them unless found to be contrary to the decision of a court of competent jurisdiction.

The authority of the Comptroller to decide a question involving a payment to be made from the Treasury, so as to govern the auditing officers and himself in passing upon accounts, is complete (act of July 31, 1894, sec. 8; 28 Stat., 162, 208). Accordingly, in various instances my predecessors have declined to give an opinion upon a question of this nature (21 Opin., 178; id., 530; 22 Opin., 581; 23 Opin., 468; 24 Opin., 553). On the other hand, although a disbursement may be involved, when the question is of general and great importance, and especially when the Comptroller, in advance of decision by himself, requests that the matter be referred to the Attorney-General, and states that the opinion of the Attorney-General will be followed by him, then it is the view of this Department that the question may properly be answered by the Attorney-General (21 Opin., 181; id., 224; id., 402). Of course the opinion of the Attorney-General, when rendered in a proper case—as must be the presumption always from the fact that it is rendered—must be controlling and conclusive, establishing a rule for the guidance of other officers of the Government, and must not be treated as nugatory and ineffective (20 Opin., 648; citing 5 Opin., 97; 6 Opin., 334; 7 Opin., 699; 9 Opin., 37).

I am unable, however, to agree to the proposition that the act of 1894 establishes a rule which is universal and without exception under all circumstances. While I do not challenge the authority of the Comptroller under that law to determine conclusively the question of the legality of a payment out of the public Treasury, I am nevertheless of the opinion that Congress intended to confine the power of the Comptroller within a relatively narrow range, and did not mean thereby to curtail the occasions for the rendering of opinions by the Attorney-General or to diminish their scope and weight. I do not believe that Congress by that enactment intended to shorten the reach of sections 354 and 356, Revised Statutes, as construed to give to opinions of the Attorney-General controlling authority (5 Opin., 27; 6 Opin., 334; 7 Opin., 699; 9 Opin., 37; 20 Opin., 648), or to repeal *pro tanto* those laws.

If a question is presented to the Attorney-General in accordance with law—that is, if it is submitted by the President or the head of a Department—if it is a question of law and actually arises in the administration of a Department, and the Attorney-General is of opinion that the nature of the question is general and important in other directions than disbursement, and therefore conceives that it is proper for him to deliver his opinion, I think it is final and authoritative under the law, and should be so treated by the accounting officers, even if the question involves a payment to be made.

There is, of course, in this matter a large element of propriety and etiquette which has led Attorneys-General (as noted) to decline to pass upon many questions, however important in their essential and abstract bearings, because payments are also involved. But certainly, without touching upon the question whether a Comptroller of the Treasury may delegate his authority—for that matter is not really involved here—when the Comptroller waives his right to determine a matter involving disbursement within the scope of his authority under the law, and requests or suggests a ruling by the Attorney-General, I entertain no doubt whatever that the Attorney-General's opinion should not only be justly persuasive to the accounting officers, but should be controlling and should be followed by them unless contrary to some authoritative judicial decision which puts the matter at rest. It is always to be assumed that an Attorney-General would not overlook or ignore such a decision in announcing his own conclusion.

Taking up, now, on the merits the important question presented in your letter, I am of opinion that the Comptroller is right in the views which he suggests rather than lays down, and that there is no authority in the law for the detail of the clerk in question to the White House service. However natural and legitimate such calls by the Executive and ready response to them may be, and however true it is that thereby important public business is performed and expedited, quite apart from just considerations of the personal convenience of the President, nevertheless, in view of the statutes cited and without express authority in law, which is not to be found, such detail is unauthorized and the items in question in the postmaster's account must therefore be disallowed.

But the nature of the inquiry demands exhaustive treatment. I proceed, therefore, to a fuller consideration of the law.

Section 166 Revised Statutes, as amended by section 3 of the act of May 28, 1896 (29 Stat., 140, 179), provides:

"Each head of a Department may, from time to time, alter the distribution among the various bureaus and offices of his Department, of the clerks and other employees allowed by law, except such clerks or employees as may be required by law to be exclusively engaged upon some specific work, as he may find it necessary and proper to do, but all details hereunder shall be made by written order of the head of the Department, and in no case be for a period of time exceeding one hundred and twenty days: *Provided*, That details so made may, on expiration, be renewed from time to time by written order of the head of the Department, in each particular case, for periods of not exceeding one hundred and twenty days. All details heretofore made are hereby revoked, but may be renewed as provided herein."

This specific authority to distribute and detail clerks and other employees is restricted, as will be observed, to the Department in which they are regularly employed. I am unable to discover any other express authority for such service details.

On the other hand, section 3678, Revised Statutes, lays down a fundamental rule in the public service, namely, "All sums appropriated for the various branches of expenditures in the public service shall be applied solely to the objects for which they are respectively made, and for no others."

Section 3682 provides:

"No moneys appropriated for contingent, incidental, or miscellaneous purposes shall be expended or paid for official or clerical compensation."

Section 4 of the act of August 5, 1882 (22 Stat., 219, 255), forbids the employment of any clerk, among other officers and employees, in any of the Executive Departments or offices thereof at the seat of government except at such rates and in such numbers as may be specifically appropriated for by Congress, "and no * * * clerk * * * or other employee shall hereafter be employed at the seat of government in any Executive Department or subordinate bureau or office thereof, or be paid from any appropriation made for contingent expenses, or for any specific or general purpose, unless such employment is authorized and payment therefor specifically provided in the law granting the appropriation, and then only for services actually rendered in connection with and for the purposes of the appropriation from which payment is made * * *"

This statute repeals section 172 of the Revised Statutes, which contained an exception from the prohibition against payment of clerical and other services out of contingent funds, in case the employment was

authorized by law, or is necessary to carry into effect some object for which specific appropriation was made.

The act of 1882 saved section 166, now amended (*ut supra*); but it seems clear that Congress by those various laws has strictly limited the power and discretion of a head of Department in this matter of employment and detail, to cases falling within amended section 166. It necessarily follows that the Postmaster-General was without authority to detail the registry clerk from the Washton post-office to the White House.

But the detail was on the request or direction of the President, based, of course, upon the natural assumption that the particular exigency or demand of the public service found a corresponding authority in law.

In general, it may be stated that, while outside of the express constitutional grants of power to the Chief Executive there are large and necessary inherent powers in the President essential to his function as the executive head of a civilized government, and always contemplated, some of them accurately defined in the natural evolution of usage and legal decision, as under the war power and in all foreign relations, and others which are not susceptible of precise anticipation and delimitation, nevertheless, it is the customary rule that the President's authority in appointment to offices not falling within the enumeration of the Constitution and "which shall be established by law," and all employment and detail by him in various branches of the service, rest upon enactments of Congress. Thus, to illustrate from recent laws, the President is authorized to appoint judges of the courts of the United States when new judgeships are created, although, notwithstanding the language of such acts, those particular offices, with many others, plainly fall within the reasonable limits of his power under the Constitution, the power of Congress to vest appointment in other authorities than the President being confined to inferior offices.

The President also, by recent statutes not necessary to cite in detail, might appoint officers of the Regular to the Volunteer Army; may appoint cadets to the Military and Naval academies; may appoint various officers of the Army and Navy; may appoint or designate various officers of the Army and Navy on the retired list; may promote notwithstanding physical disqualification incurred in the line of duty; may restore to the active list; may transfer on the retired list, and may detail a retired officer on detached service, as for instance to be adjutant-general of the District Militia. In all such cases the authority of the President is traceable to direct and positive grants of power by statute.

Further, in annual appropriation acts (e.g., act of March 18, 1904, 33 Stat., 85, 97), under the heading "Executive," an appropriation is made for the compensation of various officers, clerks, and employees in the office of the President of the United States, and for contingent expenses of the executive office, in which is an exact specification of items which may be expended in the discretion of the President.

In consideration, therefore, of this review of the law and of the various prohibitions on details for service and on the use of contingent funds for the payment of compensation to clerks and employees, I am constrained to conclude that there is no authority in existing law for the employment of the clerk in question on detached service at the White House, and therefore the subject must be remitted to Congress for due appropriation for the relief of the postmaster.

Very respectfully,

W. H. MOODY,
The Attorney General.

Mr. President, I believe that it should be of no concern to the Department of Labor that the Comptroller General's decision might weaken the authority of the Department of Justice, or might, as the Department asserts in fright language, "reduce the authority of the Attorney General to microscopic proportions, if indeed any remained at all." The law is the law.

And it should be of no concern to the Department that the Comptroller General's decision might have "a drastic adverse impact on the administration of the civil rights laws," another piece of fright language. I do not believe, nor does Comptroller General Staats, that his decision would have such an impact. Both of us are anxious to see a legal end to racial discrimination in employment, if such an end exists.

In its statement, the Department of Labor notes that the Attorney General's "jurisdiction over matters involving expenditures is limited to legal questions of general importance directly affecting the performance by executive agencies of functions independently confided to them and not those simply involving payments." The Department then cites, among other opinions, 33 Opin. 383 (1922).

I would like to quote another section of that same opinion which casts an entirely different light on the Department of Labor's assertion.

The rulings of the Comptroller of the Treasury—

Attorney General Daugherty stated—

(are) conclusive as to particular payments to be made by and through executive departments.

And I would also quote from another ruling of Attorney General Daugherty, 33 Opin. 383:

The Comptroller of the Treasury is charged with the duty of rendering decisions upon questions involving payments to be made by or under the head of an Executive department, and contemplates the construction by him of statutes.

Mr. President, I would make this application of Attorney General Daugherty's advisory opinion to our present controversy: it is perfectly permissible, under the United States Code, for the Department of Labor to seek from the Attorney General an opinion on the Philadelphia plan's legality. It is perfectly permissible for the Attorney General to advise the Department of Labor that the plan's employment requirements are legal, despite a decision of the Comptroller General to the contrary.

No opinion of the Attorney General, however, can make legal the expenditure of one dime from the public Treasury for the Philadelphia plan once the Comptroller General has declared the plan unacceptable. The decision of the Comptroller General is final on all payments, as admitted by both Attorney General Daugherty and Attorney General Moody. The Department of Labor is bound by it.

The Comptroller General, if he is to obey the directive of Congress, must test the Philadelphia plan against any and all laws and regulations. Attorney General Daugherty himself said that the Comptroller has the power of statutory construction. We are talking about massive disbursements of public funds. The Comptroller would be derelict in his duties if he did not compare the Philadelphia plan with title VII. This is precisely the kind of question which the Congress created the General Accounting Office to resolve.

I must disagree, Mr. President, with the Department of Labor's assertion that—

That this was not Congress' intent (to reduce the Attorney General's authority in relation to the Comptroller General) seems clear in light of the 1968 re-enactment, without substantive change, of the Attorney General's authority to issue opinions to the heads of Executive Departments.

It may be clear to the Department of Labor, but it is not clear to me. Indeed, I believe that assertion was made either in extreme naivete or else with the intent of deliberately obfuscating the issue. What the Department cited as legislative intent was a simple codification of a number of existing statutes into a title of the United States Code. That was the sole intent of Congress—to codify, not to decide the merits or the demerits of the Attorney General's authority. No other legislative intent can be read into that reenactment.

Mr. President, I conclude by enunciating one essential point. When Congress created the General Accounting office in 1921, its overriding intent—the intent which was expressed in 2 years of hearings, in the committee and conference committee reports on the bill, in statements from the floor, and in the Budget and Accounting Act itself—was to make the Comptroller General independent of any and all influences by the executive branch of Government. The Congress made the Comptroller an arm of the Congress, and a revolt against his lawful authority is a revolt against us all. The Congress intended that the Comptroller General be free from any duress by the executive; the Labor and Justice Departments are seeking to overturn that intent.

It is clear to me that the Departments of Labor and Justice intend to implement the Philadelphia plan despite its illegality by whatever expedient is nearest at hand. In doing so, they would effectively repeal sections of the Taft-Hartley Act, title VII of the 1964 Civil Rights Act, and the Budget and Accounting Act of 1921. Their actions are no more than legislation on the part of the executive branch of the Government.

I submit that we cannot allow the executive to be so cavalier with the law. If we do so, we shirk the constitutional responsibility of Congress to maintain control over appropriations. I urge that the Senate take action to remedy this grave violation of the doctrine of separation of powers.

EDITORIAL CRITICISM OF THE TAX BILL

Mr. WILLIAMS of Delaware. Mr. President, Sunday's New York Times and today's Philadelphia Inquirer contain editorials strongly criticizing the Senate for the irresponsible manner in which it loaded the recent tax bill with huge tax reductions—tax reductions which un-

questionably would accelerate the inflationary spiral.

I quote from the New York Times editorial:

Clearly the Senate bill would accelerate inflation—and that is the matter of immediate concern.

It concludes with the following pertinent comments:

The conference committee will have a hard job in producing a bill that makes any economic sense at this time, basically because a sensible tax bill now ought to call for some increase rather than a large cut in taxes.

The Philadelphia Inquirer editorial, written by William S. White, makes this pointed observation:

The Democratic measure for a reduction of $11 billion that the Senate has whopped through with glad cries, inflation or no inflation, is the most nakedly political ploy since the Republicans similarly decided two decades ago that the way to deal with the postwar hot money crisis was simply to create more hot money.

Both these editorials emphasize the inflationary aspects of the Gore amendment.

I ask unanimous consent that the two editorials, the one entitled "Senate Saturnalia," published in the New York Times, the second, entitled "Tax 'Hoax' Reflects 'Decline' of Senate," published in the Philadelphia Inquirer, be printed in the RECORD.

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

[From the New York Times]

SENATE SATURNALIA

The fiscal saturnalia on the floor of the Senate has at last run its riotous course. By a vote of 69 to 22 the Senate has adopted a tax bill that would stimulate inflation, hamper for years to come the nation's ability to finance urgently needed public programs, and emasculate reforms contained in the House bill.

It is now the responsibility of the House-Senate conference committee to try to produce a compromise bill that will avoid a threatened Presidential veto and contribute to the public interest—if such a measure is any longer possible. In refusing to join this conference committee, Senator John J. Williams of Delaware, ranking Republican on the Finance Committee, pronounced the Senate bill "the most irresponsible legislation passed in my 22 years in the Senate." By his unprecedented act, Senator Williams declined to associate himself in any way with a bill that represents, as Vice President Agnew also has pungently noted, a low water mark in fiscal policy.

Clearly the Senate bill would accelerate inflation—and that is the matter of immediate concern. The Gore amendment to boost the personal exemption in the next two years from the present $600 to $800 would cost in revenue loss an extra $2.2 billion in 1970 and $3.7 billion in 1971. Other Senate-adopted amendments would increase the revenue loss by an additional $1 billion in both years. The boost in Social Security benefits by 15 per cent, plus the boost in the minimums, would cost $5.7 billion in 1970 and $6.4 billion in 1971. To these inflationary drains one must add the reduction in the 10 per cent surtax to 5 per cent on Jan. 1, 1970, and its complete elimination next June 30. The Administration must carry at least equal responsibility with the Congress for this particular action.

The combined effect of all these measures would be to produce a reduction in fiscal restraint totaling $18 billion in 1970 and $24 billion in 1971 from present levels. These figures on revenue loss are so large as to strain credibilty at a time when the Administration proclaims itself to be fighting inflation. The Administration is apparently gambling that a scaling down of the Vietnam war will permit it to make cuts in expenditures steep enough to offset the big revenue loss from the lapse in the surtax. By its own fiscal decisions, the Administration is playing a kind of Russian roulette with the economy.

The conference committee will have a hard job in producing a bill that makes any economic sense at this time, basically because a sensible tax bill now ought to call for some increase rather than a large cut in taxes.

[From the Philadelphia Inquirer, Dec. 15, 1969]

TAX "HOAX" REFLECTS "DECLINE" OF SENATE

(By William S. White)

On the tax issue the heart of the matter is that the sham battles are out of the way, at least, and it may be possible for Congress to produce a reasonably responsible bill.

The Democratic measure for a reduction of $11 billion that the Senate has whooped through with glad cries, inflation or no inflation, is the most nakedly political ploy since the Republicans similarly decided two decades ago that the way to deal with the postwar hot money crisis was simply to create more hot money.

Those Republicans found later that what they had done had helped them to lose an upcoming election. This time, the Democrats could make the same discovery—but are not really likely to do so for two reasons.

The first is that the House of Representatives, which long since has replaced the leaderless Senate as a forum for responsible political action, is most unlikely to agree to a Senate text that properly might be described as most of all a bill for the political relief of Sen. Albert Gore (D., Tenn.). Gore, a violent new-liberal dove on Vietnam from the home state of such notably non-pacifist types as old Andy Jackson, seemingly is hard pressed for re-election next year and needed something to give to the homefolks.

The second reason why this basically indefensible Senate bill is never likely to become law, apart from the almost certain resistance of the House, is that President Nixon has the capacity to veto it and by all indications will do that if he must. To override a Presidential veto requires a two-thirds vote of both houses and while the issue might stand on a knife edge, the probability is that the President would be sustained.

Gore, a senior member of the Finance Committee, and his associates do offer the most appealing justifications, because few people really are enraged at the prospect of massive rises in tax exemptions. Moreover, the general soak-the-rich approach here also, in a different context of economic realities, might make a great deal of sense. The facts of life of this time, however, simply do not justify these cuts. To the contrary, what is proposed here only would increase the inflationary pressures upon the very low income people who are supposed to be the beneficiaries.

If Gore and company suspect that the really rich are living it up too much, they are entirely right. To carry this into the supposition that what the Senate is going to help the non-rich is to fall into a deep pit of oversimplification.

No sophisticated observer can blame politicians for trying to improve their status on the eve of an election-year showdown—to a point. But the argument of the orthodox Republicans and a handful of Democrats that this is a "cruel hoax" has that rare political quality of being obviously true. There is also an inescapable element of cynicism. What does it cost a senator to vote for tax cuts for "the people" that in all probability never will be made?

Perhaps the most important of all the aspects of this Senate action is the proof it offers of the decline of the Senate as an institution. In the old days the drill was for the House, traditionally more sensitive to immediate constituent pressure than the Senate, to rush into legislative folly secure in the knowledge that it—and the country too—would be saved from itself by the more deliberative Senate.

But that was yesterday. The position has been turned about, so that it is, and for months has been, the House to which men of restraint and reason must repair for help. "The greatest deliberative body in the world" has become the first political organ in this government to bend to any and every passing breeze or emotionalized self-indulgence. It will all change back in time—but what time is that to be?

RESETTLEMENT OF VIETNAMESE REFUGEES

Mr. KENNEDY. Mr. President, in recent weeks the administration has issued glowing reports on the progress being made to resettle Vietnamese refugees. The latest report, given me last week by AID officials, suggests a very substantial reduction in the overall total of registered refugees—from 1,446,000 in March to some 537,000 in October. This progress is attributed to two factors: the lower level of military activities in recent months and successful pacification efforts.

In view of past experience with official statistics on refugees and civilian war casualties, the judiciary subcommittee on refugees, which I serve as chairman, has undertaken an investigation of the latest report. And I must indicate in all candor, Mr. President, that we view this report with much skepticism and distress. In an effort, apparently, to support its optimistic views regarding the situation in Vietnam, the administration has chosen to whitewash what is undoubtedly one of the more critical civilian problems generated by the war. An article in yesterday's Washington Post summarizes a good deal of the information which has already come to the subcommittee's attention. The writer, David Hoffman, calls the recent reports on refugee resettlement a "statistical illusion."

I feel the article will be of interest to Senators, and ask unanimous consent that it be printed in the RECORD.

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

STATISTICS ARE HIDING REFUGEES

(By David Hoffman)

SAIGON—In resettling South Vietnamese refugees, much of the progress so well advertised this year is a statistical illusion. The illusion results from bookkeeping changes ordered by the Saigon government and approved by the U.S. mission. The new bookkeeping is designed to report progress but not failure, and at that it seems to be succeeding.

U.S. Ambassador Ellsworth Bunker declared proudly last month that the number of South Vietnamese refugees was cut in half between January and October. Technically, he was correct. There were 1,318,296 registered refugees at 1969's outset. Today, there are approximately 415,000.

American advisers report from the countryside, however, that tens of thousands of refugees are being erased from the roles and reclassified as resettled citizens without being productively resettled. Many still lack land and the means of making a living. Having

received their rice allowance—as little as 450 piasters, or about $2 at realistic exchange rates—they cease being refugees on the books.

There is another quirk in Saigon's new bookkeeping system. Field advisers complain that because of direct or indirect pressure, they no longer can report new refugees forced to flee their ancestral homesteads by Allied or Communist gunfire. In the populous northern provinces, newly displaced persons are being reported not as "refugees" but as "war victims." As a result, the province refugees rolls do not lengthen.

A GUILT FACTOR

The central government's refugee policy changed decisively last January, when it was decreed that all South Vietnamese refugees—excepting the 1969 crop—should be resettled by Sept. 30.

Altruism and hard-nosed economic judgments doubtless motivated the policy change. But, according to refugee workers, so did American guilt feelings.

Some officials reasoned that the refugees had been made homeless largely by U.S. bombing, infantry sweeps and artillery fire. It would be immoral for the Americans, in leaving South Vietnam, to orphan a million or more such war victims.

The Saigon government defines a refugee as anyone "compelled to leave his place of abode to escape from Communist terrorists, flee from artillery or bombardment or evacuate combat zones." American field advisers believe that not until the reverse occurs has a refugee been truly resettled. The refugee goes home because, in his judgment, security permits it.

A CYNICAL SOLUTION

Already this year, an estimated 300,000 "out-of-camp" refugees have been stricken from province rolls without being resettled in their native hamlets. A large but unknown fraction doubtless have found war-related jobs, or are living with relatives, or are derelicts. Whatever their status, they are no longer refugees.

Another 150,000 living in resettlement camps have been given 10 sheets of tin roofing, six months rice supply and a housing allowance of 5,000 piasters (about $20). They are then considered "normalized" and their numbers are not reported.

A cynical possibility thus arises, with sufficient rice, tin and American cash, the Saigon government can "solve" South Vietnam's refugee problem in a matter of days. Since paid-off refugees cease to be refugees, the only delay conceivable is the physical disbursement of benefits.

In theory, and sometimes in practice, the normalized refugee becomes eligible for a broad spectrum of new benefits. If he returns to his former village, if his resettlement camp becomes a hamlet in abstentia, if his camp is absorbed by an existing hamlet nearby, the ex-refugee should get "community development" benefits. Young pigs from America, edible fish fingerlings, vocational training, a local pharmacy, classrooms—these are among the many theoretically available.

But as Dr. Tran Nguon Phieu points out, less than 1 percent of Saigon's budget is earmarked for social welfare. As Minister of Health, Social Welfare, and Relief, Phieu says that other ministries have been "reluctant" to fund refugee rehabilitation projects. And there are problems unrelated to money.

Mines, sniper fire and blown bridges make some refugee colonies inaccessible except by boat or helicopter. Many camps have been built on the doorsteps of cities where farmland is scare or nonexistent. Evidence is increasing that the Vietcong intend to terrorize refugees for having (technically) cast their lot with the government.

Approximately 50 percent of all South Vietnamese refugees reside in the five northernmost provinces, the I Corps tactical zone. There, some three million Vietnamese share the narrow coastal plain with brigades from seven Allied divisions.

The divisions still conduct sweeps, still call in air and artillery fire and still level hamlets suspected of being Vietcong strongholds. Despite this high level of military activity, only a trickle of new refugees has been reported from I Corps this year.

Asked to explain the paucity of new refugee reports from I Corps, a field adviser told me:

"It's simple. We've been instructed not to report any more refugees. Sure, we're generating new ones, but they're going on the rolls as war victims, not as refugees. The numbers we report are strictly for politics."

VC WANT THEM

There was a time several years ago when Allied planners almost welcomed the creation of new refugees. It was reasoned that displaced Vietnamese seeking aid from the government sided with the government and not with the Vietcong.

No longer does one hear that argument. Allies and Vietcong alike are now trying to persuade refugees to return home. The VC need them for manpower and tax revenue. Those who spurn Communist "return home" entreaties frequently become targets for VC terrorists.

At least 35 per cent of the refugees reported in January returned home before Dec. 1. The last figure given was 469,336, compared with 90,729 who returned home during all of 1968.

Americans claim persistently that 92 percent of all South Vietnamese dwell in "relatively secure" hamlets—hamlets controlled, relatively, by Saigon. Yet a majority of known refugees refuse to return to their native hamlets because they remain unconvinced that security has been re-established there.

The conclusion seems inescapable that the government's control of South Vietnam's population depends largely on where that population resides. The village of Songmy provides an interesting example.

Some 21 months ago, Sonmy encompassed half a dozen hamlets; one became known as Mylai 4. But the area was infested with communists, including one active battalion. American troops forced the villagers to evacuate.

Some 2000 have returned. Instead of reoccupying their tiny hamlets, rebuilding on their old homesites and living beside their paddies, the villagers are clustered behind a fence of sharpened bamboo on the edge of a barren hill. In the early morning, some walk to Mylai 4 to tend long fallow fields.

UNHAPPILY "RESETTLED"

The Songmy villagers are not considered refugees. Having returned to their native village, having received their six months rice allowance, they have been judged resettled. But among the former hamlets of Songmy village, only Mylai 4 is safe enough to replant. The villagers are not happy and make that clear to the visitor.

It is unfair, says Refugee Director William K. Hitchcock, to view all South Vietnamese refugees in terms of their status in I Corps. In I Corps, the mountains come down almost to the sea, and there are many people but very little land. Much of what land exists has been fought over many times and is still mined.

I Corps nevertheless is home to one of every two South Vietnamese refugees. And in I Corps, a half dozen refugee advisers, generally idealistic, Vietnamese-speaking Americans, report that the refugees' lot is slowly improving. "How do you prove that?" I asked repeatedly. Their answer, paraphrased, was something like this:

You do not cite phony numbers. You go to the camps month after month and you talk to the people. You watch the latrines being constructed and the classrooms going up. You listen to complaints. The more sophisticated the complaint, the better off the people. You try to get them what they need. You see it delivered. You watch for old people to smile.

CONSERVATION AND COMMUNITY GROWTH

Mr. GRIFFIN. Mr. President, the American Farm Bureau held its 50th annual convention here in Washington last week. One of the highlights of the meeting was an address on "Conservation and Community Growth" by Assistant Secretary of Agriculture Thomas K. Cowden.

Dr. Cowden spoke about the problems of safeguarding America's environment and the need to achieve a more even distribution of population throughout the country. It was his first public speech since joining the department.

I ask unanimous consent that Dr. Cowden's address be printed in the RECORD.

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

CONSERVATION AND COMMUNITY GROWTH

It is a particular pleasure for me to join in your Golden Anniversary Convention program. It was 26 years ago that I began a very pleasant association with the Farm Bureau as director of research. It was a job that I enjoyed for six years, working with such men as Ed O'Neal, Earl Smith, Allan Kline and many others who are still with the organization.

After that and before I assumed my present responsiblities, I enjoyed university life for 20 years.

Impressive changes have occurred in agriculture and rural America in the last twenty-five years.

In 1945, one farm worker fed and clothed 14.6 people in the United States. Today he feeds and clothes three times as many.

The number of farms has fallen from almost six million in 1945 to about 3 million today. Yet our productivity has leapt forward.

It took 53 man hours to produce 100 bushels of corn 20 to 25 years ago. In the mid-Sixties, the number of man hours was reduced to six. It required 146 man hours of labor to produce a bale of cotton 25 years ago. Now it takes 32, about one-fifth as many.

Times have certainly changed.

Yet, as I return to employment more actively involved in public policy, I find that many of the problems which demanded our attention a quarter of a century ago are still with us: crop surpluses, control programs, foreign trade programs, international commodity agreements and many others.

One big change stands out and that is the widespread interest in the quality of our environment.

The President of the United States, international leaders, governors, members of the President's cabinet, city mayors, scientists, clergymen and thousands of just ordinary folks are talking about their concern for the quality of our environment.

A Gallup poll shows fully half the people interviewed on environmental problems were "deeply concerned" about the effect of "air pollution, water pollution, soil erosion and destruction of wildlife on our natural surroundings." Another third were "some-

what concerned." Almost three out of four people interviewed were willing to pay additional taxes to improve our natural surroundings.

President Nixon declared:

"Each day we receive new evidence of the declining quality of the American environment."

The concern is not simply whether man is properly handling his environment for today's uses, but whether he is exercising his stewardship properly for the good of future generations.

For some, the environment is a newly-discovered field of interest. But for the farmer, it is as familiar as spring rains and summer droughts.

Formal, recognized programs such as those of the Forest Service and the Soil Conservation Service go back for nearly half a century. Because of men like Gifford Pinchot and Teddy Roosevelt, the concept of timber as a renewable resource became a reality and the United States set aside 187 million acres of National Forests. The Dust Bowl days stimulated us to another great conservation effort.

The importance of the group assembled here in this room cannot be overemphasized when it is dealing with the problem of conservation and environmental quality. As farmers and ranchers and as citizens of a democracy you are involved in the control of 7 out of every 8 acres of land in the United States.

Half the land of this Nation is in private farmland. Public ownership, ranging from forests to military bases and parks, accounts for three of every eight acres in the country.

Such ownership carries with it a major responsibility.

As your Federation so aptly states in its policy statement:

"It is the obligation of each generation to make wise use of our natural resources with particular regard to the needs of future generations."

Most of modern day pollution does not originate from farms. But rural people do have much experience in conservation. The rest of the population—our city cousins—is demanding more parks, more recreation and the like.

Conservation is the wise use of resources, their "planned management," as Merriman-Webster states, "to prevent exploitation, destruction, or neglect."

We speak of conservation. In my judgment, the single most important element in conservation is not land or trees or rivers—rather, it is the people. People can erode, just as the land erodes. Yet the most important resource of this country is the quality of her citizens.

We must provide environments in which the individual can flower to his full potential. That is our challenge.

As it is now, 70 percent of our people are jammed onto one percent of our land.

There is a limit to the amount of our natural resources that we can lock up just for the sake of preservation. The price that must be paid for limited or non-use becomes greater as time goes on.

Ed Cliff, Chief of the Forest Service, told the American Mining Congress this fall:

"More and more, ours is an urban society of young people. More than half of our population is under 30 years of age—52 percent. Increasing leisure, combined with rapid transit, means more people seeking the outdoors as a brief respite from the crowded urban environment, and thus creating greater awareness of and concern for the natural environment. They want clean air, clean water, and pleasant surroundings. Unfortunately, many do not relate their everyday needs to the earth's resources, or their standard of living to a dependence on mineral or other industries. Generally, they seem willing to forgo development of any resource, if it means polluting air or water, or if it becomes distasteful to their ears, eyes, or nose."

Man cannot turn back the pages of civilization far enough to find a stage where he did not need to use the natural resources around him.

The only valid question is: "Where do we draw the line?"

A balance must be struck between the various needs.

Fortunately, most resources have more than one potential use. Forests can be used to provide wilderness, forage, timber, water and many kinds of recreation, all at the same time. Farmland provides not only food but open space, beauty, wildlife habitat and other benefits to society.

The same water may serve mankind in several ways. Multiple-use watershed projects have proven that.

Even multiple use requires some compromise between interested groups, including the public. Alert and informed citizens, the backbone of democracy, must decide where they want to compromise . . . where they want to draw the line . . . and then let their public servants know their decisions.

As a public official, however, I have an obligation to safeguard the public interest from undue pressure from specialized groups.

A program for rural development is associated with the quality of our environment. Both are major goals of this Administration. The President created the Environmental Quality Council on May 29, and the Rural Affairs Council, November 13.

The Council for Urban Affairs, created earlier, and the Rural Affairs Council are to develop and implement policies which would strengthen both urban and rural America and thus encourage increased dispersal of the U.S. population throughout the country.

In establishing the Rural Affairs Council, the President noted that the U.S. population is likely to grow by 50 percent in the next 30 years. He said:

"Where these next hundred million persons locate is a tremendously important question for our society. After an era in which people have moved steadily from the countryside to large and crowded cities, we must now do what we can to encourage a more even distribution of our population throughout the country."

A valuable tool in providing the coordination essential to effective assistance, the Rural Affairs Council assures by its membership that the whole Federal Establishment is interested in rural development.

As you know, its membership starts with the President and the Vice President and includes in addition to the Secretary of Agriculture, the Secretary of Health, Education, and Welfare, the Secretary of the Interior, the Director of the Office of Economic Opportunity, the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Commerce, the Director of the Budget and the Chairman of the Council of Economic Advisers.

The recommendations of the President's Task Force on Rural Development, headed by your own Mrs. Haven Smith, should provide some important guidelines for the work of this Council.

We should bear in mind, too, that the rural development program is not essentially a farm program. Of the 65 million Americans who live in non-metropolitan areas, only 9 million, or 13.8 percent, are actually farmers.

This is not to say that rural development could possibly be undertaken without farmers, for their income may well form the only economic base in many communities and certainly is an important factor in any rural community. Let there be no doubt, then, that a good farm income is part of rural development. The point I wish to make is that rural development involves the total community.

It is hoped that Federal programs can be effectively delivered when and where the people want them. But the initiative for evaluating local needs, for assessing local resources, for planning local development and for carrying out programs locally, must lie outside Washington, in the states and local communities.

You are the people who will decide the future of your communities. The key ingredient in any community development program is people who care about whether their community grows and whether it offers the quality of living they want for their children.

The importance of the role of private enterprise cannot be overstated. Its participation is vital.

Private enterprise, in its various forms, means jobs and jobs mean rural development.

We can talk about the quality of housing, education, recreation and water and sewer facilities, but unless there are jobs and productive employment in a community then that community cannot survive, much less grow.

Non-farm jobs will provide the opportunities of the future in Rural America and if they are not provided then we will face the spectre of continued rural-to-urban migration from some areas.

Education and job training are vital to rural development. Prospective employers need a pool of trained people upon which to draw. Trained people without jobs leave communities.

One of the objectives of the rural development program of the Department of Agriculture and the Rural Affairs Council is to assure that Rural America gets its fair share of the multitude of programs available to assist in improving the quality of rural life.

The Department of Agriculture will make every effort to assure that Rural America gets the attention promised in the creation of the Rural Affairs Council.

We have organized the work of the Department to place greater emphasis upon rural development work. The administrators of the Forest Service, Soil Conservation Service, Farmers Home Administration, the Federal Extension Service and the Rural Electrification Administration meet regularly to develop policies, programs and priorities, to discuss problems and to facilitate coordination between agencies.

We intend to make full use of the tools already at our disposal to succeed in rural development.

The Soil Conservation Service will continue and expand the Resource Conservation and Development and Small Watershed projects. There are currently 54 RC&D projects in operation in the United States.

The Farmers Home Administration will continue and expand its programs for providing housing and community facilities.

Forest Service will continue its programs directly or through the states that improve the productive capacity and use of the forest and related resources of timber, forage, recreation, wildlife and water. Due to the nature of public ownership, the Forest Service can be a vital force in the development of some communities.

The Rural Electrification Administration will continue to assist borrowers in organizing available resources to carry out community development programs and promote individual development projects in the areas it serves.

The Cooperative Extension Services have agreed to assume a major role in the education of local citizens relative to rural development. Extension Services will play a key role in encouraging the democratic discussions that lead to the emergence of strong local leadership and rural development.

The cooperation of various levels of government and of the various departments and agencies of the Federal government is essential to the success of rural development.

To ensure that an equitable proportion of

Federal programs are available to Rural America, key personnel in each agency will be working closely with other Federal departments and agencies.

We intend to implement the concept of coordination in a few special project areas to be selected throughout the country. These special areas, each selected because they represent a particular kind of problem facing much of Rural America, and where the Federal government can respond effectively to what local people want, will receive special attention from all agencies which have programs relating to rural development. Such a concentration of help, handled in a coordinated way, should reveal the strengths and weaknesses of our total rural development system and provide useful information in the development of other areas facing similar problems.

Now I would like to share with you one of my chief concerns since coming to Washington.

I am concerned when I hear some of my associates describe the "national good" as if it were reason enough for the imposition of national programs on local people, no matter what the local situation calls for. There is a national good but high priority must be given to the interest of individuals and local communities.

In a sense, America is the sum total of her individuals and communities. Their very pluralism is the strength of America.

That pluralism must not be stifled by a blanket of national conformity, must not be lulled to sleep by a continuous drone of sameness from Big Government.

But such concerns do not dampen my optimism.

Citizens are not only becoming more concerned about their environment but better informed about it. They will be able to make better decisions as the various interests involving the environment are weighed against one another and courses that balance these interests are charted.

In the spotlight of informed public opinion, compromises will be drawn. They will have to be drawn if we are to progress in our resolve to make the best use of our environment. It becomes more evident every day that what is reasonable in the mind of one man is not reasonable in the mind of another. A common meeting ground must be found. We will reach solutions that will serve the most people, yet not trample the individuals and their communities.

Let us not forget that the greatest resource for us to conserve is the 200-plus million people who inhabit this country. We have to strive continually to improve the quality of their lives so that they will enjoy a full opportunity to mature as citizens.

"The past is prologue" is a statement carved in stone at the National Archives. The past in America is my greatest source of optimism. How can anyone look back over the past quarter century in America and not be optimistic?

Conservation and the growth of rural communities are real challenges. And we will face them in a realistic way, not with a torrent of words and a flashing of magic wands, but with teamwork and concerned citizens, all across America.

FARMERS HOME ADMINISTRATION PROVIDES EFFECTIVE PROGRAMS OF REAL BENEFIT TO CITIZENS AND COMMUNITIES IN WEST VIRGINIA—JIM MANCHIN GIVES INSPIRING LEADERSHIP.

Mr. RANDOLPH. Mr. President, it has been said:

A vision without a task is a dream; a task without a vision is drudgery; but a vision and a task together are the hope of the world.

There is a man in West Virginia who recognizes the truth in this statement. Though he may not know these particular words, they could well be his creed. He has combined a formidable task and a compassionate vision to create hope for many persons—hope which has been translated a thousand times over into a better life for citizens of our Mountain State. I speak of A. James Manchin, State director of the Farmers Home Administration, who has a vision of a brighter tomorrow for the people in the rural areas and small towns of our State. Mr. President, Jim Manchin's vision is to bring basic necessities and services to people—running water, a sewage system, a decent home, an opportunity to own a home, or operate a farm, a way to earn a living, a community organization through which citizens can cope with their problems. This is his task and he is performing it well.

An editor of one of our newspapers states that Jim Manchin, given the money and the time, would lay water and sewer lines over the entire State of West Virginia. I do not doubt that statement. But, in so doing, his guiding goal would be to serve the people. And therein is one of the most valuable—albeit intangible—benefits of his stewardship of the Farmers Home Administration. Jim concentrates on serving people and he is willing to meet with them night or day, rain or shine, to solve their problems and accomplish his task.

Since 1961, he has exercised a significant role in rural development programs in our State. As has been said:

Let's look at the record.

The Farmers Home Administration in West Virginia under the direction of A. James Manchin and his dedicated staff has invested $100,414,872 in the improvement of rural areas and the quality of living there.

Since 1961, more than 224,265 persons have been aided in securing improved housing, adequate water supplies, needed waste disposal systems, income producing businesses, and increased family farming operations. Some 838,777 persons have indirectly benefited from comprehensive countywide water and sewer system plans.

The annual volume of FHA credit has increased steadily since 1961, from $2,966,127 to $18,799,508 in fiscal year 1969. These increasing supervised loan programs have been a catalyst in the revitalization of rural West Virginia.

In addition to the loans which are measured in dollars and cents, Manchin and his coworkers have been involved in all aspects of broad-based, action-oriented, community development. The selection of a farm family of the year and the community of the year are two programs that FHA initiated to focus attention on the value of family farming and rural living. It is significant that these programs have since been adopted by other States. This year 14 outstanding rural community leaders were chosen from all sections of West Virginia and honored by the Governor for their contributions. All of these leaders cooperated with FHA in obtaining water or sewer service for their respective communities.

In 1968, the West Virginia State Technical Action Panel, which Manchin serves as chairman, received the U.S. Department of Agriculture's Superior Service Award from the Secretary. The award recognized "extraordinary contribution to the growth and development of West Virginia by cooperative planning and directing a comprehensive attack on the economic and social problems in rural areas." It was the only State TAP to be so honored.

No community and project is too small to receive FHA attention. A loan of $100 helped a poverty-stricken widow to purchase a loom to make rugs for profit, while the city of Princeton was extended $1,000,000 in FHA funds to upgrade its municipal water supply.

Mr. President, housing is a critical need in West Virginia as it is in so many areas of our Nation. Approximately 4,598 families, representing an estimated 22,870 persons, have obtained FHA loans since 1961 to secure new or improved housing. From a level of $1,496,960 in 1961, housing credit reached $9,282,380 last fiscal year. When it became evident that individual housing loans could not solve the persistent housing problems, FHA introduced the rental housing program. Funds totaling $221,700 have been injected into six projects which provide 29 rental units.

The FHA record of service continues. Family farmers, who might otherwise have been forced off the land, turned to the FHA for $8,096,090 in loans to accomplish farm ownership and improve their farms and $18,787,587 for operating purposes in the last 8 years. A total of 749 families have received Farm Ownership loans and 8,176 families have utilized FHA operating loans.

This assistance has enabled young farmers to become more profitably established and has helped to maintain older farmers in business who would have been forced to leave their homes. Studies of farmownership borrowers show that within 5 years after receipt of their loans, gross cash income is up 80 percent, with substantial gains in net worth.

Economic opportunity loans, administered by FHA for the Office of Economic Opportunity, have assisted 2,524 low-income families to equip themselves for income-producing enterprises at a cost of $4,773,105. Nine cooperatives designed to increase the income of their 765 members, through the development of better markets for farm products, received $186,220. The cooperatives support such enterprises as potato production, feeder calf sales, marketing of horticultural crops and timber sales.

Thirty-five county planning commissions were granted $384,860 to initiate countywide studies of water and sewer needs and development opportunities.

The benefits of modern water systems, sewer systems and outdoor recreation centers have been brought to more than 147,160 people in 111 rural communities. Funds for these purposes totaled $21,213,130 of which $3,641,590 was grant-in-aid money. A breakdown of the community projects includes 11 sewer systems, four watershed associations, 75 water systems, 11 recreation areas, and

one resource conservation and development loan in cooperation with the Soil Conservation Service.

A pilot FHA program of rural renewal has been instituted in Hardy County to plan for the economic and social development of the predominantly agricultural county. A $250,000 loan to the Hardy County Rural Development Authority will help develop a homesite near Moorefield, which has space for 65 new homes and a public recreation area.

Small towns and farm areas improved by the installation of basic facilities are in a much better position to give their people a satisfactory standard of living and to create a more attractive climate for new businesses and industry. At this time some 33 water and sewer loans are being processed. Based on preliminary plans, a total of $8,415,000 in FHA loans and grants will be required to complete these projects.

In spite of the advancements in solving the difficult sewage and water problems, there remains a large unmet need.

Mr. President, the mission of the Farmers Home Administration is to strengthen the family farm, improve the rural community, and to provide increased opportunity for our citizens. In West Virginia, the Administration, under the able and inspiring leadership of A. James Manchin, is focused on this mission. The record of achievement is truly commendable. Jim and his dedicated staff work diligently to sustain and significantly augment this record.

OIL IMPORT TASK FORCE

Mr. HANSEN. Mr. President, in the Washington Post today, I read that the Oil Import Task Force has not "wholly rejected" the national security basis for limiting our Nation's dependency on foreign oil—the inference being that it is still paying lipservice to the idea.

If this group does not believe a strong, viable domestic oil- and gas-producing industry is essential to the security of the Nation—and, further, does not believe that avoidance of substantial dependence on foreign oil is essential to our strength in these essential fuels—then it should say so. It should recommend, based on that belief, that the Nation abandon import controls and forget about maintaining adequate domestic supplies.

I say this because of the persistent reports that this group, and I am speaking primarily not of President Nixon's Cabinet Committee, but of its professional staff, has concluded that the program should be operated primarily, first, to arbitrarily force down the price of domestic crude oil, and second, to raise revenue through a system of "flexible tariffs" which would replace the present quota system which has been in effect for 10 years.

Mr. President, I have been informed that this radical new approach to oil import controls is all but ready to announce. I further am advised that a specific schedule of what I choose to call experimental tariffs has been decided upon, with different tariff rates to apply to the major oil-exporting areas shipping crude oil and its products to the United States. On crude oil, the existing meaningless tariff of 10.5 cents would be applied to Canadian crude oil. A tariff of 80 cents a barrel is the prospect for Venezuelan crude, and $1 a barrel would be applied to non-Western Hemisphere crude—primarily the Middle East.

Tariffs on finished petroleum products, that is, gasoline, jet fuel, and the like, would be somewhat higher—20.5 cents from Canada, $1 a barrel from Venezuela, and $1.10 a barrel from the Eastern Hemisphere. The existing 5.25-cent tax on heavy residual fuel would remain except for residual from Middle East sources, for which the tax would be 35.25 cents a barrel.

I believe it can safely be said, Mr. President, that so radical a departure from the system which has been in effect for 10 years would do several things:

It would rearrange the whole economic structure of the petroleum industry.

It would kill off small, inland refiners who participate in the present quota system. I have some interest in this, since no fewer than seven such refineries are located in my State of Wyoming.

It would "shuck out" much marginal production in the United States. In fact, this is one of the reported "goals" of the task force staff, to weed out the so-called inefficient smaller oil producers. This would mean closing down some 350,000 wells and some 15 percent of U.S. oil production, almost immediately.

In the considered judgment of many, it would cause an immediate sharp drop in U.S. oil and gas exploration which—according to the Department of Interior—already is woefully inadequate. It therefore would thwart efforts of the industry, and the Government, to forestall imminent shortage of natural gas.

It would forestall or foreclose for decades, perhaps, the development of the technology to bring into production the vast alternative U.S. hydrocarbon resources—from oil shale, coal hydrogenation, and tar sands.

It would, in effect, abandon the present national policy of encouraging domestic exploration for and development of oil and gas to the end of maintaining our strength as to our industrial, military and essential civilian supplies of these fuels.

Mr. President, the Sunday New York Times reported on an interview with Mr. Walter J. Levy—an internationally known petroleum consultant, who I believe put this whole question into perspective. Mr. Levy is not a spokesman for domestic oil producers. He is not a spokesman for domestic refiners. He is, more than anyone perhaps, qualified to speak to this issue dispassionately because there are few oil producing countries to which he has not served as a consultant on petroleum matters.

I ask unanimous consent that the New York Times article be printed following my remarks. But in connection with the Task Force staff's tariff-oriented radicalization of the oil import program, I was to quote from Mr. Levy only briefly:

> The basis for an oil-import policy is the nation's security. I don't mean just security in the time of war but rather that the United States must, at all times, be able to steer an independent foreign-policy course, free from any outside pressure brought by a need for energy supplies.
>
> To achieve these security goals by a tariff system would require a finely tuned mechanism, continuously administered so as to respond both to foreign and domestic oil costs, prices, transportation charges, exploration incentives and results, including those that are independent of the effects of United States tariffs as well as those that are generated by the tariffs themselves.
>
> It is basic to a tariff concept that you find a figure that through the market mechanism will assure the desired result, in this case security and low cost oil.
>
> In the case of the oil industry, there are far too many variables. To think that a figure can be arrived at is self-deception.
>
> I do not mean to impugn the motives of those who are advocating a tariff solution. They believe they are right. However, all my knowledge and experience in this complicated industry tells me they are wrong.

Mr. President, I share Mr. Levy's concern, and I fear that we are about to witness a disastrous shakeup of the petroleum industry, and an equally disastrous undermining of our essential security interests in maintaining a viable domestic petroleum industry, if press speculation is accurate.

Some of those, on the task force staff in various papers and doctorate dissertations, already have revealed some highly prejudiced thinking on the question of whether or not the United States should limit oil imports. I will not go into these writings, but the views of two such task force staff members, Mr. Edward W. Erickson and Mr. Thomas Stouffer, appear on page 45 of the September 8, 1969, issue of the Oil & Gas Journal.

Mr. President, I wish to make clear that I share the objective of President Nixon in endorsing both the need and the timeliness of the current study of the oil import program. I also recognize his objective in turning to the extent possible to unbiased, uninvolved, objective minds to conduct this study. The danger of this, however, is being proven in the case at hand. I am afraid those running the study are long on economic and academic theory, and virtually void of any practical knowledge of the very complex global industry for which they are prescribing.

Many Members of Congress, over many years of time, have been concerned with establishing a process whereby we could maintain reasonable hope for escaping undue dependence on remote and insecure foreign oil. That question has been debated in this body at great length. Through that process, in which every conceivable view was accommodated and much compromise occurred, the present mandatory oil import program was implemented under President Eisenhower.

The late President Kennedy looked the program over and thought it good and acceptable, except in some minor respects where he acted to strengthen it. Under President Johnson the program was maintained pretty much intact, but precedents were established by Secretary Udall who put his approval on exceptions and exemptions which, predictably, led to more exceptions and exemptions. Ultimately, these exceptions so distorted competitive positions and became so hopeless to contain administratively that

President Nixon was left no alternative except to order a reexamination of the program.

Clearly, there had developed a need to clean up inequities and reorient the program. Now if we can believe the publicity flags which have been run up the flagpole, through the customary process of "leaking" to the press, the task force staff is urging upon the Cabinet radical changes, large increases in imports, whole new systems including the imposition of "tariffs," and new objectives including the incredible goal of forcing down the price of crude oil to world levels.

It would be nice if we could buy everything at world prices and at the same time maintain undiminished the high level of American wages so as to continue to live in the manner to which we have grown accustomed. We have some economic minds who theorize that this can be done, and that the Government is the instrument for achieving this utopia. But they have not shown me that it will work.

I find it peculiar that so many are so eager to regulate oil prices. This puzzles me because of all the major commodities sold in America, petroleum prices have been among the most stable. The four principal petroleum products are gasoline, kerosene, home heating fuel, and residual oil used primarily for industrial fuel. The weighted average of these prices in the years used by our Government to measure price behavior—1957–59, was $3.99, at the refinery gate. In September 1969, the average refinery price of these products was $3.90 a barrel—down 3 percent from 1957–59. The average price of these products are lower, after 10 years of import controls, than in the years just before import controls. Since 1957–59, the average price of domestic crude oil is up only 3 percent.

In that same period, according to figures from the Bureau of Labor Statistics, the average wage in the domestic oil producing industry has increased 42 percent. Other major items of cost which go into finding and developing oil and gas supplies, such as oilfield machinery and pipe, have skyrocketed in cost. These increased costs have, in other words, been absorbed by the domestic industry; have not been passed along to the consumer by the producing segment of the industry.

Yet it is the producer, and primarily the thousands of independent producers, and the small refiners, who are branded as "inefficient" and who are the sacrificial lambs for those who want to innovate with bold new programs said to be offered up in behalf of the "consumer."

After the thousands of competitive smaller elements have been done in and the American consumer must depend on a relatively few number of companies growing smaller in number each year, what guarantee does the buyer of gasoline, or of home heating fuel, have for the future? What assurance that the radical government of Libya, run by an immature self-proclaimed leftist, will not jack the price of Libyan oil out of sight? And what assurance does the consumer have that the Shiek of Kuwait and the rest of the Arab bloc will not join in a price squeeze once the American people, and our Military Establishment, are "hooked" on their oil with no alternative supplies?

A little independence on foreign oil with no other way out might prove to be like a little dependence on heroin. Once the customer is hooked, the price skyrockets. All of the economic theory in all the ivy cloistered universities in America cannot guarantee the American people freedom from dependence on that oil which could, at any time, be denied them.

Economic theory is just fascinating, and many may even find it tantalizing, Mr. President. But I worry here about some facts of life that do not involve economic theory, but deeply-ingrained centuries-old political and religious passions and the prejudices of Arab countries which twice, in recent memory, have denied their oil to the West.

There is no period in recent history when those who are dependent upon Arab oil have not felt the uneasiness that goes with that dependency. I include all of Western Europe, and many examples can be recited but I will use only three or four.

I refer Senators to an article published in the old Saturday Evening Post for February 17, 1962, written by the radical Saudi Arabian nationalist, Shiek Abdullah Tariki, who then was his country's general director of petroleum and mineral affairs.

In that article, Shiek Tariki expressed the consuming ambition of the Arab nationalists which perhaps is stronger today than ever. That ambition is to get the West in a position where it can be blackmailed for oil. I quote the Shiek:

> Some day we will unite.

He is speaking here of the Arab nationalists.

> Once we are strong enough to shut down all the wells and close the Suez Canal and shut off the pipelines—even if for a few days—the (oil) companies will suddenly see a great light. The World cannot live without Middle East oil.

It is primarily Middle East oil that Dr. Areeda and his associates in the Cabinet Task Force want to use, Mr. President, to regulate the price of domestic crude oil. I say further that before this Congress and particularly this administration permits that to happen, we had all better see the light and refocus our national oil policy on reality.

I go further to illustrate this point, for I believe it is important. Some 15 months after Shiek Tariki wrote his Saturday Evening Post article, the Sunday magazine of the London Times published a special issue on "Oil & Turmoil: Guide to the Middle East."

The lead article in this special issue illustrates the discomfort of those who are dependent on Middle East oil with no visible alternative. I believe this comes through in this particular quotation which is from the lead paragraph of that lead article:

> Dr. Mohammed Mossedegh, the weeping Prime Minister of Persia made the point in 1951. Suez confirmed it in 1956. Whether we like it or not, the economy of Western Europe is bound to the Middle East. The moods and quirks of the rulers of a handful of feudal sheikdoms could, if they were to act together, thin the traffic in our cities and slow industrial life throughout Europe to a crawl.

The concluding paragraph of this same article, which I believe expresses a poignant hope of the British people, Mr. President, reads as follows:

> This year the oil companies are exploring the bed of the North Sea. If the Dogger Bank turns out to be a hump of oil, Britain, for one, would sigh with relief.

How is Britain doing today? Is that country any more comfortable? Is it any less free of the knowledge that the supplies and prices and future availability of a basic energy fuel could go up in the inflamed passions of the Middle East?

One thermometer is the Financial Times of London. Following the coup in Libya by a radical leftist, militarist group led by Soviet-sympathizing "colonel" in his 20's, the Times referred in an editorial to "anxious moments" this development has caused both "official and oil industry circles throughout Europe."

Then, in this editorial comment, the Times concluded:

> . . . security of supply should be given a higher priority than cheapness. In the short run this means that no one country should be allowed to secure a dominant position among Britain's supplies. In the longer run it may mean that if relatively expensive oil is discovered either in Europe's offshore water, or elsewhere—the Canadian Arctic, for instance—in a *politically secure* country, it should be exploited to our advantage if at all possible, even if it is more expensive than oil from the Middle East and North Africa.

Mr. President, I submit that here we have a paradox. In the United States, we have both the skill and the resources to keep our country relatively self-sufficient in petroleum fuels. But we have academic and political voices saying, in effect, "This is an outmoded goal. We should act now, even at risk of dismantling the domestic industry, to take advantage of the "cheaper" foreign oil." Mind you, those advocating this have never suffered a shortage of petroleum; have never asked a service station attendant, to "Fill 'er up," without getting a tankful—and at half the price most Europeans enjoy, I might add.

On the other hand, this Financial Times editorial expresses the view from a country that has known petroleum shortages, has felt the frustration and the discomfort and the increased costs of fuel shortages. And those who have had this experience are stating the opposite view of our academic "experts." They are saying, even if we have to pay more, let us find and develop and avail ourselves oil supplies in a politically secure country.

Mr. President, I hope the speculation as to the approach that the Presidential Task Force's staff is pushing is untrue. If it is true, I must urge my President to reject this economic innovation and experimentation as against the best interests of our consumers, against the long-term security interest of our country. To simply junk the domestic oil industry because it is, in the judgment of a few academic economic or graduate stu-

dents "inefficient," is to me, unthinkable.

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

LEADING OIL ECONOMIST BACKS QUOTAS

(By William D. Smith)

Walter J. Levy is the acknowledged dean of American oil economists. He attained his standing, to a large degree, by staying above partisan strife. His job, as he sometimes describes it, is "to find the gray areas of agreement" between two disputants.

On the boiling controversy over the present oil-import quota system with a tariff program, Mr. Levy can find no gray area. "It would be a disaster," Mr. Levy states in no uncertain terms.

Mr. Levy sent a paper to the State Department last week explaining his position.

"My only interest is the security of my country. I believe the import question is the most important issue involving the oil industry since World War II," he said in an interview.

MORE NEW PROBLEMS

In precise, German-accented English, he continued, "A tariff system may look good in theory for some industries, but for the oil industry, in practice, it would be completely unmanageable.

"The present quota system can certainly be improved, but a tariff would create many, many more problems than it solved."

He explained his position: "The basis for an oil-import policy is the nation's security. I don't mean just security in time of war but rather that the United States must at all times be able to steer an independent foreign-policy course, free from any outside pressure brought by a need for energy supplies.

"Any approach to import policy has inevitably to resolve several key questions. First, the relative proportions of foreign and domestic oil that are deemed to be compatible with national security. Second, the distribution of total imports as between more and less secure sources of supply—in the short run as regards current supplies and in the long run as regards future productive potential.

"Third, the level of domestic crude-oil prices that would support exploration incentives, such that domestic crude-oil reserves will continue to be found and domestic productive potential will continue to be maintained.

"To achieve these security goals by a tariff system would require a finely tuned mechanism, continuously administered so as to respond both to foreign and domestic oil costs, prices, transportation charges, exploration incentives and results, including those that are independent of the effects of United States tariffs as well as those that are generated by the tariffs themselves.

"It is basic to a tariff concept that you find a figure that through the market mechanism will assure the desired result, in this case security and low cost oil.

"In the case of the oil industry, there are far too many variables. To think that a magic figure can be arrived at is self deception."

He added, quickly and softly, "I do not mean to impugn the motives of those who are advocating a tariff solution. They believe they are right. However, all my knowledge and experience in this complicated industry tells me they are wrong."

Mr. Levy went on to outline some of the variables that a tariff would have to take into account. "The tariff level must, of course, be high enough to preclude unacceptable volumes of imports entering from insecure sources.

"But the critical tariff level, presumably keyed to expandable production from the Middle East, would have to cope with cost differentials and cost unknowns among various producing areas, various concessionary arrangements and as between production of a private company and a foreign Government.

"Tariff differentials would have to be set so as to achieve predetermined proportions among sources of supply. But it is not at all clear that a tariff preference that is conducive to Western Hemisphere imports in the short run will be accompanied by expansion of Western Hemisphere reserves and future productive capacity of the order of magnitude envisaged in forward projections of supply balances.

"Explicitly or implicitly, the tariff levels would have to be related to some, and a big question is what, level of domestic crude prices, and adjusted as incentives to imports may threaten domestic prices and exploration incentives.

"To put it quite frankly, it appears that a tariff system would require a considerable range of basic policy decisions to be set out and extended far into the future before tariffs could be approximated, and would involve a complicated tariff structure with continued and possibly frequent adjustments in tariff levels, differentials and exemptions.

"The inherent uncertainties involved in this situation would sap domestic exploration incentives and future domestic productive capacity."

Mr. Levy said that a better solution would be to increase the quotas.

He also strongly advocated a single continental oil policy with Canada.

Some preferential treatment for Latin America would also be part of his program. He added that, under a tariff, Latin America would likely suffer the most, creating a host of political and economic problems for the United States.

RADIATION CONTROL

Mr. MOSS. Mr. President, I wish to report on the management of radiation, a form of environmental pollution which has not received enough attention.

The Radiation Control for Health and Safety Act of 1968, Public Law 90–602, requires the Secretary of Health, Education, and Welfare to set performance standards for electronic products which emit certain radiations and which are sold in interstate commerce. On October 16, the Federal Register included the Secretary's notice of a proposed rulemaking to establish general provisions regarding certification and labeling of electronic products to which these standards apply, and also to prescribe a performance standard for emission of X-rays from television receivers. This is an important first step in what I hope will be a concerted, continuing effort by the Secretary to head off and prevent the needless introduction of radiation from electronic products into our family and working environments. This proposed new addition to Federal regulations is also important because it is partially the product of a statutory committee that includes among its members five chosen from the general public. They bring into the standard setting process a viewpoint usually not represented although the decisions effect their health and safety.

Public Law 90–602 also required three studies by the Secretary of Health, Education, and Welfare.

First. A study of present State and Federal control of health hazards from electronic product radiation and other types of ionizing radiations;

Second. A study to determine the necessity for the development of standards for the use of nonmedical electronic products for commercial and industrial purposes; and

Third. A study of the development of practicable procedures for the detection and measurement of electronic product radiation from products manufactured or imported prior to the effective date of standards established under the act.

A report on these studies is due on or before January 1, 1970. Once in hand, it will provide the Congress with further needed insight into the complicated situation wherein many Federal and State agencies perhaps have inconsistent responsibilities for control of products that emit undesirable radiation. I understand that the Bureau of Radiological Health, which is making the studies, expects to meet the target date.

A third item relevant to Public Law 90–602 is the recent symposium held at the Virginia Commonwealth University on the biological effects and health implications of microwave radiations. This subject was explored in some detail by the Senate Committee on Commerce during its hearings of 1967 and 1968 on the legislation. Now from the symposium has come a call for studies of possible human health effects of microwave radiation to determine the incidence of known microwave effects, including some effects which until recently may have been ignored in this country. I refer to the so-called nonthermal effects which some foreign scientists believe may produce behavioral changes, headaches, and other symptoms. If these effects are confirmed here, we may have to give them serious attention. For the information of my colleagues, I ask unanimous consent to have printed in the RECORD a statement released from the symposium by Dr. Stephen F. Cleary, who was its chairman. This is a subject on which Congress has helped to focus attention, and I would expect that attention to continue as we see what the Secretary of Health, Education, and Welfare is doing to respond to the new responsibilities put upon him by Public Law 90–602.

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

VIRGINIA COMMONWEALTH UNIVERSITY SCIENTIST CALLS FOR HEALTH STUDIES OF U.S. WORKERS EXPOSED TO MICROWAVES

RICHMOND, VA., September 27.—A Medical College of Virginia scientist called today for investigations of possible microwave radiation health effects among segments of the U.S. population which have been occupationally exposed to microwaves.

The need for such epidemiological research was underscored by the three-day scientific symposium here last week (September 17–19) on the Biological Effects and Health Implications of Microwave Radiation, said Dr. Stephen F. Cleary, Associate Professor in the Department of Biophysics of the College, a Division of Virginia Commonwealth University.

Dr. Cleary was chairman of the symposium. The event was sponsored jointly by the College and the U.S. Environmental Control Administration's Bureau of Radiological Health, located in Rockville, Maryland. About 400 health authorities, research scientists, and engineers attended the symposium.

Dr. Cleary said that epidemiological studies

of possible human health effects of microwave radiation should be designed to determine the incidence of known microwave effects, such as eye cataracts, as well as the more subtle and reversible effects, including headaches, behavioral changes, and other symptoms reported by Russian and Eastern European scientists.

Dr. Cleary said that United States scientists thus far have devoted relatively little attention to subtle effects from microwaves at low power levels. Some western scientists, he noted, have been skeptical of Russian and Eastern European findings with respect to subtle effects.

"In my view, epidemiology should have the highest priority in determining the health implications of microwave and radio frequency radiation exposure," Dr. Cleary said.

"If we do well controlled statistical studies of the effects of microwaves on occupationally exposed workers, we will take the biggest single step we can take to satisfy ourselves on the question of subtle effects," Dr. Cleary added.

Dr. Cleary also emphasized the importance of research on basic mechanisms by which microwave biological effects may be induced. He said this sort of work ought to go forward while epidemiological studies are being conducted to attain better understanding of human health effect problems with microwaves.

Dr. Cleary pointed out that some of the Russian and Eastern European investigators have associated health effects with microwave power levels which are fractions of the maximums recommended for United States workers exposed to microwaves.

Epidemiological investigations of possible incidents of microwave health effects, Dr. Cleary said, should be conducted among military radar and microwave communications personnel, employees of industries and commercial establishments using microwave equipment, and microwave equipment manufacturing workers.

Dr. Cleary said the symposium here last week was the first major public scientific meeting on microwave health implications at which comprehensive reviews of Russian and Eastern European findings were discussed in detail.

Dr. Cleary called attention to symposium papers reporting results from studies conducted in the U.S. of animal behavior effects from relatively low level microwave radiation. He said he found it "interesting" that these results were "suggestive" of findings by Russian and Eastern European investigators of effects of microwaves on human behavior.

THE SEAWAY'S LESSON

Mr. RANDOLPH. Mr. President, recently the Waterways Journal included an editorial highly commendatory of Senator STEPHEN M. YOUNG, of Ohio, chairman of the Subcommittee on Flood Control and Rivers and Harbors of the Committee on Public Works. The publication referred to a booklet written and published by him entitled "A Water Development Program for America's Future." I consider this material of interest. It gives deserving recognition of the service by our colleague. I ask unanimous consent that it be printed in the RECORD.

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

[From the Waterways Journal, Dec. 6, 1969]

THE SEAWAY'S LESSON

U.S. Sen. Stephen M. Young of Ohio is chairman of the Subcommittee on Flood Control-Rivers and Harbors of the Senate Public Works Committee. During his 11 years in the Senate and four terms in the House, he has been a vigorous supporter of water resources development.

The National Waterways Conference, Inc., has published Senator Young's thought-provoking paper, "A Water Development Program for America's Future." In the light of reaffirmation by the Department of Transportation of its position regarding user charges for the waterways, as set out in a recent letter to The Waterways Journal, Senator Young's comments are pertinent.

There is a lesson to be learned from the St. Lawrence Seaway, "where tolls act as an excise tax on the American farmer and worker," Senator Young points out. "Our experience with Seaway tolls demonstrates the insatiable appetite for ever higher charges on the part of the narrow interests opposed to waterway improvement," he warns.

"Although these tolls were set very high to begin with, the demands that they be raised never cease. For those who seek tolls or user charges on waterborne commerce, there is no ceiling, and the demand will be stilled only when the commerce itself has been destroyed. Thus our experience with tolls on the St. Lawrence Seaway leaves no doubt as to the folly of attempting to apply such an imposition to our domestic waterways."

Senator Young has, with that statement, put his finger on the crux of the whole user charge issue. The real objective of those who urge waterway tolls is the destruction of waterborne commerce. Not one of the nine "justifications" cited in the previously mentioned letter, from Richard J. Barber, deputy assistant for policy and international affairs, makes sense in any other context. Mr. Barber's letter, coupled with Transportation Secretary John A. Volpe's recent testimony before a House hearing, evokes the suspicion that the Administration is using intimidation tactics in its fight for user charges.

Secretary Volpe testified that "the concept of user charges, wherein the direct beneficiary of a service is required to pay the cost thereof, is no longer to be seriously challenged in the transportation area." He seems to be saying that it must be construed as unpatriotic to question a proposal which directly affects everyone.

One of Mr. Barber's "justifications" is "imposition of restraint upon local pressures for Congressional authorizations and improvements." Is the Department of Transportation saying that it is un-American for citizens to urge navigation improvements? Other "justifications" seem to support this suspicion: "measurement of the non-federal motivation for investment," and "establishment of priority among investment alternatives."

Another "justification" is defined as "insurance of a fair and reasonable assumption of costs by the immediate and special beneficiaries of a project."

Ignoring the semantic pitfalls in that statement, the question is: who are the immediate and special beneficiaries? They certainly would not be the inland waterway carriers, who would be forced to raise their rates to compensate for the cost of user charges. They would not be the shippers, who would have to raise their prices to cover the higher water freight rates. Nor would they be the consumers, who after paying taxes that helped finance the navigation improvements, would be victims, in Senator Young's words, of an excise tax on virtually everything they purchase.

No one familiar with the waterways has any doubt that those who urge user charges will stop with the current proposal for imposition of a 2-cents a gallon tax on all fuel used by commercial vessels with a maximum draft of 15 feet or less. As Senator Young warns, "there is no ceiling" and "there is no conceivable level of waterway user charge which, as long as cargo still moves, will lay the issue to rest."

We commend to every member of Congress a thoughtful reading of Senator Young's paper. In view of the crowded legislative calendar in Congress, it does not appear likely that any action will be taken on waterway user charges this year. But while there is still time, the industry needs to emphasize to Congress, and to the American people, the lesson of the St. Lawrence Seaway.

WHY SHOULD BOTULISM BULLETS ESCAPE BIOLOGICAL WEAPONS (BW) BAN?

Mr. GOODELL. Mr. President, I want to call the attention of the Senate to a most unfortunate recent decision by the Pentagon regarding a biological weapons—BW—ban exception.

The Defense Department now claims that germ toxins, including "botulin," are to be considered as chemicals not biologicals; hence, toxins are not to be dismantled in view of President Nixon's new policy initiative to ban germ weapons.

Botulin toxin produces the disease toxin botulism. Effects are severe poisoning with 60 to 70 percent mortality; vaccine is available as toxic.

Mr. President, it has been reported that the Army has stockpiled more than 20,000 botulism bullets.

Germ weapons—especially since they could produce epidemic; and even if germ spread is not expected as with toxin botulism—are "horrors against humanity" and should be banned from the arms arsenals of nations.

I ask unanimous consent that two articles on these matters be printed in the RECORD.

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

[From the Washington (D.C.) Post, Dec. 13, 1969]

TOXINS LISTED AS CHEMICALS, ESCAPE BAN

(By Richard Homan)

The Defense Department acknowledged yesterday that deadly toxins that make up a major part of the nation's biological warfare planning, are now officially considered to be chemicals and, therefore, exempt from President Nixon's recent ban on germ warfare.

The disclosure indicates that the Presidential ban may be less sweeping than it first appeared to be.

Among the nation's arsenal of biological weapons, toxins were considered the most practical and among the most effective. Though highly lethal, they cannot reproduce or be transmitted from one person to another.

HIGH DEATH RATE

The chief toxin in the U.S. stockpile is botulin, which causes botulism, a disease with a 65 per cent mortality rate, in which death results from respiratory failure.

According to reports published two months ago and not refuted by the Pentagon, 20,000 bullets containing botulin are stockpiled at Pine Bluff (Ark.) Arsenal, the nation's only facility for producing biological weapons.

Though not living organisms themselves, toxins are poisonous substances derived from living organisms. For that reason, they were officially considered as part of the biological warfare activities by the United States until recently.

Pentagon spokesman Jerry W. Friehelm said yesterday that the National Security Council had based its decision, which the

President accepted, on a similar interpretation made by a 14-nation United Nations study group last summer.

IN AGREEMENT

"The United States agrees with this definition," the Defense Department spokesman said.

Nonetheless, the United States rejected the U.N.'s authority to interpret another aspect of the Geneva Protocol's ban on lethal gas warfare this week.

The U.N. General Assembly, by a 58 to 3 vote with 35 abstentions, interpreted the Protocol to ban use of tear gas and defoliants in warfare. The United States, which uses both in Vietnam, said the UN "is not the proper forum to decide such disputed questions of international law."

CHIEF OF TEAM

The 14-nation study group's determination that toxins are chemicals and not biological agents was compiled and drafted by a team headed by Dr. Ivan Bennett, a Pentagon consultant and director of the New York University Medical Center.

The Defense Department acknowledged the re-classification yesterday after the American Friends Service Committee disclosed it.

[From the New York Times, Oct. 31, 1969]

20,000 POISON BULLETS MADE AND STOCKPILED BY ARMY

(By Robert M. Smith)

WASHINGTON.—The Army has produced and stockpiled more than 20,000 poison bullets.

It is reliably reported that the bullets contain Botulinum—a toxin that produces an acute, highly fatal disease of the nervous system.

A secret memorandum prepared in 1966 by Chemical Corps officers for Secretary of the Army Stanley R. Resor said that thousands of the bullets had been produced and stockpiled at Pine Bluff Arsenal, in central Arkansas.

There is no evidence that the bullets have been used.

It is not known whether the United States is still producing the poison bullets. However, in recent private conversations with other Government officials, Defense Department personnel have indicated that the bullets are, at the least, still stockpiled.

ASSASSINATION WEAPON

Officially, the Defense officials have shied from the questions of officials in other departments as to what the "special" weapons at Pine Bluff Arsenal are; they refer to them in only the most general terms.

Reliable sources say that the 1966 memo divided the poison bullets into two types—.38-calibre and "separable." It is not clear what "separable" means. The sources say the memo reported that considerably more than 10,000 bullets of each type were stored at the arsenal.

Knowledgeable sources indicate that the poison bullets could logically serve only one purpose: assassination. To kill an enemy leader with a poison bullet, it would be necessary to do no more than nick him; he would very likely die of botulism, the disease induced by the powerful toxin.

It is not clear whether the United States produced poison bullets before 1965. However, that is the first reference to the bullets that sources familiar with Army weaponry say they have seen.

The year 1965 was when the United States began to send large numbers of combat forces to Vietnam. In 1964, there were 23,300 American troops in Vietnam; in 1965, there were 184,300.

The Hague Convention of 1907—which the United States has signed—prohibits the use but not the manufacture, of poison weapons. This injunction is repeated in the official Army guide to the rules governing warfare, Army Field Manual 27–10, "The Law of Land Warfare."

"It is especially forbidden," the manual points out, "to employ poison or poisoned weapons." At another point it notes: "It is especially forbidden to employ arms, projectiles or material calculated to cause unnecessary suffering."

The Pine Bluff Arsenal has both biological and chemical production facilities. In the biological area, five officers, four enlisted men and 323 civilians are engaged there in a $7-million-a-year operation centered in a 10-story tower.

The Army has described the biological plant at Pine Bluff as a "pre-production facility." It says that the arsenal produces biological agents to develop the techniques and "hardware" necessary to mass-produce the germs if they are needed.

The operation, the Army says, also involves storing some of the germs and toxins (the dead but poisonous by-products of bacteria) in refrigerated "igloos." The igloos, in the north and central portions of the arsenal, are reinforced concrete huts covered with two to three feet of dirt.

There are 273 igloos at the arsenal, plus 32 warehouses, 16 sheds and 72 concrete magazines, but it is not known how many of the igloos are used to store biological agents. Pine Bluffs also stores lethal chemical agents.

Presumably the poison bullets are stored in the concrete magazines.

Specific information on biological agents is secret. However, Representatives Richard D. McCarthy, Democrat of upstate New York, an outspoken critic of American chemical and biological warfare policy, has said the disease bearing weapons the United States develops, tests and in some instances stockpiles would produce—besides botulism—anthrax, tularemin, Q-fever and Venezuelan equine encephalitis.

Another Army manual, Technical Manual 3–216, "Military Biology and Biological Agents," discusses the disease botulism in some detail.

The manual says that the mortality rate of botulism is 65 per cent in the United States. However, Americans contract the disease by eating contaminated and improperly cooked food. Presumably, the mortality rate would be higher if the toxin were introduced in a concentrated form and through a bullet wound.

The Army manual says that the symptoms of the disease appear in 12 to 72 hours and that "antitoxin therapy is of doubtful value, particularly when large doses have been consumed." The disease is not contagious.

The manual also says that "through repeated purification procedures [the toxin] has been obtained in a crystalline form and is one of the most powerful toxins known."

"Botulism is an acute, highly fatal disease," the manual continues. "It is characterized by vomiting, constipation, thirst, general weakness, headache, fever, dizziness, double vision and dilation of the pupils. Paralysis is the usual cause of death."

The National Security Council is now in the final stage of a review of the United States' chemical-biological warfare policies. An interagency staff report has been prepared on chemical-biological warfare, and the report is currently being discussed by high officials of the Pentagon, State Department, Arms Control and Disarmament Agency and other agencies.

President Nixon plans to meet with the National Security Council in early November to consider the issue and to try to formulate a chemical-biological warfare policy.

SENATOR HATFIELD OPPOSES CHEMICAL WEAPONS SHIPMENT TO OREGON

Mr. GOODELL. Mr. President, it has come to my attention that the Army has announced plans to ship nerve gas presently stored on Okinawa to the Umatilla Army Depot in Hermiston, Oreg.

The senior Senator from Oregon (Mr. HATFIELD) has protested this shipment. In view of the restrictions on chemical and biological weapons—CBW—which Senator HATFIELD strongly supported from the outset and which Congress has passed, his recent action could be expected and is welcomed.

The major theme in Senate debate over gas shipment was safety in transport. Senator HATFIELD assures us that it will continue to be.

I ask unanimous consent that an article written by George C. Wilson in the Washington Post on this matter be printed in the RECORD.

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

[From the Washington (D.C.) Post, Dec. 10, 1969]

GAS SHIPMENT PROBLEM UNRESOLVED

(By George C. Wilson)

"Did you know," the reporter asked Sen. Mark Hatfield (R-Ore.) over the long distance line, "that the Army is sending that poison gas on Okinawa into Oregon?"

No, the senator had to admit, he did not know.

What happened from that moment on tells a lot about what is going to happen all over the nation as the Army obeys the new law requiring it to disclose intended shipments of poison gas.

Hatfield received the Oregon reporter's call Dec. 2. He learned that Under Secretary of the Army, Thaddeus R. Beal, had flown out to the West Coast to notify the governors of Washington and Oregon that the Okinawa gas was coming into their states. But Beal didn't tell Hatfield.

EXPRESSES ALARM

Hatfield, a former governor of Oregon himself, was at the forefront of those senators who earlier this year successfuly legislated curbs on the Army's CBW (chemical and biological warfare) activities. Last week, he fired off telegrams to Army Secretary Stanley R. Resor expressing his alarm about the gas shipments from Okinawa.

On Friday, Sam Mallicoat, the senator's administrative assistant, said an Army liaison man called suggesting it might be "appropriate" for Beal to talk to Hatfield about the gas shipment.

Beal and Army Brig. Gen. William W. Stone Jr., director of the Army's CBW program, showed up in Hatfield's office that same Friday afternoon to brief the senator.

WRITES TO PRESIDENT

Beal and Stone confirmed that sometime this month the nerve gas that caused an uproar on Okinawa was going to be shipped by boat to the Naval Ammunition Depot at Bangor, Wash., and then put aboard a train bound for the Umatilla Army Depot in Hermiston, Ore. The Army plan is to store the gas there permanently.

Distressed over what he had learned, Hatfield the day after the Army briefing wrote President Nixon that not only is shipping lethal gas dangerous to everybody along the route, but also "I fail to see how the stockpiling of these weapons, particularly in such proposed amounts in Umatilla, is vital to our security and supportive of your administration's new policies in this area."

As Hatfield and Oregon Gov. Tom McCall publicized what the Army had in mind, the residents of Oregon protested with an indignation that indicates few people want poison gas stored anywhere near them.

"Is Oregon to harbor a nerve gas too dan-

gerous for storage on Okinawa?" a woman asked Hatfield in a letter from Bend, Ore.

"Deceit and incompetence have characterized handling, transportation and storage of these highly destructive poisons in Utah, in Denver and elsewhere," she continued. "We in Oregon are entitled to as much consideration as the Japanese."

Another constituent wrote Hatfield: "If the stuff is unsafe for the people where it is, it will be no more safe for Oregonians."

"KEEP POISON GAS OUT"

"Keep poison gas out of Oregon," wired another constituent. "Recommend returning to manufacturing state." Oregon is 51st in the nation in Pentagon contracts—ranking behind Washington, D.C.

The new regulation—signed into law Nov. 19—requires the Army to notify Congress in advance about planned shipments of chemical warfare agents to and from American bases. The Oregon shipment is the first disclosure under the new law.

The public reaction—Hatfield said yesterday that only two of 50 letters received on the issue in the last three days have endorsed the storage of gas in Oregon—has put Oregon and Washington politicians on the spot.

Sen. Warren G. Magnuson (D-Wash.) opposes the shipment of the Okinawa nerve gas through his state of Washington. Sen. Henry M. Jackson (D-Wash.), an outspoken hawk on most military issues, is in an uncomfortable position on the issue.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 15090) making appropriations for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes.

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

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

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 o'clock tomorrow morning.

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

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

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

The assistant legislative 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 PRESIDING OFFICER (Mr. McINTYRE in the chair). Without objection, it is so ordered.

THE INAUGURATION OF FERDINAND E. MARCOS AS THE SIXTH PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES

Mr. MANSFIELD. Mr. President, I did not wish the session to end without reference to an event which will take place while the Senate, I believe, will be in recess. On December 30, Ferdinand E. Marcos will be inaugurated as the sixth President of the Republic of the Philippines.

The occasion is of historic significance. It will be the first time that an incumbent will asssume, for a second term, the office of President of the Philippines. This inauguration comes, moreover, after an election in which President Marcos was chosen to succeed himself by an unprecedented majority of Filipino voters.

I happened to be in Manila last summer, shortly after a visit of President Nixon and Secretary of State Rogers. At that time and throughout the ensuing weeks of the Philippine presidential campaign, I followed President Nixon's example of avoiding comment on the political situation in the Philippines. That, I believe, is the appropriate course for officials of this Government to pursue with respect to an election in any free nation and President Nixon is to be commended for setting it.

However, the votes in the Philippine election are now long since in and a new political era is about to begin. I want to take this occasion, therefore, to speak out of a long personal acquaintance with the Filipino people, a continuing interest in the evolution of the Philippine Republic, and a high respect for the President who will head its Government for another 4 years.

I first came to know the Philippines a long time ago. As a Pfc. in the Marines I served in what was then a colonial possession of the United States. I developed an admiration for the Filipino people at the time and it has grown stronger in frequent renewals of contact with them over the years.

These have been years in which the Philippines have had to work through a maze of adaptation in the changing relationship with the United States. Complex political, cultural, economic, and other adjustments have been involved in the shift from colony of Spain to colony of the United States, to commonwealth, to independent republic. The Filipino people have prevailed with great fortitude in this evolution. They have prevailed, notwithstanding the intervention of World War II, with its devastating sequence of abrupt Japanese invasion, brutal military occupation and fierce struggle for liberation.

That conflict brought widespread human exhaustion and social unrest. It brought dislocation and stagnation and a desperate interim dependency on the continuance of certain quasi-colonial economic ties with the United States. However, in the aftermath of World War II, there also came national independence under a democratic constitutional structure. Notwithstanding its flaws—the Philippine system is modeled on our own and ours, too, has its flaws—notwithstanding severe assaults on its foundations, that system has persisted unbroken for longer than any other free government in the Far East. It has provided stimulus and coherent form to the determination of the Filipino people to evolve their own political life.

It seems to me that the unprecedented reelection of President Marcos underscores that determination and indicates that the Philippines will stay on the present course which is pointed toward full national realization. A decisive advance in that direction has already taken place. During the past 4 years, there has been progress on a broad front, in agriculture, in industry and trade, in roadbuilding, and in education. In these years, for example, new school instruction has equalled that of all the preceding years of the past half century. The experience in modern road construction is similar. Significant advances have been made, too, in public administration, in social services to young and old and in the enrichment of cultural life of the islands.

These achievements are important in themselves because they relate to the immediate well-being of the Filipino people. Even more, they are important as symbols of the creative potential in the Republic. They are the portents of a tomorrow of self-reliance, dignity, and equality and of full mutuality in relations with this Nation and the rest of the world.

In these achievements, there is clearly discernible the hand of a firm and purposeful leadership. For 4 years, President Ferdinand E. Marcos has worked wisely and well and with great personal dedication. He has had, in his efforts, the encouragement and support of an intelligent, sensitive, and energetic partner, Imelda Romualdez Marcos. To both of them, on the eve of the inauguration, I extend my heartfelt wishes for the further realization of the promise of progress which the leadership and the labors of the past 4 years have done so much to kindle throughout the Republic of the Philippines.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 601, 602, and 603.

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

HOURS OF SERVICE AMENDMENTS OF 1969

The Senate proceeded to consider the bill (H.R. 8449) to amend the act entitled "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907, which had been reported from the Committee on Commerce with amendments, on page 2, line 15, after the word "the", strike out "operation" and insert "movement"; on page 4, line 10, after the word "device", strike out "directs or controls the movement of any train or who by the use of any such means"; on page 6, line 2, after the word "such", strike out "district" and insert "United States"; and at the beginning of line 4, insert "but no such suit shall be brought after the expiration of two years from the date of such violation".

Mr. YARBOROUGH. Mr. President, I take this opportunity to urge all Senators to give their full support to H.R. 8449, which incorporates S. 1938, of which I am cosponsor. The bill amends the 1907 Hours of Service Act so as to limit the number of hours railroad workers can be required to work to 12 hours. This amendment has been needed for a long time. Under the present statute which was enacted in 1907 and has not been changed since, railroad workers can be required to work as long as 16 hours a day. Not only is this 16-hour day unreasonable; it it also dangerous to the workers and to the public which comes in contact with the railroad industry.

In 1968, 2,359 persons were killed and 24,608 persons were injured in railroad accidents. One of the major causes of these tragic accidents was human errors in the operation of the equipment. Experts who have studied the causes of railroad accidents have found that long working hours and fatigue contribute greatly to these errors in operation.

To remedy this problem, it is necessary that the working day of railroad workers be shortened to a reasonable number of hours. The bill before us today represents a great step forward toward bringing working hours and conditions in the railroad industry in line with other industries. More specifically, this bill makes it unlawful for a railroad, first, to require its workers to work more than 12 hours unless the employee has had at least 16 consecutive hours off duty; and second, to make an employee go on duty or continue on duty when he has not had at least 8 consecutive hours off duty during the preceding 24 hours.

Furthermore, the bill would require that any suit for a violation of this law be brought by the appropriate U.S. district attorney within 2 years of the violation.

I wish to commend the Senator from Indiana (Mr. HARTKE) and all the other members of the Committee on Commerce for their hard work on this important bill. I am proud to be a cosponsor of this measure, and I urge its prompt approval.

The amendments were considered and agreed to en bloc.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

REVOCATION AND SUSPENSION OF MOTOR CARRIER OPERATING AUTHORITY

The bill (S. 2244) to amend section 212 (a) of the Interstate Commerce Act, as amended, and for other purposes 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 subsection (a) of section 212 of the Interstate Commerce Act (49 U.S.C. 312(a)), is amended as follows:

(1) The second sentence is amended by inserting after the phrase "promulgated thereunder", the words "or under sections 831–835 of title 18, United States Code, as amended".

(2) The first proviso is amended by inserting immediately after the phrase "or to the rule or regulation thereunder", the words "or under sections 831–835 of title 18, United States Code, as amended".

(3) The second proviso is amended by inserting "215", immediately after "211(c)".

AMENDMENT OF SECTION 510 OF INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949

The bill (H.R. 11711) to amend section 510 of the International Claims Settlement Act of 1949 to extend the time within which the Foreign Claims Settlement Commission is required to complete its affairs in connection with the settlement of claims against the Government of Cuba was considered, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1970

The Senate resumed the consideration of the bill (H.R. 15090) making appropriations for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes.

Mr. ELLENDER. Mr. President, the distinguished senior Senator from Georgia (Mr. RUSSELL) cannot be here at this time, and he asked me to proceed with the debate on the Defense appropriation bill. I understand that he will be here later.

I wish to state that the Senate Appropriations Committee gave close consideration to this huge bill. At the outset, let me state that many of the cuts made were suggested by the President as well as the Defense Department. The committee also made some reductions. I shall be glad to review them in the statment I shall make.

I wish to add further that the report that accompanies the bill is very exhaustive. All the reasons given for the actions taken by the committee are reflected in the report. I hope Senators will refer to that document as we go along, because it explains in detail the various reductions made and the amounts added to the bill.

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

Mr. ELLENDER. I yield.

Mr. MANSFIELD. Mr. President, I think this is a most important question, and I think it advisable also to get the answer at the beginning of the debate on this huge Defense appropriation bill.

My question is, Mr. President, How much has been cut from the budget request by the Senate Defense Appropriations Subcommittee and the full Appropriations Committee?

Mr. ELLENDER. As I will state in my remarks, $5.9 billion from the revised budget. It is included in the short statement I will make.

Mr. MANSFIELD. I know the Senator does, but I want that figure put out in neon lights, because what it means is that the allowance is approximately $6 billion below the budget request.

Mr. ELLENDER. Almost. The Senator is correct.

In presenting H.R. 15090, the Department of Defense appropriation bill for the fiscal year 1970, I shall speak of the most important aspects of the bill, and then be available for such questions as may arise.

I wish to say that the senior Senator from North Dakota (Mr. YOUNG), who is the ranking Republican member on the committee, took a very active part in all the deliberations by the committee. I am sure he has a very important statement to make on the bill. I hope that both of us will be in a position to answer such questions as may be propounded.

The committee report that you have before you is most comprehensive and will probably answer many of the questions that come to mind.

COMMITTEE REDUCTION

Your committee recommends a total appropriation of $69,332,656,000. This is a reduction of $627,382,000 from the amount allowed by the House of Representatives.

It is a reduction of $5,945,544,000 from the revised budget estimates submitted in April.

It is a reduction of $8,407,544,000 from the original budget estimates submitted in January by former President Johnson.

And it is a reduction of $5,069,593,427 from the total appropriations provided for fiscal year 1969.

Many of the major programs and projects for which the committee recommends funds were the subject of extensive debate during the consideration of the authorization bill earlier in the

session. The committee's recommendations with respect to these projects are basically in accord with the Authorization Act.

CONCEPTS ON WHICH COMMITTEE ACTED

Since the bill contains some of the largest overall reductions in recent years, I believe it pertinent to review briefly the fundamental concepts that influenced the committee's decisions.

Above all—and I want to emphasize this as strongly as words can express—the committee's primary concern was to provide an adequate national defense during fiscal year 1970. Nothing can transcend this in importance.

Second, despite whatever reservations individual members may have about the war in Vietnam, the committee recognizes the necessity of providing all needed funds for our troops in Southeast Asia. I wish to say that has been done. None of the reductions in this bill will jeopardize in any manner or way the security of our men in combat.

Third, the committee also recognized the national requirement for economy in Government, a requirement made pressing by continued inflation and the demands of an expanding population and other nationwide needs. Reductions made by the committee reflect this desire, but let me reemphasize that these reductions were made only after the most careful consideration of Defense requirements, including testimony and investigation of the effect of such actions. We have recommended economy—yes—but have not let down our guard. National defense is still our first priority. We do not need to recall the famous dictum attributed to Jefferson to remind us that eternal vigilance is the price of liberty.

HISTORY OF REDUCTIONS

A variety of actions account for the reductions made. First of all, let us remember that the original budget submitted in January contained $77.7 billion. This was reduced in the revised budget to $75.2 billion, a reduction of $2.5 billion. This reduction is fully explained on page 1 of the report.

I ask unanimous consent to have inserted in the RECORD at this point a summary of the action on the bill from page 4 of the report.

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

SUMMARY OF THE BILL

The committee considered revised budget estimates for the fiscal year 1970 totaling $75,278,200,000 for the various military departments and other activities of the Department of Defense, exclusive of the regular military assistance program, military construction and civil defense, which are included in other appropriation bills.

The committee recommends appropriations totaling $69,332,656,000.

The new obligational authority recommended by the committee is $8,407,544,000 under the original budget requests, $5,945,544,000 under the revised budget requests and $627,392,000 under the amount allowed by the House.

The bill as it passed the House of Representatives includes appropriations totaling $69,960,048,000, a decrease of $5,318,152,000 from the revised estimate.

The appropriations recommended by the committee are $5,069,593,427 under the total appropriation for fiscal year 1969 of $74,402,249,427.

Mr. ELLENDER. On August 21, the Secretary of Defense announced plans to reduce fiscal 1970 Department of Defense expenditures by an additional $3 billion.

It is estimated that approximately $5 billion of the reduction recommended by the committee is the result of actions taken by the Department of Defense to effectuate this announced reduction of $3 billion in expenditures. Most of these reductions were made in the House bill; however, approximately $408 million of the additional reductions recommended by the committee are the result of these actions.

RECOMMENDATIONS BY DEPARTMENT

By service, the recommended appropriations are as follows:

For the Department of the Army, approximately $22.1 billion;

For the Department of the Navy, approximately $20.5 billion;

For the Department of the Air Force, approximately $22.2 billion; and

For Defense agencies, approximately $4.4 billion.

MAJOR REDUCTIONS

The committee has accepted practically all of the reductions offered by the Department of Defense and most of those made by the House of Representatives. The Department of Defense requested of the committee restoration of approximately $427 million of the House reductions and the committee recommends a restoration of approximately $271 million of the amount asked by way of reclama.

The most substantial reductions may be attributed to the lessening of hostilities in Southeast Asia, and the recent termination of certain major defense systems—notably the Manned Orbiting Laboratory, for which $525.3 million had been requested, and for which $125.3 million is recommended for termination costs, and the Cheyenne helicopter program, for which $429 million was asked, and $86 million recommended for Cobra armed helicopter replacements.

Mr. President, the record will show that several years ago many of us felt that a good many of these programs were being carried without a sufficient amount of research. It was later found necessary to cut back on some of these programs and reduce the proposed expenditure because of a lack of proper research. I shall cover this a little more at length when we get to a program in which one of the reductions was made by the committee.

The committee also reduced the Polaris-to-Poseidon conversion program, recommending the conversion of two submarines in the 1970 program instead of the six requested in the budget. Provision is made for the overhaul of the other four Polaris submarines. Since the Polaris missile system is one of the most reliable in our inventory, the committee was reluctant to proceed full scale on conversion until Poseidon tests demonstrate conclusively reliability equal to that of the Polaris system.

Mr. President, I point out at this point that about 7 years ago, when the committee met to decide as to the rapidity with which this Polaris missile program was to proceed, I raised the question as to whether we should not go a little more slowly with the construction of these Polaris missiles and submarines. I pointed out that we were living in an age of electronics, where changes are made almost every 6 months on many of the programs that we envision. It struck me that the Polaris missile, although it was a good one, might be superseded by a better one very shortly. Therefore, in my opinion, it would be better to go a little slower on such programs than to go full speed in the construction of the submarines, and then find that we might have a better missile to put into those submarines.

The inevitable happened, and the plan now is to convert 31 of the Polaris submarines for the use of Poseidon missiles. The Poseidon is a missile which has a number of heads. In order to accomplish this change, it will be necessary to make substantial changes in the submarines in order to provide for the Poseidon missiles.

It was the position of the committee that we should go slowly in making these changes so as to install the new weapons. Therefore the committee recommends that we utilize two of the submarines for that purpose. Those two submarines must be replenished with atomic energy cores anyway, and the cost of doing that job would be about $45 million to $50 million per submarine. By adding about $20 million to $25 million per submarine more, we shall have the Poseidon missile installed in those two submarines and two that were ordered last year. As to the others, the committee recommends that their conversion to Poseidon be deferred until reliability is assured. Funds have been provided, however, for replacing the atomic cores.

It is my personal belief that the committee acted wisely in not following the House recommendation to put on the docks as many as six of these submarines. The submarines are effective nuclear weapons, and it strikes me that we ought to keep as many operative as possible. Perhaps it might be wise to consider having new submarines constructed to carry this new missile with multiple heads, if the Pentagon and the President feels they are needed in the future. However, we have provided funds for two conversions, and I hope that the Senate, as well as the House of Representatives, will go along with the position taken by the committee.

I may state further that the multiple warhead missiles are still being tested and there is doubt in my mind as to whether or not there has been sufficient research in that direction. But I do believe that with the funds we have provided in this bill, it will be possible for us to have more research performed.

I ask unanimous consent that report language dealing with the Polaris/Poseidon programs be included in the RECORD at this point.

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

Polaris submarine overhaul.—The committee has recommended the overhaul of four Polaris submarines in lieu of conversion as

requested in the revised budget. This matter is discussed on page 7 of this report. The committee recommends an increase of $40 million in this appropriation to cover that portion of the cost of these four overhauls that is funded under this appropriation. The action represents an increase of $40 million in the revised budget estimate.

* * * * *

Polaris-to-Poseidon conversions.—$92.7 million is recommended for the Polaris-to-Poseidon conversion of two submarines. The sum recommended and $61.6 million advance procurement will provide for a total of $153.8 million for these two conversions. This is a continuation of the program initiated in fiscal year 1968 for the conversion of 31 of the 41 Polaris submarines to carry the new Poseidon missiles. Two of these conversions were funded in fiscal year 1968 and two in fiscal year 1969. These four submarines are now in the shipyards undergoing the conversion work.

* * * * *

Polaris-to-Poseidon conversion.—The revised budget included $458.9 million for the Polaris-to-Poseidon conversion of six submarines and advance procurement to support this program in future years. The committee has recommended $136.7 for this purpose, which is based on the conversion of only two submarines during fiscal 1970. This matter is discussed on page 7 of this report. The committee actions represent a reduction of $322.2 million in the revised budget estimate.

OTHER REDUCTIONS

Mr. ELLENDER. Reductions made by the committee also include the following:

A $17 million reduction for the Army's M–16 rifle as a result of reduced production costs.

It will be remembered that 2 or 3 years ago we had only one manufacturer to produce the M–16 rifle. And because of the needs that grew out of the war in Vietnam, we were able to have two additional manufacturers produce the M–16 rifle. As a result of that, we were able to reduce the cost of the manufacture of the rifle. This cut really represents a savings in the amount to be paid by the Government for this weapon.

There was also:

A $25.6 million reduction for the Navy's Standard Arm missile, in view of adequate inventories of this missile;

An $80 million reduction in Navy procurement of aircraft and missiles made possible through the utilization of prior year funds;

A further reduction of $5 million in the Navy's communications and electronics procurement, made with the acquiescence of the Department; and

A reduction of approximately $54 million as a result of a revision in the planned buy of the Air Force's F–111 aircraft.

As we all know, there was quite a bit of difficulty several years ago concerning the TFX, as the F–111 was then called. It was found that it was impossible to produce aircraft that could be used by both the Air Force and the Navy.

I ask unanimous consent that report language on the Air Force's F–111 program be included in the RECORD at this point.

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

F–111D/F AIRCRAFT PROGRAM

The revised budget includes requests totaling $871.1 million for the Air Force's F–111D aircraft program, of which $797.4 million is included in the procurement appropriation and $73.7 is included in the research and development appropriation.

The recommendations of the committee include $817.2 million, of which $743.5 million is in the procurement appropriation and $73.7 million is in the research and development appropriation. The sum recommended represents a reduction of $53.9 million in the revised budget request.

After the submission of the revised budget the Air Force revised its procurement program for this aircraft. The revised budget was based on the procurement of 68 F–111D aircraft, and the current plan calls for the procurement of only eight F–111D's and 60 F–111F's. The F–111F will be equipped with a modified version of the Mark IIB avionics system in lieu of the Mark II avionics system. The Air Force has advised that this change will result in a saving of approximately $1 million per aircraft, and the committee recommends a reduction of $53.9 million based on these savings.

The total recommended by the committee includes the following:

[Dollar amounts in thousands]

Procurement:	*Recommendation*
Program cost	$583,200
Less 1969 advance procurement	37,300
Net requirement	545,900
Fiscal year 1969 and prior year over target cost	71,400
Advance procurement to support fiscal year 1971 buy	56,000
Subtotal, aircraft program	673,300
Aircraft spares	70,160
Total procurement	743,460
R.D.T. & E	73,700
Grand total	817,160

Mr. ELLENDER. A further reduction of $56.8 million was made by the committee for Air Force munitions and related equipment.

The reason for that is the reduced bombing in the Vietnam war. We were able to make the reduction because of that.

F–14A FIGHTER

The largest and most significant addition made by the committee is for the Navy's F–14A fighter aircraft program. The revised budget included $450 million for this program; $275 million in procurement and $175 million in the research and development appropriation. Incorporated in this request were funds for the procurement of nine test aircraft. Three aircraft were funded in fiscal year 1969. The House disallowed the procurement funds, but increased the appropriation for research and development by $146 million for a total appropriation for six aircraft of $321 million. The committee recommends $450 million for nine F–14A aircraft, believing that a total of 12 aircraft are required for the flight test program.

In other words, instead of funding the number of aircraft prototypes that the House recommended, it was felt that we should increase that number to the 12 included in the budget so as to secure a proper evaluation of how this new aircraft would work.

A full explanation of the reasons for the increase and why the committee recommended 12 prototypes can be found in the report of the committee.

I ask unanimous consent to have the pertinent report language printed at this point in the RECORD.

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

F–14A FIGHTER AIRCRAFT PROGRAM

The revised budget estimates included a total of $450 million for the Navy's F–14A fighter aircraft program, of which $275 million was in the procurement appropriation request and $175 million was in the research, development, test and evaluation request. The total included funds for the procurement of nine aircraft that are required for the test program. Three such aircraft were funded in fiscal year 1969.

The House disallowed the total of $275 million requested in the procurement appropriation and increased the research and development appropriation by $146 million to provide for a total of $321 million for the procurement of only six aircraft.

The committee recommends appropriations totaling $450 million for this aircraft, as follows:

Procurement of aircraft and missiles, Navy (advance procurement to support the fiscal 1971 procurement plan)	$8,500,000
Research, development, test, and evaluation, Navy	441,500,000

The committee's recommendation is based on the procurement of nine aircraft, as requested in the revised budget. These, together with the three aircraft previously funded, will provide for the total of 12 aircraft, which, in the view of the committee, are required for the flight test program of this aircraft.

The committee desires to make it clear that its action does not indicate any disagreement with the position of the House committee with respect to the premature commitment of this aircraft to production. Furthermore, the committee has been assured by the Secretary of Defense that the funds provided will not be used for tooling in excess of that required for the one aircraft per month rate currently authorized in the research and development program.

* * * * *

F–14 fighter aircraft.—The revised budget estimate included $275 million in this appropriation for the Navy's F–14A fighter aircraft program, including $14,400,000 for advance procurement to support the fiscal 1971 procurement of this aircraft. The House disallowed the full request of $275 million and provided additional funds in the appropriation entitled "Research, development, test, and evaluation, Navy." This matter is discussed on page 7 of this report. It is the view of the committee that funds should be provided in this appropriation for advance procurement to support the fiscal 1971 procurement program, and $8,500,000 is recommended for that purpose. The net effect of this action is a reduction of $266,500,000 in this appropriation which is offset by a comparable increase in the Navy's research and development appropriation.

OTHER INCREASES

Mr. ELLENDER. Other increases in the bill include the following:

Fourteen million five hundred thousand dollars for modifications to 12 of the existing A–6A Navy aircraft to fit them for the tanker mission previously designated for the KA–6D tanker aircraft

and for which funds are not recommended.

An explanation of that can be found in the report. The main reason for this increase is that we were able to use modified existing planes for the intended purposes, and new purchases were not needed.

I ask unanimous consent that the pertinent report language be amended at this point.

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

KA–6D tanker aircraft modifications.—As indicated above the committee has recommended concurrence in the House disallowance of $57,600,000 requested for the procurement of KA–6D tanker aircraft, and $4,800,000 requested for advance procurement of this aircraft. In recommending the disallowance of these funds the House committee suggested that existing A–6A aircraft be modified for the tanker mission, but did not recommend the funds required for these modifications. It is the view of the committee that the Navy should modify these aircraft for the tanker mission and recommends the allowance of $14,500,000 for this purpose.

Mr. ELLENDER. There is also a restoration of $16.6 million to Navy and Air Force appropriations in order to maintain the production lines for the Shrike antiradar missile.

A full explanation of the restoration can be found on pages 66 and 103 of the committee report.

I ask unanimous consent that these be included at this point.

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

Department of the Navy:

Shrike antiradar missile.—The House disallowed the request of $9,500,000 for the procurement of Shrike antiradar missiles. The committee has expressed its disappointment with the performance of this missile on previous occasions. However, it is the view of the committee that we should maintain an active production line for this missile, and restoration of the House reduction of $9,500,000 is recommended. The effect of this recommendation is to increase the House allowance by $9,500,000. These funds along with the $7,100,000 recommended for the procurement of missiles by the Air Force will provide for minimum sustaining production rate for the Shrike missile.

Department of the Air Force:

Shrike antiradar missile. The House disallowed the request of $9,500,000 for the continuation of procurement of the Shrike antiradar missile. The committee recommends restoration of $7,100,000 for this purpose. The committee's action represents a reduction of $2,400,000 in the revised budget estimate.

The recommended appropriation of $1,448.1 million plus $132.4 million estimated to be made available from other sources will provide a total program of $1,580.5 million.

* * * * *

AGM–45A Shrike antiradar missile.—$7.1 million is recommended for the procurement of Shrike antiradar missiles. This is an air-to-ground nonnuclear missile designed to home on and destroy and impair enemy radar installations. It is used on the F–105 and F–4 aircraft.

* * * * *

Mr. ELLENDER. There is also a restoration of $27.8 million for Mark–48 torpedo procurement in order to sustain effective competition, provide an up-to-date conventional torpedo at the earliest possible date, and to expedite early testing;

An explanation of this restoration can be found on page 82 of the report.

I ask unanimous consent to include pertinent report language at this point.

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

Ordnance support equipment.—The House made a reduction of $240,200,000 in the budget activity entitled, "Ordnance support equipment," of which $75,700,000 was applied to the request of $174,200,000 for the two versions of the Mark–48 torpedo. The committee recommends restoration of $27,800,000 of this reduction. This action represents a reduction of $212,400,000 in the revised budget estimate.

Mr. ELLENDER. There is also a restoration of $10 million for the Air Force's short-range attack missile (SRAM) for preproduction funding when and if pending tests support a decision to proceed with production of this missile for the FB–111 and B–52 aircraft.

The explanation for this restoration can be found on page 101 of the report.

I ask unanimous consent for inclusion of pertinent report language at this point.

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

Short-range-attack missile: The House disallowed the request of $20,400,000 for the short-range-attack missile (SRAM). It is the view of the committee that funds should be made available to support a decision to go into production on this missile, if such a decision is made by the Secretary of Defense. For this reason, the committee recommends the allowance of $10 million for this purpose. This action represents a reduction of $10,400,000 in the revised budget estimate.

* * * * *

Short-range attack missile (SRAM): $10 million is recommended for the SRAM missile program. The SRAM is an air-to-ground nuclear missile designed for defense suppression and standoff attacks against soft- to medium-hard targets, surface-to-air missile sites, and ground radar facilities. It is to be carried on the FB–111 and B–52 aircraft. Due to the development of a number of technical problems, it has been determined not to initiate production of the SRAM missile as originally planned. The funds recommended will allow for the initiation of production in the last quarter of fiscal year 1970 if the testing program indicates that these technical problems have been solved.

Mr. ELLENDER. Here is also a restoration of $5 million for the Army's Lance division support missile in order to avoid a readiness and deployment delay.

There is also a restoration of $5 million for the Navy's underwater long-range missile research—ULMS—program designed as a submarine launched missile system follow-on to the Polaris/Poseidon system.

I ask unanimous consent to include pertinent report language at this point.

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

Underwater, long-range missile system (ULMS): The revised budget included a request of $20 million for the initiation of the underwater long-range missile system (ULMS) program. The authorization act made a reduction of $10 million in this request, and the House made a further reduction of $5 million. It is the view of the committee that this program should be funded at the authorized amount, and restoration of the $5 million reduction is recommended.

Mr. ELLENDER. That is what I referred to a while ago when I said that moneys were being provided for the development of better submarines to succeed both Polaris and Poseidon models.

It may be that in the future more warheads could be added to the Poseidon or a better system developed. It is my belief that the research can go on so as to be able to provide for such other missiles as may be developed in the future if they are needed.

It is my sincere belief that more and more research should be made in that effort so that we do not again make the mistake we made when we started to construct the Polaris several years ago. As we have seen, it is already being replaced by Poseidon, and the submarines built for Polaris are being adapted to use this newly developed multiwarhead missile.

A restoration of $8 million was approved for the Navy's Condor air-to-surface missile program to avoid termination of the program designed to develop a medium-sized conventional warhead to be employed on tactical targets from a stand-off distance out of range of protective weapons—a description of this missile and the reasons for the restoration can be found on page 117 of the report.

I ask unanimous consent that the pertinent report language be included at this point.

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

Condor missile: The House disallowed the request of $12,900,000 for the continuation of development of the Condor standoff missile, and recommended that the project be terminated. The committee shares the concern expressed by the House committee with respect to the delay and increases in the cost of the program. However, the committee feels that there is a valid requirement for a missile with the capabilities of the Condor, and restoration of $8 million of the House reduction is recommended. This action reflects a decrease of $4,900,000 in the revised estimate.

Mr. ELLENDER. A restoration of $2 million was allowed for the Air Force's A–X close-air-support aircraft research to permit relatively early operational capability—a description of this restoration and the reason for it can be found on page 124 of the report.

I ask unanimous consent that the pertinent language be included at this point.

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

AX close air support aircraft: The revised budget estimate included a request of $12 million for the development of the AX close air support aircraft. The authorization act made a reduction of $4 million in this request and the House disallowed the balance of $8 million. It is the view of the committee that work should proceed on this program, and restoration of $2 million is recommended for this purpose.

Mr. ELLENDER. There was also a restoration of $3.6 million for Air Force

special purpose communications for very low frequency communications during and after a nuclear attack.

I might state at this point that the committee does not anticipate any additional requests from the Department of Defense for funds during the remainder of fiscal year 1970 except for those funds needed to implement increased pay costs. That is good news, Mr. President.

The bill before the Senate is the result of the distillation of efforts of two administrations, the House of Representatives and the Senate committee. For our part, we have devoted long weeks to a detailed examination of the programs contained in this measure. I believe that the magnitude of the reduction that we recommend will certify to our sincerity of purpose, just as the six volumes of testimony on the desk of each Senator will demonstrate the committee's industry of application.

I wish to thank all the members of the subcommittee for their devotion to this task and their guidance in our decision-making. In particular, I want to thank the ranking minority member, the senior Senator from North Dakota (Mr. YOUNG), and the chairman, the senior Senator from Georgia (Mr. RUSSELL) for their earnest participaiton and great assistance.

Also, Mr. President, I attended virtually all the hearings. We sometimes have to throw bouquets at ourselves. I am glad to say that I tried to attend every meeting, and I missed very few of them. That is why I am able to discuss today some of the many reductions and additions that we made in this program.

I am very hopeful that the Defense Department will restudy many of these programs and try to do a little more research before they come to us for money in order to build new systems of defense and ask us to fund expensive military hardware that may not perform as expected. It strikes me that if that had been done in the past, there would have been much less money wasted by the Defense Department.

I hope that the Senate will pass this bill in its present form, for it represents, in the opinion of the committee, the best resolution possible to the multitude of defense problems with which it deals.

Mr. YOUNG of North Dakota. Mr. President, I feel it appropriate to open my brief remarks with well-deserved praise for the inherent ability, broad knowledge, and untiring devotion of the distinguished chairman of the Committee on Appropriations, the Senator from Georgia (Mr. RUSSELL), who also chairs the Subcommittee on Appropriations for the Department of Defense. Also, I wish to pay my respects to the Senator from Louisiana (Mr. ELLENDER), who has a very fertile mind, is a hard worker, and is always on the side of economy. It is due to his efforts that we have effected some real economies in this bill.

Only 1 week ago today, the House passed the Defense appropriations bill for fiscal year 1970; only 6 days ago, the bill was referred to the committee. Our skillful chairman had arranged and conducted hearings and directed the preliminary work of the staff in such manner that it was possible for the full committee to report the bill last Friday, a mere 72 hours after referral.

I completely support the provisions of the bill as reported by the committee, but realize that some Members may desire to increase specific programs while others may oppose certain programs. Each of us well remembers the many hours of debate which took place during consideration of the Department of Defense procurement and research and development authorization bill for fiscal year 1970 last summer. Each issue was thoroughly explored, and the Senate worked its will in due legislative process; thus, I trust we may now continue in the spirit of prompt, efficient dispatch which the committee has demonstrated and pass this bill, go to conference, and send it to the President before the week is out—at least, before Christmas.

We started hearings on June 10, when Secretary Laird appeared before the subcommittee and concluded these hearings only last Tuesday, when the Secretary again appeared. The testimony heard during these extensive sessions has only reinforced my sincere concern over the minimal efforts that we have taken to improve our strategic offensive capability in the past decade or more. For this reason, I am gratified to report that we have included $100 million in the bill for the development of an advanced manned strategic aircraft, the B–1. Development of this strategic bomber can take advantage of the many recent improvements in airframe and engine design to give it the short takeoff and landing capability needed for dispersal and the payload, structure, and speed necessary for penetration.

In reiterating my deep concern over our lagging strategic offensive capability, I in no manner intend to cast aspersion on our strategic intercontinental ballistic missile and our submarine-launched ballistic missile systems; however, these systems do not afford the opportunity to train and exercise as a bomber force can. Minuteman and Polaris is actually in a wartime posture at any minute of the day—you either fire the missile or you do not fire it. A first-rate strategic bomber force can be exercised and dispersed to provide the additional flexibility required to fulfill our strategic offensive requirements. May I point out that the Air Force has yet to be successful in launching a Minuteman II missile from an operational silo. The funds provided in this bill for continued advanced development of the B–1 strategic bomber are vital to our overall defense posture.

As the distinguished Senator from Louisiana has pointed out, the bill is $627.4 million under the House allowance and $358 million of the reduction results from the committee's recommendation to provide funds in fiscal year 1970 for the conversion of two Polaris nuclear submarines to the Poseidon configuration instead of the six as requested in the budget estimate and approved by the House. I agree with the committee recommendation, but wish to clearly express my unqualified confidence in the Polaris program. This weapons system has proven to be the most accurate and dependable strategic delivery system known and has far exceeded expectations. For this reason, the committee is most apprehensive to proceed more rapidly in converting the proven Polaris submarines to the Poseidon system until the flight test program of the Poseidon missile has clearly established its reliability.

As a continuation of the submarine launched missile program, the bill contains $10 million for the underwater long-range missile system—ULMS. The committee recommends that the executive department and Congress give serious consideration to the development of a more efficient, survivable, sea-based strategic offensive system, capable of launching long-range ballistic missiles from improved design, quieter submarines.

The Soviet Union has concentrated on the dynamic expansion of its naval power with emphasis on the modernization of their submarine force, making it the world's largest. Following a period of large-scale shipyard expansion, new classes of Soviet ballistic missile submarines and nuclear attack boats are becoming operational. This threat requires that research and development in antisubmarine warfare capabilities be given prominent attention. Only through the expenditure of research dollars can we achieve the desired breakthroughs in target detection, improved torpedos capable of outrunning and going deeper than the new Soviet high performance nuclear submarines, torpedo countermeasures, and other antisubmarine warfare systems.

The F–14 is an aircraft designed to provide protection for the fleet. This aircraft will be a tandem-seat fighter incorporating the Phoenix missile system and will be superior to current Soviet fighters. The missile control system will also permit the employment of Sparrow and Sidewinder missiles, guns, and numerous air-to-ground weapons.

The Senate bill provides $450 million, the full budget estimate, and an increase of $129 million over the House allowance. This amount will procure nine aircraft, which together with three aircraft previously funded will provide the 12 aircraft which the committee deems required for an adequate flight test program of the aircraft.

We have long been aware of the Soviet development of high performance aircraft and only recently has the development of a new strategic bomber been revealed. This caused grave concern particularly since the previous administration did not see fit to develop the F–12, leaving our current air posture without an adequate interceptor aircraft. Future research and development funds must be provided within this area.

The bill includes the full revised budget estimate of $175 million to continue development of the Air Force's F–15 air superiority fighter aircraft. The F–15 is the first Air Force airplane designed to achieve very high levels of performance while in turning flight. It is designed to penetrate enemy skies in roles such as escorting a strike force and

will carry effective missiles to do battle with enemy interceptors at long range and have the radar to see them at these long ranges. We strongly hope that the Air Force and the Department of Defense can bring about its operational capability at the earliest practicable date.

Mr. President, we must remember that our requirements for national defense are to a large degree determined by our commitments and obligations to other nations. I ask unanimous consent to insert at this point in the RECORD an excerpt from the Department of Defense hearings before the subcommittee which is a checklist of U.S. defense treaties and other defense arrangements with 46 nations.

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

PARTIES TO DEFENSE TREATIES AND OTHER DEFENSE ARRANGEMENTS

Agreements and parties	Multilateral treaties				Bilateral treaties	Bilateral executive agreements of general treaty
	RTO	NATO	SEATO	ANZUS		
Argentina	X					
Australia			X	X		
Belgium		X				
Bolivia	X					
Brazil	X					
Canada		X				X
Chile	X					
China					X	
Colombia	X					
Costa Rica	X					
Cuba [1]	X					
Denmark		X				
Dominican Republic	X					
Ecuador	X					
El Salvador	X					
France		X	X			
Germany, Federal Republic of		X				
Greece		X				
Guatemala	X					
Haiti	X					
Honduras	X					
Iceland		X				
Iran						X
Italy		X				X
Japan					X	
Korea					X	
Liberia						X
Luxembourg		X				
Mexico	X					
Netherlands, The		X				
New Zealand			X	X		
Nicaragua	X					
Norway		X				
Pakistan			X			X
Panama	X					X
Paraguay	X					
Peru	X					
Philippines, The			X		X	
Portugal		X				
Spain						X
Thailand			X			
Trinidad and Tobago	X					
Turkey		X				
United Kingdom		X	X			
Uruguay	X					
Venezuela	X					

[1] Cuba was excluded from participation in the Inter-American System by Resolution VII, 8th Meeting of Foreign Ministers, Punta del Este, 1962.

Mr. YOUNG of North Dakota. Mr. President, we have been able to report a bill which is $627.4 million under the House, $5.9 billion under the revised Nixon administration budget estimate and $7.2 billion below the outgoing Johnson administration proposed budget. The military services themselves in presenting a budget to the Secretary of Defense for what they believe would give the United States full and adequate defense proposed a budget of approximately $109 billion. Our top military men such as the Joint Chiefs of Staff, who are charged with the responsibility of defending our country against any possible military threat, naturally would request what they believed was necessary to meet this objective. Limitations on our economy and resources of every nature made it necessary for the Nixon administration to sharply reduce these expenditures. The Joint Chiefs of Staff under all the circumstances involved agree and approve of President Nixon's military budget for the Defense Department.

This is a very austere budget. It would be a misrepresentation to lead you to believe that the Congress can make reductions of this magnitude in future defense budgets and provide a defense that will equal or even compare favorably with that of the Soviet Union. This year we saw the cancellation of two major programs subsequent to the budget submission: the Air Force's manned orbiting laboratory program was terminated allowing a $400 million reduction, and the Army's Cheyenne helicopter program was canceled permitting another reduction in the amount of $429 million. In addition to the cancellation of major programs we have realized a decline in combat operations in South Vietnam which permits the reduction of large sums which were included in the original and revised 1970 budget estimates for support of activities in Southeast Asia.

Mr. President, in subsequent remarks I may discuss the funds in this bill for the ABM program. Whether or not this Nation should embark upon an ABM program was discussed for nearly 2 months on the Senate floor earlier this year. It would seem that further extended debate would serve no necessary purpose at this time. The House feels very strongly about the need for embarking upon a very limited pilot-type ABM program such as was contained in this bill. The Senate itself approved the Safeguard ABM system earlier this year.

The total amount in the bill for the Safeguard is $753.3 million—$400.9 million is for research and development and $352.4 million is for procurement for the various components. I shall discuss this part of the defense appropriations at a greater length later if necessary.

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

Mr. YOUNG of North Dakota. I yield.

Mr. MANSFIELD. Mr. President, first I wish to emphasize again, as I did with the acting chairman of the committee, the fact, as has been pointed out by the distinguished senior Senator from North Dakota, as well as the senior Senator from Louisiana, that the present defense appropriation request before the Senate marks a decrease of approximately $6 billion below the Nixon budget and approximately $8 billion below the Johnson budget. Both budgets were submitted this year. I think this is a good indication of how the administration and Congress, working in tandem, so to speak, can bring about sizable reductions within the Defense Establishment without reducing in any way the effectiveness of the defense which is needed for the security of this country.

Second, I wish to raise this question: Is it not true that as far as the ABM construction funds are concerned, approximately $200 million was available for use in connection with sites in North Dakota and Montana this year?

Mr. YOUNG of North Dakota. From previously appropriated funds.

Mr. MANSFIELD. Yes, carried over; and the figure carried over to the fiscal year 1970 program is $60 million or more.

Is it not true, regardless of the outcome of this bill, that activities will begin this winter at the Grand Forks area and will begin this coming spring in the Great Falls, Mont., area.

Mr. YOUNG of North Dakota. The Senator is correct. There has been considerable activity there already.

Mr. MANSFIELD. I just wanted to make the record clear that the funds affected in the pending appropriations measure will in no way conflict with the Army's desire and plans to go ahead with the work which has already been started at the so-called pilot plants in Montana and North Dakota. Is that correct?

Mr. YOUNG of North Dakota. The Senator is correct. The program would have to go on in a more limited way if no funds were appropriated in this bill, but for both necessary components and research and development for the first stages of the program we would have to have the funds in this bill.

Mr. MANSFIELD. In order to carry on these programs, it is my understanding, based on the evidence presented by the senior Senator from North Dakota, that in excess of $300 million is being asked for in this year's appropriation bill.

Mr. YOUNG of North Dakota. That is correct.

Mr. MANSFIELD. I thank the Senator.

Mr. YOUNG of North Dakota. Mr. President, as always, it has given me great pleasure and satisfaction to have been able to work closely with our esteemed chairman. I fully support this defense appropriations bill which makes a major contribution toward reduction of our overall 1970 budget, yet will not affect the support of American servicemen in Vietnam and permits us to make some progress in the modernization of our Armed Forces.

Mr. ELLENDER. Mr. President, I should like to present the usual motion: I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered as original text and that no points of order be considered as waived.

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

The amendments agreed to en bloc are as follows:

On page 2, line 10, after the world "elsewhere," strike out "$8,312,000,000" and insert "$8,107,000,000."

On page 2, line 18, after the word "cadets," strike out "$4,370,000,000" and insert "$4,368,400,000."

On page 3, line 10, after the word "cadets," strike out "$5,835,300,000" and insert "$5,823,000,000."

On page 3, line 19, after the word "law", strike out "$308,000,000" and insert "$306,700,000".

On page 4, line 2, strike out "$131,400,000" and insert "127,900,000".

On page 4, line 18, after the word "law", strike out "$83,400,000" and insert "$81,200,000".

On page 6, line 25, after the word "Government", strike out "$7,214,447,250" and insert "$7,185,841,000"; and, on page 7, line 2, after the word "facilities", insert a colon and *"Provided,* That not to exceed $142,165,000, in the aggregate of the unobligated balances of appropriations made under this head for prior fiscal years, and subsequently withdrawn under the Act of July 25, 1956 (31 U.S.C. 701), may be restored and transferred to the appropriation account under this head for fiscal year 1966."

On page 8, line 14, after the word "Government", strike out "$5,037,300,000" and insert "$5,129,200,000"; and, in line 20, after the word "stations", insert a colon and *"Provided,* That not to exceed $66,000,000, in the aggregate of unobligated balances of appropriations made under this head for prior fiscal years, and subsequently withdrawn under the Act of July 25, 1956 (31 U.S.C. 701), may be restored and transferred to the appropriation account under this head for the fiscal year 1966."

On page 9, line 15, after the word "facilities", insert a colon and *"Provided,* That not to exceed $2,500,000, in the aggregate of unobligated balances of appropriations made under this head for prior fiscal years, and subsequently withdrawn under the Act of July 25, 1956 (31 U.S.C. 701), may be restored and transferred to the appropriation account under this head for the fiscal year 1966.".

On page 10, line 21, after the word "Government", strike out "$6,454,500,000" and insert "$6,445,000,000".

On page 12, at the beginning of line 1, strike out "$1,074,600,000" and insert $1,069,400,000".

On page 12, line 9, after the word "Bureau", strike out "and services of personnel necessary to provide reimbursable services for the military departments"; and, in line 20, after the word "aircraft", strike out "$300,000,000" and insert "$297,800,000".

On page 13, at the beginning of line 15, strike out "services of personnel necessary to provide reimbursable services for the military departments;".

On page 14, after line 2, strike out:

"NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

"For the necessary expenses of construction, equipment, and maintenance of rifle ranges, the instruction of citizens in marksmanship, and promotion of rifle practice, in accordance with law, including travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions, and not to exceed $10,000 for incidental expenses of the National Board; $52,750: *Provided,* That travel expenses of civilian members of the National Board shall be paid in accordance with the Standardized Government Travel Regulations, as amended.".

On page 14, line 24, after the word "thereof", strike out "$41,000,000" and insert "$37,000,000".

On page 16, at the beginning of line 4, strike out "$2,696,600,000" and insert "$2,465,400,000"; and, in line 6, after the word "available", strike out "for obligation until June 30, 1972" and insert "until expended".

On page 16, line 18, after the word "plants", strike out "$2,696,600,000" and insert "$2,465,500,000"; and, in line 21, after the word "available", strike out "for obligation until June 30, 1972" and insert "until expended".

On page 17, line 8, after the word "amended", strike out "$2,588,200,000" and insert "$2,242,770,000"; and, in line 9, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 18, line 9, after the word "plants", strike out "$1,461,800,000" and insert "$1,524,600,000"; and, in line 10, after the word "available", strike out "for obligation until June 30, 1972" and insert "until expended".

On page 18, line 20, after the word "available", strike out "for obligation until June 30, 1972" and insert "until expended".

On page 19, line 12, after the word "things", strike out "$3,434,700,000" and insert "$3,380,800,000"; and, in line 16, after the word "available", strike out "for obligation until June 30, 1972" and insert "until expended".

On page 20, line 9, after the word "things", strike out "$1,431,000,000" and insert "$1,448,100,000"; and, in line 10, after the word "available", strike out "for obligation until June 30, 1972" and insert "until expended".

On page 21, line 4, after the word "amended", strike out "$1,636,000,000" and insert "$1,576,200,000"; and, in line 5, after the word "available", strike out "for obligation until June 30, 1972" and insert "until expended".

On page 22, line 9, after the word "law", strike out "$1,575,300,000" and insert "$1,600,820,000"; and, in line 10, after the word "available", strike out "for obligation until June 30, 1971" and insert "until expended".

On page 22, line 17, after the word "law", strike out "$2,040,400,000" and insert "$2,193,251,000"; and, in line 18, after the word "available", strike out "for obligation until June 30, 1971" and insert "until expended".

On page 22, line 25, after the word "law", strike out "$3,056,900,000" and insert "$3,062,026,000"; and, on page 23, line 1, after the word "available", strike out "for obligation until June 30, 1971" and insert "until expended".

On page 23, line 12, after the word "available", strike out "for obligation until June 30, 1971" and insert "until expended".

On page 28, line 6, after the word "year", strike out the semicolon and "(k) pay and allowances of not to exceed nine persons, including personnel detailed to International Military Headquarters and Organizations, at rates provided for under section 625(d)(1) of the Foreign Assistance Act of 1961, as amended".

On page 44, after line 19, strike out:

"SEC. 642. Appropriations heretofore made available for Procurement of Equipment and Missiles, Army; Procurement of Aircraft and Missiles, Navy; Other Procurement, Navy; Procurement, Marine Corps; Aircraft Procurement, Air Force; Missile Procurement, Air Force; Other Procurement, Air Force; and Procurement, Defense Agencies shall not be available for obligation after June 30, 1972. Appropriations heretofore made available for Shipbuilding and Conversion, Navy, shall not be available for obligation after June 30, 1974. Appropriations heretofore made available under the headings Research, Development, Test, and Evaluation, Army; Research, Development, Test and Evaluation, Navy; Research, Development, Test, and Evaluation, Air Force; and Research, Development, Test, and Evaluation, Defense Agencies shall not be available for obligation after June 30, 1971.".

And, in lieu thereof, insert:

"SEC. 642. (a) Amounts, as determined by the Secretary of Defense and approved by the Director of the Bureau of the Budget, of any appropriations of the Department of Defense available for procurement (except Shipbuilding and Conversion, Navy) which (1) will remain unobligated as of the close of any fiscal year for which estimates are submitted and (2) which have been available for obligation for three or more fiscal years, shall be proposed for rescission.

"(b) Amounts, as determined by the Secretary of Defense and approved by the Director of the Bureau of the Budget, of any appropriations of the Department of Defense available for Shipbuilding which (1) will remain unobligated as of the close of any fiscal year for which estimates are submitted and (2) which have been available for obligation for five or more fiscal years, shall be proposed for rescission.

"(c) Amounts, as determined by the Secretary of Defense and approved by the Director of the Bureau of the Budget, of any appropriations of the Department of Defense available for research, development, test and evaluation (except Emergency Fund, Defense) which (1) will remain unobligated as of the close of any fiscal year for which estimates are submitted and (2) which have been available for obligation for two or more fiscal years, shall be proposed for rescission.".

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

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

QUESTIONABLE ACTIVITIES OF OEO LAWYERS

Mr. GOLDWATER. Mr. President, during debate on the OEO bill, I introduced an amendment which would have allowed the Navaho Tribe to use legal services of that office at their choosing. I pointed out at the time that OEO lawyers were engaging in highly questionable activities and were making themselves obnoxious to the Navaho Tribe.

In this connection, I wish to read a letter into the RECORD addressed to Claude Hinman, principal of the Church Rock Elementary School at Church Rock, N. Mex., on November 12, 1969, because it shows how correct I was in what I

was attempting to get across to the Senate, about these young men operating as lawyers and going around in Arizona and New Mexico and engaging in anything but legal activities.

The letter reads as follows:

DEAR MR. HINMAN: I am writing to express my opposition in the strongest possible terms to the patriotism program underway at Church Rock, as described in tonight's Gallup *Independent*. You are quoted as saying: "These kids don't know the Star Spangled Banner. They ought to have an awareness of the greatness of their country". This is true, but they ought to have an awareness of the faults and errors of their country, as well, of which there have been, and are, many. It is especially appalling to realize that these are Indian children who are being forced to participate in this program, when it is their people who have been treated most shabbily of all by the United States.

Are you in agreement with the statement attributed to Mrs. Stanfield—

Mr. President, I digress to say here that the Mrs. Stanfield referred to is not Mrs. Stanfield but Mrs. Stafford, who happens to be a Negro.

Continuing reading:

who is quoted as saying: "We should *indoctrinate* every child with the idea of being loyal to his country."? (My emphasis.) If so, I think that this is a sorry philosophy for a public school, which *should* be dedicated to the concept of free inquiry and exchange of ideas, as well as the presentation of *all* sides of disputed issues.

I find it particularly offensive that you are apparently associating "patriotism" with support of the war in Viet Nam, which is, unquestionably, the most controversial war of our time, and, in the opinion of many, the most brutal and unjustified. Young children are subjected to enough pressures from the media, their parents, churches, etc. to hold the view "my country, right or wrong". The least you could do is to refrain from adding to the imbalance in presentation of viewpoints.

I note among the pictures appearing in the *Independent* some of drawings of soldiers with guns and several with the phrase "God Bless America". It is, indeed, unfortunate that you are encouraging these children to glorify war and all its attendant inhumanity. Likewise, it is deplorable for you to stimulate the express of what is, in effect, a prayer, in violation of the Supreme Court's ruling that public schools are to refrain from any such activities. There is simply no need to offend the sensibilities of some persons by indirectly stimulating the establishment of the Christian (or Jewish) faith among a people who have traditionally held conflicting religious beliefs. This does not even take into consideration these people who have no faith whatsoever, or who simply wish to have the business of religion and politics kept out of the schools.

I would also suggest that you take a good hard look at the sponsorship of the organization the *Independent* says your "Patriotism Committee" is affiliated with, the Freedom Foundation. I could be mistaken, but I believe that this organization is one of the extreme right, either affiliated with, or similar to, the Birch Society, Minutemen, or similar paramilitary and far-right groups.

If you are not willing to demonstrate that your program is a balanced presentation, and to remove any hint of religious exercises from the curriculum, I shall take whatever steps I can to investigate the matter myself, and, if necessary, institute legal proceedings.

Kindly show this letter to Mrs. Stanfield—

That is Mrs. Stafford—

and any other interested parties.

Sincerely,

STEPHEN B. ELRICK.

Mr. President, the program referred to in the letter was a Veterans' Day program held in a school whose enrollment is 99 percent Indian children, at which two Vietnam casualty families were awarded medals and various patriotic displays were in the school, including one bulletin board display that read "God Bless America."

I read this letter into the RECORD to help to prove that these young lawyers, engaged against the wishes of the Navaho tribe, are not practicing law out there. They are practicing disruption of the American way of life.

I am amazed that the Republican head of the Department that controls the OEO would allow such things to go on. I am going to continue to be critical of him, even though he is a Republican. I believe that he has a responsibility to the people of this country to consider the feelings of the people of this country long before he has any obligation to a bunch of formerly unemployed lawyers.

ORDER OF BUSINESS

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

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on the Judiciary.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed the bill (S. 3016) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, to authorize advance funding of such programs, and for other purposes, with amendments, in which it requested the concurrence of the Senate; that the House insisted upon its amendments to the bill, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PERKINS, Mrs. GREEN, Mr. PUCINSKI, Mr. BRADEMAS, Mr. O'HARA, Mr. CAREY, Mr. HAWKINS, Mr. WILLIAM D. FORD, Mr. HATHAWAY, Mrs. MINK, Mr. MEEDS, Mr. CLAY, Mr. AYRES, Mr. QUIE, Mr. REID of New York, Mr. ERLENBORN, Mr. SCHERLE, Mr. DELLENBACK, Mr. ESCH, and Mr. STEIGER of Wisconsin were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 14580) to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world to achieve economic development within a framework of democratic economic, social, and political institutions, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MORGAN Mr. ZABLOCKI, Mr. HAYS, Mr. FASCELL, Mr. ADAIR, Mr. MAILLIARD, and Mr. FRELINGHUYSEN were appointed managers on the part of the House at the conference.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

S. 2864. An act to amend and extend laws relating to housing and urban development, and for other purposes;

H.R. 210. An act to eliminate requirements for disclosure of construction details on passenger vessels meeting prescribed safety standards, and for other purposes;

H.R. 4244. An act to raise the ceiling on appropriations of the Administrative Conference of the United States; and

H.J. Res. 10. Joint resolution authorizing the President to proclaim the second week of March 1970 as Volunteers of America Week.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1970

The Senate resumed the consideration of the bill (H.R. 15090) making appropriations for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes.

Mr. THURMOND. Mr. President, I would like to warn my distinguished colleagues that funds for national defense on most items have been cut to the lowest acceptable risk. In my personal opinion, we have already cut entirely too much in the face of everincreasing Soviet military power.

This bill has been reduced by $5.9 billion from the estimated requirement. Our worldwide forces are being cut back. It is reported that President Nixon tonight will announce further withdrawals from Vietnam.

Mr. President, we have a very unique and unusual situation this year in view of the tremendous reductions already made in our national defense programs. The manned orbiting laboratory—MOL—program has been terminated. This amounted to a $400 million reduction. I might point out that this is one of the Soviet's main experimental programs.

The Cheyenne helicopter program has

been stopped. This amounted to a reduction of $429 million. The Army's Main Battle Tank program has been cut back with more than a $20 million reduction. A letter from Secretary Packard to Chairman RUSSELL indicates this might be reduced another $10 million but no other reductions on the MBT–70 tank should be made.

Mr. President, there are many other essential items of military hardware that have been reduced. Combat operations in Vietnam have been curtailed severely during the first 5 months of this fiscal year. The Secretary of Defense has cut the fiscal year 1970 program by $3 billion. Our Nation cannot expect to make any further cuts in the foreseeable future.

Efforts have been made to defer the procurement of the F–14 aircraft for the Navy. The House disallowed $275 million for this program. In my view, this is a fatal mistake. Funds have been restored in the Senate bill to provide for a total of 12 F–14's for the test program. This is a bare minimum. The Navy must be permitted to go forward with this modern fighter for the fleet.

Mr. President, there has been some talk of not approving the funds for the ABM which have been authorized. In view of the extensive previous review and approval of this program by the Senate, I strongly recommend that such ideas be forgotten. Our urgent need for this defense has been further documented since my distinguished colleagues approved the minimum deployment of the ABM to defend against the Soviet ICBM's. Anyone who proposes to cut funds for the ABM will face strong opposition.

The C–5A super transport has been cut back from 123 aircraft to 81. This will seriously reduce our flexibility for response to reinforce our overseas forces in time of peril.

This bill is already a compromise which reveals risks to our national security due to the pressure of domestic problems. Our present as well as our future capabilities have been reduced. Unanticipated requirements in Southeast Asia cannot be met with our reduced military capability.

Mr. President, the slowdown of new weapons development and the critical reduction of our force structure are coming at a perilous time in our history. For the first time, the Soviets are moving ahead of us in military capability.

The Russian naval fleet totals 1,575 vessels, as opposed to 894 for the United States. Moreover, 58 percent of the U.S. Navy's combat ships are 20 years old or more; but only 1 percent of the Soviet navy is that old.

We have 143 submarines; the Soviets have more than 375. We have 81 nuclear powered units; the Soviets have 65, but they are building one nuclear sub a month, and may surpass us by the end of 1970. By 1978, they may well have constructed between 100 and 150.

This year, for the first time, the Soviets surpassed us in the number of ICBM's and they continue to build at a constant rate.

Mr. President, the security of our Nation must not be exposed to any further risks to accommodate domestic needs. The appropriations bill before us today in view of pervious reductions is already a grave risk. I strongly appeal to my colleagues not to propose further reductions.

Mr. MANSFIELD. Mr. President, it was my intention to offer the Cooper amendment on Laos at this time but, pending receipt of a copy of it for my own use, I suggest the absence of a quorum, without relinquishing my right to the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I call up the amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The BILL CLERK. The Senator from Kentucky (Mr. COOPER) and the Senator from Montana (Mr. MANSFIELD) propose an amendment as follows:

On page 46, between lines 8 and 9, insert a new section as follows:

"SEC. 643. None of the funds appropriated by this Act shall be used for the support of local forces in Laos or Thailand except to provide supplies, materiel, equipment, and facilities, including maintenance thereof, or to provide training for such local forces."

Mr. MANSFIELD. Mr. President, I join with the distinguished Senator from Kentucky, who is absent because of unavoidable circumstances, in sponsoring the amendment.

As the Senator knows, there have been some hearings held on the situation which exists in Laos as it relates to our participation in the war.

If my memory serves me correctly, the number of sorties, so-called, which have emanated from these bases has increased considerably in recent months.

We know that the situation in Laos has developed into a two-sided affair. It seems that the main factors there are the North Vietnamese on the one hand, backing up the Pathet Lao, who number something in the order of 50,000 and who have been in constant violation of the Geneva accords of 1962 since the agreement was made. On our part when the Geneva accords were reached, we withdrew what uniformed elements we had in Laos. However, with the passage of time and the difficulty which beset the royal Laotian army, we have stepped up our activity in that unhappy kingdom.

Much of this activity is centering around the infiltration of men and supplies down the so-called Ho Chi Minh Trail, which goes through the panhandle of Laos.

There has also been air suport to the Royal Laotian Forces in the carrying out of activities in the Plaine des Jarres and elsewhere in that country.

It is safe to say, I believe, that the Pathet Lao would not be able to function without the support of the North Vietnamese on the one hand and, on the other, that the Royal Laotian Army itself would be placed in a very precarious position without the air support of the United States and the training given to the few pilots which the Laotian kingdom has.

I think there should be brought out also in a general discussion of Laos, the fact which has been known for some months now, that the Chinese under an agreement, tacit or otherwise, with a previous Laotian Government has been building a road down from Menglien in Yunnan Province into Laos itself. And the road terminates at a place called Muong Soui.

There are shafts in both directions. The one on the left, looking south, is an extension which has been begun along Route 19 toward Dien Bien Phu. And, the one on the right, extending toward Thailand, has been extended only a very short distance, despite the reports which have come out recently that great activity is underway in that particular area and that the Chinese have two divisions there.

When I was in Laos in August, the figure was anywhere from three to 10 battalions of Chinese along the road, mostly labor troops and antiaircraft personnel.

The consensus was that a figure of four or five battalions would be closer to the truth.

I note in the press recently where Souvannah Phouma, the Prime Minister of Laos has indicated that there is no such thing as two divisions in Laos. And he sets the number at five Chinese battalions along the road primarily extending from Menglien in Yunnan down to Muong Soui in northern Laos.

I was happy to note that the President on several occasions has stated definitely and without qualification that there are no U.S. combat troops in Laos.

I believe that to be a true statement of fact, if by that we mean the foot soldiers as such. There are, of course, other types of activities going on.

Certainly airlines are in operation there. They are operating, at least in part—perhaps in large part—on American funds.

And what I am saying is nothing secret, because it has been carried in the press and it is public knowledge.

The fact that the United States has been carrying on additional sorties against the North Vietnamese coming down the Ho Chi Minh Trail and is in support of the Royal Laotians around the Plaine des Jarres is, of course, open knowledge.

The point of the Cooper amendment is that we do not want to become involved in Laos. We do not want to become involved in another Vietnam, no matter where it would be. And, while there is perhaps some justification for what is going on at the present time, there certainly is no justification for this country getting involved deeper and deeper and, in effect, becoming the keeper of the keys as far as the Kingdom of Laos is concerned.

Providing supplies, materiel, equipment, and facilities, including the maintenance thereof, and the providing of training for local forces is being undertaken at the present time. We are providing supplies. We are providing ma-

teriel. We are providing equipment and facilities. We are providing training for local forces, those belonging in the Royal Laotian Army as well as those that operate on a small independent basis, the Meo and the other tribesmen who have been supplied by us.

They are carrying on clandestine activities and making a contribution toward stability in the areas in which they live and in which they function.

The important thing, and I believe this is the intention of the Senate and the administration, is that one Korea is more than enough, that one Vietnam is more than enough, and that this country does not want to become involved in any other area on a basis approximating that in which we find ourselves in Vietnam at the present time.

I do not think anyone would doubt, or at least very few would doubt, the fact that it was a mistake to go into Vietnam. And it is just as well to state it publicly.

My view does not agree with that of some of my colleagues, because I think the difficulty arose with the assassination of Ngo Dinh Diem in 1963. And many of my colleagues looked upon Ngo Dinh Diem as a dictator and as a hard man.

Well, he may have been hard, but at least he furnished a timely civilian stability to that government which kept us from going in and which was able to function on the basis of only a relatively few American advisors being there.

I use the term relatively few American advisers in comparison with the figures today. However, with the assassination of Ngo Dinh Diem, began a continual succession of military dictatorships. And that is what we still have in Vietnam today, I believe, despite the so-called election in September 1966. Under that succession, we have been ground down in that area.

We have spent well in excess of $100 billion.

Our total casualties up to December 11, 1969, amounted to 307,242, and of that number, 206,420 have been wounded in battle, 39,742 have died in combat, and 7,080 have died in other than combat situations. The total number as of December 11 is 307,242. While the figures are declining, the end is not in sight, even with the sizable withdrawal of forces which this administration has undertaken and which I hope it will speed up and move as rapidly as it possibly can.

May I say in that respect that I am delighted that this administration has brought about a deescalation of the war and that, rather than a step-up, or a continuing increase in forces, or a stabilizing at the 548,000 or 550,000 level. The figure now is somewhere, I believe, below 480,000. The move in the right direction, the acceleration, is not fast enough. I wish it could be faster. If I had my way, it would be. The final responsibility rests with the President and I am sure he is doing all he can to bring about a deceleration of this war, a deescalation of this war, and is trying to find a pathway to peace which will bring about, in time, a total withdrawal on the part of this country.

Nevertheless the black boxes are still coming home. Men are still dying in combat, even though the deaths are decreasing.

Too many Americans are involved in a country in which we really have no vital interest. It is an area in which the South Vietnamese themselves, of all kinds and all sorts, will have to make the final decision as to what kind of government they want, what kind of future they envisage, and what kind of life their people will lead. It is not up to us; it is up to them.

So I hope that this amendment, offered by the distinguished senior Senator from Kentucky and myself, will be agreed to, as a means of indicating that we do not wish to become involved in another Vietnam in Laos or Thailand or anywhere else.

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

Mr. MANSFIELD. I yield.

Mr. FULBRIGHT. I congratulate the distinguished majority leader for offering this amendment. I expect to support it. I should like to ask one or two questions by way of clarification.

If I correctly understand the amendment, it does not prohibit money in this bill to provide training for local forces in Laos. Is that correct?

Mr. MANSFIELD. In Laos or Thailand.

Mr. FULBRIGHT. It does not prevent supplies, materiel, equipment, and facilities being supplied to those forces?

Mr. MANSFIELD. It does not.

Mr. FULBRIGHT. Is there anything in the hearings or in this bill that indicates to the Members of the Senate what we are doing by way of providing training to local forces in Laos?

Mr. MANSFIELD. I would have to refer that question to the acting chairman of the committee, who has been called on, on short notice, to handle this bill.

As I recall, some information was given. I do not know the details even though I happen to serve on the particular subcommittee. It had to do with training pilots, servicing planes, and other activities carried on primarily in Thailand and not in Laos itself, because of the Geneva accords.

Mr. FULBRIGHT. May I ask it in a little different way? Does the majority leader believe that Members of the Senate should be called upon to vote for the appropriation in this bill, which is just under $80 billion? Incidentally I want to congratulate both committees for having cut what seems to me a reasonable amount. My question is whether Members of the Senate are being called upon to vote to appropriate money to pay for a program which they are uninformed.

Mr. MANSFIELD. Yes, I think we should, in view of a situation which has developed over the years. After all, the United States was responsible in large part for bringing about the Geneva accords of 1962, which supposedly divided Laos into a tripartite kingdom—the so-called neutralists, the rightist groups, and the Pathet Lao—who agreed to divide the representation of the country into three.

Since that time, this fiction has been kept alive, at least on a theoretical basis, and one-third of the seats in Vientiane have been set aside for the Pathet Lao to occupy, which they are loath to do.

Furthermore, in connection with that, I think it should be pointed out that there is stationed permanently in Vientiane a 100-man Pathet Lao company—for what purpose, I do not know, but at least it is there. We have involved the Laotians to such an extent that we have created an obligation which is most difficult for us to get out of at the present time.

What I oppose is the stepup of activities there which carries with it the threat of greater participation and which carries with it the possibility that if it gets out of hand or goes too far, we may become involved in another Vietnam.

Mr. FULBRIGHT. I agree with the Senator that it might amount to another Vietnam. But I do not understand how the Senate can exercise a proper judgment in this matter if it is not informed as to what is being done with the moneys in this program. This is the only case I know of outside of a strictly intelligence operation in which we are expected to act without detailed information. I am not suggesting that we should make anything public. What I am suggesting is that the Senate, in executive session, should be informed by the sponsors of the proposed legislation and by the administration as to what we are being asked to finance in this operation. Aside from what we normally call the typical intelligence operations, upon which traditionally we have not requested information even in executive session, I believe we need information now. I do recall, however, we did have one executive session last year to discuss that matter.

But very large sums of money are included in this bill. I believe they are concerned with the activities that are mentioned in the amendment. But they are not identified and no Members of the Senate, or at least very few, know what they are voting on.

It strikes me that we have come to such a pass—as we became involved so deeply in Vietnam—that we are threatened to become involved in Laos. The Senate should be informed.

The Senator from Montana congratulated the President on deescalating the war in Vietnam. But what good is this going to do if we are escalating the war in Laos at the same time as much as we are deescalating in Vietnam?

Mr. MANSFIELD. That is a valid question, and the Senator makes a fair comparison.

I would be prepared—this may come as a surprise; I just happened to think of it—to suggest at an appropriate time that the Senate go into executive session to listen to this information, and in that way to educate ourselves to a greater extent covering this particular matter.

Mr. FULBRIGHT. I appreciate that from the majority leader.

On last Saturday, I sent to the chairman of the Appropriations Committee a letter asking basic questions on money and commitments to Laos. My purpose was to give notice that I would expect this information, which can be supplied by the executive branch, by way of the

Committee on Appropriations. I think that the Senate should have such information before it is called upon to vote.

Mr. MANSFIELD. May I say—if the chairman will pardon me—that, in my opinion, without the American assistance now going to Laos, it would have fallen a long time ago; that the Pathet Lao on paper would have been successful, but in reality North Vietnam, with its huge concentration of troops, would have assumed actual and physical control; and that if that happened, we would be confronted with a situation with the Laotians or North Vietnamese, whichever group was in control, at the Mekong.

I would point out that we have a treaty relationship with Thailand which is a full-fledged member of the Southeast Asian Treaty Organization. The headquarters are in Bangkok. Unlike the situation applicable to Laos, Cambodia, and South Vietnam there is no question but that we would be involved under the terms of the Southeast Asian Treaty Organization, but involved only through constitutional processes because that is included toward the ends of the treaty. So we have a situation there which is delicate, difficult, dangerous, extremely hard to explain. It is tied very closely to the war in Vietnam in which we never should have become involved. It is not only a mistake; it is a tragedy, on the basis of these complex factors we find that the situation developing in Laos has increased our participation and activity there. It has been responsible for the questions raised by the chairman of the Committee on Foreign Relations and other Members of this body who are fearful of what might happen in the future if a curb is not established in this body.

Mr. YOUNG of North Dakota. Mr. President, like the Senator from Montana, I was very much opposed to becoming involved in a war in Vietnam. I want to make sure we do not get involved in any more Vietnams.

I could support the proposal. This would not prevent assistance to a country like Indonesia which fought off communism. We could give them assistance, such as military or economic, but no manpower assistance.

Mr. MANSFIELD. Yes, in Laos, too. These items, which are allowable, fit in very nicely with the Nixon doctrine which says, in effect, we are primarily a Pacific power with peripheral interests on the Asian mainland. The purpose would be that our friends would receive logistical help and economic assistance, but no further use of American manpower on the Asian mainland, no further use of American military power unless there were a nuclear confrontation and then all bets would be off.

This amendment would strengthen the President's hand because it says to him "The executive branch cannot go beyond what is now being done; the situation may have already gone a little too far but you said that there are no U.S. combat troops in Laos."

Secretary Rogers, in his appearance before the National Education Television commentators, on a television show, stated that the President did not intend to become involved in Laos. I am paraphrasing, but that is what he said.

Mr. YOUNG of North Dakota. I believe the acting chairman of the committee said, regarding the money in this bill, that it could be used in Laos.

Mr. MANSFIELD. Mr. President, if it is agreeable with the Senator, I would like to yield to the Senator from Vermont briefly.

Mr. AIKEN. Mr. President, as a matter of fact, I have seen no evidence that this administration desires to engage in any more Vietnams in Laos or anywhere else; and if the administration should change in the future I am satisfied the Senate would never approve of any more Vietnam like conflicts.

However, I rose to speak in reference to what the majority leader said earlier in regard to Vietnam. As of December 11, last Thursday, I find that our troop strength in South Vietnam was 472,500. That indicated a reduction of 2,700 for the week of December 4 to December 11. Previous to that, the previous week, there was a reduction of 4,500. This means a total of something over 71,000 troops having been withdrawn from South Vietnam, largely within the last 3 months, at a rate of about 20,000 a month. That rate of withdrawal may not hold good for each of the months ahead, but at the present time the withdrawal program is 11,500 ahead of schedule, ahead of what was projected for December 15, with 4 days yet to go. It is quite apparent that, at anywhere near the present rate of withdrawal, 80,000 troops will be withdrawn before the beginning of the year; and probably 100,000 by the first of February and possibly more. I just do not know, but that is my best guess at this time.

I thought those figures would be worthwhile to place in the RECORD at this time for the benefit of Members of the Senate, as well as for those who read the CONGRESSIONAL RECORD.

Mr. MANSFIELD. Mr. President, I thank the Senator for performing a commendable service. I am delighted that he has placed the figures in the RECORD. I congratulate the President for being 11,500 ahead of schedule, 4 days before the withdrawal date, December 15, which is today.

Mr. AIKEN. That is right.

Mr. MANSFIELD. Mr. President, I wish to quote now from the statement by the distinguished Secretary of State in a National Education Television network interview. He was asked about whether or not Laos would develop into another Vietnam-type conflict. He said:

> The President won't let it happen.

Continuing, he said:

> I mean we have learned one lesson, and that is we are not going to fight any major wars in the mainland of Asia again and we are not going to send American troops there, and we certainly aren't going to do it unless we have the American public and the Congress behind us.

Mr. JAVITS. Mr. President, will the Senator yield very briefly?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, I think what I wish to say would fit in before the explanation by the Senator from Louisiana (Mr. ELLENDER) as to the money. I wish to ask a question, which I arranged to ask on behalf of the Senator from Kentucky (Mr. COOPER).

It is a fact, when he allows materiel and training you must contemplate certain American personnel in the training or logistical handling of the materiel. Is that correct?

Mr. MANSFIELD. I did not get the last part of the question.

Mr. JAVITS. When you assume in Laos or Thailand we will be giving some support, actively training, and so forth, there will be American manpower involved, will there not?

Mr. MANSFIELD. Yes, there would be American manpower involved; there is American manpower involved. There are the intelligence activities which the distinguished chairman of the Committee on Foreign Relations referred to, and that is to be understood.

Mr. JAVITS. Correct.

Mr. MANSFIELD. But as far as the training is concerned, most of it would be in Thailand, to observe the concept of neutrality. We have an extra large military mission in Laos, and I suppose in view of the circumstances that may be understandable.

Mr. JAVITS. One of the questions the Senator from Kentucky and I want to clarify is: If our advisory people, who are military representatives, advisers and so forth, come under attack, should not the record be perfectly clear that U.S. advisory troops are free to defend themselves; that is, they have the right of self-defense but again we should utter caution that that should not represent general authorization to engage in combat operations or to draw us in because U.S. troops have been attacked who are engaged in some advisory role.

Would the Senator care to give a response?

Mr. MANSFIELD. Mr. President, U.S. troops in any country in the world would have every right to protect themselves and I would hope they would. We do not have too many—and we really have no troops, as such, in Laos, but what we do have is a military mission which represents the four services, the Marine Corps, the Navy, the Army, and the Air Force, stationed at Vientiane. From what I gather, they attend, pretty much, to their own knitting.

Mr. JAVITS. The Senator from Kentucky and I wanted to know the effect on this amendment of the commitment resolution. Is it not a fact that that is intended here is an actual implementation in advance of our being faced with the issue of the commitment resolution which has already passed the Senate and which says that matters that will involve us in any major military responsibility must be referred to the Senate under the constitutional processes which relate to Congress.

Mr. MANSFIELD. Without question. I think that Secretary Rogers made that tacit recognition when he said in effect—and I quote it again, because it is a very important passage from his interview:

> I mean we have learned one lesson, and that is we are not going to fight any major wars in the mainland of Asia again and we are not going to send American troops there, and we certainly aren't going to do it unless we have the American public and the Congress behind us.

That means congressional consultation before an action is taken which would go beyond what they are doing now.

Mr. JAVITS. If it is of any major character necessitating congressional action, whatever that may mean——

Mr. MANSFIELD. That is right, so far as that is concerned, and under the SEATO organization we can only become involved, at least it says so, through the constitutional processes of this country. That is something which we have been prone to forget in recent years, and something which I think we should remember constantly from now on.

Mr. JAVITS. I should like to identify myself with my colleague's statement on that score, and also express to him my support of the amendment.

Mr. President, I ask unanimous consent that a statement prepared for delivery by the senior Senator from Kentucky, Senator COOPER, concerning his amendment regarding Laos and Thailand, be printed in the RECORD. Senator COOPER is not able to be present on the floor for the debate.

Mr. President, in my judgment Senator COOPER—as always—has made a wise and knowledgeable statement which deserves the close attention of the Senate and the Nation.

As my colleagues will recall from the RECORD of the debate on Senator COOPER's amendment to the Defense procurement authorization bill, I find myself in great agreement with my colleague on this vital matter.

There being no objection the statement by Senator COOPER was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR COOPER

On August 12, I introduced an amendment to the Military Procurement Authorization Bill which would have prohibited the use of funds to support U.S. personnel in Laos or Thailand in support of local forces engaged in the local war there. My amendment provided that supplies, materials, equipment and facilities, including maintenance thereof and training, could be given to local forces in Laos or Thailand. On September 17, the amendment was adopted 86–0, and although its purpose was clearly understood, the Chairman of the Armed Services Committee, Senator Stennis, manager of the bill, was of the opinion that my amendment did not cover all the funds available for programs in Laos and Thailand. The Amendment was deleted in conference.

I have offered once again an amendment to the pending Appropriations bill for the Department of Defense which reads as follows: "None of the funds appropriated by this Act shall be used for the support of local forces in Laos or Thailand except to provide supplies, material, equipment, and facilities, including maintenance thereof, or to provide training for such local forces."

The purpose of the amendment is again the same, to prevent the United States from backing into a war that has not been considered or approved by Congress. It is evident from newspaper reports and from the testimony given on the Symington Subcommittee that there is a serious danger of becoming more deeply involved in the situation in Laos. My amendment would prohibit all actions not already approved by the Congress that are now taking place in Laos and Thailand. The situation in Laos is very complex. Insofar as the bombing in Laos affects the war in Vietnam, such operations as the interdiction of the Ho Chi Minh Trail would not be affected by my amendment. Our military personnel would of course have the right of self-defense.

The other bombing operations that are taking place, however, are of such a nature and magnitude that the Senate should fully understand from the Administration why such operations are being undertaken before approval is given and funds appropriated. There are dangers of escalation of the kind that have taken place in Vietnam. The United States should not be involved in a widening of the war in South Asia.

Because of the tragic experience of Vietnam, I felt it necessary that through full discussion in closed session, if required, that the facts essential for sound judgment would be obtained.

I regret that the serious illness of my mother has prevented me from being in the Senate today. My good friend and colleague, the majority leader, Senator MANSFIELD, has kindly agreed to introduce the amendment for me in my absence. There is no better expert on Asian affairs in the Senate. His wisdom and knowledge on this issue will give the Senate a full understanding of the purpose of the amendment introduced today.

Mr. GOLDWATER. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. GOLDWATER. I want to ask the majority leader and distinguished chairman of the Foreign Relations Committee why they feel that any meeting of this body on this subject should be secret?

Mr. MANSFIELD. I just raised the question, may I say, to the distinguished Senator from Arizona, in case the chairman and the others of the committee on both sides felt it would be more applicable. Frankly, I have read about this for so many years in the public prints that it is my belief that not much that is not known would be made known.

Mr. GOLDWATER. I might say that I was in Thailand 2 days ago and there are no major secrets there as to what we are doing.

I am sure that a secret meeting of this body would be the property of the press within minutes after it was finished.

I realize that there are some things, as there are some matters in all military operations, that we cannot and should not talk about but I think that if the American public is to be informed, we would be better off talking about it on the floor, as to what the commitments are, and why we feel those commitments to be right, and so forth.

Frankly, I would be more in favor of an open hearing than I would be in favor of a secret hearing, because I think it is pretty much public property now, with the exception of testimony that I would expect would be kept confidential.

Mr. MANSFIELD. I would agree with the distinguished Senator. So far as I am concerned, I would rather it be out in the open, but if for some reason members of the particular committees affected—and I refer to the Appropriations Committees, both subcommittee and full committee—felt it would be advisable to have an executive session, I would go along with it; but, speaking personally, I agree with the distinguished Senator. Let it be out in the open and let everyone know about it.

Mr. GOLDWATER. I thank the Senator.

Mr. ELLENDER. Mr. President, I am in thorough agreement with the distinguished Senator from Arizona on the points he has just made, that if we do have an executive session, in a matter of minutes, not hours, but minutes, the whole of the press will know about it. So far as I am personally concerned, I do not see anything wrong with accepting the amendment.

As I suggested to the distinguished Senator from Arkansas, this matter can go to conference and no doubt the conferees could delve into that matter themselves.

Another thing, as I understood the answers to the questions propounded by the distinguished Senator from Arkansas, the Senator from Montana is in agreement, evidently, with the wording of section 638(a) on page 43 of the bill which states:

SEC. 638. (a) Appropriations available to the Department of Defense during the current fiscal year shall be available for their stated purposes to support: (1) Vietnamese and other free world forces in Vietnam; (2) local forces in Laos and Thailand; and for related costs, on such terms and conditions as the Secretary of Defense may determine.

Mr. MANSFIELD. That is right, but what this does is spell out what the Secretary of Defense may determine in an area with which we are all in accord.

Mr. ELLENDER. If that ever comes about, the matter can be brought to the Senate and to the President, and he can act upon it.

Mr. MANSFIELD. That is the strength of the amendment about which there really should be no discord.

Mr. ELLENDER. It was suggested a while ago that I give to the Senate a short résumé of the amount of money, and I now read from the statement:

The recommendations of the subcommittee include approximately $90 million for the support of local forces in Laos. These funds are included in the bill pursuant to the authority granted in section 401 of the Department of Defense Procurement and Research and Development Act of 1970.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD the entire text of that act.

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

DEPARTMENT OF DEFENSE PROCUREMENT AND RESEARCH AND DEVELOPMENT AUTHORIZATION ACT, 1970 (PUBLIC LAW 91–121)

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated during the fiscal year 1970 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Amy $570,400,000; for the Navy and the Marine Corps, $2,391,200,000; for the Air Force, $3,965,700,000: *Provided*, That of the funds authorized to be appropriated for the procurement of aircraft for the Air Force during fiscal year 1970, not to exceed $28,000,000 shall be available to initiate the procurement of a fighter aircraft to meet the needs of Free World forces in Southeast Asia, and to accelerate the withdrawal of United States forces from South Vietnam and Thailand; the Air Force shall (1) prior to the obligation of any funds ap-

propriated pursuant to this authorization, conduct a competition for the aircraft which shall be selected on the basis of the threat as evaluated and determined by the Secretary of Defense, and (2) be authorized to use a portion of such funds as may be required for research, development, test, and evaluation.

MISSILES

For missiles: for the Army, $880,460,000; for the Navy, $851,300,000; for the Marine Corps, $20,100,000; for the Air Force, $1,486,400,000.

NAVAL VESSELS

For naval vessels: for the Navy, $2,983,200,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $228,000,000; for the Marine Corps, $37,700,000: *Provided,* That none of the funds authorized herein shall be utilized for the procurement of Sheridan Assault vehicles (M–551) under any new or additional contract.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated during the fiscal year 1970 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $1,646,055,000;

For the Navy (including the Marine Corps), $1,968,235,000;

For the Air Force, $3,156,552,000; and

For the Defense Agencies, $450,200,000.

SEC. 202. There is hereby authorized to be appropriated to the Department of Defense during fiscal year 1970 for use as an emergency fund for research, development, test, and evaluation or procurement or production related thereto, $75,000,000.

SEC. 203. None of the funds authorized to be appropriated by this Act may be used to carry out any research project or study unless such project or study has a direct and apparent relationship to a specific military function or operation.

SEC. 204. Construction of research, development, and test facilities at the Kwajalein Missile Range is authorized in the amount of $12,700,000, and funds are hereby authorized to be appropriated for this purpose.

TITLE III—RESERVE FORCES

SEC. 301. For the fiscal year beginning July 1, 1969, and ending June 30, 1970, the Selected Reserve of each Reserve component of the Armed Forces will be programed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 393,298.

(2) The Army Reserve, 255,591.

(3) The Naval Reserve, 129,000.

(4) The Marine Corps Reserve, 49,489.

(5) The Air National Guard of the United States, 86,624.

(6) The Air Force Reserve, 50,775.

(7) The Coast Guard Reserve, 17,500.

SEC. 302. The average strength prescribed by section 301 of this title for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever any such units or such individual members are released from active duty during any fiscal year, the average strength for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

SEC. 303. Subsection (c) of section 264 of title 10, United States Code, is amended as follows:

In the last line of the last sentence of subsection (c) after the word "within", change the figures "60" to "90".

TITLE IV—GENERAL PROVISIONS

SEC. 401. Subsection (a) of section 401 of Public Law 89–367 approved March 15, 1966 (80 Stat. 37) as amended, is hereby amended to read as follows:

"(a) Not to exceed $2,500,000,000 of the funds authorized for appropriation for the use of the Armed Forces of the United States under this or any other Act are authorized to be made available for their stated purposes to support: (1) Vietnamese and other Free World Forces in Vietnam, (2) local forces in Laos and Thailand; and for related costs, during the fiscal year 1970 on such terms and conditions as the Secretary of Defense may determine."

SEC. 402. (a) Prior to April 30, 1970, the Committees on Armed Services of the House of Representatives and the Senate shall jointly conduct and complete a comprehensive study and investigation of the past and projected costs and effectiveness of attack aircraft carriers and their task forces and a thorough review of the considerations which went into the decision to maintain the present number of attack carriers. The result of this comprehensive study shall be considered prior to any authorization or appropriation for the production or procurement of the nuclear aircraft carrier designated as CVAN–70.

(b) In carrying out such study and investigation the Committees on Armed Services of the House of Representatives and the Senate are authorized to call on all Government agencies and such outside consultants as such committees may deem necessary.

SEC. 403. Funds authorized for appropriation under the provisions of this Act shall not be available for payment of independent research and development, bid and proposal, and other technical effort costs incurred under contracts entered into subsequent to the effective date of this Act for any amount in excess of 93 per centum of the total amount contemplated for use for such purpose out of funds authorized for procurement and for research, development, test, and evaluation. The foregoing limitation shall not apply in the case of (1) formally advertised contracts, (2) other firmly fixed contracts competitively awarded, or (3) contracts under $100,000.

SEC. 404. (a) Section 136 of title 10, United States Code, is amended—

(1) by striking out "seven" in subsection (a) and inserting in lieu thereof "eight"; and

(2) by inserting after the first sentence in subsection (b) the following new sentences: "One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Health Affairs. He shall have as his principal duty the overall supervision of health affairs of the Department of Denfense."

(b) Section 5315 of title 5, United States Code, is amended by striking out item (13) and inserting in lieu thereof the following:

"(13) Assistant Secretaries of Defense (8).

SEC. 405. Section 412(b) of Public Law 86–149, as amended, is amended, to read as follows:

"(b) No funds may be appropriated after December 31, 1960, to or for the use of any armed force of the United States for the procurement of aircraft, missiles, or naval vessels, or after December 31, 1932, to or for the use of any armed force of the United States for the research, development, test, or evaluation of aircraft, missiles, or naval vessels, or after December 31, 1963, to or for the use of any armed force of the United States for any research, development, test or evaluation, or after December 31, 1965, to or for the use of any armed force of the United States for the procurement of tracked combat vehicles, or after December 31, 1969, to or for the use of any armed force of the United States for the procurement of other weapons unless the appropriation of such funds has been authorized by legislation enacted after such dates."

SEC. 406. Section 2 of the Act of August 3, 1950 (64 Stat. 408), as amended, is further amended to read as follows:

"SEC. 2. After July 1, 1970, the active duty personnel strength of the Armed Forces, exclusive of personnel of the Coast Guard, personnel of the Reserve components on active duty for training purposes only, and personnel of the Armed Forces employed in the Selective Service System, shall not exceed a total of 3,285,000 persons at any time during the period of suspension prescribed in the first section of this Act except when the President of the United States determines that the application of this ceiling will seriously jeopardize the national security interests of the United States and informs the Congress of the basis for such determination."

SEC. 407. (a) After December 31, 1969, none of the funds authorized for appropriation by this or any other Act for the use of the Armed Forces shall be used for payments out of such funds under contracts or agreements with Federal contract research centers if the annual compensation of any officer or employee of such center paid out of any Federal funds exceeds $45,000 except with the approval of the Secretary of Defense under regulations prescribed by the President.

(b) The Secretary of Defense shall notify the President of the Senate and the Speaker of the House of Representatives promptly of any approvals authorized under subsection (a), together with a detailed statement of the reasons therefor.

SEC. 408. (a) The Comptroller General of the United States (hereinafter in this section referred to as the "Comptroller General") is authorized and directed, as soon as practicable after the date of enactment of this section, to conduct a study and review on a selective representative basis of the profits made by contractors and subcontractors on contracts on which there is no formally advertised competitive bidding entered into by the Department of the Army, the Department of the Navy, the Department of the Air Force, the Coast Guard, and the National Aeronautics and Space Administration under the authority of chapter 137 of title 10, United States Code, and on contracts entered into by the Atomic Energy Commission to meet requirements of the Department of Defense. The results of such study and review shall be submitted to the Congress as soon as practicable, but in no event later than December 31, 1970.

(b) Any contractor or subcontractor referred to in subsection (a) of this section shall, upon the request of the Comptroller General, prepare and submit to the General Accounting Office such information maintained in the normal course of business by such contractor as the Comptroller General determines necessary or appropriate in conducting any study and review authorized by subsection (a) of this section. Information required under this subsection shall be submitted by a contractor or subcontractor in response to a written request made by the Comptroller General and shall be submitted in such form and detail as the Comptroller General may prescribe and shall be submitted within a reasonable period of time.

(c) In order to determine the costs, including all types of direct and indirect costs, of performing any contract or subcontract referred to in subsection (a) of this section, and to determine the profit, if any, realized under any such contract, or subcontract,

either on a percentage of the cost basis, percentage of sales basis, or a return on private capital employed basis, the Comptroller General and authorized representatives of the General Accounting Office are authorized to audit and inspect and to make copies of any books, accounts, or other records of any such contractor or subcontractor.

(d) Upon the request of the Comptroller General, or any officer or employee designated by him, the Committee on Armed Services of the House of Representatives or the Committee on Armed Services of the Senate may sign and issue supenas requiring the production of such books, accounts, or other records as may be material to the study and review carried out by the Comptroller General under this section.

(e) Any disobedience to a subpena issued by the Committee on Armed Services of the House of Representatives or the Committee on Armed Services of the Senate to carry out the provisions of this section shall be punishable as provided in section 102 of the Revised Statutes.

(f) No book, account, or other record, or copy of any book, account, or record, of any contractor or subcontractor obtained by or for the Comptroller General under authority of this section which is not necessay for determining the profitability on any contract, as defined in subsection (a) of this section, between such contractor or subcontractor and the Department of Defense shall be available for examination, without the consent of such contractor or subcontractor, by any individual other than a duly authorized officer or employee of the General Accounting Office; and no officer or employee of the General Accounting Office shall disclose, to any person not authorized by the Comptroller General to receive such information, any information obtained under authority of this section relating to cost, expense, or profitability on any nondefense business transaction of any contractor or subcontractor.

(g) The Comptroller General shall not disclose in any report made by him to the Congress or to either Committee on Armed Services under authority of this section any confidential information relating to the cost, expense, or profit of any contractor or subcontractor on any nondefense business transaction of such contractor or subcontractor.

SEC. 409 (a) The Secretary of Defense shall submit semiannual reports to the Congress on or before January 31 and on or before July 31 of each year setting forth the amounts spent during the preceding six-month period for research, development, test and evaluation and procurement of all lethal and nonlethal chemical and biological agents. The Secretary shall include in each report a full explanation of each expenditure, including the purpose and the necessity therefor.

(b) None of the funds authorized to be appropriated by this Act or any other Act may be used for the transportation of any lethal chemical or any biological warfare agent to or from any military installation in the United States, or the open air testing of any such agent within the United States until the following procedures have been implemented.

(1) the Secretary of Defense (hereafter referred to in this section as the "Secretary") has determined that the transportation or testing proposed to be made is necessary in the interests of national security;

(2) the Secretary has brought the particulars of the proposed transportation or testing to the attention of the Secretary of Health, Education, and Welfare, who in turn may direct the Surgeon General of the Public Health Service and other qualified persons to review such particulars with respect to any hazards to public health and safety which such transportation or testing may pose and to recommend what precautionary measures are necessary to protect the public health and safety,

(3) the Secretary has implemented any precautionary measures recommended in accordance with paragraph (2) above (including, where practicable, the detoxification of any such agent, if such agent is to be transported to or from a military installation for disposal): *Provided, however,* That in the event the Secretary finds the recommendation submitted by the Surgeon General would have the effect of preventing the proposed transportation or testing, the President may determine that overriding considerations of national security require such transportation or testing be conducted. Any transportation or testing conducted pursuant to such a Presidential determination shall be carried out in the safest practicable manner, and the President shall report his determination and an explanation thereof to the President of the Senate and the Speaker of the House of Representatives as far in advance as practicable, and

(4) the Secretary has provided notification that the transportation or testing will take place, except where a Presidential determination has been made: (A) to the President of the Senate and the Speaker of the House of Representatives at least 10 days before any such transportation will be commenced and at least 30 days before any such testing will be commenced; (B) to the Governor of any State through which such agents will be transported, such notification to be provided appropriately in advance of any such transportation.

(c) (1) None of the funds authorized to be appropriated by this Act or any other Act may be used for the future deployment, or storage, or both, at any place outside the United States of—

(A) any lethal chemical or any biological warfare agent, or

(B) any delivery system specifically designed to disseminate any such agent,

unless prior notice of such deployment or storage has been given to the country exercising jurisdiction over such place. In the case of any place outside the United States which is under the jurisdiction or control of the U.S. Government, no such action may be taken unless the Secretary gives prior notice of such action to the President of the Senate and the Speaker of the House of Representatives. As used in this paragraph, the term "United States" means the several States and the District of Columbia.

(2) None of the funds authorized by this Act or any other Act shall be used for the future testing, development, transportation, storage, or disposal of any lethal chemical or any biological warfare agent outside the United States if the Secretary of State, after appropriate notice by the Secretary whenever any such action is contemplated, determines that such testing, development, transportation, storage, or disposal will violate international law. The Secretary of State shall report all determinations made by him under this paragraph to the President of the Senate and the Speaker of the House of Representatives, and to all appropriate international organizations, or organs thereof, in the event such report is required by treaty or other international agreement.

(d) Unless otherwise indicated, as used in this section the term "United States" means the several States, the District of Columbia, and the territories and possessions of the United States.

(e) After the effective date of this Act, the operation of this section, or any portion thereof, may be suspended by the President during the period of any war declared by Congress and during the period of any national emergency declared by Congress or by the President.

(f) None of the funds authorized to be appropriated by this Act may be used for the procurement of any delivery system specifically designed to disseminate any lethal chemical or any biological warfare agent, or for the procurement of any part or component of any such delivery system, unless the President shall certify to the Congress that such procurement is essential to the safety and security of the United States.

SEC. 410. (a) As used in this section—

(1) The term "former military officer" means a former or retired commissioned officer of the Armed Forces of the United States who—

(A) served on active duty in the grade of major (or equivalent) or above, and

(B) served on active duty for a period of ten years or more.

(2) The term "former civilian employee" means any former civilian officer or employee of the Department of Defense, including consultants or part-time employees, whose salary rate at any time during the three-year period immediately preceding the termination of his last employment with the Department of Defense was equal to or greater than the minimum salary rate at such time for positions in grade GS–13.

(3) The term "defense contractor" means any individual, firm, corporation, partnership, association, or other legal entity, which provides services and materials to the Department of Defense under a contract directly with the Department of Defense.

(4) The term "services and materials" means either services or materials or services and materials and includes construction.

(5) The term "Department of Defense" means all elements of the Department of Defense and the military departments.

(6) The term "contracts awarded" means contracts awarded by negotiation and includes the net amount of modifications to, and the exercise of options under, such contracts. It excludes all transactions amounting to less than $10,000 each.

(7) The term "fiscal year" means a year beginning on 1 July and ending on 30 June of the next succeeding year.

(b) Under regulations to be prescribed by the Secretary of Defense:

(1) Any former military officer or former civilian employee who during any fiscal year,

(A) was employed by or served as a consultant or otherwise to a defense contractor for any period of time,

(B) represented any defense contractor at any hearing, trial, appeal, or other action in which the United States was a party and which involved services and matreials provided or to be provided to the Department of Defense by such contractor, or

(C) represented any such contractor in any transaction with the Department of Defense involving services or materials provided or to be provided by such contractor to the Department of Defense,

shall file with the Secretary of Defense, in such form and manner as the Secretary may prescribe, not later than November 15 of the next succeeding fiscal year, a report containing the following information:

(1) His name and address.

(2) The name and address of the defense contractor by whom he was employed or whom he served as a consultant or otherwise.

(3) The title of the position held by him with the defense contractor.

(4) A brief description of his duties and the work performed by him for the defense contractor.

(5) His military grade while on active duty or his gross salary rate while employed by the Department of Defense, as the case may be.

(6) A brief description of his duties and the work performed by him while on active duty or while employed by the Department of Defense during the three-year period immediately preceding his release from active

duty or the termination of his civilian employment, as the case may be.

(7) The date on which he was released from active duty or the termination of his civilian employment with the Department of Defense, as the case may be, and the date on which his employment, as an employee, consultant, or otherwise with the defense contractor began and, if no longer employed by such defense contractor, the date on which such employment with such defense contractor terminated.

(8) Such other pertinent information as the Secretary of Defense may require.

(2) Any employee of the Department of Defense, including consultants or part-time employees, who was previously employed by or served as a consultant or otherwise to a defense contractor in any fiscal year, and whose salary rate in the Department of Defense is equal to or greater than the minimum salary rate for positions in grade GS–13, shall file with the Secretary of Defense, in such form and manner and at such times as the Secretary may prescribe, a report containing the following information:

(1) His name and address.

(2) The title of his position with the Department of Defense.

(3) A brief description of his duties with the Department of Defense.

(4) The name and address of the defense contractor by whom he was employed or whom he served as a consultant or otherwise.

(5) The title of his position with such defense contractor.

(6) A brief description of his duties and the work performed by him for the defense contractor.

(7) The date on which his employment as a consultant or otherwise with such contractor terminated and the date on which his employment as a consultant or otherwise with the Department of Defense began thereafter.

(8) Such other pertinent information as the Secretary of Defense may require.

(c) (1) No former military officer or former civilian employee shall be required to file a report under this section for any fiscal year in which he was employed by or served as a consultant or otherwise to a defense contractor if the total amount of contracts awarded by the Department of Defense to such contractor during such year was less than $10,000,000, and no employee of the Department of Defense shall be required to file a report under this section for any fiscal year in which he was employed by or served as a consultant or otherwise to a defense contractor if the total amount of contracts awarded to such contractor by the Department of Defense during such year was less than $10,000,000.

(2) No former military officer or former civilian employee shall be required to file a report under this section for any fiscal year on account of active duty performed or employment with or services performed for the Department of Defense if such active duty or employment was terminated three years or more prior to the beginning of such fiscal year; and no employee of the Department of Defense shall be required to file a report under this section for any fiscal year on account of employment with or services performed for a defense contractor if such employment was terminated or such services were performed three years or more prior to the effective date of his employment with the Department of Defense.

(3) No former military officer or former civilian employee shall be required to file a report under this section for any fiscal year during which he was employed by or served as a consultant or otherwise to a defense contractor at a salary rate of less than $15,000 per year; and no employee of the Department of Defense, including consultants or part-time employees, shall be required to file a report under this section for any fiscal year during which he was employed by or served as a consultant or otherwise to a defense contractor at a salary rate of less than $15,000 per year.

(d) The Secretary of Defense shall, not later than December 31 of each year, file with the President of the Senate and the Speaker of the House of Representatives a report containing a list of the names of persons who have filed reports with him for the preceding fiscal year pursuant to subsections (b) (1) and (b) (2) of this section. The Secretary shall include after each name so much information as he deems appropriate and shall list the names of such persons under the defense contractor for whom they worked or for whom they performed services.

(e) Any former military officer or former civilian employee whose employment with or services for a defense contractor terminated during any fiscal year shall be required to file a report pursuant to subsection (b) (1) of this section for such year if he would otherwise be required to file under such subsection; and any person whose employment with or services for the Department of Defense terminated during any fiscal year shall be required to file a report pursuant to subsection (b) (2) of this section for such year if he would otherwise be required to file under such subsection.

(f) The Secretary shall maintain a file containing the information filed with him pursuant to subsection (b) (1) and (b) (2) of this section and such file shall be open for public inspection and at all times during the regular workday.

(g) Any person who fails to comply with the filing requirements of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by not more than six months in prison or a fine of not more than $1,000, or both.

(h) No person shall be required to file a report pursuant to this section for any fiscal year prior to the fiscal year 1971.

Mr. ELLENDER. Mr. President, these funds are for the support of the Royal Laotian Army and are comparable to the funds included in the Military Assistance Appropriations prior to fiscal year 1968.

In that connection, I may further state that these funds are made available in the same manner as they were made available under the foreign aid bill. Under the foreign aid bill it was clearly understood that it did not involve manpower but only the materials of war.

Now I have often criticized the Government in the past for having sent to many countries, where aid is given, people to teach the defense departments of the countries how to use the materials of war sent to them. This has been done for many, many years now. Personally, I see no objection to that, but it is something which has occurred in the past and I do not beieve that we should go any further now than we have in the past.

The history of the increase in the funds is significant. During the period of the fiscal years 1965 through 1967, when the funds were included in the military assistance program, as I have just said, the sum recommended in the bill represents an increase of approximately 16.7 percent of the amount included in the Department of Defense appropriation amount for fiscal year 1969. As I have said, the bill includes approximately $90 million for the support of the Royal Laotian Army.

The purposes for which these funds will be used are classified, and I cannot disregard that classification. However, I have the information at my desk and will be glad to make it available to any Senator who desires to see it.

I recognize that I have not answered all the questions that may have been raised by the Senator from Arkansas.

However, I feel that I have fulfilled my responsibilities to the Members of this body as floor manager of the pending bill.

As I said, I can see no objection to the acceptance of this amendment, which, as I understand, is to be read in context with section 638 of the present bill.

This will give the conferees an opportunity to review thoroughly all of the issues invoved and make any perfecting amendments that are required.

Mr. FULBRIGHT. Mr. President, I would like to address a question, too, for the purposes of clarification, to the majority leader and/or the acting chairman of the Appropriations Committee.

Would this amendment prohibit the U.S. aircraft based in Thailand from flying tactical missions in support of the Laotian Army in Northern Laos, having nothing whatever to do with the interdiction of the Ho Chi Minh Trail?

Mr. MANSFIELD. Mr. President, I am afraid that I am not in a position to give the kind of definitive answer I would like to the question raised by the distinguished chairman of the Foreign Relations Committee.

There is no question that air support would be allowed to be continued to decrease or to stop the infiltration of men and materiel down the Ho Chi Minh Trail through the Laotian panhandle.

It is a moot question as to whether or not the support missions, or the sorties, as they are called, and which number in the hundreds, very likely the thousands, in support of Royal Laotian troops, would hold. That is another matter.

Those sorties are not so much against the Pathet Lao as they are against the North Vietnamese troops, who are the backbone and support of the Pathet Lao forces. They outnumber the Pathet Lao by at least 3 to 1. They are far more vigorous fighters, and they are the ones who determine what shall be done.

The question is, How do you look at the North Vietnamese in Laos in relation to the North Vietnamese along the trail and in South Vietnam itself?

Mr. FULBRIGHT. If I understand the Senator, his amendment would prohibit the use of American Air Force and other personnel related to flying tactical missions in support of the Laotian Army in the civil war now taking place in northern Laos. It has nothing to do with the Ho Chi Minh Trail.

Mr. MANSFIELD. "Civil war" is a term you have to use with discretion. If it were a struggle between the Pathet Lao and the Royal Laotian forces, it would be a civil war; but when 50,000 North Vietnamese are backing up and supporting the Pathet Lao, then you have to recognize that a foreign government has intervened in what had become up to that time a civil war, but what, with this intervention, became other than a civil war.

Mr. FULBRIGHT. Then, is it not following a pattern very similar to what happened in Vietnam?

Mr. MANSFIELD. No; because, under the Geneva Accords of 1962, all foreign troops agreed to withdraw except for a small French military mission which was located partly in Vientiane and partly around Savanna khet. It is the only training mission of that type which was allowed under the Geneva Accords of 1962, but we did withdraw our forces in 1962 in accordance with the accords.

The North Vietnamese did withdraw a small contingent of their troops, but since that time they have not only restored that withdrawal, but increased the number by, I would say, 150 percent.

Mr. FULBRIGHT. I am not sure in view of the attitude of the Senator from Arizona and the manager of the bill. These questions, I thought, would have been more properly asked in executive session, but if they prefer that they be asked in open session, I suppose we should proceed.

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

Mr. FULBRIGHT. I yield.

Mr. TOWER. Does he not think we may get into highly sensitive matters that should not be publicly disclosed?

Mr. FULBRIGHT. I thought so, but the Senator from Arizona and the Senator from Louisiana did not think so. I understand the Senator from Montana thought this was a matter better discussed in open session. I had suggested, and I thought the majority leader was of the view, that we should go into executive session.

Mr. MANSFIELD. May I say that all this information is public. All one has to do is read the newspapers. All that has been suggested is carried in public print.

Mr. TOWER. Yes, but a good deal more could be said that perhaps should be said in closed session.

Mr. FULBRIGHT. That is what I said before. I thought it should be in executive session. Perhaps they have changed their minds. For example, I was going to ask the distinguished Senator from Louisiana to identify the $90 million in this bill for military support to the Royal Laotian Army. I wonder if he would not identify that in the bill. Is it for the U.S. Air Force missions in Laos? Is there any way the Senator can identify that amount?

Mr. ELLENDER. The $90 million is in several appropriations.

Mr. FULBRIGHT. Well, it can be identified.

Mr. ELLENDER. It can, but, as I suggested to the Senator, it strikes me that we gain nothing by having a closed session. As I stated a while ago, as manager of the bill, it might be well to accept the amendment, and if the conferees are desirous of going into more detail, let them go into it, and they can act accordingly.

Mr. FULBRIGHT. The only thing I have in mind at the present time is that Members of the Senate, aside from the three or four, perhaps, who are on certain supervisory committees of the CIA, do not know what is being done in this bill in regard to Laos. I think, before they authorize, with their votes, this kind of program, if it is the kind I believe it to be, they ought to know.

I have been hornswoggled long enough—ever since the previous administration and its Tonkin Gulf Resolution, when I did not know the administration was misrepresenting the facts. All I am saying is that all Senators should know what they are voting for before they vote.

In my view, there is a lot of money in this bill for activities which bear a very great probability of involving us in another full-scale war in Laos, if it is not already a full-scale war. We are deescalating in Vietnam, but I shall read some letters a little later, which are not classified, which came from soldiers and wives of soldiers, which I believe conclusively prove that we are escalating the war in Laos just as much as we are deescalating it in Vietnam.

I think it is a very serious matter; it is not something that ought to be pushed under the rug merely by saying, "I will accept the amendment and take it to conference," and then let it be buried there.

Mr. MANSFIELD. I do not think that is what the Senator from Louisiana said. As I recall, he and the Senator from North Dakota said they were in favor of the amendment.

Mr. FULBRIGHT. He said, "I will accept it," meaning that he would take it to conference in order to avoid further discussion here.

Mr. ELLENDER. Why does not the Senator from Arkansas proceed to give the Senate the information he has heard from soldiers?

Mr. FULBRIGHT. I submitted a questionnaire to the chairman and the ranking minority member of the Committee on Appropriations last week and asked questions that related to this activity.

I had understood that the Senate would go into closed session so that these matters could be discussed. The information should come from the sponsors of the proposed legislation. The sponsors, the members of the Committee on Appropriations, ought to be prepared with official information as to what the money is desired for. That is all in the world I am trying to propose: That when the committee comes before the Senate, and asks us to vote for almost $80 billion, we ought to know what we are voting for. It is that simple.

CLOSED SESSION

Mr. MANSFIELD. Mr. President, under rule XXXV, I move that the doors of the Chamber be closed and that the Presiding Officer direct that the galleries be cleared. Mr. President, I do so only to bring this matter to a head.

Mr. FULBRIGHT. I second the motion.

The PRESIDING OFFICER (Mr. BAYH in the chair). The motion having been made and seconded that the Senate go into closed session, the Chair, pursuant to rule XXXV, now directs the Sergeant at Arms to clear the galleries, close the doors of the Chamber, and exclude all officials of the Senate not sworn to secrecy.

(At 1 o'clock and 39 minutes p.m. the doors of the Chamber were closed.)

CALL OF THE ROLL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names.

[No. 231 Leg.]

Aiken	Goodell	Moss
Allen	Gore	Murphy
Allott	Gravel	Muskie
Baker	Griffin	Nelson
Bayh	Gurney	Packwood
Bellmon	Hansen	Pastore
Bennett	Harris	Pearson
Bible	Hart	Pell
Boggs	Hartke	Percy
Brooke	Hatfield	Prouty
Burdick	Holland	Proxmire
Byrd, Va.	Hollings	Ribicoff
Byrd, W. Va.	Hruska	Saxbe
Cannon	Hughes	Schweiker
Case	Inouye	Scott
Church	Javits	Smith, Maine
Cook	Jordan, N.C.	Smith, Ill.
Cotton	Jordan, Idaho	Sparkman
Cranston	Kennedy	Spong
Curtis	Long	Stennis
Dodd	Magnuson	Stevens
Dole	Mansfield	Talmadge
Dominick	Mathias	Thurmond
Eagleton	McCarthy	Tower
Eastland	McClellan	Williams, N.J.
Ellender	McGee	Williams, Del.
Ervin	McGovern	Yarborough
Fannin	McIntyre	Young, N. Dak.
Fong	Metcalf	Young, Ohio
Fulbright	Mondale	
Goldwater	Montoya	

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I also announce that the Senator from West Virginia (Mr. RANDOLPH) is absent on official business.

I further announce that the Senator from Washington (Mr. JACKSON) is absent because of a death in his family.

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

The PRESIDING OFFICER. A quorum is present.

Mr. MANSFIELD. Mr. President, would the Presiding Officer read the names of those officials who will be allowed under rule XXXVI to be in the Chamber.

The PRESIDING OFFICER. Perhaps it would be appropriate for the Presiding Officer to read from section 2 of rule XXXVI which governs the question raised by the distinguished majority leader.

Section 2 of rule XXXVI reads:

When acting upon confidential on Executive business, unless the same shall be considered an open Executive Session, the Senate Chamber shall be cleared of all persons except the Secretary, the Chief Clerk, the Principal Legislative Clerk, the Executive Clerk, the Minute and Journal Clerk, the Sergeant-at-Arms, the Assistant Doorkeeper,

and such other officers as the Presiding Officer shall think necessary, and all such officers shall be sworn to secrecy.

Mr. MANSFIELD. Mr. President, are the majority and minority secretaries included?

The PRESIDING OFFICER. In the past the orders have been interpreted and expanded to include the majority and minority secretaries. The Senator is correct.

Mr. MANSFIELD. And the Parliamentarian and the Assistant Parliamentarian.

The PRESIDING OFFICER. They are covered by the previous order.

Mr. MANSFIELD. Mr. President, in addition to that, the joint leadership has asked the Parliamentarian for a memorandum on the question of the Official Reporters. On the basis of previous sessions, I ask unanimous consent that the Official Reporters be authorized to be present to take notes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I further ask unanimous consent that, at the conclusion of the closed session, the transcript of the remarks of each Senator who participated in the proceedings be delivered to the Chief of Official Reporters; that the Senator shall have the right to revise his own remarks; that such Senator shall deliver his revised remarks to the Chief Reporter, who shall then deliver the transcript to the distinguished Senator from Louisiana (Mr. ELLENDER), as acting chairman of the Subcommittee on Defense Appropriations; that the expurgated version of these proceedings be prepared under the direction of the Senator from Louisiana, and that there be deleted from the transcript anything which might be classified; that such record of proceedings be made public by being printed in the permanent CONGRESSIONAL RECORD of the date on which they occurred; and that the Chief Reporter turn the shorthand notes of the Official Reporters over to the Secretary of the Senate to be kept in secret and not to be disclosed without leave of the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ELLENDER. Mr. President, in addition to the persons authorized to be in the Chamber, I ask unanimous consent that the counsel to the Committee on Appropriations, Mr. William Woodruff, and the staff consultant to the Committee on Foreign Relations, Mr. Walter Pincus, be permitted to be present.

Mr. TOWER. Reserving the right to object, Mr. President, it would be proper to inquire as to the security clearance of the two staff members.

Mr. MANSFIELD. They have been cleared.

Mr. TOWER. They have been cleared?

Mr. MANSFIELD. Yes, without question.

Mr. ELLENDER. Without question.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ELLENDER. Mr. President, it is my understanding that one of the purposes of this closed session is for me to provide answers to the questions that were propounded by the distinguished Senator from Arkansas (Mr. FULBRIGHT) in his letter to the chairman of the Committee on Appropriations. I am prepared to proceed with this information. I ask the indulgence of Senators to listen to the questions and the answers as I shall read them.

Question No. 1: What treaties, agreements, or declarations provide the basis for our defense commitment and military assistance to the Royal Lao Government?

The answer is unclassified. It reads as follows:

The basic US policy towards Laos is that of support for its independence and neutrality. We have no written or oral defense commitment to Laos.

In 1962, the US and other parties to the Declaration of Neutrality of Laos, agreed to respect and observe the neutrality of Laos. Under Article IV, the parties undertake in the event of a violation or a threat of violation of Lao sovereignty, independence, neutrality or territorial integrity, to consult jointly with the RLG and among themselves "in order to consider means which might prove to be necessary to ensure the observance of these principles." Past Royal Lao Government efforts to obtain consultation among all the parties have been unsuccessful.

After North Vietnam failed to respect the Geneva Agreements, by not withdrawing about 6,000 of their troops after signing the Geneva Agreements in 1962, the RLG in September 1962 requested the US to provide supplies and repair parts for US furnished equipment, training ammunition, and consumable supplies for national defense of Laos. This assistance is permitted under Article VI of the Protocol of the Declaration of Neutrality which states: "The introduction into Laos of armaments, munitions and war material generally, except such quantities of conventional armament as the RLG may consider necessary for national defense of Laos, is prohibited."

In 1964, when NVN significantly increased its military support of the Pathet Lao and use of Lao territory to infiltrate men and material into South Vietnam, the RLG requested additional US assistance against this threat to its neutrality and territory. The RLG was fully within its rights to do so. In response to this request and to assist Laos in meeting this increased threat to its national defense created by communist aggression, we increased assistance to Laos. This increase in assistance was in a spirit of a response proportionate to the threat.

In sum, we complied with the Geneva Agreements. The North Vietnamese violated these agreements by (1) attacks against the Royal Lao Government (2) use of Lao territory to carry out aggression in South Vietnam. Our assistance to Laos has been limited and in response to North Vietnamese violation of the Agreements.

This assistance has been to preserve the independence of Laos, under the general precepts of international law which allow a nation to seek assistance in its own self-defense.

This is classified: [Deleted.]

Mr. GRIFFIN. Mr. President, will the Senator yield for a brief interruption?

Mr. ELLENDER. I yield.

Mr. GRIFFIN. In response to several inquiries from Members, I wish to ask the Chair to state what the pending business is. The pending amendment has not been printed and is not available on the desk of each Senator. Therefore I think it would be helpful if the pending amendment could be read again.

The PRESIDING OFFICER. The clerk will read the pending amendment.

The legislative clerk read as follows:

On page 46, between lines 8 and 9, insert a new section as follows:

"SEC. 643. None of the funds appropriated by this Act shall be used for the support of local forces in Laos or Thailand except to provide supplies, materiel, equipment, and facilities, including maintenance thereof, or to provide training for such local forces."

Mr. GRIFFIN. I thank the Senator.

The PRESIDING OFFICER. The amendment has been offered by the Senator from Kentucky (Mr. COOPER) and the Senator from Montana (Mr. MANSFIELD).

Mr. ELLENDER. I shall reread the classified portion of the answer to question No. 1 [deleted].

Question No. 2:

Mr. FULBRIGHT. Will the Senator yield for clarification, before he goes to the next question?

Mr. ELLENDER. I yield.

Mr. FULBRIGHT. Do I correctly understand from the Senator's statement that no treaty of any kind has been entered into and that no agreement of any kind has been submitted to the Senate authorizing these activities in Laos?

Mr. ELLENDER. I am just reading from the statement.

Mr. FULBRIGHT. Is that not clear? There is no treaty. Do they contend there is any agreement or treaty?

Mr. ELLENDER. It is in accord with the Geneva agreement.

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. ELLENDER. I yield.

Mr. MANSFIELD. Under the protocol of the Southeast Asian Treaty, Laos, Cambodia, and South Vietnam were brought under its umbrella. The proviso was that we would come to their assistance if they were attacked by Communist forces from outside. But it also said that any such move would be subject to due constitutional process.

Mr. FULBRIGHT. Did not Laos itself remove itself from under that umbrella?

Mr. MANSFIELD. I do not believe so. I think Cambodia did but not Laos.

Mr. FULBRIGHT. I think Laos did. They were trying after 1962 to establish a neutrality; so it would not be brought into this.

Mr. MANSFIELD. The Senator may be right.

Mr. ELLENDER. If the Senator has evidence to that effect, let him present it.

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

Mr. FULBRIGHT. I yield. I was just trying to clarify the situation.

The PRESIDING OFFICER (Mr. DOLE in the chair). The Senator from Louisiana has the floor.

Mr. ELLENDER. I yield so that the Senator from Idaho may propound a question.

Mr. CHURCH. If I correctly understood the statement the Senator read,

the only formal obligation the United States assumed with respect to Laos——

Mr. GURNEY. Mr. President, will the Senator speak louder? We cannot hear him.

Mr. CHURCH. If I correctly understood the written statement which has just been read by the Senator from Louisiana the nature of the formal obligation assumed by the United States is to consult with other signatories to the Geneva Accords on Laos in the event of aggression. That is the only formal commitment.

The present activities in the nature of aerial sorties over Laos are in violation of the Accords. [Deleted.]

Mr. PASTORE. Mr. President, will the Senator yield on that point?

Mr. CHURCH. I yield.

Mr. PASTORE. Did not the Senator read that all attempts at consultation were futile?

Mr. ELLENDER. Yes.

Mr. PASTORE. That we did try to consult and that this was all rejected?

Mr. ELLENDER. Yes, but I may state this also. There is no question but that [deleted] these sorties were [deleted] for the purpose interdicting men and supplies coming down the Ho Chi Minh Trail into South Vietnam. [Deleted.]

However, the Senator from Arkansas had extensive hearings on all this matter. If he has anything different from the answers I am reading it might be well if it were stated for the Senate.

(Subsequently, on December 17, Mr. MANSFIELD made the following statement, which by unanimous consent is printed in the RECORD at this point:)

Mr. MANSFIELD. Mr. President, on Monday, there was an exchange between the distinguished Senator from Arkansas (Mr. FULBRIGHT) and me relative to whether the Kingdom of Laos had renounced its adherence to the Southeastern Asia Treaty Organization, otherwise known as SEATO.

I indicated that I thought only Cambodia had stated it would not be under the SEATO umbrella and that Laos was still in that category.

Under the corollary to the SEATO agreement at Manila in 1953, I find that I was wrong and that the distinguished chairman of the Foreign Relations Committee was right and that in the Neutrality Agreement Laos did declare its intention to not recognize the protection of any alliance or military coalition including SEATO.

Mr. President, I ask unanimous consent that the Declaration on the Neutrality of Laos be printed in the RECORD.

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

DECLARATION ON THE NEUTRALITY OF LAOS

The Governments of the Union of Burma, the Kingdom of Cambodia, Canada, the People's Republic of China, the Democratic Republic of Viet-Nam, the Republic of France, the Republic of India, the Polish People's Republic, the Republic of Viet-Nam, the Kingdom of Thailand, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, whose representatives took part in the International Conference on the Settlement of the Laotian Question, 1961–62;

Welcoming the presentation of the statement of neutrality by the Royal Government of Laos of July 9, 1962, and taking note of this statement, which is, with the concurrence of the Royal Government of Laos, incorporated in the present Declaration as an integral part thereof, and the text of which is as follows:

"The Royal Government of Laos,

"Being resolved to follow the path of peace and neutrality in conformity with the interests and aspirations of the Laotian people, as well as the principles of the Joint Communique of Zurich dated June 22, 1961, and of the Geneva Agreements of 1954 in order to build a peaceful, neutral, independent, democratic, unified and prosperous Laos,

"Solemnly declares that:

"(1) It will resolutely apply the five principles of peaceful co-existence in foreign relations, and will develop friendly relations and establish diplomatic relations with all countries, the neighboring countries first and foremost, on the basis of equality and of respect for the independence and sovereignty of Laos;

"(2) It is the will of the Laotian people to protect and ensure respect for the sovereignty, independence, neutrality, unity, and territorial integrity of Laos;

"(3) It will not resort to the use or threat of force in any way which might impair the peace of other countries, and will not interfere in the internal affairs of other countries;

"(4) It will not enter into any military alliance or into any agreement, whether military or otherwise, which is inconsistent with the neturality of the Kingdom of Laos; it will not allow the establishment of any foreign military base on Laotian territory, nor allow any country to use Laotian territory for military purposes or for the purposes of interference in the internal affairs of other countries, nor recognize the protection of any alliance or military coalition, including SEATO.

"(5) It will not allow any foreign interference in the internal affairs of the Kingdom of Laos in any form whatsoever;

"(6) Subject to the provisions of Article 5 of the Protocol, it will require the withdrawal from Laos of all foreign troops and military personnel, and will not allow any foreign troops or military personnel to be introduced into Laos;

"(7) It will accept direct and unconditional aid from all countries that wish to help the Kingdom of Laos build up an independent and autonomous national economy on the basis of respect for the sovereignty of Laos;

"(8) It will respect the treaties that agreements signed in conformity with the interests of the Laotian people and of the policy of peace and neutrality of the Kingdom, in particular the Geneva Agreements of 1962, and will abrogate all treaties and agreements which are contrary to those principles.

"This statement of neutrality by the Royal Government of Laos shall be promulgated constitutionally and shall have the force of law.

"The Kingdom of Laos appeals to all the States participating in the International Conference on the Settlement of the Laotian Question, and to all other States, to recognise the sovereignty, independence, neutrality, unity and territorial integrity of Laos, to conform to these principles in all respects, and to refrain from any action inconsistent therewith."

Confirming the principles of respect for the sovereignty, independence, unity and territorial integrity of the Kingdom of Laos and noninterference in its internal affairs which are embodied in the Geneva Agreements of 1954;

Emphasizing the principle of respect for the neutrality of the Kingdom of Laos;

Agreeing that the above-mentioned principles constitute a basis for the peaceful settlement of the Laotian question:

Profoundly convinced that the independence and neutrality of the Kingdom of Laos will assist the peaceful democratic development of the Kingdom of Laos will assist the achievement of national accord and unity in that country, as well as the strengthening of peace and security in South-East Asia;

1. Solemnly declare, in accordance with the will of the Government and people of the Kingdom of Laos, as expressed in the statement of neutrality by the Royal Government of Laos of July 9, 1962, that they recognise and will respect and observe in every way the sovereignty, independence, neutrality, unity and territorial integrity of the Kingdom of Laos.

2. Undertake, in particular, that

(a) they will not commit or participate in any way in any act which might directly or indirectly impair the sovereignty, independence, neutrality, unity or territorial integrity of the Kingdom of Laos;

(b) they will not resort to the use or threat of force or any other measure which might impair the peace of the Kingdom of Laos;

(c) they will refrain from all direct or indirect interference in the internal affairs of the Kingdom of Laos;

(d) they will not attach conditions of a political nature to any assistance which they may offer or which the Kingdom of Laos may seek;

(e) they will not bring the Kingdom of Laos in any way into any military alliance or any other agreement, whether military or otherwise, which is inconsistent with her neutrality, nor invite or encourage her to enter into any such alliance or to conclude any such agreement;

(f) they will respect the wish of the Kingdom of Laos not to recognise the protection of any alliance or military coalition, including SEATO;

(g) they will not introduce into the Kingdom of Laos foreign troops or military personnel in any form whatsoever, nor will they in any way facilitate or connive at the introduction of any foreign troops or military personnel;

(h) they will not establish nor will they in any way facilitate or connive at the establishment in the Kingdom of Laos of any foreign military base, foreign strong point or other foreign military installation of any kind;

(i) they will not use the territory of the Kingdom of Laos for interference in the internal affairs of other countries;

(j) they will not use the territory of any country, including their own for interference in the internal affairs of the Kingdom of Laos.

3. Appeal to all other States to recognise, respect and observe in every way the sovereignty, independence and neutrality, and also the unity and territorial integrity, of the Kingdom of Laos and to refrain from any action inconsistent with these principles or with other provisions of the present Declaration.

4. Undertake, in the event of a violation or threat of violation of the sovereignty, independence, neutrality, unity or territorial integrity of the Kingdom of Laos, to consult jointly with the Royal Government of Laos and among themselves in order to consider measures which might prove to be necessary to ensure the observance of these principles and the other provisions of the present Declaration.

5. The present Declaration shall enter into force on signature and together with the statement of neutrality by the Royal Government of Laos of July 9, 1962, shall be regarded as constituting an international

agreement. The present Declaration shall be deposited in the archives of the Governments of the United Kingdom and the Union of Soviet Socialist Republics, which shall furnish certified copies thereof to the other signatory States and to all the other States of the world.

In witness whereof, the undersigned Plenipotentiaries have signed the present Declaration.

Done in two copies in Geneva this twenty-third day of July one thousand nine hundred and sixty-two in the English, Chinese, Franch, Laotian and Russian languages, each text being equally authoritative.

PROTOCOL TO THE DECLARATION ON THE NEUTRALITY OF LAOS

The Governments of the Union of Burma, the Kingdom of Cambodia, Canada, the People's Republic of China, the Democratic Republic of Viet-Nam, the Republic of France, the Republic of India, the Kingdom of Laos, the Polish People's Republic, the Republic of Viet-Nam, the Kingdom of Thailand, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America;

Having regard to the Declaration on the Neutrality of Laos of July 23, 1962;

Have agreed as follows:

Article 1

For the purposes of this Protocol

(*a*) the term "foreign military personnel" shall include members of foreign military missions, foreign military advisers, experts, instructors, consultants, technicians, observers and any other foreign military persons, including those serving in any armed forces in Laos, and foreign civilians connected with the supply, maintenance, storing and utilization of war materials;

(*b*) the term "the Commission" shall mean the International Commission for Supervision and Control in Laos set up by virtue of the Geneva Agreements of 1954 and composed of the representatives of Canada, India and Poland, with the representative of India as Chairman;

(*c*) the term "the Co-Chairmen" shall mean the Co-Chairmen of the International Conference for the Settlement of the Laotian Question, 1961–1962, and their successors in the offices of Her Britannic Majesty's Principal Secretary of State for Foreign Affairs and Minister for Foreign Affairs of the Union of Soviet Socialist Republics respectively;

(*d*) the term "the members of the Conference" shall mean the Governments of countries which took part in the International Conference for the Settlement of the Laotian Question, 1961–1962.

Article 2

All foreign regular and irregular troops, foreign para-military formations and foreign military personnel shall be withdrawn from Laos in the shortest time possible and in any case the withdrawal shall be completed not later than thirty days after the Commission has notified the Royal Government of Laos that in accordance with Articles 3 and 10 of this Protocol its inspection teams are present at all points of withdrawal from Laos. These points shall be determined by the Royal Government of Laos in accordance with Article 3 within thirty days after the entry into force of this Protocol. The inspection teams shall be present at these points and the Commission shall notify the Royal Government of Laos thereof within fifteen days after the points have been determined.

Article 3

The withdrawal of foreign regular and irregular troops, foreign para-military formations and foreign military personnel shall take place only along such routes and through such points as shall be determined by the Royal Government of Laos in consultation with the Commission. The Commission shall be notified in advance of the point and time of all such withdrawals.

Article 4

The introduction of foreign regular and irregular troops, foreign para-military formations and foreign military personnel into Laos is prohibited.

Article 5

Note is taken that the French and Laotian Governments will conclude as soon as possible and arrangement to transfer the French military installations in Laos to the Royal Government of Laos.

If the Laotian Government considers it necessary, the French Government may as an exception leave in Laos for a limited period of time a precisely limited number of French military instructors for the purpose of training the armed forces of Laos.

The French and Laotian Governments shall inform the members of the Conference, through the Co-Chairmen, of their agreement on the question of the transfer of the French military installations in Laos and of the employment of French military instructors by the Laotian Government.

Article 6

The introduction into Laos of armaments, munitions and war material generally, except such quantities of conventional armaments as the Royal Government of Laos may consider necessary for the national defense of Laos, is prohibited.

Article 7

All foreign military persons and civilians captured or interned during the course of hostilities in Laos shall be released within thirty days after the entry into force of this Protocol and handed over by the Royal Government of Laos to the representatives of the Governments of the countries of which they are nationals in order that they may proceed to the destination of their choice.

Article 8

The Co-Chairmen shall periodically receive reports from the Commission. In addition the Commission shall immediately report to the Co-Chairmen any violations or threats of violations of this Protocol, all significant steps which it takes in pursuance of this Protocol, and also any other important information which may assist the Co-Chairmen in carrying out their functions. The Commission may at any time seek help from the Co-Chairmen in the performance of its duties, and the Co-Chairmen may at any time make recommendations to the Commission exercising general guidance.

The Co-Chairmen shall circulate the reports and any other important information from the Commission to the members of the Conference.

The Co-Chairmen shall exercise supervision over the observance of this Protocol and pervise and control the cease-fire in Laos.

The Co-Chairmen will keep the members of the Conference constantly informed and when appropriate will consult with them.

Article 9

The Commission shall, with the concurrence of the Royal Government of Laos, supervise and control the cease-fire in laos.

The Commission shall exercise these functions in full co-operation with the Royal Government of Laos and within the framework of the Cease-Fire Agreement or cease-fire arrangements made by the three political forces in Laos, or the Royal Government of Laos. It is understood that responsibility for the execution of the cease-fire shall rest with the three parties concerned and with the Royal Government of Laos after its formation.

Article 10

The Commission shall supervise and control the withdrawal of foreign regular and irregular troops, foreign para-military formations and foreign military personnel. Inspection teams sent by the Commission for these purposes shall be present for the period of the withdrawal at all points of withdrawal from Laos determined by the Royal Government of Laos in consultation with the Commission in accordance with Article 3 of this Protocol.

Article 11

The Commission shall investigate cases where there are reasonable grounds for considering that a violation of the provisions of Article 4 of this Protocol has occurred.

It is understood that in the exercise of this function the Commission is acting with the concurrence of the Royal Government of Laos. It shall carry out its investigations in full co-operation with the Royal Government of Laos and shall immediately inform the Co-Chairman of any violations or threats of violations of Article 4, and also of all significant steps which it takes in pursuance of this Article in accordance with Article 8.

Article 12

The Commission shall assist the Royal Government of Laos in cases where the Royal Government of Laos considers that a violation of Article 6 of this Protocol may have taken place. This assistance will be rendered at the request of the Royal Government of Laos and in full co-operation with it.

Article 13

The Commission shall exercise its functions under this Protocol in close co-operation with the Royal Government of Laos. It is understood that the Royal Government of Laos at all levels will render the Commission all possible assistance in the performance by the Commission of these functions and also will take all necessary measures to ensure the security of the Commission and its inspection teams during their activities in Laos.

Article 14

The Commission functions as a single organ of the International Conference for the Settlement of the Laotian Question, 1961–1962. The members of the Commission will work harmoniously and in co-operation with each other with the aim of solving all questions within the terms of reference of the Commission.

Decisions of the Commission on questions relating to violations of Articles 2, 3, 4 and 6 of this Protocol or of the cease-fire referred to in Article 9, conclusions on major questions sent to the Co-Chairmen and all recommendations by the Commission shall be adopted unanimously. On other questions, including procedural questions, and also questions relating to the initiation and carrying out of investigations (Article 15), decisions of the Commission shall be adopted by majority vote.

Article 15

In the exercise of its specific functions which are laid down in the relevant articles of this Protocol the Commission shall conduct investigations (directly or by sending inspection teams), when there are reasonable grounds for considering that a violation has occurred. These investigations shall be carried out at the request of the Royal Government of Laos or on the initiative of the Commission, which is acting with the concurrence of the Royal Government of Laos.

In the latter case decisions on initiating and carrying out such investigations shall be taken in the Commission by majority vote.

The Commission shall submit agreed reports on investigations in which differences which may emerge between members of the Commission on particular questions may be expressed.

The conclusions and recommendations of the Commission resulting from investigations shall be adopted unanimously.

Article 16

For the exercise of its functions the Commission shall, as necessary, set up inspection

teams, on which the three member-States of the Commission shall be equally represented. Each member-State of the Commission shall ensure the presence of its own representatives both on the Commission and on the inspection teams, and shall promptly replace them in the event of their being unable to perform their duties.

It is understood that the dispatch of inspection teams to carry out various specific tasks takes place with the concurrence of the Royal Government of Laos. The points to which the Commission and its inspection teams go for the purposes of investigation and their length of stay at those points shall be determined in relation to the requirements of the particular investigation.

Article 17

The Commission shall have at its disposal the means of communication and transport required for the performance of its duties. These as a rule will be provided to the Commission by the Royal Government of Laos for payment on mutually acceptable terms, and those which the Royal Government of Laos cannot provide will be acquired by the Commission from other sources. It is understood that the means of communication and transport will be under the administrative control of the Commission.

Article 18

The costs of the operations of the Commission shall be borne by the members of the Conference in accordance with the provisions of this Article.

(*a*) The Governments of Canada, India and Poland shall pay the personal salaries and allowances of their nationals who are members of their delegations to the Commission and its subsidiary organs.

(*b*) The primary responsibility for the provision of accommodation for the Commission and its subsidiary organs shall rest with the Royal Government of Laos, which shall also provide such other local services as may be appropriate. The Commission shall charge to the Fund referred to in subparagraph (*c*) below any local expenses not borne by the Royal Government of Laos.

(*c*) All other capital or running expenses incurred by the Commission in the exercise of its functions shall be met from a Fund to which all the members of the Conference shall contribute in the following proportions:

The Government of the People's Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America shall contribute 17.6 per cent each.

The Governments of Burma, Cambodia, and the Democratic Republic of Viet Nam, Laos, the Republic of Viet Nam and Thailand shall contribute 1.5 per cent each.

The Governments of Canada, India and Poland as members of the Commission shall contribute 1 per cent each.

Article 19

The Co-Chairmen shall at any time, if the Royal Government of Laos so requests, and in any case not later than three years after the entry into force of this Protocol, present a report with appropriate recommendations on the question of the termination of the Commission to the members of the Conference for their consideration. Before making such a report the Co-Chairmen shall hold consultations with the Royal Government of Laos and the Commission.

Article 20

This Protocol shall enter into force on signature.

It shall be deposited in the archives of the Governments of the United Kingdom and the Union of Soviet Socialist Republics, which shall furnish certified copies thereof to the other signatory States and to all other States of the world.

In witness whereof, the undersigned Plenipotentiaries have signed this Protocol.

Done in two copies in Geneva this twenty-third day of July one thousand and nine hundred and sixty-two in the English, Chinese, French, Laotian and Russian languages, each text being equally authoritative.

Mr. FULBRIGHT. [Deleted.]

I am not at this time saying we should not be doing this. I am saying it is being done without the knowledge of the Senate and it is being done without any authorization by the Congress. If it can be done in Laos there is no reason why it could not be done in Burma, Malaysia, Singapore, or anywhere else. It is the same general principle involved as was involved in the argument about the commitment resolution. That is, has this Government now got to the point where the executive branch is considered to be within its rights to undertake this kind of major operation without consulting Congress, without any specific treaty or other authorization? Actually what we are doing is against the agreement of 1962.

If the amendment offered by the majority leader and the Senator from Kentucky (Mr. COOPER) is adopted, and if it means anything significant, it means that these air strikes cannot be continued. Some may think it has little meaning. I think it has. If it means anything of substance, it means that the strikes by our Air Force, working out of Thailand, must be stopped. If it does not mean anything at all and is an idle gesture, so be it.

What is important is that this question is not idle. It strikes me that if we expect to preserve our system of government, which every Senator is sworn to support, then we have to know, and we ought to know, what we are voting for when we vote vast sums.

The acting chairman specified the amount of money, $90 million, for the Royal Laotian Army [deleted].

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

Mr. FULBRIGHT. I yield.

Mr. ELLENDER. I yield.

Mr. MANSFIELD. First, the Meo group, under General Vang are, I believe, considered a part of the Royal Laotian Army, if my memory serves me correctly.

Second, both the Senator from Arkansas and the Senate as a whole are fully aware of my very deep personal feelings about our involvement in Vietnam and Southeast Asia. But I would point out that what we have seen is more than an eightfold increase, since 1962, of the North Vietnamese backbone, the Pathet Lao, from 6,000 to 50,000, or perhaps 55,000, North Vietnamese.

On the other side of the coin, in accordance with the Geneva Accords of 1962, we withdrew our military forces completely except for an advisory group representing the various services. Senators may recall also that in 1963, again if my memory serves me correctly, President John F. Kennedy then considered seriously the dispatch of a number of Marine units up to the Mekong because of a possible infiltration into the area around Vientiane to overthrow the Laotian Government and the further possibility of an overspill into Thailand which would then involve an ally of ours, an ally under the Southeast Asia Treaty Organization.

To look at it particularly, without any personal feelings, insofar as I can, if we were to take away this air support from the Royal Laotian Army and the Royal Laotian Government which is being furnished at the request of the Lao Government, it is quite possible that the 50,000 to 55,000 North Vietnamese who are in Laos, contrary to the Geneva accords—I think they were a signatory to those accords—would then find it easy to sweep down into the Mekong to take over the capitals of Luang Prabang and Vientiane. What would be our position if they got that far and they did not stop at the Mekong?

So, we are up against a delicate question. If we want this Government to survive—and we were a signatory to the Geneva accords—do we do it by letting the Pathet Lao take over, in fact annexing—letting the North Vietnamese take over with their Pathet Lao puppets, in effect making it a part of North Vietnam?

Mr. FULBRIGHT. I am not making an argument that we should,——

Mr. MANSFIELD. I am just pointing out the possibility——

Mr. FULBRIGHT. I am not making an argument that we should retire. I say that we should know what actually is taking place.

Mr. MANSFIELD. All right. That is different.

Mr. FULBRIGHT. That is what I am trying to reveal—what is going on in Laos. If our interest in Laos is so great, why do we not just follow the usual constitutional procedures called for by such circumstances?

Mr. MANSFIELD. I understood the Senator to indicate that we should cut down on our support——

Mr. FULBRIGHT. I did not make any such indication at all. I am trying to have revealed what we are doing and why.

Mr. MANSFIELD. It is not secret. Everyone knows.

Mr. ELLENDER. Of course, all that has been said is tied in with the South Vietnamese war.

Mr. YOUNG of North Dakota. Mr. President, the Senator from Montana made my point much better than I could myself with reference to the stepup in the bombing of Laos and especially of north Laos the stepup corresponds with the increase of the number of the North Vietnamese troops in Laos. It was to our interest to bomb those troops. It also is much more preferable to bomb them, than to send our men in there.

Mr. GURNEY. Mr. President, I thought the statement of the Senator from Arkansas just a moment ago was that if we agreed to this amendment it would then be illegal to do any more of the bombing and we would be out of business. That is the point at question here.

Mr. ELLENDER. We do not agree to that, but that is his interpretation.

Mr. FULBRIGHT. I said if it meant

anything at all, it means the bombings in the north should stop.

Mr. GURNEY. It is a question of whether we should be doing it in the open, but the amendment would prevent it.

Mr. FULBRIGHT. It is not my amendment. It is the amendment of the Senator from Kentucky (Mr. COOPER) and the majority leader. I did not offer the amendment.

Mr. MANSFIELD. The amendment would not prevent it.

Mr. FULBRIGHT. If the amendment would not prevent the bombing, then it has no significant effect.

Mr. MANSFIELD. If the Senator would yield further, the important thing is to make sure that no combat troops get involved in Laos, and I mean combat troops on the ground. That is the danger. That is the great danger. That is what I thought the Senator from Arkansas was interested in.

Mr. FULBRIGHT. I do not see how military bombing is not combat. When you say "combat" I assume the Senator means infantry?

Mr. MANSFIELD. That is right.

Mr. FULBRIGHT. Ground troops?

Mr. MANSFIELD. Ground troops. But the use of the Air Force has been in effect to hit the North Vietnamese on the [deleted] and Ho Chi Minh Trail and elsewhere in Laos. That is really nothing new. I do not approve of it. We have got to make the best of it and live with it.

Mr. FULBRIGHT. The Senator may know the situation but I did not know the situation on these bombings in the north. [Deleted.] I did not know it. I did not know apparently what the Senator knows about this operation. But I do not see, if this is in the national interest, why it is not open and public knowledge and we declare it to be in our interest to wage it in the usual manner. This is what I do not understand about this whole operation, and what the majority leader and others have said they regret. Nearly everyone that has spoken out recently has said that they think it was a mistake to become involved in Vietnam or, in this instance, in Laos. [Deleted.] This is escalating into a major operation. [Deleted.]

Mr. ELLENDER. [Deleted.]

Mr. FULBRIGHT. [Deleted.]

Mr. ELLENDER. [Deleted.]

Mr. FULBRIGHT. [Deleted.]

Mr. ELLENDER. [Deleted.]

Mr. FULBRIGHT. [Deleted.]

Mr. ELLENDER. [Deleted.]

Mr. FULBRIGHT. [Deleted.]

I think we should know how much we are spending for this operation which is beginning to be a major war. To stretch the concept of the SEATO Treaty into this area is a major expansion of it. I say, I see no reason why the administration could not apply this concept to anything it wanted to do in Burma or in Malaysia, or any other place, if they follow this style of operation. I think this is strictly against the constitutional system which Members of this body are supposed to support. Senators are supposed to know what they are voting for. [Deleted.]

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

Mr. ELLENDER. I yield.

Mr. STENNIS. I did not get to attend all of the Appropriations Subcommittee hearings this year. However, I want to refer to a point we had up when the authorization bill was before the Senate because it contained an item for $2.5 billion, which was the sum finally agreed upon, for all of Southeast Asia, for special military aid.

We have been carrying on military aid in many forms since World War II. A very small sum of military aid is involved directly here. That goes to the Royal Laotian Army. That money was in the bill we authorized. It is not involved in the bombing.

I was asked in that debate if we had any military forces in Laos by the Senator from California (Mr. CRANSTON). His question was: Did we have any armed ground forces? I said no. We did not go into the bombing, [deleted].

Back to the money, in my best judgment, about $94 million of this money is authorized in the authorization bill, where we had the Cooper amendment. I argued then that the Cooper amendment did not touch the money we spent on our own troops, whether it was in Laos or elsewhere. That is still my opinion.

A word on the merits of the bombing; this is one of the most effective things we have been able to do concerning the war in Southeast Asia. It grew just like the war in Vietnam grew, a little at a time. We all know what the Ho Chi Minh Trail means and what it has meant. There is no way to estimate where we would have been in that war if we had not been able to do this bombing and inflict the punishment it caused, always at the request of the Laotian Government, as I have always understood it.

I do not think we could consider limiting the amount we have to spend on bombing there any more than we could limit it in South Vietnam, as long as we are at war. I think this amendment would be very unfortunate. It reads:

> None of the funds appropriated by this Act shall be used for the support of local forces in Laos or Thailand except to provide supplies, materiel, equipment.

That raises a question: Could we give them battle support with our own Air Force?

If anything is to be adopted, it ought to be made clear that we are limiting the amendment to money support, not bombing support.

So far as I know, we do not have any ground troops over there, and never have had. [Deleted.] I mean fighting ground troops.

My additional point here is on the word "support." [Deleted.]

Mr. ELLENDER. Mr. President, I wish to further state, as I said a while ago, that we have had an interpretation of this amendment, and I am informed that the adoption of it would not prevent this bombing. That is why I suggested, in open session a while ago, let us adopt the amendment and let the conferees meet and get such information as they desire and look into the amendment further to clarify it so that, if necessary, these bombings can be continued.

Mr. GURNEY. Mr. President will the Senator yield?

Mr. ELLENDER. I yield.

Mr. GURNEY. I am confused. I just heard the chairman of the Armed Services Committee say that, in his opinion, the adoption of the amendment would prevent the bombing.

Mr. ELLENDER. I received that information from [deleted], and the author of the amendment, Senator MANSFIELD.

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

Mr. STENNIS. Mr. President, will the Senator let me proceed to explain what I meant? I said unless we use the word "support," limit it to direct financial support, it would cut out the bombing, because "support" can be interpreted as bombing.

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

Mr. ELLENDER. I yield.

Mr. DOMINICK. I remember being at the White House in 1967—and I think the distinguished Senator from Arkansas was there at the time——

Mr. MAGNUSON. Mr. President, will the Senator yield to me for an announcement, without losing his right to the floor, for about half a minute?

Mr. DOMINICK. Surely.

Mr. MAGNUSON. Mr. President, we had called a meeting of the full Appropriations Committee for 2:30 p.m., to consider the HEW appropriation bill, but in view of the executive session, I think it would be wise for us to wait until we got through the executive session, and then we will meet downstairs.

I thank the Senator for yielding.

Mr. ELLENDER. Mr. President, I will yield to the Senator from Colorado in a moment. I would prefer that I be permitted to give these answers. That was the purpose of the executive session.

Mr. DOMINICK. Let me make a couple of comments here which are of interest. When we were at the White House in 1967, and President Johnson called us down in equal thirds on Monday, Tuesday, and Wednesday in 1967, I think the Senator from Arkansas was there. At that time a map was shown of Southeast Asia by Secretary McNamara, on which he had dots in Laos. Someone asked what those dots were. He said, "Those are the areas [deleted] we are engaged in bombing." [Deleted.] This was at the White House in 1967. I was there. We knew and I knew what was going on in Laos for a considerable period of time. I am surprised that the Senator from Arkansas apparently did not know but here is what bothers me about this amendment, and I wonder if I can address this to the Senator from Louisiana. If we have no combat troops there—and as far as I know, we do not have—and if we are not spending any money there for support of ground troops—and as far as I know, we are not—then it seems to me if we put in the bill a prohibition on the use of funds for troops when we do not have any there, all we are doing is raising a ques-

tion in the mind of the enemy as to whether we are doing that and giving them one more propaganda weapon. That is the problem—not whether this affects the bombing, because I do not think it hits the bombing, but whether or not we are going to give the enemy one more item so they can take the ball, run with it, confuse our allies, and misinform some of our friends.

Mr. ELLENDER. I think the amendment is specific as to how the money is to be used. It states "except to provide supplies, materiel, equipment, and facilities, including maintenance thereof, or to provide training for such local forces."

I think it is specific enough to indicate that this money will be used for supplies, materiel, equipment, and training of local forces.

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

Mr. ELLENDER. I yield.

Mr. TOWER. I think Senators must understand that all of Laos must be considered in context. They cannot separate southern Laos from northern Laos. The fact is that the Pathet Lao could not hold all of the sizable area they have if it were not for the 50,000 North Vietnamese troops. If the North Vietnamese did not have possession of north Laos, there would be no Ho Chi Minh Trail. We must do anything we can to weaken the North Vietnamese efforts in Laos with reference to our own efforts. We must interdict what they use as a line of communication.

I am concerned that this measure might indeed prevent our being able to airlift paramilitary forces around Thailand to help them deal with insurgent activity there.

I would point out that most of the Thai Communist infrastructure is not ethnic Thai, it is rather ethnic Chinese and ethnic North Vietnamese. Thailand is the target for the next so-called war of national liberation, and Laos is now being used as a staging area for Communist activity in Thailand.

I might further note that the Chinese are now building a road in northern Laos to aid in the establishment of a line of communication to make war against Thailand more feasible and possible. I think this is a very mischievous amendment indeed, and I would like the opinion of the Senator as to whether its enactment would preclude our support of paramilitary forces in Thailand.

Mr. ELLENDER. Mr. President, I have just read the purpose of the amendment, and in order to obviate this executive session we are now having, my suggestion was that we accept the amendment and let the conferees deal with it. The conferees will be able to get all the information possible, and the advice of the Defense Department. We are here trying to give the answers to questions that we have been asked by the Senator from Airkansas, and I was in hope that we could go along with that. I hesitate to read tomorrow's newspapers and find out what is going to be in the newspapers about this session. It may be nothing new, but it will be sensational.

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

Mr. ELLENDER. I yield.

Mr. MANSFIELD. Just to go along with what the Senator from Texas was saying about the building of that road from Meng-La in Yunnan to Muong Soui, that construction has been going on for months and years, as a matter of fact. The Thai Government has said there are two divisions of Chinese troops along that road, and the road is being built toward northern Thailand. As a matter of fact, the road is not being extended except a mile or so out of Muong Soui toward Thailand, but it is being built in the other direction toward the direction of Dienbienphu in North Vietnam. There are no Chinese divisions there, according to Souvanna Phouma. In the last day or two, he stated there are five Chinese battalions, some labor and some antiaircraft battalions. As I said earlier, last August when I visited the area there were rumors that there were anywhere from three to 10 Chinese battalions. The best evidence is that there were four or five at the time.

Mr. TOWER. If the Senator will yield, I accept the Senator's statement that there were some antiaircraft and labor battalions there, rather than maneuver battalions but the fact of the matter is that not only is that road traversing across northern Thailand, but there is a spur that goes down toward the Mekong River under construction.

Mr. MANSFIELD. The Senator may be right, but I do not believe it is under construction. They stopped the construction going south and west toward the Thai border, and are concentrating on the area going east toward the road to Dienbienphu. That does not mean that they are not planning on going ahead and doing it, but they are not doing it now.

Mr. TOWER. That does not mean they cannot do it.

Mr. MANSFIELD. That is correct.

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

Mr. ELLENDER. I yield.

Mr. JAVITS. So that we will know, when the Senator answers questions, what we are trying to legislate here, it is thought that the conference may deal with it, but if we agree to the amendment, we ought to know what we are doing. Therefore, I should like to address a question to the author of the amendment, or the Senator proposing it, as follows:

First, is this amendment intended to deal in any way with U.S. forces in combat?

Mr. MANSFIELD. It is intended to keep ground troops out of combat in Thailand and Laos.

Mr. JAVITS. Will the Senator point out the words in this amendment which would effect that result?

Mr. MANSFIELD. The words themselves, I think, are self-explanatory. It says:

> None of the funds appropriated by this act shall be used for the support of local forces in Laos or Thailand, except to provide supplies, materiel, equipment, and facilities, including the maintenance thereof, or to provide training for such local forces.

Mr. JAVITS. Are the local forces referred to American or indigenous forces?

Mr. MANSFIELD. They are indigenous forces, both Thai and Laotian.

Mr. JAVITS. Then there is no word in this amendment that deals with American forces at all?

Mr. MANSFIELD. That is correct.

Mr. JAVITS. My second question is this: We understand what we are going to give them—supplies, materiel, equipment, facilities, maintenance and training. Now, what are we not going to give them by this amendment?

Mr. MANSFIELD. Ground combat troops.

Mr. JAVITS. American combat troops are ruled out; they are not provided for. But we are not going to give them money to engage in combat with or pay salaries of soldiers who fight?

Mr. MANSFIELD. Yes, we are; and that would be continued, because if we did not subsidize the Laotians, they would not last for a fortnight.

Mr. JAVITS. That is exactly what I am hoping we can reveal to the Senate, as to the meaning of the amendment.

Mr. MANSFIELD. That is common knowledge. If the Senator read the New York Times, from his own State, just a month or so ago it had a 2- or 3-page analysis of what was going on in Thailand and Laos. This is not secret; this is public information.

Mr. JAVITS. The Senator does not quite follow me. If we did pass this amendment, it would result in affirmative action that would cut off whatever we are paying, if we pay combat troops directly or indirectly; that is true, is it not, it would cut that off? That is, indigenous combat troops, not our combat troops?

Mr. MANSFIELD. Well "including maintenance thereof"; I would not be able to define that. I would think that payment to the Laos soldiers to the partial extent not barred otherwise would be allowed to continue.

Mr. JAVITS. We would provide the supplies, materiel, equipment, facilities, and the maintenance thereof.

Mr. MANSFIELD. That is true.

Mr. JAVITS. That is very different from line troops; those are transportation forces, their equipment, et cetera.

Mr. MANSFIELD. The Senator had better go to Laos and see what kind of troops they have. They have not cut them down in divisions and outfits like we have; they are all combat troops, whereas about a fifth of ours are combat troops, and the others are support troops.

Mr. JAVITS. If the Senator will bear with me, what I am trying to get before the Senate is, if we vote for the amendment, is what we are doing affirmative or negative?

Mr. MANSFIELD. You would be voting for what is going on now, by reiterating, once again, as the National Commitments Resolution says, that under no circumstances except through due constitutional processes will there be combat ground troops of this country used in Laos or Thailand.

Mr. JAVITS. May I say to my beloved colleague, if that is in his amendment, then he is putting it in by the interpretation he is giving it. It is not there now. There is nothing in this language that will prevent American combat troops

from being used; and the way the Senator defines it, there is something in here that prevents combat troops which are indigenous from being paid; and I think all the rest of these interpretations defy the words of the amendment as submitted.

One function we ought to perform is to find out what the majority of the Senate wants to do, and then be sure that the amendment we pass does it.

For myself, I would say if what you want to do is continue the present situation, you ought to have the words broad enough to continue it. Now that we understand what it is, that you want to keep American involvement out, then we ought to say at least something like that in the amendment, which I submit it does not say now.

Mr. MANSFIELD. The Senator is entitled to his opinion. I have stated what I think the distinguished Senator from Kentucky meant and what I think the amendment means, and we will have to let the Senate decide.

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

Mr. ELLENDER. I yield.

Mr. ALLOTT. May I address myself to our leader? I think the Senator from New York has performed a very valid task here. Do I understand, I ask the Senator from Montana, that the term "local forces" as used here eliminates all U.S. ground troops?

Mr. MANSFIELD. It does not eliminate them and does not allow them. There are none there now.

Mr. ALLOTT. Since we do not include them, the term "local forces" does not include U.S. Government troops, and they are eliminated from this amendment?

Mr. MANSFIELD. That is correct. They are to be given no consideration at all, except to stay out.

Mr. ALLOTT. Then we are talking about maintaining the status quo. In line 4, the amendment says "including maintenance thereof," and that could include the payment of salaries and support to indigenous troops?

Mr. MANSFIELD. That is correct.

Mr. ALLOTT. Mr. President, with all due deference, I say to my beloved colleague that the way the amendment is written it says, "shall be used for the support of local forces in Laos or Thailand, except to provide supplies, materiel, equipment, and facilities, including the maintenance thereof." "Including the maintenance thereof" means the supplies, materiel, equipment, and facilities. And unless he writes an undisputed legislative record that this does include the payment of salaries, the amendment in my opinion cannot mean anything.

Mr. MANSFIELD. Mr. President, the Senator from Colorado, like the Senator from New York, is entitled to his opinion. I have given the Senate what I think is intended by the Senator from Kentucky and me. The Senate will have to decide.

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

Mr. ELLENDER. I yield.

Mr. PASTORE. Mr. President, I think that this brings about an interpretation of the word "support." The Senator from Mississippi took the position that he would want it spelled out as financial support. I think that would distort the meaning of the amendment.

Why would it not be all right to say combat troops in front of support?

Mr. MANSFIELD. I would prefer to leave it as it is. If there were to be any changes, I would prefer that the Senator from Kentucky be responsible for them.

Mr. PASTORE. Mr. President, the reason I raise the point is because what we are talking about, as the Senator from New York indicated, is what we mean by support. Do we mean American combat forces? That is the support we are talking about. And yet, the word "support" is all-encompassing and could mean anything at any time to anybody.

The word is the problem. What is meant by support? Does it mean American combat forces? Does it mean American money? What does it mean? I think we have to clarify it.

Mr. MANSFIELD. I have tried to clarify it. It means what is going on at the present time.

Mr. PASTORE. That is only part of the history, but not part of the amendment.

Mr. MANSFIELD. The Senator and I look at it in different ways.

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

Mr. ELLENDER. I yield.

Mr. GOLDWATER. Mr. President, I should like to ask a question. Undoubtedly it has been asked and answered. However, I had to be absent earlier.

Would the amendment prohibit the use of tactical aircraft at any place in Thailand or Laos?

Mr. MANSFIELD. Unfortunately, no.

Mr. GOLDWATER. It will not prevent the use of tactical air support in Northwestern Thailand?

Mr. MANSFIELD. No.

Mr. GOLDWATER. Or in the southern provinces where it might be needed?

Mr. MANSFIELD. No.

Mr. GOLDWATER. Or, as they say, up in Central Laos, around the Plaine des Jarres?

Mr. MANSFIELD. No. What the Senator ought to keep in mind is that the point being made by the Senator from Arkansas, if I understand it correctly, is that there has been a tremendous step-up in the amount of activity [deleted]. [Deleted.]

Mr. GOLDWATER. That is largely where the support is.

Mr. MANSFIELD. That is correct, almost entirely.

Mr. GOLDWATER. None of our troops are engaged in active combat.

Mr. MANSFIELD. Not on the ground.

Mr. GOLDWATER. Is the Senator convinced that the language does not prevent the use of aircraft for tactical air support for reconnaissance flights and for rescue flights?

Mr. MANSFIELD. It would not prevent that, in my opinion.

Mr. GOLDWATER. I hope the Senator is right. Because I just returned from there this morning. And contrary to what we have been thinking, the infiltration has stepped up tremendously.

Friday night 600 trucks started in from the border of North Vietnam.

I am very frank to say, and I shall address myself to the subject later this week, that if we do not resume the bombing of North Vietnam, I see no way to come out on this.

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

Mr. ELLENDER. I yield.

Mr. McGEE. Mr. President, I think the dialog here in executive session makes the point that ought to guide us in what we do on the pending proposal. It is, that we should be reluctant to adopt the amendment because its meaning or intent is subject to too many interpretations. While the matter that concerns the Senator from Arkansas is a very understandable one, the pending resolution could not possibly clarify it.

Does it mean we are going into Burma or Malaysia without it? Hardly. We have made it clear downtown. And the Senate has made it clear before on how it relates to our present status in Vietnam. I think it has made it so clear that I believe we would be well advised not to proceed along the lines envisioned in the amendment at this time, particularly in a public way.

I think it would only tend to confuse or hobble our Government in its efforts to seek a meaningful and responsible way to disengage itself from Vietnam.

I think we have contributed in this discussion to the confusion and that the confusion over the interpretation would run rampant at home, let alone around the world.

Mr. ELLENDER. Mr. President, I reiterate what I said a while ago. The only reason I suggested that the Senate go along with the amendment was to obviate what is taking place now. Because, as far as I am concerned, I suggest that when the time comes, we vote it into the bill or out.

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

Mr. ELLENDER. Mr. President, I yield first to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, the distinguished majority leader responded to a question by the Senator from Arizona and indicated his interpretation as sponsor of the amendment that the language was not intended to preclude certain bombing activities by our Air Force.

Mr. MANSFIELD. I said, unfortunately, no.

Mr. GRIFFIN. But I think in view of the fact that the Senator from Arizona came into the Chamber only recently, he should be aware of the fact that there is some dispute among the meaning of the words in the amendment.

As I recall, the distinguished chairman of the Foreign Relations Committee earlier indicated his understanding that the effect of the language would be to preclude such bombing. And as I understood the chairman of the Armed Services Committee, he said it could preclude such bombing.

Certainly, the remarks of the distinguished Senator from Wyoming (Mr. McGEE) were very appropriate.

It is very obvious that there is con-

fusion as to the meaning of the language. Accordingly, it would be ill-advised to agree to such an amendment.

Therefore I wish to associate myself with the remarks of the Senator from Arizona (Mr. GOLDWATER).

Mr. MANSFIELD. The war in Vietnam is very confusing and tragic in and of itself.

To get down to the nub of what our amendment purports to say—and I say this without fear of equivocation insofar as the Senator from Kentucky is concerned—there shall be the use of no U.S. troops in Thailand or Laos—period. You can wrangle all you want about maintenance of supplies. That is what it means.

Mr. GOLDWATER. Mr. President, I agree with my friend the Senator from Michigan. The word "support" taken in a military manner does mean help. It means everything.

I certainly abide by the word of the majority leader. However, when he says support troops in the military, that is exactly what it means.

If we deny support, then we deny tactical air bombing and supply and reconnaissance and all things we supply them there now.

If there is any question about this, I think it ought to be made perfectly clear in the amendment that the United States is not going to be denied the right to supply aid to these people doing all of these things there now to help us.

I agree on keeping the ground forces out. I do not think they should have gone into South Vietnam. But they did. If we are ever threatened again in that part of the world, particularly in an area with the type of geography in northwestern Thailand and central Laos, our troops are not equipped to fight there. And we cannot help unless we do so with tactical air, or possibly with strategic air. However, not at this point.

If we are going to vote on the amendment, I accept the word of the majority leader at any time. Inasmuch as there is a dispute between the majority and minority leaders as to whether it applies to air, I think we should make it clear.

Otherwise, we are going to pull the rug out from under some wonderful help in Thailand and Laos.

Mr. ELLENDER. It is not a matter of disagreement between me and the majority leader. He gave his interpretation [deleted].

Mr. GOLDWATER. The [deleted] agrees that support does not include technical or strategic or reconnaissance or supply by air?

Mr. ELLENDER. I said to the distinguished Senator from Montana—whether or not his amendment was in keeping with section 638(a) in the appropriations bill, appearing on page 43—and the answer was "Yes."

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

Mr. ELLENDER. As I have said, I should like to continue answering the questions and then have a vote on whether it is desired to have this amendment in the bill.

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

Mr. ELLENDER. I yield to the Senator from Idaho. He has been on his feet for some time now.

Mr. CHURCH. Mr. President, it seems to me that we are all agreed pretty much on what our objective is. The Senator from Montana has repeatedly mentioned it; the Senator from Arizona has emphasized it. I think we are agreed that what we want to prevent is the introduction of American combat troops into Laos and Thailand—ground troops. That is our purpose. We certainly should be able to write the language to put our purpose into effect.

Mr. GOLDWATER. Why do we not spell it out?

Mr. CHURCH. Of course.

Let me make this suggestion. There is no reason why this language cannot be made to conform to our objective. It is a simple objective. We have been through two wars—one in Korea and one in Vietnam—which were really commenced by executive decision. We are in a situation in Laos in which it took extraordinary efforts on the part of Congress even to get information concerning the nature of our involvement there. So if we are going to reassert our prerogative—which I think we all want to do—as a part of the constitutional process in determining questions of war and peace and the nature of the foreign policy of the United States, we ought to draw some lines with respect to Laos and Thailand.

All we would have to do to accomplish that would be to revise the proposed amendment in the following manner:

SEC. 643. None of the funds appropriated by this Act shall be used to finance the introduction of American combat troops in Laos or Thailand.

I think that would accomplish our objective.

Mr. FULBRIGHT. "Ground."

Mr. CHURCH. We could put "ground" in. That would accomplish our purpose, and it would reassert our right to determine how public money should be used in foreign countries, particularly in so sensitive an area as Laos and Thailand.

I should like to offer this as an amendment to the amendment offered by the Senator from Montana and the Senator from Kentucky.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk, please?

Mr. MONTOYA. Mr. President, I should like to ask——

The PRESIDING OFFICER. Will the Senator from Louisiana indicate whether he has yielded for the purpose of an amendment being offered to the amendment?

Mr. ELLENDER. First, I will yield to the distinguished Senator from New Mexico, and then I will continue with the answers to the questions submitted by the Senator from Arkansas. If Senators desire to take action immediately on this amendment, we can do so shortly.

Mr. MONTOYA. I think there is unanimity here, in that there is confusion about what this amendment means.

I was going to ask the majority leader, in view of his interpretation, if he would consent to the following language in his amendment, so that it would read as follows:

None of the funds appropriated by this Act shall be used to provide combat troops for the support of local forces in Laos or Thailand, except to provide supplies, materiel, equipment, and facilities, including maintenance thereof, or to provide training for such local forces.

The words added to the amendment would be after the word "used," and the new words would be "to provide combat troops."

Mr. ELLENDER. "Ground."

Mr. MURPHY. "Ground troops."

Mr. MONTOYA. "Ground combat troops" could be used, or "combat troops." "Combat troops" is a more generic term.

Mr. CHURCH. Mr. President, if we took 5 minutes for a quorum call, I am sure we could work out language satisfactory to all concerned.

Mr. ELLENDER. Mr. President, we are in executive session now, at the request of the distinguished Senator from Montana and the distinguished Senator from Arkansas, and I will not yield further until I have finished with the answers to the questions of the Senator of Arkansas.

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

Mr. ELLENDER. I yield.

Mr. AIKEN. Mr. President. I have a brief question. Now that so many Members of the Senate have decided that the majority leader does not know what he means with his proposed amendment, will the Senator from Louisiana proceed with his explanation, as he started to do? That is my question.

Mr. ELLENDER. Question No. 2: "What commitment, written or implied exists between the United States or its agencies and the present Royal Laotian Government or its Prime Minister, Souvanna Phouma?"

This question was answered in my reply to question No. 1.

Question No. 3: "What military assistance, including manpower, materiel, and training, is the United States providing through this bill?"

As I stated previously, this bill includes approximately $90 million for the support of the Royal Laotian Army pursuant to specific authority included in the Department of Defense Procurement and Research and Development Authorization Act. The arms and ammunition the United States provides are within the framework of the 1962 Geneva Agreements. Article VI of the Protocol to the Agreements permits the introduction in Laos of armaments, munitions and war materiels necessary for Lao national defense.

[Deleted.]

I have here a list of what this money is to be used for. If Senators desire, I can go into every item named here. Otherwise, it is available to Senators to look at.

Mr. FULBRIGHT. Mr. President, will the Senator yield, for clarification?

Mr. ELLENDER. I yield.

Mr. FULBRIGHT. The Senator said it is approximately $90 million for the Royal Lao Army.

Mr. ELLENDER. That is correct.

Mr. FULBRIGHT. [Deleted.]

Mr. ELLENDER. That is in another matter. As I said to the Senator from

Arkansas earlier, this is an item that cannot be identified.

Mr. FULBRIGHT. I want to reiterate, since more Senators have entered the Chamber, that I do not at this time raise a question as to the wisdom of these activities. I raise the question only that Senators ought to know what they are voting on.

Mr. President, it seems to me that every Senator is entitled to know, if he is voting for this bill, that he is not only voting $90 million for the Royal Lao Army [deleted].

The Senator from Arizona, a moment ago, made a point which led me to believe he would be in favor of authorizing these activities. If they are in the interest of this country why must they all be kept secret? The only reason in the world I brought up this matter was not to argue with the Senator that we should not be bombing in the north [deleted] but so that Senators would know, among other things [deleted].

These [deleted] are as much as the entire budget of the country of Laos. It is approximately the same as the budget of the Laotian Government.

After Senators know all these things, judgment must be made on whether it is in the interest of the United States to continue this escalation of a conflict in Laos, which could well lead to another Vietnam.

A few Senators have said it is a great tragedy. We have gotten bogged down in Vietnam. It is simply that we should know what is involved in this matter. I do not understand, in view of what was said by the Senator from Arizona, why it is not also proper to say, "Yes, this is what we are engaged in, and it should be authorized."

Mr. ELLENDER. The Senate now knows it, since the Senator announced it.

Do Senators desire me to read how many rifles are involved?

SEVERAL SENATORS. No, no, no!

Mr. FULBRIGHT. Summarize it. What is the materiel?

Mr. ELLENDER. What is the money for? It is going to be used to purchase carbines, rifles, machine guns, artillery, and engineering equipment. It states the amount to be spent in each category. Approximately one-third of the total is for ammunition.

Question 4: As of today, what is the total number of U.S. military personnel in Laos and describe the manner in which they operate?

Answer: There are [deleted] U.S. military personnel stationed in Laos. These are either part of or attached to the attaché staff. [Deleted.]

With regard to personnel stationed in Laos, the U.S. Ambassador has jurisdiction over all U.S. personnel and U.S. activities in Laos, including the military I just mentioned.

Question 5: Describe in detail activities over Laos of U.S. Air Force, including both those activities, if any, based in Laos, and those, if any, based in Thailand.

(a) What, if any, is the current monthly sortie rate over northern Laos for U.S. Air Force aircraft?

(b) How does that rate, if any, compare to one year ago and two years ago?

(c) The contemplated sortie rate, if any, over northern Laos in the coming 12 months?

(d) How do these sortie rates, if any, compare to U.S. Air Force sorties directed toward the Ho Chi Minh Trail?

Answer: The U.S. conducts photo and recon missions over Laos, and as the President said, interdiction of the Ho Chi Minh Trail.

(Deleted).

Question 6: What, if any, have been the total number of U.S. military personnel killed, wounded, and missing in North Laos since 1962?

Answer: (Deleted). Casualties in Laos are included as part of the total casualties in Southeast Asia. They are not broken out separately.

Question 7: How does this compare to personnel lost in operations solely against the Ho Chi Minh Trail?

This was covered in my reply to question number six.

Now, Question 8: What is the amount of the personnel, operating and maintenance and military assistance which is included in the bill for Laos and Laos-related activities?

Answer: Approximately $90 million is included in fiscal year 1970 Appropriations Bill for support of the Royal Laotian Army.

(Deleted).

That is all the questions.

Mr. McGEE. Mr. President, I think that——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Wyoming?

Mr. ELLENDER. I yield.

Mr. McGEE. Mr. President, I think that our discussions here have reiterated the point which I make again; namely, that there is great uncertainty as to what we can put into words. The meaning of those words will vary widely, and it seems to me, in reflecting upon them, that all it can do is to complicate the problems of the President, as he seeks to pursue disengagement. It could even give the wrong impression to the other side at a critical moment like this.

Therefore, to try to protect as much as we can, I would move to table——

Several Senators addressed the Chair.

Mr. MANSFIELD. No, no—just a moment—Mr. President, if we are going to vote, we should vote in open session. I intend to be heard on it. There will be no tabling motion, or any other kind of motion, in secret session.

Mr. McGEE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Wyoming will state it.

Mr. McGEE. Is a tabling motion in order?

The PRESIDING OFFICER. A tabling motion is in order if the Senator from Louisiana (Mr. ELLENDER) yields the floor or yields for that purpose.

Mr. ELLENDER. Mr. President, I yielded to the Senator from Wyoming for a question. However, I have nothing further to state, unless there are other questions to be asked.

Mr. MANSFIELD. Mr. President, will the Senator from Louisiana yield to me?

Mr. ELLENDER. I yield.

Mr. MANSFIELD. I think that we should have our votes on this matter in public, that we should not evade the issue, that we should face up to it. Senators will recall during the last executive session that this matter came up and we decided to vote in public.

Let me refer to what the distinguished Senator from Kentucky said when he introduced practically this same amendment in September of this year, an amendment which was agreed to by the distinguished Senator from Mississippi (Mr. STENNIS) the chairman of the committee, and the Senate as a whole.

Mr. STENNIS. Mr. President, will the Senator from Montana yield at that point?

Mr. MANSFIELD. I yield.

Mr. STENNIS. On the basis that it did not apply to the funds in the bill then being considered.

Mr. MANSFIELD. That is correct. But let me read what the Senator from Kentucky said in his letter to all Senators on September 15:

I will introduce the enclosed amendment, or one substantially similar on September 17 and will ask that it be made the pending business at the first opportunity. The amendment would not affect clause (1), or restrict the support of Vietnamese or other free world forces fighting in Vietnam. It would prohibit the use of funds for the engagement of the armed forces of the United States in combat in Laos and Thailand in support of local forces of Laos and Thailand. Its purpose is to prevent, if possible, the United States from becoming involved in a domestic war in Laos and Thailand, without the authority of the Congress.

And then he enclosed a copy of his proposed amendment, which is almost similar to the amendment now before this body.

At that time, in explaining his amendment, he said:

My amendment is designed to prohibit the use of our Armed Forces in combat support—in combat support of local forces in Laos or Thailand and to keep them out of situations in which they might become engaged in combat which could lead to war in Thailand or Laos as it did in Vietnam. The language means our forces cannot be used in combat in support of local forces unless an emergency arose where the President's constitutional authority would come into play except by joint authority of the Executive and Congress.

Thus, I think, despite the fact that there is a certain amount of confusion, the Cooper amendment speaks for itself. I do not think it needs any change. The intent is clear, not only at this time but during debate on the authorization bill, and I would hope it would be accepted so that this Congress could go on record once again as backing up the national commitments resolution which it passed some months ago.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York (Mr. JAVITS) is recognized.

Mr. AIKEN. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield to the Senator from Vermont.

Mr. AIKEN. Mr. President, I think the distinguished Senator from Montana knows exactly what the amendment means. It means that we will permit our Government to continue doing in Laos what it is doing now, but would prohibit the start of another Vietnam war in that area.

I believe, further, that the vote on this amendment will be interpreted by the country as a decision that we are supporting President Nixon's efforts to withdraw honorably from Vietnam and deescalate out forces, as he is doing already.

Mr. JAVITS. Mr. President, I should like to have a word—and I shall be happy to yield to the chairman. The words of the amendment are confusing. The words will not do what the majority leader says he wishes them to do. But the words can be changed.

I would propose, if we have the opportunity to propose, how the Senate can work its will if it wants to do what the Senator from Montana says the amendment does. It does not do it.

Mr. MANSFIELD. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. MANSFIELD. The Senator from New York was on the floor of the Senate when the Senator from Kentucky (Mr. COOPER) offered this amendment in September. The Senator from New York did not raise an argument then. The amendment was spelled out then; it is spelled out now. It is practically the same amendment which we are considering at this time.

Mr. JAVITS. I do not know whether I was on the floor of the Senate or not. I hope the Senator will not be upset with me. I am trying to help the Senator to accomplish what he desires, in a way in which the Senate can legislate with dignity. I am not trying to cross him at all; I am trying to be helpful.

This must be done here; it cannot be done in public. [Deleted.]

He merely wishes to inhibit two things, as I understand: first, the use of American combat troops; second, the support of local troops other than in respect to logistics and training. That can be accomplished with words, retaining intact the right to bomb from Thailand and from South Vietnam, and to inhibit the use of American combat troops in Laos.

But I respectfully submit that these words—whether I was on the floor of the Senate then or was awake or asleep—do not do that. They do not have anything to do with combat troops, but deal only with the use of these funds for the support of local forces and how they shall be managed.

Second, this is a real constitutional test. This is the first time we are trying to match the power of the Senate with the power of the executive. We have got to make both work, because we will not retain our power unless we make them work.

The commitments resolution says that we may act either by a declaration of war or by a concurrent resolution. As to Southeast Asia, we have acted by a joint resolution—the Gulf of Tonkin resolution. That resolution is ample enough in its words to quality under the commitments resolution. It lets us do everything we want to do in Laos and Thailand as well as in South Vietnam.

Now what we are trying to do is to limit that resolution to some extent, which I think, as I understand, is right and important to do in an appropriation bill, unless we want to repeal the Gulf of Tonkin resolution altogether.

Therefore, if the opportunity presents itself—and I hope very much that the Senator from Wyoming (Mr. MCGEE) will not press his motion to table—I shall seek to modify, with all respect to the Senator from Montana (Mr. MANSFIELD) and the Senator from Kentucky (Mr. COOPER), so that the Senate may know what we are doing.

I shall move to amend the proposal to read as follows:

> None of the funds appropriated by this act shall be used for ground forces in Laos or Thailand except to provide supplies, materiel, equipment, and facilities, including maintenance thereof, for the support of local forces or to provide training for such local forces.

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

Mr. JAVITS. I yield.

Mr. PASTORE. The thing that frightens me about this amendment is this: Are we not inducing and encouraging North Vietnam to intensify its infiltration in Laos to the disadvantage of our plan to withdraw troops from South Vietnam?

On second reflection, after reading the amendment of the Senator from Montana very carefully and listening to his explanation, I think we should either accept his amendment or do without his amendment, because if we become too clear, I am afraid that all we are going to do is to hint to our enemy to the extent that he will intensify his infiltration in Laos, and thereby disrupt the President's plans to withdraw troops from South Vietnam.

We all know that is what we mean. The Defense Department knows what we mean. We have been assured time and time again that they do not intend to use combat forces. We recognize the fact that they are not using combat forces in Laos. Therefore, why do we not let that stand there and rely on one another's integrity, rather than put ourselves in the position of encouraging the enemy to intensify the infiltration because they know what we are going to do?

Mr. JAVITS. We have already in the sense used by the Senator encouraged the enemy by what we have done, all they need to be encouraged, by everything we are doing, including with our own forces reductions in Vietnam. We are not going to give them any more signals that we do not intend to intensify the war.

Now we are looking into our own situation. We do not want to get into another situation where, without our knowing—and Senator Fulbright is right—a lot of things get done, and then they are faits accompli whether we like it or not.

I am not going to go into the details of how the Gulf of Tonkin resolution was recommended and discussed, and how it was used, and the toll in lives as a result.

I will say this to the Senator from Montana: I will offer no amendment unless he wants it, but I am telling him that the words he has proposed do not do anything like he has in mind to do; but if he wants it that way, I will leave it that way.

Mr. MANSFIELD. I disagree.

Mr. FULBRIGHT. Mr. President, the purpose of my submitting the questions I did to the chairman of the Appropriations Committee was simply, as I will state once more, to have this matter discussed so Members of the Senate know what they are doing. In effect, we are spending, if I understood the figures in answer to my question [deleted].

About [deleted] we are spending in a different war going on within Laos between the Royal Laotian Army, the Pathet Lao, and whatever troops the North Vietnamese have infiltrated there, which are estimated to be about 50,000. [Deleted.]

I do not see any reason why this should not be authorized if it is in our interest. I do not believe it is. If I understood correctly from the remarks of the Senator from Arizona, he may not agree with that. I do not want to put words in his mouth, but he believes this is of such a nature that we ought to do it.

This is not anything new. The origin of the war is not attributable to this administration. This is no partisan effort to pin anything on this administration. It is a question of the role the Senate plays in matters of this kind.

I shall not reiterate what happened on the Gulf of Tonkin resolution. I had a part in that, and I am not proud of having been taken in by the then administration and, in my view, deceived. In not having asked the kind of questions we are asking here today, it is possible that that experience has made me more sensitive to being deceived by any administration than I otherwise would have been.

I think it is important that Members of this body who have to explain this to their constituents at least know what they are voing for. It might be embarrassing to any Senator if he is not aware of the war in Laos to have someone say to him, "I have a friend whose son was killed in a bombing raid over North Laos." As a matter of fact, I had, in my prepared statement, excerpts of letters from members of families where sons had been flying over North Laos. One of them is from a wife of a soldier who has not returned. These are letters that came to me as a Member of the Senate. They are not classified. I was intending to read them in open session, but we went into executive session before I could. I will put them in the RECORD after we are back in open session.

We ought to know about this, the size of it, and also whether it is in the national interest. I think it is a question we have to raise.

But that is not the question I was trying to solve in executive session. I was simply trying to make every Senator aware of the kind of actions we are persuing, and then we can draw our own conclusions as to whether or not, in continuing to escalate this activity as we have since the beginning of the year, we are running the risk of another Vietnam, of going far beyond the intentions, I believe, of the present administration.

We are led to believe—and I believe—the figures about the deescalation in

Vietnam, but I have seen very little published on this matter in Laos. Some persons say this has all been in the papers. I have never seen much of it in any newspaper.

In some of the testimony, when we asked this question of our Ambassador [deleted].

This practice as between the legislature—the Senate—and the Executive, with respect to our Ambassador [deleted] is an unacceptable practice. I have been in this body 25 years, and 2 years in the other body, and I have never before heard an ambassador tell the committee that he cannot talk about [deleted], under instructions. He said he had been instructed [deleted].

I have never heard before any ambassador take such a position.

Recently, the fifth amendment was taken by Army officers, but that is also less unprecedented. Here we had [deleted].

This again indicates a certain attitude on the part of the executive branch—and I do not say it is just this Executive, but the previous administration, too. As a matter of fact, Mr. Katzenbach went further than anybody had ever gone before in denigrating the role of the Senate in the whole matter of foreign relations, especially the war power.

I thought it was my duty to raise this question. The central question is whether this body had a right to know what it is voting on. This is an appropriation bill. We are appropriating at least $400 million, which I do not really believe is authorized, because it is very far removed from the activities in Vietnam, and I believe that as to Laos, we are violating the 1962 convention. I do not believe that it is acceptable; I do not believe it is, in international law, that if someone else violates the laws, you are also entitled to do it. You are in a case of genuine self-defense. If this was a threat to the security of this country, of course, we would be entitled to defend ourselves. It is quite a different international question, to maintain that we are entitled to [deleted] against an enemy in northern Laos, when the situation in Laos has very much the aspect of a civil war.

The war in Vietnam began, before we ever had any combat troops there, as a civil war. Once we entered it with combat troops in the Kennedy administration, then it became an international war. But I believe most people would agree it was a civil war until we did send combat troops into South Vietnam.

In Laos, we do not yet have ground combat troops, I would certainly support and do support the objective of the amendment of the Senator from Kentucky and the Senator from Montana that we do not want to put in ground combat troops. I do not want to continue the activities of bombing without our knowledge or authorization. If we wish to authorize it, that is another matter.

I would close with this thought: It is not only the secrecy in Laos. We run into the same thing in the Philippines and Thailand. [Deleted.]

I do not see that that is a good excuse. Recently, in the Philippines, we found they do not wish to make public the agreements that have been made, by which you use your constituents' money and the prestige of this country in an agreement with the Philippines as to what we pay for their troops.

It has been said here that it is much better to hire troops than to send our own boys. Well, it may be, especially if the war is not in your national interest and not in defense of your own country. Whether or not it is a proper policy to hire troops to go fight anywhere around the world where your true interests are not involved, and you make a mistake—which Vietnam has generally been agreed by many Senators to be—is quite another matter from defending your own homes.

But in any case, in conformity with the hearings conducted by the Senator from Missouri—and I am very sorry he is not here, but he has to be away because his wife has been very ill—the only reason I brought this up, and I think he would have if he had been here, is to make the point that we run into this attitude on the part of the Executive that these matters are not the affair of the Senate, that we are not entitled to know what is going on and where vast sums of money are being spent, that it is a secret matter, so secret they cannot even tell the Senate.

That is the essential reason why I thought this discussion was in the national interest.

Mr. CHURCH. Mr. President, will the Senator yield to me for a question?

Mr. FULBRIGHT. I yield.

Mr. CHURCH. I think we are all agreed that the Senate ought to exercise its constitutional responsibility as intended by the commitments resolution. The Senator remembers the Gulf of Tonkin affair, as well as anyone in this Chamber. Is it not true that, at the time, we acted in the context of a situation in which we were told that American destroyers had been attacked on the high seas, and that certain retaliatory strikes had been made by our Navy in response? Thereupon, we hurriedly passed a resolution authorizing the President to take whatever action was necessary in Southeast Asia to protect the interests of the United States.

We did not draft that resolution with sufficient precision, and afterward we learned that the resolution was being used by the President as justification for sending half a million American troops into a gigantic ground war in Vietnam.

Now we face the first opportunity, today, to reassert the constitutional responsibility of the Senate in compliance with a resolution we passed earlier in the session, and the question is: Are we going to assert our authority to protect this country from involvement in another Vietnam, in Laos or Thailand, without the consent of Congress?

The language with which we are presented is just as imprecise, if not more so, and much more ambiguous than the language we used in the Gulf of Tonkin resolution.

I think if we are to assert our responsibility we should do so in clear and precise language. That is the lesson of the Gulf of Tonkin resolution; and, in the face of that lesson, we certainly ought not to be content with language as vague and ambiguous as that contained in the amendment offered by the distinguished majority leader. I would implore him to consider some revision of that language which would make it perfectly clear that we are undertaking to restrict the use of the money in this bill to bar the financing of American ground troops in Laos and Thailand. I think the language can easily be made perfectly clear, and if we are going to speak at all we should not speak in an ambiguous way, but in a way that makes it clear, not only to us, but to the President and everyone concerned, just what we mean.

On this basis, I ask the majority leader to reconsider the language in the amendment he proposes. I want to support it, but I do think it does not carry out the intent he wishes.

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

Mr. FULBRIGHT. I yield to the Senator.

Mr. MANSFIELD. Mr. President, there was nothing ambiguous about the language in the Gulf of Tokin resolution, nothing ambiguous at all, and maybe there is a point to be made in not being too clear in what you write down, but in following out the intent as expressed at the time.

The distinguished Senator from Kentucky knew what he was doing, and he studied this language. He made its intent clear during the time that the authorization bill was before us for consideration; and I have tried to make it as clear as he did last September.

I would point out that you can make language so clear that, in becoming clear, you become involved in places like Laos and Cambodia on a ground combat basis.

There is no question as to what the intent of this "ambiguous language" is. I do not think I could change it. I am certain the Senator from Kentucky would not. I think this is a good amendment, is in accord with the national commitments resolution, and is certainly far more effective, I think, from a senatorial point of view, than the Tonkin Gulf resolution was. We got taken in by that, but we will not get taken in by this.

Several Senators addressed the Chair.

Mr. FULBRIGHT. I shall yield further in a minute.

It is true that the language of the Gulf of Tonkin Resolution was not ambiguous. What was ambiguous about that proposal was, first, that the representation about what actually had happened in the Gulf of Tonkin actually was not true, and second, that the President stated clearly that the purpose was not to widen the war, not to bring in North Vietnam. He was of the view, and all of the administration spokesmen were, that if we would show unity, and do it quickly, the resolution was designed to prevent any widening of the war, or any further belligerent activities on the part of North Vietnam. I would say that the committee and, through the committee, the Senate, was deceived.

Mr. HOLLAND. Mr. President, I certainly agree with the motives of the distinguished majority leader. I think he has made those motives clear. He wants to prevent our involvement, or Senate approval of our involvement, in any ground war in Laos.

However, I agree completely with the Senator from New York that the wording of the amendment, which I understand is really the wording of the Senator from Kentucky, does not limit itself to that purpose or that motive.

I noticed, and I hope the majority leader will follow me, that when he read the two excerpts from the statements of the Senator from Kentucky in September, when we were debating the authorization legislation, that neither of those statements applied only to the Armed Forces which are used on the ground. They might be interpreted just as clearly as referring to the Air Force. The Senator from Arizona has already made it entirely clear that we are using the Air Force over Laos [deleted], and that we are continuing to so use them and will continue to so use them.

Mr. President, I was hoping that we could find words here to make the amendment apply only to any use in the future, or at any time, of ground forces there without the concurrence of Congress.

Mr. President, I find, however, that those on the committee, several of them, feel that if we used those limiting words and made it clear that we were talking only about the use of ground forces and were preventing or prohibiting the use of ground forces there, we might, as stated by the Senator from Rhode Island, be simply inviting ground infiltration of larger numbers of ground forces from North Vietnam and perhaps even from Red China.

So it seems to me, reluctant as I am ever to vote for the laying on the table of a well-intended amendment—and particularly when it comes from the majority leader—it seems to me that is about the only thing we can do.

I might say if we agree to the amendment as it is now, when it certainly relates and can be held to relate to the Air Force as well as to the other forces, because it says, "none of the funds appropriated by this act shall be used for the support of local forces in Laos or Thailand" that it does not limit itself to ground support.

It does include, by possible, and by reasonable interpretation, the Air Force. And if we should agree to an amendment in those words and the Executive would continue to use the Air Force as it is now used, I think it would be interpreted by many editorialists and fine citizens from one end of the country to the other as meaning that the President was violating the decision of Congress as written into the act.

It seems to me that we are caught in a situation under which we can do little else except lay on the table the amendment.

I fully agree with the Senator from Montana that the action shall be taken in a public meeting. I have no feeling that that should not be done.

Mr. MANSFIELD. It will be.

Mr. HOLLAND. However, my feeling is that that is the only thing we can do, unless we are permitted to limit this to the prohibition of the use of ground forces in Laos. And there seems to be substantial reason why we cannot so limit this amendment.

I regret that we are in this position. I regret that the Senator from Kentucky cannot be here. I appreciate the loyalty of the Senator from Montana in trying to stand by the amendment of the Senator from Kentucky. However, I do not believe the amendment is limited to what the distinguished Senator from Montana would like to limit it.

And being in a much more general condition, I do not think we should adopt it at this time. I feel that it should be laid on the table.

Mr. McCLELLAN. Mr. President, I should like to address a question to either my distinguished colleague, the chairman of the Committee on Foreign Relations, or to the leadership, whichever one might be willing to answer it.

I am concerned, and have been all along, about all of the actions we take that put us in an apologetic position in world opinion and esteem with respect to the war in Vietnam.

It seems to me that for a long time about all we have been doing is giving encouragement to the enemy. I say that in all deference.

If we are going to pull out unconditionally, then let us pull out and get it over with. I am persuaded that what we are doing is slowly and maybe painfully—maybe that is what we intended to do and will do ultimately—turning over Southeast Asia to whoever wants to grab it up—and I think we know who will grab and subvert it.

Aside from that, I point out before I propound the question; that I think we should have learned our lesson. I seldom talk about this issue. However, I think we should have learned from our experience in South Vietnam and in South Korea that we should never go into another war, with ground troops or otherwise, except that we go in to win.

I think that has been our tragic mistake and that if entering the Vietnam war was a mistake, then our not fighting to win has compounded that mistake.

We have telegraphed from our Government to the other side the message we do not want to win a victory, rather that we are just begging the other side to quit.

That strategy has not worked. It will not work, in my judgment.

If we are to give another signal with this resolution, it will avail us nothing. As now written, this proposed amendment can be interpreted as one chooses. As has been indicated in this debate, the leader can interpret it as he wants to. I can put a different interpretation upon it. And so can anyone else. It is very ambiguous. However, the best way to approach this, if that is what we want to do—and I am perfectly willing, because I do not think the President should commit ground forces there without the consent of Congress—would be for this body to have an understanding with the President that he will not do it. That, it seems to me, would be sufficient. If he gives us his pledge that he will not do it without coming to Congress, I will take his word for it. He is the President of the United States, and there is no reason for any of us to doubt his good faith and assurances.

If we do that, we will not need the pending amendment in the form in which it is offered. I cannot vote for it in the form in which it is offered. If there are certain modifications made and the matter comes to a vote, I will vote for it.

But I doubt the wisdom of this procedure.

Many things we have done publicly have not been a credit to, or in the interest of our country. I do not blame the other side for not negotiating. Why should they? They appear to be getting what they want without making any concessions. If we keep going as we have been, unless it is possible to so effectively Vietnamize the war that the South Vietnamese can take it over and win, the Communists will soon take over South Vietnam.

I for one, would like to know that Congress will be consulted before ground troops are committed, and I do not know of anyone that does not want to know. Perhaps I am mistaken, but I think that is a sentiment of the Senate. Why not do it by taking the word of the President and relying upon it?

We can always take action if we need to do so. However, I would rather do it that way than to signal again to the other side that our country is divided and will become further divided; that we continue to fight among ourselves and that some want to give the enemy their way about everything. And they are getting their way more and more as we continue to make concessions without any comparable action whatsoever from the other side.

I would rather to do it with an agreement with the President. And I think we can accomplish more by that approach and better protect our country than we can by adopting this proposed ambiguous amendment.

Mr. McGEE. Mr. President——

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

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

Mr. McGEE. Mr. President, I yield to the Senator from Arizona without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, if the majority leader's decision holds that the vote will be outside the executive session, I suggest to the majority leader that he declassify the executive hearing.

I think it would appear rather foolish to the American public to have the result of a vote without being able to read what we were voting on and all of the argument and debate.

I say this with all due respect. Frankly, outside of [deleted] there is nothing that could not be declassified.

I suggest to the majority leader that in the interest of the country, if we have a public vote, the record should be made

public. If it has to be sanitized, let it be sanitized.

I think that too many things have been said today that have long needed saying. I think the American public would be encouraged and strengthened if it could read some of the remarks that have been made, even if we have to delete some of the numbers and make some declassification, and I would hope that the majority leader would take the proper steps to see that the record, as we have listened to it today, will be made available to the public.

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

Mr. McGEE. I yield.

Mr. MANSFIELD. We will follow the usual procedure agreed to by the Senate on all previous occasions in which we have been in executive session, by means of which it will be up to the chairman of the committee in charge of the bill—to wit, in this instance, the distinguished senior Senator from Louisiana (Mr. ELLENDER)—to approve, to sanitize and to clear the final version, just as it was up to the distinguished Senator from Mississippi (Mr. STENNIS) when a similar occurrence arose during the consideration of the defense authorization bill.

So far as I am concerned, I believe that the Senator from Louisiana will not be picayunish, that he will be pretty broad in allowing what can get through. Frankly, I have heard nothing in this executive session which I think should be kept secret, but I think the precedents of the Senate should be and must be upheld, and we will leave the final determination as to what the sanitization is to the distinguished Senator from Louisiana.

While I have the floor, let me say that I have been listening with interest to the arguments against the language in the Cooper amendment. "Ambiguous" does not get to the point. We ought to be more definite; we ought to be more clear.

May I point out that one amendment to the amendment offered is as follows:

> None of the funds appropriated by this Act shall be used for ground forces in Laos or Thailand except to provide supplies, materiel, equipment, and facilities, including maintenance thereof, for the support of local forces or to provide training for such local forces.

The effect of that would be to put U.S. combat troops in Laos.

So I think there is something to be said for ambiguous language, and there is a great deal more to be said for the intent of the Senate.

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

Mr. McGEE. I yield.

Mr. TOWER. I suggest that the Senate resolve itself back into open session. I think that way we will bring this matter to a conclusion a little earlier.

Mr. MANSFIELD. We will.

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

Mr. McGEE. I yield.

Mr. CASE. I wish to express agreement with the conclusion just stated by the majority leader. The language is ambiguous. Our beloved colleague, the Senator from Kentucky, has a very subtle mind, and so does our majority leader.

Mr. MANSFIELD. Not I.

Mr. CASE. The Senator from Montana has. This is said very kindly. That language could be interpreted to exclude, as the Senator from Kentucky said in the statement the Senator from Montana read about it, it seems to me, air support. I do not think there is doubt about that. The Senator from Florida made that point. If by "combat troops" is going to be meant just ground combat troops, that is all right.

I am going to support the ambiguity, because I think any public statement we make is likely to get us into much worse trouble in the world than just repeating what we have said before. I think we can all agree on one thing: We are not going to have American foot soldiers go in there. Beyond that, I am not sure what this amendment would do, and I do not think it matters too much. But, on the basis that there is a great deal of ambiguity here as to exactly what may be permitted, so long as that one basic thing is excluded, that is the medicine we had better take today.

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

Mr. McGEE. I am glad to yield.

Mr. THURMOND. Mr. President, I feel very strongly about the words uttered by the distinguished Senator from Florida and the distinguished Senator from Arkansas about what constitutes the proper course for us to follow. I have been to Vietnam. I have firm convictions about the matter. I am of the opinion that we could have won the war long ago, and should have done it, and we are fighting the war in Vietnam now because we did not win in Korea. If we do not win this war, we will fight again.

The Senator is just as right as he can be when he says we should not go into a war until we have to; that once we get into a war, we ought to win it. But that is beside the point at this time.

The question now before the American people is, what course can we, the Senate of the United States, follow to help to bring the war in Vietnam to a close as soon as possible?

I am convinced that any words we utter or any action we take indicating division in this country will tend to extend the war. I am convinced that the moratorium march in Washington opposing the Vietnam war helped to extend the war, because it showed a division in this country. Other similar demonstrations will do the same.

I am firmly of the opinion that we should table this motion, as the Senator from Wyoming indicated he would like to do, and leave this matter with the President, Let the leaders of the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations confer with the President. If they cannot work something out, then the Senate can consider any other action.

I should think that the best thing to do today would be to stand behind our President and show unity. I hope the Senate will follow that course.

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

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

Mr. MURPHY. Mr. President, I have sat quietly in the background, and I have listened attentively. With all due respect to the majority leader, I think the mere fact of the amount of time we have been discussing the meaning of the amendment is evidence enough that there is a misunderstanding.

I do not think there is any great division of opinion as to what happened in the Gulf of Tonkin. I do not think there is any great division—I do not see how there can be—among those who have read the record, that the entire involvement in Vietnam has been a series of mistakes. The involvement in Korea began with a mistake, and then we went on from one mistake to another.

I think the distinguished Senator from Arkansas made a very wise statement when he said that we ought to try to find our way out of this morass. I do not think we accomplish anything by permitting any thought or feeling or word to come out of the Senate which would further confuse or further divide the American people.

I do not think anyone in this Chamber does not know and understand that contrived confusion, division, and polarization has been the most important tactic of the enemy for at least the past 2 years.

So I would say that two things occur: First, we are talking about a condition that I am not sure really needs our attention at this time. The President of the United States, who has done more to get us out, who, I think we all agree, is trying sincerely to bring it to an end, has said that there will be no more Vietnams. I think we can trust him. Until we find out to the contrary, I believe we should trust him. So I do not think it needs any embellishment on our part.

As the Senator from Arkansas (Mr. MCCLELLAN) has suggested, I think that perhaps there should be a policy, an arrangement, an agreement, whereby, before this ever happens again, the legislative and the executive branches would sit down together. I can envision circumstances in which, if the debate went on as long as this debate has gone on, as to possible action needed, the action might be lost before our decision was made. This is perhaps one of the reasons why, at the outset, the Chief Executive was charged with these matters.

I would suggest that we be very cautious. First of all, we should find out exactly what we want to accomplish and make sure we are doing it. I must say that, after listening attentively to all the explanations and to all the divisions of opinion, I am not certain what might result. I do not want any more American troops to go anywhere to fight.

But I also do not want to signal to the enemy, who are watching carefully, who are listening carefully, who are very sensitive, and in these matters of attempting to divide our citizens, adept. They are experts. They have played the propaganda game successfully for 35

years. I know something about it; I have studied it.

They are wondering what we are saying here and how to use it to their advantage. Senators know as well as I know that there is not anything they do that is not motivated from political considerations, including their military activities. It is always planned for political effect and it always has been. If we are going to vote on this matter in public, I assume we will have a discussion and an opportunity to be heard in public; and that we will have an opportunity to vote on a resolution under which there will be no question as to what is the exact meaning. Before we vote in public I hope we all take into full consideration what we would be accomplishing with regard to the general welfare, future, and safety of our country, to make certain we will never again be hoodwinked by something like the Gulf of Tonkin resolution.

I think we have talked a long time, and I think everybody understands the matter quite well. I would be perfectly happy if we could get on to other matters.

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

Mr. McGEE. I yield to the Senator from Vermont.

Mr. AIKEN. Mr. President, however, I want to say the Senator from Montana knows exactly what he intends with his resolution. It is perfectly plain to anyone who wants to understand it. We have, of course, many different types of people and many different schools of thought in this country.

We have those who want to get out of Vietnam precipitately, regardless of the cost; we have those who want to go on expanding the war until victory is achieved, regardless of the cost in lives and dollars; and, then, we have those who believe that peace can be restored in Southeast Asia if we approach the subject in a sensible manner with a gradual withdrawal, such as President Nixon is now attempting to do.

I just want to say if there are any misunderstandings about the Senator from Montana or the Senator from Kentucky, they can be applied equally against the President of the United States who is trying to bring about peace over there and to do away with the excessive expense and who, I judge, is opposed to war for the sake of war.

Mr. McCLELLAN. Mr. President, I posed the question in my previous remarks. Can anyone answer it, primarily the leadership on either side and the chairman of the Committee on Foreign Relations that has jurisdiction over these matters? I would like to know whether the President has been consulted with respect to any plan to put any ground troops into Laos?

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

Mr. McCLELLAN. I come back to the question: Why cannot this matter be resolved simply by an understanding with the President that it will not be done except that he comes to the Congress for approval?

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

Mr. McCLELLAN. It seems to me if that has not been done, to take this action precipitately is somewhat an affront to the President.

I trust the President. I agree with the distinguished Senator from Vermont that he is doing everything he can to get us out of the Vietnam situation. I think he is acting in good faith. I hate to vote for something here that I think would cast an aspersion or reflection that the Senate doubts the President's good faith. It has not been done; I know of no threat to put ground troops in there. Why then should we take this proposed action?

It seems to me a simple conference, a simple communication between the leadership of this body and the President, and his response thereto would be sufficient to allay this whole issue.

We can put our confidence in that approach and that is the way we should operate. If we must have a vote on this resolution, I cannot support it in its present form.

The President said that we are not going to have any more Vietnams. I trust him, but if we have any doubt, why not contact him and get an assurance we could all accept and rely on.

Mr. McGEE. Mr. President, I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, no Senator raised any question about mistrust of the President, nor should any Senator do so.

What we are trying to do in this amendment is support the President, who has said that he will not send ground combat troops into Laos. His words have been backed up by his Secretary of State, who said, in response to a question concerning the possibility of being involved in Laos on a ground combat basis:

> The President won't let it happen.

Continuing, Secretary of State Rogers said:

> I mean we have learned one lesson, and that is we are not going to fight any major wars in the mainland of Asia again and we are not going to send American troops there, and we certainly aren't going to do it unless we have the American public and the Congress behind us.

I applaud the Secretary of State and the President of the United States for their statements, sentiments, and intent. But I remind Senators that we are a part of this Government, too, and that we share a part of the blame, a good part, for getting involved in Vietnam.

I would hope we would get behind this resolution which means something and is meant to be helpful to the President so that we can put into effect what we decided to do in our national commitments resolution.

Mr. McGEE. Mr. President, I yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, first, I wish to make the record clear so that the record is not confused. In the remarks of the Senator from South Carolina, and I believe one other Senator, I do not believe he said, "distinguished senior Senator from Arkansas" but he should have.

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

Mr. FULBRIGHT. I yield.

Mr. THURMOND. I meant senior Senator from Arkansas.

Mr. FULBRIGHT. I just wanted to make clear that he was referring to the senior Senator.

With respect to the matter of trusting the President, certainly I did not wish to raise that question. The Senator from Montana put it on a proper basis. This is a constitutional question and the Senate has a role to play. I say once more the purpose of my actions here today was to inform the Senate so that we could play that role with full information about what we are doing in this area.

However, it does not seem to me this question of trusting the President should be brought up in this fashion. I supported very strongly the previous President, President Johnson. He ran on a platform in 1964 of no wider war. The Senator from Arizona will recall the nature of that perhaps a little better than I. I supported President Johnson. One of the issues, and I believe the Senator from Arizona will agree, was "no wider war."

President Johnson said throughout the summer and early fall of 1964 that he was against a wider war.

I believe the Senator from Arizona did advocate some of the things that were later done by President Johnson.

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

Mr. FULBRIGHT. I yield.

Mr. GOLDWATER. In his heart he knew I was right.

Mr. FULBRIGHT. As I look back upon it, I believe you were, too. Anyway, I did not support the Senator from Arizona. I supported the Democratic nominee. We know what happened.

As far as the nominee making a commitment that he is going to follow a particular policy in a war, I do not believe President Johnson followed what he made me believe was his policy. I do not believe the Founding Fathers intended our system to mean the Senate should ask the President what he means about something and take his word for it.

We should not have this complicated system unless the three branches play their respective roles. There is nothing wrong with our understanding of the words in the amendment of the Senator from Montana. I shall support it. It is intended to be a limitation of the present program.

I wish to refer to the point made by my senior colleague on going all out in the war. I agree with him. I do not believe that we should get into a war when it is not sufficiently clear that the national interest is involved, and there is no question that we will go all out to win it. It would be a terrible mistake to get into a war in which one is ambivalent in his attitude toward going all out in a war.

Why did not President Johnson go all out? I can guarantee that I was not one of his advisers during the period when he was refusing to go all out. He did not consult me from about September 1965 until December a year ago. It was not done on my advice. Why did he not go all out? I think one of the reasons was that he was doubtful about the validity

of the war he had undertaken. I do not know why he did not go all out. In World War II, we went all out for unconditional surrender. We won that war.

It is of course true that the previous administration over a full 3 or 4 years refused to go all out, which is the traditional way. There must have been some reason for it. Not only was it a disaster for the country, but it also discredited the President himself. Clearly he was not out to discredit himself. He of course did not wish to bring about a situation in which he could not run for election again. That is unprecedented in our history. But it does raise the question that maybe the war was ill founded and maybe it was not justified in the first place. In the present circumstances we face, I believe that we support the President's objective. The only difference that I know of in most people's minds is not the President's objective, but whether the means he has adopted to achieve the objective are calculated to do so; this is an instance in which we can have honest differences of opinion. I certainly do not disagree with the announced objective of the President, but I do not think it disloyal or un-American to suggest that the policy he is following is not likely to achieve his objective. It is purely a matter of judgment.

I should like to do anything I can to help him achieve his announced objective. I think that this particular amendment, the amendment of the Senator from Kentucky and the Senator from Montana, would certainly strengthen his hand to resist if pressure is put upon him to widen the war and to make it more difficult for him not to withdraw and to conclude, I would say, the tragic war in South Vietnam.

Mr. McGEE. Mr. President, the deliberations of this body this afternoon have been of such a constructive nature, it seems to me, that it underscores and reinforces the constitutional role of this body in the projection of foreign policy intents and directions. I think the question that remains is whether the message has been delivered and I can see no reason to doubt that the message has come through loud and clear, and no doubt has been heard downtown for some time.

I fail to see what more in the form of a public resolution it could achieve that the President has not already heard on that question.

Therefore, Mr. President, in that context, I am resuming my motion to table the pending resolution.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

Mr. MANSFIELD. Mr. President, I move that the Senate return to——

The PRESIDING OFFICER. The motion is not debatable.

Mr. ALLOTT. Mr. President, I was going to ask if the Senator from Wyoming would withhold his motion for a moment.

Mr. McGEE. How much time does the Senator from Colorado need?

Mr. ALLOTT. One minute.

Mr. McGEE. I yield 1 minute to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Wyoming would have to ask unanimous consent——

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Wyoming (Mr. McGEE) may yield to the Senator from Colorado (Mr. ALLOTT) for 1 minute.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senator from Colorado is recognized for 1 minute.

Mr. ALLOTT. Mr. President, all I wanted to say was that I believe we are in basic accord. I was going to suggest to the majority leader that we might be able to come out with a positive resolution affirming the decision of the President not to use U.S. combat troops in Vietnam. In this way we would solidify the country and solidify the sense of the Senate not to denigrate our own position in our joint responsibility, and also not feed the fuel of Communist propaganda around the world.

Mr. McGEE. Mr. President, I ask unanimous consent that I may yield 15 seconds to the Senator from Washington (Mr. MAGNUSON) in order to make an announcement.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, this is the only way I can get hold of the members of my committee to say that I was not going to have a meeting if this is going to continue much longer. I am hopeful that we can continue the HEW appropriations meeting when we get through with the vote. I am sure that we can at least clean up or at least finish all of the bill with the exception of its general provisions.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. MANSFIELD. Mr. President, I move that the Senate return to legislative, open session.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to and, thereupon, at 4:27 o'clock p.m. the doors of the Chamber were opened, and the open session of the Senate was resumed.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, to last only as long as it will take to ring the two bells.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Montana will state it.

Mr. MANSFIELD. What is the pending motion?

The PRESIDING OFFICER. The question is on the motion to table the amendment by the Senator from Montana (Mr. MANSFIELD) and the Senator from Kentucky (Mr. COOPER).

Mr. HOLLAND. Mr. President, a point of order. We should not begin voting until the Chamber has been made open.

Mr. MANSFIELD. The Chamber is open. It was opened 2 minutes ago, I understand.

The PRESIDING OFFICER. The Senate has now resumed its open session.

The question is on agreeing to the motion to table the amendment of the Senator from Montana and the Senator from Kentucky.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from West Virginia (Mr. RANDOLPH) is absent on official business.

I also announce that the Senator from Washington (Mr. JACKSON) is absent because of a death in his family.

I further announce that, if present and voting, the Senator from New Jersey (Mr. WILLIAMS) and the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER) is necessarily absent.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Iowa (Mr. MILLER) is paired with the Senator from Kentucky (Mr. COOPER). If present and voting the Senator from Iowa would vote "yea" and the Senator from Kentucky would vote "nay."

The result was announced—yeas 41, nays 48, as follows:

[No. 232 Leg.]

YEAS—41

Allen	Ellender	McGee
Allott	Ervin	Murphy
Baker	Fannin	Pearson
Bellmon	Fong	Scott
Bennett	Goldwater	Smith, Maine
Bible	Griffin	Smith, Ill.
Cannon	Gurney	Sparkman
Cook	Hansen	Stennis
Cotton	Holland	Stevens
Curtis	Hollings	Talmadge
Dodd	Hruska	Thurmond
Dole	Jordan, N.C.	Tower
Dominick	Long	Williams, Del.
Eastland	McClellan	

NAYS—48

Aiken	Hart	Moss
Bayh	Hartke	Muskie
Boggs	Hatfield	Nelson
Brooke	Hughes	Packwood
Burdick	Inouye	Pastore
Byrd, Va.	Javits	Pell
Byrd, W. Va.	Jordan, Idaho	Percy
Case	Kennedy	Prouty
Church	Magnuson	Proxmire
Cranston	Mansfield	Ribicoff
Eagleton	Mathias	Saxbe
Fulbright	McGovern	Schweiker
Goodell	McIntyre	Spong
Gore	Metcalf	Yarborough
Gravel	Mondale	Young, N. Dak.
Harris	Montoya	Young, Ohio

NOT VOTING—11

Anderson	Miller	Symington
Cooper	Mundt	Tydings
Jackson	Randolph	Williams, N.J.
McCarthy	Russell	

So Mr. McGEE's motion to lay on the table was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Kentucky and the Senator from Montana.

Mr. CHURCH. Mr. President, on behalf of the Senator from Colorado (Mr. ALLOTT), the Senator from California (Mr. CRANSTON), the Senator from New York (Mr. JAVITS), and myself, I send to the desk a substitute amendment, which reads as follows——

The PRESIDING OFFICER. The amendment will be stated.

Mr. CHURCH. I ask unanimous consent that I may read the amendment to the Senate instead of the clerk.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CHURCH. The amendment reads as follows:

On page 46, between lines 8 and 9, insert a new section as follows:

"SEC. 643. In line with the expressed intention of the President of the United States, none of the funds appropriated by this act shall be used to finance the introduction of American ground troops into Laos or Thailand without the prior consent of Congress."

Mr. President, I ask unanimous consent that the name of the distinguished senior Senator from Arkansas (Mr. McCLELLAN) be added as a cosponsor of the amendment.

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

Mr. CHURCH. I ask for the yeas and nays on the substitute amendment.

The yeas and nays were ordered.

Mr. CHURCH. I ask unanimous consent also that the name of the Senator from Tennessee (Mr. BAKER) be added as a cosponsor.

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

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

Mr. CHURCH. I am happy to yield.

Mr. TOWER. Does the amendment mean that we would have to immediately withdraw all ground troops we now have in Thailand? Because we do have Army troops and pre-positioned equipment in Thailand. The way the substitute amendment is written, it would seem to mean the troops we have there now would no longer be permitted.

Mr. CHURCH. I think the answer to the Senator's question is clearly contained in the language of the proposed substitute.

The PRESIDING OFFICER. Will the Senator suspend, so that we may have order?

Mr. MAGNUSON. Mr. President, will the Senator yield another half minute?

I hope the members of the Appropriations Committee, if we are going to have a discussion on the substitute, will see if they cannot come down to the committee room, and we can come back for the rollcall.

Mr. MANSFIELD. Mr. President, I wonder if it would not be possible to vote on this question in 5 minutes. It should not take much discussion. Would that be sufficient, the time to be equally divided?

The PRESIDING OFFICER. Is there objection?

Mr. DOMINICK. Mr. President, reserving the right to object, we should extend it a little longer than 5 minutes.

Mr. CHURCH. I ask unanimous consent for 15 minutes on each side.

Mr. MANSFIELD. One-half hour, to be equally divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CHURCH. Now, Mr. President, I ask for order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. CHURCH. In response to the question of the Senator from Texas (Mr. TOWER), the pertinent part of the amendment reads:

None of the funds appropriated by this Act shall be used to finance the introduction of American ground troops into Laos or Thailand.

It is true that we have personnel there. But the amendment conforms to the expressed intention of the President; it reinforces the presidential position; and yet it asserts the constitutional right of the Senate, in an appropriation bill, to determine how public funds will be used, and makes it clear that the Senate is opposed to the introduction of ground combat troops into either country, unless we first have an opportunity to pass judgment on that question.

Mr. TOWER. Will the Senator yield for a further question?

Mr. CHURCH. I am happy to yield.

Mr. TOWER. The term "ground combat troops" still could include those that are there, because those that we have there are capable of engaging in combat. They are trained for combat. They are not actually in combat, true, and it is not anticipated that they ever will be. We hope they will not be. But they are competent to engage in combat.

Mr. CHURCH. As the Senator knows, we presently have no ground troops in Laos engaging in combat.

Mr. TOWER. That is true.

Mr. CHURCH. The President has said so. The language conforms to the Presidential position, and if there is any question concerning our meaning or intent, it should be cleared up by the discussion we are now having on this floor.

Mr. TOWER. That is all I am trying to do, establish the legislative intent.

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

Mr. CHURCH. I yield.

Mr. PASTORE. If we have any lingering shadows of doubt, why not use the words "to support local forces"? Why not say "the introduction of American combat troops to support local forces"? Then we will have no ambiguity.

Mr. CHURCH. I respectfully say to the Senator that the bill authorizes money, which is now being used, to support local forces in Thailand and Laos. There is no question about that. What we are trying to achieve here is a limitation on the use of money for the purpose of financing the introduction of American ground forces into these two countries.

I think the amendment should be supported. It is in line with the expressed intention of the President and accords with our constitutional responsibilities. Moreover, it puts the President on notice that, if there is ever a change of policy that might involve the possible introduction of American combat forces into these two countries, then, in accordance with the Constitution, that question should be brought back to Congress, and Congress should exercise its will.

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

Mr. CHURCH. I am happy to yield to the Senator from Arkansas.

Mr. McCLELLAN. In the executive session, I raised some questions about the original resolution. This substitute amendment, together with the statement by the distinguished majority leader in executive session in response to my questions, answers the questions that I had in mind, and I am happy to support it. I commend the Senator for its wording and its purpose, and for recognizing that the President has given his pledge, and that we support the President in that pledge.

Mr. CHURCH. I thank the Senator very much, and I appreciate his support.

I now yield to my distinguished cosponsor, the Senator from Colorado (Mr. ALLOTT).

Mr. ALLOTT. Mr. President, I joined in the cosponsorship of this amendment because I believe it is preferable to the very vague, in my judgment, amendment now pending before the Senate. I think it says what the Senate would like to say, and I sincerely hope that Senators will support it.

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

Mr. CHURCH. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, just 1 minute. I think we are trying hard—and I hope the majority leader is listening—to deal with a situation in which, he, feeling bound by the language of the Senator from Kentucky—and I do not blame him—did not want it interfered with, and yet to express what we sense to be the will of the Senate. I think that has been done best by the combined brainpower of a number of us here, and I hope very much that the Senator from Montana (Mr. MANSFIELD) and the Senator from Kentucky (Mr. COOPER) will feel they have been successful, rather

than that some substitute has been suggested for the idea they presented to the Senate. I am confident that my colleague would agree with me in that.

Mr. CHURCH. Mr. President, I certainly concur in what the Senator from New York has said.

This amendment was really offered reluctantly. The Senate has made its decision to speak out, in rejecting the motion to table. It is now clear that we intend to take a position on this very sensitive and important question. I think we should take that position in clear and precise terms, so that everyone—the President of the United States, the administration, and the American people—will know exactly where the Senate stands. We should avoid a repetition of the mistake we made in the Gulf of Tonkin resolution, when we carelessly drafted it, only to discover later that it was much broader than many who voted for it intended.

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

Mr. CHURCH. I yield.

Mr. FULBRIGHT. That one having been broader than we thought, we ought to be careful lest the one that restricts it be broader than we thought. Is the Senator's proposal to be interpreted as an authorization for continued bombing, or expansion of the bombing, in the north?

Mr. CHURCH. No. I would say, after the debate we had in the Senate during the closed session, that no one was quite certain what the original amendment meant.

This substitute amendment is purely limiting in its terms. The bill provides money for local forces both in Laos and Thailand. All my amendment does is to make it clear that none of the money in the bill is to be used for the purpose of financing the introduction of American ground combat troops into Laos or Thailand.

As such, it is a limitation in the bill. It is in line with our constitutional responsibility. I think it avoids the flaw in the Tonkin Gulf joint resolution which was drafted in much broader language than intended at the time Congress voted in such haste.

Mr. FULBRIGHT. Mr. President, to me the important significance is that that was assumed to be a grant of authority. This is a restriction. I am not at all sure that there is, and I do not believe there is, really authority for doing what we are doing now in north Laos. There is a very great question as to whether there is authority.

I wonder what the effect of this will be on the granting of authority by having only a restricted application to ground; that is, the combat troops only.

Mr. CHURCH. No. Nothing in this amendment grants any new authority to the Government.

The question the Senator raises is a separate one. All this amendment does is to limit the use of the money in the bill to make certain it is not employed for the very purpose the Senator from Arkansas does not want.

Mr. FULBRIGHT. There may be other activities in addition to using ground troops for which I do not want them to employ it.

The Senator from Mississippi said a moment ago that he thought the amendment of the majority leader would restrict bombing disconnected or not directly connected with Vietnam.

I do not know as between the two amendments. I do not wish to authorize the President to use ground troops or airpower in a local war in northern Laos which is not directly connected with the Ho Chi Minh Trail and the war in Vietnam.

Mr. CHURCH. I think the Senate should speak plainly or not at all.

The substitute amendment is intended to make our purpose plain. The amendment offered by the distinguished majority leader, I think, is ambiguous and unclear.

If we are to act at all, we should act in a way that is understandable to the Government and to the American people. For that reason, I would hope that the Senate would adopt the substitute amendment.

Mr. HOLLINGS. Mr. President, to be precise and clear, does the amendment say ground troops or ground combat troops? I am trying to get to the point of the Senator from Texas.

Mr. CHURCH. It says ground combat troops.

Mr. HOLLINGS. It says only "ground troops" here. Could the Senator by unanimous consent change that to read "ground combat troops"?

Mr. CHURCH. Yes, that is how my amendment reads. In line with the expressed intention, the pertinent part should read:

> None of the funds appropriated by this Act shall be used to finance the introduction of American ground combat troops into Laos or Thailand without the prior consent of Congress.

If the text of the amendment at the desk does not conform with my reading of the amendment, I ask unanimous consent that it so conform.

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

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

Mr. CHURCH. I yield.

Mr. HART. Mr. President, I hope this is not repetitious. We say that the moneys shall not be used to finance the introduction of American ground combat troops. What about American aircraft and American ships? Are we saying that is all right?

Mr. CHURCH. We are simply not undertaking to make any changes in the status quo. The limiting language is precise. And it does not undertake to repeal the past or roll back the present. It looks to the future.

Mr. HART. Is the existing status quo inclusive of the action by air, ground, and ships, and are we saying now we should cut out the ground forces?

Mr. CHURCH. The Senator is aware of the intent. He is aware from the closed debate. In Laos and Thailand, it was never proposed in any amendment offered to roll back or change the existing situation.

We are striving to prevent Laos and Thailand from becoming new Vietnams. That is the purpose of the amendment.

And I think it is well drafted to serve that purpose.

Mr. HART. We could make it more explicit by eliminating the other features of American might.

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

Mr. CHURCH. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Idaho has 2 minutes remaining.

Mr. CHURCH. Mr. President, I would prefer not to yield the remainder of my time. Could the other side yield some time?

Mr. ELLENDER. Mr. President, I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. GOODELL. Mr. President, would the Senator agree that his amendment grants no authority, that it in no way approves or disapproves of what is going on, but that it is simply directed toward making sure that in the future no ground combat troops will be introduced into Laos or Thailand?

Mr. CHURCH. Without the prior consent of Congress.

Mr. GOODELL. That is correct, That will not be done without the prior consent of Congress.

Mr. CHURCH. The Senator is correct. That is the intent.

Mr. GOODELL. That is vital. The implication has been raised that we are giving some kind of approval to the status quo of what is going on. This is a prohibition against the future occurrence of what is now going on. This grants no authority or approves nothing that is going on.

Mr. CHURCH. The Senator is correct. There is nothing in the text of the amendment itself, or the debate upon it, that could give any basis for such an interpretation. The Senator has correctly construed the amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

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

Mr. ELLENDER. Mr. President, I yield 2 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 minutes.

Mr. MUSKIE. Mr. President, is it the intent of the amendment to prohibit or, at least, to inhibit the introduction of any additional elements of American military strength in Laos beyond the present level of military support for our allies in Laos and Thailand?

Mr. CHURCH. The intent of the amendment conforms with the language used. And the language used, the operative language used, is as follows:

> None of the funds appropriated by the Act shall be used to finance the introduction of American ground combat troops into Laos or Thailand without the prior consent of Congress.

Mr. MUSKIE. Let me put this proposition. It seems to me that by being silent on the question of possible enlargement of our land activity in Laos or Thailand, the Senator's amendment may, in effect, approve that kind of enlargement of our activity in Laos or Thailand.

Mr. CHURCH. I think that the exchange between the Senator from New York and myself negates such an interpretation.

The legislative history is being written right here on the floor.

It would not be practical to attempt to legislate in a way that would unduly hamper the President in relation to the delicate problems he faces in Thailand and Laos.

We have only one objective of saying, at this time, that we do not intend any of the funds we vote in this bill to be used for the purpose of introducing American ground combat troops in Laos or Thailand.

There are many other things we might do, but they are not covered here.

Mr. MUSKIE. That indicates one reason why the distinguished majority leader prefers the ambiguity of his language rather than the language offered in the closed session.

Mr. CHURCH. No one was certain of what the other language meant.

If we are going to act, we should act with sufficient certitude that the Government and the people of the country know what we mean.

Mr. MUSKIE. We all respect, and I respect, the intention on that point. I do not challenge it.

I think this colloquy and the other colloquy has suggested the difficulty of reaching an absolute decision.

Mr. CHURCH. There is that difficulty in any action we take. We have tried to draft the language that expresses precisely the intent we have in mind.

I reserve the remainder of my time.

Mr. FULBRIGHT. Mr. President, this evening, with great public fanfare, the President of the United States is scheduled to make a statement in which—according to all the reports I have seen—he will announce further withdrawal of troops from South Vietnam.

Similar widely publicized announcements have been made concerning earlier cutbacks in troop levels not only in South Vietnam but also in Thailand.

This administration's announced policy of a lessening direct military involvement in Asia has also been given a good deal of publicity.

It is against this chorus of administration public announcements of a policy in one direction that I voice my apprehension over continuing administration silence over policy in Laos where our military involvement appears to be growing rather than declining.

As in Vietnam, the Nixon administration inherited a Laotian policy. Unlike Vietnam, where some changes appear underway, the new administration seems to have accepted everything we have done and are doing in Laos.

Most important for us in the Congress, however, the present administration to date seems determined to continue the potentially dangerous part of that policy—the official secrecy in which our military activities are wrapped—instituted during the Kennedy administration and continued during the Johnson years.

Mr. President, at this late date, is it too much to ask that the administration come forward to the Senate, at least, and give to the majority of the Members here the details on our activities in Laos? The Defense Appropriations Act before us finances those activities. This money bill is the only opportunity the Senate will have to discuss and in any way affect these activities in Laos.

To my knowledge there is no treaty or joint resolution granting any President authority to send military air or ground forces into Laos. We have been told by the State Department there are no executive agreements or written commitments of any kind which have led to our involvement.

Why then are we there and what are we doing?

These questions are not unique to me. For almost 2 months—since the question of Laos was first raised in the Senate Foreign Relations Committee—I and other members of the committee have received a steady flow of letters from people asking the same question. Most of them are concerned because of what they read in the newspapers. But a few are worried because of their direct personal knowledge.

Last week, for example, I received the following from a young man in the Army:

I recently completed a course at Ft. Huachuca, Ariz., called [deleted]. This is a classified course dealing with a new method of electronic warfare to combat guerilla (sic) warfare.

During this course, I asked an instructor, Lt. [deleted], if there was a good chance we would get sent to Laos or Cambodia. He said there was.

Now, my question is this, "What is our relationship to Laos and Cambodia?" and "Are we allowed to have combat troops in either Laos or Cambodia?"

If the Army's action is illegal, I hope that you will expose to the American people the dangers of spreading the war in S. Vietnam to all of Indochina.

Or, take these words from an Air Force officer in Thailand:

In the last few months we have had dozens of Laotian Army battle casualties in our USAF hospital here. In the last few months, I have looked and listened: I have seen and heard much.

Although I do not have a top secret security clearance (and most of what goes on here requires that), any airman can count the numbers of jet fighter-bombers taking off fully loaded with ordnance. Anyone here can pass the runway and see dozens of unmarked aircraft parked at the Air America and Continental Airlines ramp. Any drunken pilot will tell of the fighting, bombing, and killing for which we, here at Udorn, are responsible. Not in Vietnam, not in an open war, but in Laos, 35 miles to the north.

There are many things which I have learned to accept here. The censorship of our radio and TV station; the application of arbitrary curfews; arbitrary rules and regulations. so that we may not badly impress this foreign country from which we wage war. These I can accept, though I think them regulations of unsteady minds.

What I have much difficulty accepting is a secret war in which non-military, CIA sponsored fighters lay the groundwork for U.S. military destruction.

I appeal to you and your fellow congressmen to stop the foolishness of the American involvement in Southeast Asia. Stop the secrecy, stop the fighting, stop the death.

In a few short months, my presence in Thailand has assured me of the wrongness of our position here. We will never win by supplying arms and soldiers. We will only win by destroying the corrupt governments that we now support and by getting our wealth into the mouths of the people instead of into the hands of dishonest leaders of indigent countries.

Or the following from a Navy man aboard a carrier off Vietnam:

It would be conservative to say that at least half or perhaps three-quarters of our sorties, expended ordnance and time for the past six months has been trained solely on Laos. Yet, current military and administration policy forbids the reporting of such activities. It seems evident that the attack aircraft carrier Navy is no longer a force used against North Vietnam but rather is engaged in a private but related war in another country.

The enormous amount of money expended in keeping these carriers operational plus its manpower consumption obligates the military to make public its mission. But of more importance is the long range effects of becoming more deeply committed in Southeast Asia and perhaps the loss of more American lives in the future. Thus, I encourage you to bring these activities before the public as soon as possible.

Or the following from an AID contract employee in Laos who freely discusses the mercenary Lao Army teams that call in U.S. Air Force bombing and concludes:

All of this, although it seems to be more or less common knowledge here, is denied by the Embassy. They have "no comment" on the bombing which is apparently "free" throughout the territory held by the Pathet Lao and North Vietnamese, directed at anything they can see, whether military or not. It appears that once again the U.S. is involved in something of which it has reason to be ashamed, which it does not want the world or its own people to know.

I do not like to see an agency of our government maintaining its own mercenary army in Laos, not subject to the public control intended by our Constitution.

I wish to help the people here, and I believe the U.S. should help them. But if we cannot find any way to help them that does not also require indiscriminate bombing of them and maintaining a mercenary army in their midst, then I do not believe we should be here.

Or the following from another AID contract employee who finished his tour and remained in Laos:

While military activity has de-escalated to some extent in South Vietnam over the last year, it has greatly intensified here in Laos. Restraints which were in force on both sides since 1964 have been lifted. The future presages continued escalation and increased American involvement. The recent investigation of your committee could not have been more timely, and I wish to contribute in any way possible to them.

There is another group of letter writers, women who have a different type of firsthand experience with Laos. They are wives and mothers whose loved ones have been killed or are missing in a war they never knew existed.

The following came from a woman

whose son was killed flying a combat mission over Laos:

On May 23, 1969 we buried an unopened casket in Arlington National Cemetery.

We have written repeatedly inquiring more detailed information. We would like to know who recovered our sons body, Americans or Laotians or whoever it was. We also understand that they were losing OIA pilots like flies in that particular area. We would like to know why they send OIA planes unarmed (like the one our son piloted to his death) in heavily entrenched enemy territory?

We have written to our congressman, but he has been unable to receive much information except that its classified information. There seems to be an awful lot of hush, hush about Laos and I would like to see it come out in the open.

Or take the dilemma of this woman whose husband was lost over Laos, is missing and perhaps captured:

Do you see how all of this secrecy jeopardises any chance of ever hearing about these men? They are no doubt rotting (if still alive) in some jungle stockade probably tended by Pathet Lao. Can you imagine what that is? It is enough to send men off to this questionable "commitment" in Vietnam, but for a military man to then end up missing in a country in which we do not admit to activities, loses him all his rights.

To whom can we turn to beg for information and mercy for these men missing in Laos? My husband has been (if still alive) captured for 3½ years. How much longer can he live? When will someone admit to the truth of the war in Laos? Can we send men to war and then disclaim responsibility for them once they are taken by the so-called enemy?

Mr. President, we are not an Asian kingdom. No President is a king or prime minister, entitled to make secret arrangements and send American men into war with the understanding their activities will not be publicly acknowledged.

Mr. President, the secrecy over our involvement in Laos has gone on too long. It had been my hope that the transcript of the Symington subcommittee's detailed hearings on Laos would have been released by now permitting the Senate and the public an opportunity to study and debate the issue.

The administration, however, has refused to declassify the necessary details and the subcommittee has, correctly I believe, refused to publish a document that it believes would be misleading.

Therefore, because I deeply believe that Members of this body should be aware—as I am—of what they are voting on when they approve the bill we have before us, I have sought to have the administration—through the managers of the bill—provide basic factual information on our activities in Laos.

I would hope that my colleagues would join me in requesting the administration to provide the information. An executive session can be called—if it is so desired—to permit the discussion of that material which the administration considers classified.

I believe the public has a right to know everything it can. But I more strongly believe the Senate and each of its Members has a personal responsibility to his constituents to learn the facts on this matter before he votes.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a copy of a letter I sent to the chairman of the Committee on Appropriations.

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

DECEMBER 12, 1969.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During the past few weeks some members of the Committee on Foreign Relations have examined in depth the nature of American military involvement in Southeast Asia with particular emphasis on Laos and Thailand. It had been our impression that American supported military activities there were directly related to the war in Vietnam and it was with deepening concern that we learned that the United States is becoming directly involved in escalating military activities in Laos.

Furthermore, what once might have been viewed as a small, secret intelligence-type operation has now become of such magnitude that I feel strongly that the Senate should be aware of its size and possible future costs in men and money.

Under these circumstances, I would appreciate it very much if, during Senate discussion of the Defense Appropriation Act, the managers of the bill would provide Members of the Senate who must act on the legislation with answers from the Administration to the questions which I have attached. If the only way this information can be made available to the Senate would be in an executive session, I would hope this could be arranged.

I am sending a copy of this letter and enclosure to Senator Milton Young as ranking minority member of the Defense Appropriations Subcommittee.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

AGREEMENTS WITH LAOS SECRET QUESTIONNAIRE

1. What treaties, agreements or declarations provide the basis for our defense commitment and military assistance to the Royal Laotian Government?

2. What commitment, written or implied, exists between the United States or its agencies and the present Royal Laotion Government or its Prime Minister, Souvanna Phouma?

3. What military assistance, including manpower, material and training, is the United States providing through this bill?

4. As of today, what is the total number of United States military personnel in Laos and describe the manner in which they operate.

5. Describe in detail activities over Laos of the United States Air Force, including both those activities, if any, based in Laos and those, if any, based in Thailand.

If pertinent, include:

a. What, if any, is the current monthly sortie rate over northern Laos for the United States Air Force aircraft?

b. How does that rate, if any, compared to a year ago and two years ago?

c. The contemplated sortie rate, if any, over northern Laos in the coming 12 months.

d. How these sortie rates, if any, compare to United States Air Force sorties directed toward the Ho Chi Minh trail.

6. What, if any, have been the total number of United States military personnel killed, wounded, and missing in northern Laos since 1962?

7. How does this total compare to personnel lost in operations solely against the Ho Chi Minh trail?

8. What is the amount of personnel, operating and maintenance and military assistance funds included in this bill for Laos and Laos-related activities?

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled, "Rogers Admits Laos Arms Role."

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

ROGERS ADMITS LAOS ARMS ROLE
(By Murrey Marder)

Secretary of State William P. Rogers indirectly conceded yesterday that for years the United States has financed, armed and trained a clandestine army of 36,000 guerrillas in Laos.

In the first acknowledgement ever made on the public record, Rogers treated the U.S. involvement in the semi-secret war in Laos as a matter of common knowledge. But Rogers avoided explicitly stating precisely what he was acknowledging, and said there are no plans to stop or change present operations in Laos.

"I had thought that the Congress was familiar with the developments in Laos," Rogers said. "Certainly they are familiar with them now . . . I thought Congress understood it."

"This is really quite extraordinary," said Sen. J. W. Fulbright (D-Ark.). Both were commenting after Rogers testified behind closed doors for three and a half hours before the Senate Foreign Relations Committee, which Fulbright heads.

"It is quite ordinary for a dictatorship," said Fulbright, "but to be conducting quite as large a war as this (in Laos) without authorization is quite unusual."

Fulbright said in an interview Tuesday that through the Central Intelligence Agency, the United States, under three administrations, has been supplying, arming, training and transporting the clandestine Laotian army of Meo tribesman headed by Gen. Vang Pao.

The cost to the United States for military assistance to Laos, Fulbright said, is between $50 and $160 million this year. Other sources said yesterday that about half this amount is used to finance the Meo guerrilla force, and the rest goes to other military needs in Laos. But uncounted in the $160 million total this year, these sources said, are the costs of U.S. bombing support from Thailand for operations in Laos.

Rogers, when newsmen put Fulbright's specific statements to him, said:

"Well, the operations in Laos, as you know, were started in the time of President Kennedy" and continued through the Johnson and Nixon administrations. When he was asked if they will be halted now, Rogers responded, "No, I don't think there is going to be a change in policy, not now."

There are no U.S. "ground forces in Laos," Rogers reiterated, but there are still "45,000 North Vietnamese forces in Laos." It continues to be the United States' hope, he said, that an end to the war in Vietnam will solve the problems of Communist penetrations into Laos and Cambodia as well.

Newsmen asked Rogers for comment on Fulbright's charge Tuesday that the extent of the U.S. involvement in Laos may be unconstitutional. "I doubt very much if it is unconstitutional," replied Rogers.

"What about the public's 'right to know?'" asked a reporter. Said Rogers, "Well, I think the public, if they have been reading the papers, know."

Fulbright, when told later that Rogers said he expects no change in U.S. policy in Laos, said: "I regret it, if that's what he said."

Hearings on Laos, which have been conducted in executive session by a subcommit-

tee headed by Sen. Stuart Symington (D-Mo.), show that the United States is "enormously over-committed" in Laos, Fulbright said, and "I don't think there is any authority for it."

Symington declined to make any direct comment at this time on his Laos inquiry, except to say, "I've never known him (Fulbright) to make a misstatement in this field."

In Rogers' testimony yesterday, Fulbright said, "There was no effort whatever to deny what was in the papers" about U.S. clandestine operations in Laos, and Fulbright's comments on them.

The Symington subcommittee now has finished taking testimony on Laos. The question is how much of a struggle there will be between the subcommittee and the Nixon administration over making the testimony public. A major witness in the inquiry, on Tuesday, was CIA Director Richard Helms.

There is disagreement about the degree to which Congress has been aware of the clandestine U.S. operations in Laos in support of anti-Communist forces there. Senate Democratic leader Mike Mansfield (Mont.), a specialist on Southeast Asia, was quoted yesterday as saying that "I've really found nothing new in the (Laos) hearings that I didn't know."

But Fulbright and other senators said they had no indication that covert U.S. activity in Laos was more than what Fulbright called "very minor, peripheral," apart from "the bombing of the Ho Chi-Minh trails." With the present administration's contention that it thought Congress "understood" what was going on in Laos, pressure is now likely to mount for official disclosure of the details of the CIA-run operation there.

Mr. ELLENDER. Mr. President, it will be recalled that before we went into executive session, I suggested that the amendment be taken to conference, and it seems that this amendment places the Senate in a very confusing position.

I note that this amendment is based on a contingency which is legislative. I make the point of order that this amendment is not in order, in that it is legislation on an appropriation bill.

The PRESIDING OFFICER (Mr. HUGHES in the chair). The Chair sustains the point of order.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative 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.

Mr. CHURCH. Mr. President, it is the understanding of the Senator from Idaho that the inclusion of the phrase "without the prior consent of Congress" at the very end of the proposed amendment renders it legislative in character and therefore subject to the point of order.

The PRESIDING OFFICER. The Senator is correct.

Mr. CHURCH. I invite the attention of the Senate to the fact that the final phrase is not necessary, in any way, to carrying out the full intent of the Senate in regard to the real question before us. The defect in the amendment, as it is presently written, can be cured simply by striking this final phrase.

Mr. JAVITS. The Senator is correct about that, because this must be read with the commitments resolution, which does call for the way in which Congress may consent to such a situation.

Mr. CHURCH. That is correct. I appreciate the comment by the Senator from New York.

Therefore, I offer the amendment in new form, striking the words "without prior consent of Congress" from the text. So that the revised amendment would read:

SEC. 643. In line with the expressed intention of the President of the United States, none of the funds appropriated by this Act shall be used to finance the introduction of American ground combat troops into Laos or Thailand.

I ask for the yeas and nays on the amendment, Mr. President.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho (Mr. CHURCH). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from West Virginia (Mr. RANDOLPH) is absent on official business.

I also announce that the Senator from Washington (Mr. JACKSON) is absent because of a death in his family.

I further announce that, if present and voting the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Washington (Mr. JACKSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER) is necessarily absent.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Iowa (Mr. MILLER) would vote "yea."

The result was announced—yeas 73, nays 17, as follows:

[No. 233 Leg.]

YEAS—73

Allott	Dole	Javits
Baker	Dominick	Jordan, N.C.
Bayh	Eagleton	Jordan, Idaho
Bellmon	Fannin	Magnuson
Bennett	Fong	McClellan
Bible	Goldwater	McGovern
Boggs	Goodell	McIntyre
Brooke	Gravel	Metcalf
Burdick	Griffin	Mondale
Byrd, Va.	Gurney	Montoya
Byrd, W. Va.	Hansen	Moss
Cannon	Harris	Murphy
Case	Hartke	Nelson
Church	Hatfield	Packwood
Cook	Holland	Pastore
Cotton	Hollings	Pearson
Cranston	Hruska	Pell
Curtis	Hughes	Percy
Dodd	Inouye	Prouty
Proxmire	Smith, Ill.	Tower
Ribicoff	Sparkman	Williams, Del.
Saxbe	Spong	Yarborough
Schweiker	Stevens	Young, N. Dak.
Scott	Talmadge	
Smith, Maine	Thurmond	

NAYS—17

Aiken	Gore	McCarthy
Allen	Hart	McGee
Eastland	Kennedy	Muskie
Ellender	Long	Stennis
Ervin	Mansfield	Young, Ohio
Fulbright	Mathias	

NOT VOTING—10

Anderson	Mundt	Tydings
Cooper	Randolph	Williams, N.J.
Jackson	Russell	
Miller	Symington	

So Mr. CHURCH's amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ALLOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the Cooper amendment, as amended.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ELLENDER. Mr. President, before we proceed with the vote on the amendment, I would like to announce that we shall try to complete action on the bill this evening. As far as I know there are only two more amendments. One of them is sponsored by the Senator from Missouri (Mr. EAGLETON), and deals with the main battle tank 70. The committee is willing to accept this amendment because of a letter received from the Deputy Secretary of Defense in respect to a cutback of $20 million from the $50 million recommended for this tank.

The next amendment will be offered by the Senator from Maine (Mrs. SMITH), and it deals with the ABM. Since there has been so much discussion on the ABM heretofore, I am very hopeful that we can get through with these two amendments this evening. I understand the distinguished Senator from Maine (Mrs. SMITH) has a speech which she will make.

I hope other Senators will not take too much time in discussing this matter inasmuch as we had this matter before us for 2 months.

Mr. ALLOTT. I have one short matter, not an amendment but a legislative clarification.

The PRESIDING OFFICER. The question is on agreeing to the Cooper-Mansfield amendment, as amended. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from West Virginia (Mr. RANDOLPH) is absent on official business.

I also announced that the Senator from Washington (Mr. JACKSON) is absence because of a death in his family.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Washington (Mr. JACKSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER) is necessarily absent.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Iowa (Mr. MILLER) and the Senator from Kentucky (Mr. COOPER) would each vote "yea."

The result was announced—yeas 80, nays 9, as follows:

[No. 234 Leg.]

YEAS—80

Aiken	Gore	Mondale
Allott	Gravel	Montoya
Baker	Griffin	Moss
Bayh	Gurney	Murphy
Bennett	Hansen	Muskie
Bible	Harris	Nelson
Boggs	Hart	Packwood
Brooke	Hartke	Pastore
Burdick	Hatfield	Pearson
Byrd, Va.	Holland	Pell
Byrd, W. Va.	Hollings	Percy
Cannon	Hruska	Prouty
Case	Hughes	Proxmire
Church	Inouye	Ribicoff
Cook	Javits	Saxbe
Cotton	Jordan, N.C.	Schweiker
Cranston	Jordan, Idaho	Scott
Curtis	Kennedy	Smith, Maine
Dodd	Magnuson	Smith, Ill.
Dole	Mansfield	Spong
Dominick	Mathias	Stevens
Eagleton	McCarthy	Talmadge
Fannin	McClellan	Williams, Del.
Fong	McGee	Yarborough
Fulbright	McGovern	Young, N. Dak.
Goldwater	McIntyre	Young, Ohio
Goodell	Metcalf	

NAYS—9

Allen	Ellender	Stennis
Bellmon	Ervin	Thurmond
Eastland	Long	Tower

NOT VOTING—11

Anderson	Mundt	Symington
Cooper	Randolph	Tydings
Jackson	Russell	Williams, N.J.
Miller	Sparkman	

So the Cooper-Mansfield amendment, as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. EAGLETON. Mr. President, I call up my amendment, which I offer on behalf of myself and the Senator from Oregon (Mr. HATFIELD).

The PRESIDING OFFICER. The clerk will state the amendment.

The ASSISTANT LEGISLATIVE CLERK. It is proposed, on page 16, line 4, to strike out "$4,264,400,000" and insert in lieu thereof "$4,254,400,000".

THE MBT-70

Mr. EAGLETON. Mr. President, this year the Congress of the United States has begun to reassert its right, and, indeed, its duty, to scrutinize spending on defense as carefully as it does other smaller, but no less important, programs. In this vein, I wish to commend, as I am sure the American taxpayer does, the Senate Appropriations Committee under its distinguished chairman, Senator RUSSELL, for cutting much of the fat from Department of Defense requests.

H.R. 15090 as reported by the Senate Appropriations Committee is $8,407,544,000 less than the original budget request; $5,945,544,000 less than the revised budget request, and $627,392,000 under the amount allowed by the House.

Conflicting pressures and reasons converged this year to make these cuts, and even deeper ones, possible.

The overriding need to control rampant inflation—causing prices to rise at more than 5 percent per year—at times at 6.4 percent, the highest rate in 18 years—and interest rates to climb to 8.5 percent—driving many young Americans out of the housing market and many senior citizens to the brink of despair—certainly was an important factor in defense cuts.

The need to exercise prudence in governmental spending of all public moneys, especially the least economically productive type—military spending—has never been more clear.

Reasonable and responsible cuts, such as those recommended by the Appropriations Committee, will assist in curbing inflation—and should be hailed by every taxpayer.

And yet the need for increased spending in some domestic areas has never been more clear. Recognition of urgent domestic needs, so long untended, and domestic challenges so long unmet, make the redirection of Federal moneys all the more imperative.

The Commission on Violence recently argued that $20 billion per year must be found to reconstruct American society if we are to avoid disaster. It cannot all be found in one year, but a start must be made now—and an important step toward that goal is the restoration of sanity to our search for security.

We, as legislators, need only to reread the all-too-familiar litany of pressing, recognized, and still unmet domestic needs to understand the urgency for action and the danger of continued inaction. And the citizen driving in polluted air on crowded, unsafe, often antiquated thoroughfares which run through the poverty-bound slums of our dilapidated cities to the fear-bound suburbs understands it, too.

The time to channel public moneys to meet the domestic challenges of the latter third of this century is now. And decreased defense spending is necessary if funds are to be forthcoming.

But perhaps the most important factor in 1969 was the discovery that the Department of Defense is pursuing research and development of new weapons systems as well as their procurement in a manner that can charitably be described as often haphazard and sloppy.

Taxpayers find themselves saddled with $20 billion in cost overruns on 35 weapons systems currently under development—and they are angry. They recognize that substituting the term "cost growth" for "cost overrun," as the Department of Defense apparently plans to do, is not enough. Waste is not a rose by any other name and no amount of "Pentagonese" can make it one.

Mr. President, I ask unanimous consent that the following article from the December 17, 1969, edition of the Federal Times be entered in the RECORD at this time along with a recent article entitled "Defense Deletes 'Cost Overrun,'" by Bernard D. Nossiter of the Washington Post.

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

[From the Federal Times, Dec. 17, 1969]

COST OVERRUNS OF $20 BILLION SEEN FOR 35 CURRENT WEAPONS SYSTEMS

WASHINGTON.—A Defense Department report indicates taxpayers are to be saddled with about $19.9 billion in cost overruns on 35 weapons systems currently under development.

The quarterly reports, which cover only major procurement projects, are the first to be received by the Senate Armed Services Committee. And, Sen. John Stennis, D-Miss., chairman, said he is not very happy with the way the reports are prepared.

Just before Stennis announced the massive overruns, Sen. William Proxmire, D-Wis., said a Government Accounting Office investigation revealed massive profit margins in smaller defense contracts.

Citing one example, Proxmire said GAO had found that an "Air Force procurement unit, the Oklahoma City Air Materiel Area (OCAMA), has been so lax in keeping track of prevailing prices in the market that a California contractor realized a 1,403 per cent profit on one small-item contract negotiated by OCAMA."

Stennis said programs covered in his reports are "estimated to cost a total of $94 billion with additional programs to be added in future periods."

He said the largest overruns occurred in eight project areas.

$1.379 billion in the Poseidon submarine-launched ballistic missile program.

$4.011 billion in the F111 series aircraft program.

$1.661 billion in the F15 aircraft program.

$1.049 billion in the SRAM missile program.

$2.586 billion in the Mark-48 torpedo program.

$1.540 billion in the DXGN nuclear frigate program.

$1.685 billion in the DD963 destroyer program.

$1.591 billion for the C5A program, which does not include 81 planes dropped by the Air Force.

Stennis pointed out that the Navy's Mark-48 torpedo project experienced the greatest overrun. Its costs have grown 395 per cent over the initial estimate.

Prediction of cost growth over original estimates, Stennis said, is difficult. He said, "One factor is that both the original and current estimates are projections into the future which is a challenging and not very exact science."

Factors with which Pentagon cost experts must content include inflationary factors, technological improvements to weapons systems, increase of the initial estimate cost baseline and program delays.

He did not arbitrarily excuse overruns, especially those "which are due in whole or in part to poor or inadequate managment or fiscal control."

Looking over the shoulders of Pentagon officials, Stennis cautioned, will be members of his staff, and "where the situation requires a more extensive analysis, the General Accounting Office has been requested to review the data and accumulate such information as may be required."

He feels this in part may force the Defense Department to exercise better stewardship over public funds.

Already scrutinized by GAO, Stennis mentioned, are the SRAM, Condor and Cheyenne programs. Under review are the F111, Poseidon P3C and Minuteman procurement projects.

The Defense Department has been asked by the committee to improve the quality and scope of its reports. Noting that "growing pains" in the reports were anticipated, Stennis said:

"The Defense Department agreed that there is room for improvement in the reports and were working towards a complete presentation of meaningful data to the committee."

Meanwhile, Proxmire said he believes the "exorbitant" profits contractors are realizing on small purchase contracts, taken in total, "could result in excessive profits exceeding those on major weapons systems."

"The difficulty," Proxmire said, "is that contracts and subcontracts under $100,000 are not subject to the requirement of the Truth in Negotiations Law for submission of cost or pricing data. The rationale is that on small purchases involving common small items, the government procurement unit can easily keep track of prevailing prices on the item."

He said the GAO report which he received indicated that Lionel-Pacific Inc. of Anaheim, Calif., was awarded 22 contracts from OCAMA between 1967 to 1968. It suffered losses on two contracts but for the rest netted profits ranging from 12.9 to 1,403 per cent.

"The total dollar amount of the 22 contracts was $88,547 but of that amount only $25,612 represented costs incurred. All the rest, a total of $62,935, was profit for an average of 245.7 per cent."

Proxmire said the Renegotiation Board, "which could do much to correct abuses like this, is barred from initiating proceedings on contracts of less than $1 million."

GAO called the high profits garnered by Lionel Pacific "on some of the procurements we reviewed" largely the fault of "government and prime contract procurement officials" who simply failed to get a realistic price.

It said, "Similar findings were brought to the attention of DoD in a report of the subcommittee for special investigations, House Armed Services Committee, in January, 1968, resulting from its review of small purchases at several procurement activities on the military departments, including the Defense Supply Agency (DSA)."

And GAO told Proxmire that OCAMA is not "effectively" heeding instructions to improve buying practices.

"In our opinion, this demonstrates the continuing need for management officials in DoD and the military services to closely monitor the procurement practices of the military buying activities and to take steps to insure that buyers make every effort to obtain reasonable prices."

Elmer B. Staats, Comptroller General of the United States, said GAO was pursuing its investigations into the "award and administration of contracts for small purchases in DoD, and will examine into the purchases by OCAMA to determine what further action should be taken to achieve reasonable contract prices."

PROJECTED COST OVERRUNS

	Cost	Overruns
Sheridan armored vehicle	548.0	141.6
Shillelagh antitank missile	380.3	192.9
Lance XRL missile	421.9	50.4
Safeguard ABM	4,185.0	(1)
Cheyenne helicopter (R. & D. only)	125.9	78.0
SSN-688 attack submarine	4,192.4	277.8
DD-963 destroyer	1,737.6	1,684.5
CVAN-68 nuclear carrier	427.5	116.7
CVAN-69 nuclear carrier	519.0	(1)
LHA landing helicopter assault ship	1,385.5	39.7
DXGN nuclear frigate	3,335.0	1,539.9
Poseidon missile	4,272.0	1,379.0
Phoenix air-to-air missile	903.4	595.5
Sparrow air-to-air missile	265.6	(2.9)
Sparrow-F air-to-air missile	246.3	179.6
Walleye II TV-guided glide bomb	340.7	8.0
F14 A/B Navy fighter plane	6,166.0	207.0
P3C land-based antisubmarine plane	2,265.3	(3.6)
S3A carrier-based antisubmarine plane	2,891.1	(1)
A7E Navy attack plane	1,432.8	484.8
Mark-48, Mod 0 torpedo	655.2	2,585.6
Mark-48, Mod I torpedo	63.8	69.0
Condor missile (R. & D. only)	126.0	56.2
SRAM missile	421.0	1,049.1
Maverick missile	382.1	(15.1)
Minuteman II ICBM	4,519.1	208.4
Minuteman III ICBM	4,375.9	760.7
C5A Air Force transport	3,413.2	1,590.7
A7D Air Force attack plane	2,012.1	(1)
B1 Air Force bomber	8,954.5	312.8
F15 Air Force fighter	6,039.0	1,661.0
AWACS airborne warning and control system	3,266.6	4,011.0
F111 A/D/C/E (fighter)	738.2	468.9
FB111 (fighter-bomber)	579.4	161.0
RF111 (reconnaissance plane)	74,240.1	19,888.2

[From the Washington Post]

DEFENSE DELETES "COST OVERRUN"

(By Bernard D. Nossiter)

The Pentagon is banishing the term cost overrun from the language.

In an unpublicized memo of Nov. 26, David Packard, Deputy Secretary of Defense, proposes that "cost growth" be substituted in every instance in which the services now use the familiar phrase, "cost overrun."

The memo, a copy of which has been obtained by The Washington Post, was addressed to the secretaries of the three services and six other high officials involved with procurement.

According to Packard, the term "cost overrun" creates "confusion in the minds of many" and "cast(s) improper reflection on the true status of events."

His memo recalls that a "task force" was set to work on the problem. "The committee started with a general and imprecise term, 'cost overrun,' and discarded it as unworkable, and replaced it with the term 'cost growth,' including a structured set of definitions related to it, which are workable."

"I would like to have your views," Packard concludes, "prior to taking further action to incorporate this set of terms in those directives, instructions and regulations which require reporting of cost growth. When adopted, the often misunderstood term 'cost overrun' will disappear from use within the Department."

Procurement specialists pointed out that the substitution will save the Pentagon from considerable embarassment. The term Packard would obliterate has now become so much a part of the language that the House Appropriations Committee, explaining its $5.3-billion cut in the military budget, called this "the year of the cost overrun."

The project to build more C-5A airplanes ran into its first deep difficulties when it was discovered that high Air Force officials had suppressed from monthly reports the amount of the "cost overrun." The Air Force has now cut this program back from 120 to 81 planes.

Attached to the Packard memo is a list of nine causes for "cost growth." Like the term itself, they suggest nothing that could be attributed to faulty or venal performance by the military or its suppliers.

Among the nine "events causing 'cost growth'" are changes in the required performance of a weapon, changes in the delivery date, changes in the economy and "acts of God."

Procurement experts observed that the list did not include: poor estimating of original costs; "buying-in," the technique of deliberately under-estimating costs to sell a project to the Secretary of Defense and Congress; and inefficient management and control.

Mr. EAGLETON. Mr. President, the Congress, too, is now cognizant of the enormous waste that goes on in the Department of Defense.

The report of the House Appropriations Committee on the Department of Defense appropriation bill, 1970, states:

Whether it is termed cost overrun, or cost growth, or cost increase, fiscal year 1969 can well be characterized as the "Year of the Cost Overrun." While the Committee has consistently inquired into cost overruns from year to year, no single year stands out in which inordinate escalations in costs for Defense weapon system developments and procurements have been surfaced to the extent they have been this year during the hearings . . . This situation greatly disturbed the Committee and it most certainly has an unfavorable impact upon the American taxpayer.

The main battle tank—MBT-70—has the dubious distinction of exemplifying most of the committee criticisms.

The House discusses two of the major factors in cost increases—failure to plan adequately when a project is undertaken and the tendency to "gold plate" a weapon system with many qualitative improvements which add little to the overall effectiveness.

The House report states:

Changes made in weapon system programs are a major contributor to cost increases. Engineering changes, system performance changes, and schedule changes during both the development and production phases have accounted for 39.4 per cent of the cost increases cited, according to figures provided by the Secretary of Defense. This practice points up the need for better definition of requirements. After such definition, "nice to have" or desirable changes cannot be made without pyramiding of cost increases. Engineering changes and system performance changes are not only costly in and of themselves, but they may well cause a slippage or change in schedule which also results in added costs.

Mr. President, the MBT-70 was started in 1963 as a joint venture with the Federal Republic of Germany with few specific requirements at all.

It began as a quest for a "dream" tank, rather than as a weapon designed to fulfill a specific mission or a specific threat.

Indeed, the Army had no clear idea of what the configuration of the MBT-70 would be until R.D.T. & E. was well underway.

According to Maj. Gen. Edwin H. Burba—former head of the MBT-70 project—as reported in an interview which appeared in the September 1967 issue of Armed Forces Management magazine:

For the first time in the history of modern tank design, the designers of the MBT–70 were given *carte blanche* to optimize basic design configurations into which they put in the best scientific engineering knowhow.

The "designers" referred to in the interview, according to the DOD, are the contractors on both sides, plus the joint engineering agency groups not known to be overly concerned with cost.

General Betts, Army Director of Research and Development, explained the spectacular rise in R. & D. costs in these terms:

For the first estimate we did not have a design. We did not have any really detailed idea of what would go into the tanks so the early estimates were very summary in nature.

The most summary kind of cost estimates have become the hallmark of the MBT–70.

As a recent GAO report on the MBT–70 states:

In 1965 the joint MBT–70 program was estimated to cost $138 million. The 1968 estimate was $303 million.

Estimated research, development, test and evaluation (RDT&E) costs for the United States participation increased from $83.7 million in 1965 to $178.3 million in 1968, or an increase of 113 per cent. Additional costs, such as turbine development, MBT salary support, and Advance Production Engineering (APE), were not included in the original joint estimate. These costs will be incurred before production starts and will increase the total cost of the MBT–70 development, including RDT&E and APE, by $440 million (to a total of $524 million), an increase of 525 per cent.

In addition, $204.1 million of this amount is programed for development of the second and third generation MBT pilot models and for ancillary vehicles, advanced component development, and a trainer, none of which were included under the joint program.

The House report also warns of excessive "gold plating." It states:

Designers have placed far more emphasis on high performance than on the need for durable and damage resistant equipment. A continuously high percentage of inoperable weapons has become accepted as routine. The specifications for new weapons too often call for the scientifically possible rather than the militarily practical. Excessive "gold plating" has too often been the practice under which the last five per cent of the performance specified for a new weapon accounts for fifty per cent of the complexity and cost of the weapon.

After a 525-percent increase in R. & D. cost in just 4 years—an increase which has driven the projected per-unit cost of the MBT–70 from $420,000 to $720,000—and after continuous technical difficulties that have pushed the production date back at least 5 years from late 1969 to 1974 or 1975, almost everyone recognizes that something is wrong. And most agree that "gold plating" is a major factor.

General Betts describes the line that the Army has been unable to draw in regards to the MBT–70 in an interview in the July 1969 issue of Government Executive:

The most important problem is that we have given it a great deal of capability and that means a very expensive vehicle. The problem is whether we have put more in this vehicle than we require. The toughest question is whether we really need everything that's in this tank.

In an exclusive interview with George Wilson of the Washington Post, Secretary of Defense Laird expressed dismay at the amount of gadgetry which has resulted in expensive breakdowns and repairs on the MBT–70. He wondered if we need all these extravagant MBT–70 devices when the Russians get along well with simpler equipment.

On September 9, 1969, Deputy Secretary David Packard expressed similar doubts, conceding that—

Clearly, insufficient attention had been given to the problems involved: specifically, a number of possible trade-offs and cost effectiveness factors had not been adequately considered.

The House Defense appropriations report is even more specific. In appropriating $30 million for continued research and development it admonishes:

In its present design, the MBT–70 tank is overly sophisticated, unnecessarily complex and too expensive for a main battle tank. The Committee feels strongly that when this program is re-evaluated in December 1969 serious consideration should be given to the possibility of terminating the international aspect of this joint development program. The most prudent use of the funds provided for the MBT–70 this year could be for the U.S. to design a tank with far less sophistication, a tank that can be produced at about a third of the cost now estimated for the current design.

Mr. President, even if these basic—almost classic—mistakes can be corrected, there is still substantial doubt about the tank's strategic rationale.

As we have seen, the MBT–70 was approved on the basis of expenditure projections far below those which have occurred, and time schedules far better than those met. Once approved, the project gained momentum. It achieved a sort of self-perpetuating justification as the Army deemphasized alternative systems, thus creating a greater need and urgency for a new system than would otherwise have existed.

The Army now justifies the MBT–70 because of the quantitative superiority of tank forces in the Warsaw Pact as compared with NATO. And yet this year's House Armed Services Subcommittee report indicates that the M60A1 tank, which is recognized to be equal or superior to the Soviet tank, is not being produced in quantity. The result is fewer tanks at higher cost—about $220,000 per unit. Another House Armed Services Subcommittee report states in part:

Since 1959 the M60A1 main battle tank has been the mainstay of the Army armored units in Europe and the Army currently considers this tank equal to or superior to Soviet-designed tanks. . .

Not only did the Army fail to maintain an adequate production rate of M60A1's during the 1960's, but they slowed down the production line and even closed it in 1967 to produce the M60A1E2, which still cannot be deployed because of deficiencies.

U.S. armored capability was further degraded by the sale of M60A1's to countries other than NATO allies between fiscal year 1964 and fiscal year 1969.

This year the Senate Appropriations Committee concurred in the House reduction of $20,000,000 for procurement for the M60A1 while recommending $20,000,000 for prototypes of the MBT–70—which at very best is 5 years away from production.

If the threat is as grave as some would have us believe, this reduction is hardly responsible action.

Antitank weapons, which are presumably an important part of our response to the Soviet tank threat, have been downgraded in U.S. defense planning and given low priority in the past.

In the fiscal year 1969 Defense Appropriations hearing, General Miley, Assistant Deputy Chief of Staff for Logistics—Programs and Budget—stated:

The Secretary of the Army postponed the fiscal year 1968 procurement of TOW antitank weapons for higher priority items.

The Dragon antitank weapon was similarly downgraded.

So while the Army failed to produce enough M60A1's, it also failed to push for antitank weapons—a curious pattern of priorities which leads one to question the seriousness of the Soviet tank threat, a threat which is evaluated on pages 29 and 30 of the "secret" portion of the GAO study of the MBT–70.

It is entirely pertinent to ask whether the MBT–70 is truly a necessary and effective means of countering the tank threat in Europe—however that threat is evaluated.

Certainly the GAO raises some relevant questions. Its report points out:

The need for and role of the complex, large, expensive tank in future warfare would appear to warrant assessment.

In the full text of the GAO report, beginning on page 24 of the "secret" material, there is an interesting discussion of the role of the tank which I commend to my colleagues for careful attention.

And yet, in view of the overwhelming doubt, the MBT–70 rolls on. It was funded up to authorized levels by both the House and Senate.

On August 8, Senator HATFIELD and I were joined by Senators MCGOVERN, MONDALE, MOSS, PROXMIRE, and YARBOROUGH in introducing an amendment which would have temporarily delayed further development on the Main battle tank until the Comptroller General had an opportunity to report to the Congress on the practicability and cost effectiveness of the highly complex MBT–70.

A compromise was reached with the distinguished Senator from Mississippi, Senator STENNIS, the chairman of the Armed Services Committee. Our amendment was withdrawn, the chairman requested a study by the GAO, and the committee met again after the completion of the study to decide the future of the tank.

The full GAO report was very useful, and in my opinion, highly critical. It cast doubt over the future role of tanks generally, much less one so expensive and complex as the MBT–70.

The GAO study also discussed an intelligence estimate, dated August 15, 1969, an estimate not available at the time of the first debate, which in my

opinion cast further doubts about the future of the threat and the need for an MBT–70 to meet it.

And finally, the study summarized the more recent OASD (SA) study of the MBT–70's cost effectiveness, and came to conclusions—classified "secret."

Essentially, as the MBT–70 is now constituted, it is amazing that it is seriously considered a viable alternative to meet a partially self-created threat—especially in light of the GAO report and various Pentagon studies.

On September 9 of this year, Deputy Secretary of Defense Packard took the first hopeful step toward bringing this strange episode on weapons development and procurement to an end.

He announced he had asked his design people "to make a complete review of this program to identify what features could be eliminated while still retaining adequate capability, to determine whether further duplicate developments could be eliminated, to assess the remaining technical uncertainties, and to undertake to have this study completed by December of this year.

He then stated:

> At that time I will have the opportunity to review the entire program and make a decision on whether we should go ahead, and if so, how.
>
> I have further directed that the expenditures between now and the December review decision date be kept at an absolute minimum consistent with getting the data needed for the decision.

He specified that minimum as $12 million for R. & D. and promised to put a hold on the $20 million authorized for production-based support.

Promising to report to the Congress, Packard concluded:

> I am not here today to defend the way this program has been handled in the past. I am here to ask you for the opportunity to reorganize this program in a manner which will give our army a superior tank at a cost which can be justified. I will, of course, keep you informed as my review progresses and of the decision we make in December.

Mr. President, based on the foregoing analysis of the trials and tribulations of the MBT–70, it is my frank opinion that the funding of this program should be significantly cut.

I realize, even if the Defense Department were to decide today to terminate the MBT–70, that some funds would be necessary to cover termination costs, and so forth.

The September 2, 1969, GAO study previously referred to says in part:

> If decision is made to terminate the MBT–70 program, . . . funds would be required to cover termination costs and development effort on other programs. The $30 million RDT & E funding level could be used for this purpose.

However, I can find little or no justification for the appropriation of $20,000,000 for production-based support. This item, which would provide funds among other things for additional prototype models, would be throwing good money after bad.

I realize that at this point in time, while we are still awaiting Deputy Defense Secretary Packard's December review, I would perhaps be assuming too great a burden of persuasion to ask the Senate to cut the entire $20,000,000 for production-based support.

Therefore, Mr. President, I send to the desk an amendment on behalf of myself and Senator HATFIELD which would cut one-half of the $20,000,000, that is $10,000,000, from the budget.

I realize that when considered against the totality of the Defense appropriations bill, $10,000,000 may seem inconsequential.

But it is not.

Early this session the Congress was asked to fund the MBT–70 at $44.9 million dollars for R. & D. and $25.4 million for production-based support.

The Senate Armed Services Committee reduced R. & D. authorization to $30 million, and the Senate House Conference reduced production-based support to $20 million.

The amendment which I, along with Senator HATFIELD, offer today will reduce production-based support by another $10 million, bringing the total reductions for the MBT–70 program this year to more than $30 million—a 40-percent reduction from the original request.

Speaking for myself and I think also for Senator HATFIELD, who was the principal cosponsor with me of the original MBT–70 amendment, and is the cosponsor of the instant amendment, I believe Congress will have acquitted itself well if this amendment is adopted.

I would hope that the distinguished acting chairman, Senator ELLENDER, could see fit to accept this amendment as a sound one under the circumstances in which we currently find ourselves.

Mr. ELLENDER. Mr. President, there is a parliamentary problem we have to deal with here. The distinguished Senators from Missouri and Oregon are proposing to reduce an amount that is now in the bill, and following the disposition of that amendment there will be an amendment offered by the distinguished Senator from Maine (Mrs. SMITH) affecting the same figure.

I ask unanimous consent that agreeing to the amendment now being considered will not affect the right of the Senator from Maine (Mrs. SMITH) to amend the same figure.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ELLENDER. With reference to the amendment offered by the Senator from Missouri, I wish to say that this matter was considered by the committee, and in a letter from Mr. Packard to the chairman of the committee, dated December 15, 1969, concerning the NBT–70 tank, in the closing paragraph of the letter, Secretary Packard states:

> Of the total funds authorized of $50 million in the FY–70 Defense authorization ($30 million for RDT&E and $20 million for production base support) it is now clear that in any event I will not authorize funding in excess of $40 million.

The amendment offered by the distinguished Senator from Missouri would reduce that amount from $50 million to $40 million. Because of the letter from which I have just quoted, the committee is willing to accept the amendment of the Senator from Oregon.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the entire letter of the Deputy Secretary of Defense, Mr. Packard, addressed to the chairman of the Committee on Appropriations (Mr. RUSSELL), be printed in the RECORD at this point.

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

THE SECRETARY OF DEFENSE,
Washington, D.C., December 15, 1969.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Appropriations, U.S. Senate.

DEAR SENATOR RUSSELL: I am responding to your inquiry concerning my review of MBT–70. Both the Department of the Army and Department of Defense staffs are analyzing in depth the MBT–70 and alternative solutions. I am scheduled to receive their findings by the 18th of December.

Based on information to date, I have concluded that I will not approve development of MBT–70 under the current design. By 15 January 1970, I will have made a decision between a new austere version of MBT–70 and other options that are available and should by that date have a report in the hands of your Committee.

It should be noted that this is a joint program under a basic agreement between the governments of the United States and the Federal Republic of Germany. The agreement prescribes that unilateral termination by either nation must be preceded by a 60 day notice of intent to terminate.

Of the total funds authorized of $50 million in the FY 70 Defense authorization ($30 million for RDT&E and $20 million for production base support) it is now clear that in any event I will not authorize funding in excess of $40 million.

DAVID PACKARD,
Deputy.

Mr. HATFIELD. Mr. President, I am pleased to cosponsor this amendment with the Senator from Missouri to cut $10 million from the procurement budget of the Main battle tank. The Senator from Missouri has demonstrated extraordinary commitment, zeal, and determination in his continual expression of concern regarding this expenditure of the taxpayers' money. It has been a privilege to work with him as the principle cosponsor of the amendment to the authorization bill and now this amendment regarding the MBT–70.

At the conclusion of the debate on the authorization bill, I stated, regarding the agreement we had reached:

> It is our hope that the report will be decisive, so that we can all agree to it; and if it is negative, we hope that we will then be able to reach some agreement as to what our next action should be; but it would not prejudice any of the sponsors of the amendment from taking future action on the appropriation bill.

As the Senator from Missouri has pointed out, the GAO study was negative, confirming our doubts and suspicions. And we have now reached agreement regarding our next action: to cut $10 million from the procurement budget of the MBT–70, and to then await further review by Secretary Packard.

I, like the Senator from Missouri, remain convinced that the investment of any funds in this program is a mistake, but have agreed to this measure as the most practical action to take at present. Of course, we will continue to watch the future of this tank with the greatest in-

terest, remaining deeply skeptical that the investment of any further funds can bring positive benefit.

Mr. President, I wish to raise one other consideration regarding this tank. This joint venture with the Federal Republic of Germany was signed in August of 1963. Conrad Adenauer headed the West German Government, the cold war had been intensified by the Berlin Wall, and John F. Kennedy had completed his dramatic visit to West Berlin. No one was thinkink about a European Security Conference, and few questioned the viability of NATO. Above all, relations between the East and the West—and between Moscow and Bonn—were frigid.

Now we are moving into a new diplomatic era. Willy Brandt, during his initial weeks as the new leader of the country, has already opened up innovative foreign policy options in Europe. Bonn and Moscow are having cordial conversations, and even Ulbricht is speaking about new terms for some kind of understanding between the two Germanies. All of Europe is in a period of diplomatic flexibility that may possibly mark the cold war's last days on that continent.

Now, of course, I am aware that changes in the international climate come suddenly and are not always dependable. But I wish to point out how radically the present European situation differs from the past. This, of course, is likely to continue into the decade ahead—the decade for which we are building the MBT–70 in partnership with West Germany.

There are some reasons to believe that West Germans have had serious misgivings in the past regarding this project. Newspaper articles from as early as 1967 hint to such developments. I ask unanimous consent they be inserted in the RECORD at the conclusion of my remarks. In today's world, they may have even more reason to doubt the wisdom of this joint project.

These comments are made only to underscore the fact that our defense posture must always be responsive to the atmosphere of international relations. This is particularly true in such joint projects as the MBT–70. These circumstances only further point out the wisdom of reexamining the future of this program. I trust that such a reexamination, initiated by the debate and agreement last August, will now be intensified by our action today.

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

[From the Washington Post, Oct. 10, 1967]

NEW TANK SHOWN; HELD WORLD'S BEST

(By George C. Wilson)

The Army yesterday unveiled the new tank it has been building with West Germany and predicted it will be the best in the world "for the next 15 years."

The tank, designated the Main Battle Tank 70, represents the Pentagon's most ambitious attempt yet to inspire a common market of weaponry among NATO allies.

But the political roadblocks in front of the tank look more menacing right now than any natural obstacles the 51-ton vehicle will confront once it becomes operational in the 1970s.

Germany, in revamping its military budget, is expected to trim some of the money earmarked for the tank. Any cutback on that side of the Atlantic threatens to slow down the whole program because it is a 50-50 project.

The United States so far has spent $80 million on developing 16 prototypes of the Main Battle Tank. Germany has not yet contributed as much—the Army would not be specific yesterday—but is obligated to kick in an equal share eventually.

The development costs of the tank have outrun original estimates to the point where some German leaders claim the vehicle is taking an inordinate share of the military dollar.

Army project chiefs are hopeful that the technical advances in the tank will overcome such objections. The Pentagon also may work out a delayed payment arrangement with Germany to soften the financial impact.

An actual prototype of the tank is the star attraction at the Association of the U.S. Army three-day meeting, which opened yesterday at the Sheraton Park.

Maj. Gen. Edwin H. Burba, U.S. project manager for the tank, said it will be ahead of any of its competitors in Russia or elsewhere "for the next 15 years." The Army credits the tank with these five major technical advances:

A suspension system that raises or lowers the treads to enable the tank to adjust to the terrain and lower its silhouette; a crew compartment that protects the three men against nuclear radiation and germ warfare poisons; a 152-mm. cannon for ammunition or missiles—the most accurate of any tank; a transmission that enables the tank to go forward or backward at four different speeds, with reverse just as fast as forward; unexcelled armor protection plus kits that enable the tank to run under water.

Allison Division of General Motors is heading the U.S. industry team while its counterpart is the German Development Corp.

Gen. Burba said the Main Battle Tank will replace the M–48 medium tank but will not take over the role of the heavy M–60 tank.

Flanking the Main Battle Tank yesterday were new weapons, which dramatize the impetus the Vietnam war has provided to Army hardware development.

Two of these weapons are helicopters—the AH–1 Huey-Cobra and the AH–56A Cheyenne. The Huey-Cobra is a rework of the UH–1, or Huey, which is the helicopter used now in Vietnam as both a troop carrier and gun ship. The Huey-Cobra has been streamlined and armed with a coordinated weapons system. It will see action in Vietnam this year.

The Cheyenne is the first helicopter built from scratch as a weapons platform. It is now being flight tested, with a production contract expected to be awarded soon. The Cheyenne is designed to fly over 200 miles an hour—faster than any existing helicopter—and carry 16,000 pounds of rockets and other armament. This payload is as much as that of the later B–17 bombers of World War II.

[From the New York Times, Oct. 9, 1967]

U.S.-GERMAN TANK ON DISPLAY TODAY—FAST MISSILE-FIRING MBT–70, CALLED DEADLIEST ARMORED VEHICLE, IN WASHINGTON

(By William Beecher)

WASHINGTON, October 8.—A futuristic tank with a low, flat silhouette and a gun capable of firing missiles and artillery shells is to be unveiled tomorrow in the United States and West Germany after four years of joint development by the two countries.

Called the Main Battle Tank of the nineteen-seventies, the MBT–70, the armored vehicle has fallen about a year behind schedule and is experiencing serious troubles with its principal weapons system. Development costs have risen so high that Germany is seeking modifications in the agreement under which the two nations have been proceeding on the project.

But American tank experts who are close to the program insist that, despite its problems, the MBT–70 will be the fastest, deadliest and most advanced armored combat vehicle ever devised and promises the allies a decided edge over Soviet armor.

The American pilot model, produced in Cleveland by the General Motors Corporation, will go on display outside the Sheraton Park Hotel here during the annual meeting of the States Army, an organization that supports Army interests.

Germany is expected to show its model, built by a consortium of nine companies, tomorrow as well.

The MBT–70 is regarded with more than usual interest by top Government officials because it represents the most ambitious effort to date by two nations to share equally the costs, technical knowledge and management decisions in developing a major new weapons system.

If the experiment ultimately succeeds, it may well establish the pattern for other big joint development programs, Administration officials say.

With the differences in language, industrial organization, tank doctrine and financial resources, "it's a wonder things have gone as smoothly as they have," one American planner says.

A particularly ticklish problem, for example, developed because American and German industry use a different screw thread in their nuts and bolts.

After considerable negotiation, the two parties agreed in the summer of 1965 that each would use its own screw thread internally on all components designed for the tank. They decided that each component would be interconnected using the metric, or European, screw thread.

The MBT–70, with a maximum speed of about 40 miles an hour, is about a third faster than the United States' principal battle tank, the M–60. It uses an automatic ammunition loader, thus cutting the crew size from four to three.

Its chassis can be raised and lowered about 18 inches, giving it better traction in mud and snow. Infrared and starlight viewing devices enable the gunner to see the enemy at night and in bad weather.

ALL-NEW DEVELOPMENT

An advanced firing computer gives it better kill capability with either its conventional 152-millimeter artillery shells or with its Shillelagh guided missiles.

It has stronger armor, as well as special shielding and ventilation to allow it to move through a nuclear or chemical warfare environment. A new suspension system enables it to absorb shock and to fire more accurately at the enemy while moving over bumpy terrain.

"In the past, we merely added a few improvements over the existing tank and called it a new one," one Army officer said. "This represents the first instance in which we have developed every component from the ground up."

American and German sources agree there is no doubt that the MBT–70 offers significant advances over present tanks. But certain differences remain.

There is the matter of costs, for example. When the program got under way in August of 1963, a rough estimate of the development cost, to be shared equally, was $80-million.

Later, after careful analysis, the estimate was raised to $136-million. But technical problems in each country led to costly delays, and earlier this year the estimate was again raised, this time to $200-million.

PACT CHANGES SEEN

Sources say that German officials insisted this was too much of a burden for Germany to shoulder, coming at a time when its budget

pinch was causing a major review of its entire defense establishment. This led to rumors that the Germans were seeking to back out of the program.

But sources close to the project say there is no question that the development program will be completed jointly and that each will pick up half of the cost.

It is possible, they say, that Germany will be allowed to stretch out its annual financial contributions to the program and that there may be other changes on previous agreements such as on patent rights and the exchange of technical information.

Negotiations on these matters began late last summer, but final agreements must be worked out at the defense secretary level, it is said.

The gun-missile system is also experiencing difficulties, with the artillery element rather than the missile causing the trouble.

The 152-millimeter gun tube on the MBT–70, similar to a system being installed on the new American light Sheridan tank and on a modified version of the M–60 tank, can launch a Shillelagh guided missile at targets from 1,500 yards to 3,000 yards away.

The gunner merely keeps the crosshairs of his sight on the target, and this causes corrective signals to be sent to the missile to guide it to the bullseye. But the missiles are expensive, costing $2,500 to $3,000 each.

So the system also fires a 152-millimeter artillery round at closer or less vital targets. Instead of a brass cartridge case to hold the powder charge, the gun was designed to use a combustible cartridge case made of the same substance as the propellant but with a different molecular structure.

In some instances this combustible case has not burned completely and when the gun's breech was opened, propellant gas mixed with air and was ignited by the burning residue. This caused a flareback of flame that threatened to ignite other rounds in the tank's turret.

In a few instances, premature explosions are said to have occurred when a new round was inserted while burning specks remained in the chamber.

Army engineers have developed and tested a device to flush the gun tube and breech blocks with jets of carbon dioxide gas. Still more advanced devices using air or nitrogen gas are on the drawing boards.

Meanwhile, the Army is also trying to develop a more fully combustible propellant case.

But as the United States has wrestled with this problem, the Germans have expressed second thoughts about having missiles at all.

Some German tankers have said that they would rather have a rapid-fire 110-millimeter or 120-millimeter conventional gun without the expense of training and equipping their tank forces with missiles, too.

Tank battles in Germany have traditionally been fought at relatively close range, they say, and the Shillelagh is not very effective close in; it has to fly out a certain distance before it is "captured" by its guidance system and directed to the target.

An American source said that German officials were now talking about the possibility of two versions of the MBT–70, one having a gun only and the other a gun-missile capability.

The Germans have also developed an alternate engine for the tank, but American and German sources tend to agree that the United States engine will probably be used by both.

With development well along, the two countries are negotiating an agreement to cover the production of the tank in each country. Other allies, including Britain, Italy and the Netherlands, have expressed interest and are viewed as potential customers.

A year-long test program is about to get under way in Germany and the United States, also on a joint basis. Each country will use eight pilot models in the tests.

The Army's test and evaluation command is planning joint tests in the deserts around Yuma, Ariz., at the Arctic test center in Alaska, in a nuclear environment in New Mexico, in a chemical warfare setting in Utah, in the hands of engineer troops at the Aberdeen Proving Grounds in Maryland and in the hands of troops at Fort Knox, Ky.

Similar tests will be held in Trier, Meppen and Münster-Läger in Germany.

[From the New York Times, Oct. 10, 1967]

BONN SHOWS U.S.-GERMAN TANK; TURRET MALFUNCTION MARS TEST

(By Philip Shabecoff)

BONN, October 9.—The West German Defense Ministry unveiled today in Augsburg a prototype of the Main Battle Tank of the nineteen-seventies.

The demonstration of the tank, which is being jointly developed by West Germany and the United States, indicated that the MBT–70, as it is called, still was not a perfect weapons system.

After 30 minutes of a maneuverability test, smoke began pouring out of the turret. The three-man crew jumped out uninjured and called for fire extinguishers.

Apparently, a valve in the hydraulic system of the turret malfunctioned. The tank could not be used for the rest of the demonstration, and a tank chassis with a turret missing was used to finish the display.

OBSERVERS IMPRESSED

Observers in Augsburg, however, were impressed by the tank, particularly its ability to rise and lower itself on a hydropneumatic system.

Only a few officers and reporters witnessed the demonstration. Tomorrow the tank will be shown to members of the Defense Committee of the Bundestag, the lower house of Parliament.

A spokesman for Bonn's Defense Ministry said that if the MBT–70 met expectations, it would replace by 1972 all the American-made M–48 tanks now used by the West German Army.

He said that if hopes for the tank were realized, the Bundeswehr (armed forces) would have the most technically sophisticated and militarily effective tank conceivable for the nineteen-seventies.

According to German estimates, the MBT–70 will cost $550,000 to $580,000 each, based on a production run of 1,500 tanks.

The West German estimates of the development costs run as high as $750-million, a figure that includes the production of a number of vehicles.

Some members of the German Government have expressed dismay over the development costs, observing that they are two to three times the development costs of the new West German Leopard tank, which is being phased into the Bundeswehr.

Some military experts here have said that the Leopard can do the military job required in the seventies and thus makes the expense of the MBT–70 unnecessary.

The West Germans are reported to have disagreed with the Americans on armaments for the tank, preferring conventional weapons to a missile system. The result was a two-turret system, one turret mounted with a Shillelagh missile launcher and the other with a rapid-fire cannon.

DISPLAY IN WASHINGTON

WASHINGTON, October 9.—The United States Army also displayed today the MBT–70, which it figures is the world's fastest and most sophisticated tank.

"I don't really know what the Russians have," said Maj. Gen. Edwin H. Burba, the top American officer on the two-nation team that has guided development, "but I'd like to place a bet for a month's pay that this is better."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, informed the Senate that the Speaker had appointed Mr. STOKES of Ohio, Mr. ASHBROOK of Ohio, and Mr. BELL of California vice, Mr. STEIGER of Wisconsin, excused, as additional managers on the part of the House at the conference asked by the House on the disagreeing votes of the two Houses on the bill (S. 3016) to provide for the continuation of programs auhorized under the Economic Opportunity Act of 1964, to authorize advance funding of such programs, and for other purposes.

The message announced that the House had passed, without amendment, the bill (S. 1108) to waive the acreage limitations of section 1(b) of the act of June 14, 1926, as amended, with respect to conveyance of lands to the State of Nevada for inclusion in the Valley of Fire State Park.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1970

The Senate continued with the consideration of the bill (H.R. 15090) making appropriations for the Department of Defense for the fiscal year ending June 30, 1970; and for other purposes.

Mrs. SMITH of Maine. Mr. President, on behalf of myself, the Senator from Kentucky (Mr. COOPER) and the Senator from Michigan (Mr. HART) I send to the desk an amendment, and ask that it be stated.

The legislative clerk read the amendment, as follows:

On page 6, line 25, strike out "$7,185,841,000" and insert in lieu thereof "$7,162,641,000."

On page 16, line 4, strike out "$4,254,400,000" and insert in lieu thereof "$3,908,900,000."

On page 22, lines 9 and 10, strike out "$1,600,820,000" and insert in lieu thereof" $1,199,920,000."

The PRESIDING OFFICER. Does the Senator ask unanimous consent that her amendments be considered en bloc?

Mrs. SMITH of Maine. I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HART. Mr. President, will the Senator yield for the purpose of my asking for the yeas and nays?

Mrs. SMITH of Maine. I am happy to yield.

Mr. HART. I ask for the yeas and nays.

The yeas and nays were ordered.

Mrs. SMITH of Maine. Mr. President, I shall be very brief in speaking in support of this amendment. The issue is clear. The amendment would strike all funds for the Safeguard anti-ballistic-missile system except the funds for mili-

tary personnel, which can be used elsewhere.

The basic issue was debated at great length on the authorization bill and ended in a 50-to-50 tie vote.

So this debate is not going to change anyone's mind. If there has been any change of mind, that change has come before this debate.

The purpose of this amendment is the opportunity for those of us who oppose the Safeguard ABM system to register our continuing opposition.

An incidental use will be gained in that the vote will offer an opportunity for some to record their change of mind on this issue in changing their vote from their vote on authorization of the system.

I want to clearly record the fact that I have not changed my mind. In fact, from what I have been told by some working on the Safeguard system—told since the authorization vote—I am all the more convinced that spending funds for the Safeguard ABM system is a tragic waste of funds and resources.

I am confident that the very near future will demonstrate the tragedy of the Safeguard ABM system and in contrast the superiority of a laser defense system.

In short, I simply cannot vote to spend money and resources on what I consider to be a defective system.

THE SOVIET RESPONSE TO SECRETARY ROGERS

Mr. JAVITS. Mr. President, I had meant, during the morning hour today, to make a brief statement on the situation in the Middle East. Since that opportunity was not available to me earlier in the day, I take the liberty of detaining the Senate for a few minutes to make the statement now.

Today's reports of the Pravda article commenting on Secretary Roger's controversial speech of December 9 clearly reveals Soviet intentions with respect to the Middle East—intentions that are most disquieting. While the world looks for a spirit of cooperation and responsibility in the SALT talks, the Soviet Union can hardly make a good impression when it continues to take the low road in Cairo and Damascus, while seeking to appear to take the high road in Helsinki.

Secretary Rogers' speech contained strong overtures to the moderate Arab governments and foreshadowed a tough U.S. stance vis-a-vis Israel's substantive position on the outstanding issues concerning a peace settlement. The major effort by the Nixon administration to go the extra mile to bridge the gap in the Mideast—even at the cost of undermining Israel's position—was motivated, I have no doubt, by a genuine desire to promote peace.

A Soviet diplomatic offensive against the U.S. Middle East policy, which seems now to have been inaugurated, presents a challenge for debate on the international level, which the United States should not forego. The Soviet Union is either preaching to us or scolding us on our policy without itself making any contribution to peace in this area. The whole world agrees that there is a great danger in the Middle East. But the danger, I feel, is not so much between the great powers as it is in the possibility of the whole area once again plunging into flames with repercussions which no one can predict. While the United States announced a policy of "balance" and sweet reasonableness—a policy which I feel is well-intentioned but misguided—the Soviet Union engages in nothing more than pandering to the most intransigent positions of its radical Arab clients. The exercise is strictly one of seeking to discredit the United States without making any contribution to peace in the area.

Whatever may be the Soviet Union's intentions elsewhere, it obviously intends to play a strictly opportunistic, irresponsible and power-grabbing role in the Middle East.

The U.S.S.R. has now made it clear that its policy in the Mideast is to take a mile every time the United States gives an inch. Secretary Rogers' detailed statement of U.S. differences with Israel has not been paralleled by any Soviet indication of any differences with the unrelentingly extremist position of its Arab clients. In fact, the U.S.S.R. in the few days since Secretary Rogers' speech has alined itself even more closely—if that is possible—with the straight propaganda line of President Nasser's United Arab Republic, even to the extent of backing the guerrilla movement in the Middle East.

The U.S. concessions in Secretary Roger's speech have been attacked in Pravda as "tricks" of "Washington propaganda" designed to "split" the Arabs. The new U.S. policy is described as one of "support to the Israeli ruling circles in their aggressive actions, in their stubborn attempts to annex territories."

The U.S.S.R. obviously is seeking to draw the United States into a policy of entrapment there—one of extracting one U.S. "concession" after another—by constantly raising the bidding price. What is at stake is the very survival of Israel. No one can expect Israel to go back to the pre-June 1967 situation, with Syrian guns firing down its throat from the Golan heights, with Jordanese medium artillery able to interdict the 12-mile waist of Israel and cut the country in two, and with Egypt able to cut the entry to Elath and to mobilize in the Sinai desert.

It is a matter of gravest concern and regret that the Soviet Union continues to pursue such a dangerous and irresponsible policy in the Mideast. It is a real understatement to say that the U.S.S.R. is not proceeding in the Mideast with the spirit of cooperation and responsibility that we have some reason to suspect may be in the offing regarding the SALT talks and other overall U.S.–U.S.S.R. issues. In my judgment, it is time for the Kremlin to realize that if it does want to move—in President Nixon's memorable phrase—from the "era of confrontation to the era of negotiation" it cannot make an exception of the Mideast. The issues are too serious there.

It is clear that the Soviets are not prepared at this time to respond in any reasonable, just, or responsible manner to Secretary Rogers' high-minded—but in my judgment misguided—effort to place the United States in an "even-handed," "balanced," and intermediary posture in the Mideast. The only visible results thus far have been a strong Soviet reiteration of down-the-line support of the radical Arab position. Also, the Soviets have for the first time expressed overt support for the Arab terrorist guerrilla movement.

In this context, the low-keyed request of Prime Minister Golda Meir to President Nixon, during her recent visit to buy additional defensive arms—hopefully on less onerous terms—assumes a new urgency.

If the United States does not lose its nerve and does not allow itself to be maneuvered into pressing Israel to accept measures which could compromise its security, current radical Arab and Soviet policy will fail, the bankruptcy and total negativism of its premises will be exposed and a new era of opportunity and enlightenment can open in the Middle East. But if Israel loses her viability as a free state—either because we unwittingly encourage her enemies to think they have a chance to wage one last holy war against her, or because our "balanced" policy forces Israel into bankruptcy to maintain her military defense against such a war—it would pose the gravest implications for the United States and for the peace of the world.

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

Mr. JAVITS. I yield.

Mr. MURPHY. Mr. President, I associate myself with the remarks of the Senator from New York and congratulate him for bringing the matter before the Senate today.

I have also been interested in these developments. I have read with great concern the apparent further attempt at appeasement, which is exactly the thing that the representatives of Israel have worried about from the beginning. They were afraid that it would happen in the U.N. They asked to meet with the Arabs.

The Israelis and the Arabs are the ones concerned.

We seem now to be in the position of helping the real troublemakers in providing them with the side entrance, so to speak, so that the real meeting between the Israelis and the Arabs could not take place.

I think this is a great mistake. I think that the attempt is badly taken. And I think that the wisdom of it is very questionable.

I am certain that the position the Senator from New York and the Senator from California have taken from the beginning is a proper position.

I sincerely hope that the remarks the Senator has made today are transmitted forthwith to the Secretary of State so that he will know that some Senators are listening to this and are watching it and are knowledgeable and have some judgment as to the matter.

Mr. JAVITS. Mr. President, I am very grateful to my colleague.

I will yield to no one in my desire for good relations with the Soviet Union.

However, I also feel that we have to be very clear in our own minds about certain things. We should realize that it has long been the practice of the Soviet Union to convey an attitude of cooperation and détente in one place—apparently there seems to be that kind of attitude in Helsinki—and at the same time to play the very dangerous game of brinkmanship with peace without responsibility in another place—the Middle East.

I have made my remarks today so that we may be conscious of the fact that the U.S.S.R. can carry on both kinds of policies and that our policy must be adjusted accordingly.

We cannot allow ourselves to be taken in by a cooperative atmosphere in another policy area so as to jeopardize the security of a very effective and durable ally. The adoption by the Soviet Union of an intransigent position, with which I have confidence the administration thoroughly disagrees—that is the position of the Arab States—should not induce us to make unwarranted concessions.

I think that under the guise of trying to be balanced and fair, we could be taken in.

I have made my remarks today to call the matter to the attention of the Senate.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1970

The Senate continued with the consideration of the bill (H.R. 15090) making appropriations for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes.

Mr. HATFIELD. Mr. President, I rise to support the amendment offered by the distinguished Senator from Maine (Mrs. SMITH). I will be very brief here today because, as my colleague has pointed out, I think that most everyone has made up his mind and each has heard all of the arguments on the ABM question.

However, I should like to introduce a subject that was not involved in the previous debate—something that has come to be recognized as a new term by the Defense Department, called "cost growth." We used to call it "overruns" or the other terms that were given to it. They were meant to indicate that there was a change from the original estimate of a weapons system to the kind of figure we were dealing with when it finally ended up, or when we were making continuing appropriations.

Mr. President, I read from the statement of Mr. Packard, Assistant Secretary of Defense, when he indicated last spring, as appears in the RECORD of December 12, 1969, on page 38673.

> Neither the Department of Defense nor the Congress will continue to tolerate large cost overruns which relate to unrealistic pricing at the time of award, or to inadequate management of the job during the contract.

The chairman of the Armed Services Committee, the Senator from Mississippi (Mr. STENNIS), on December 1, issued a statement which included 35 weapons programs and the differences which we could expect to find with between the original cost estimate and the current cost, because of any "cost growth."

In the 35 weapons systems, the ABM Safeguard was included. The chart which was released by the chairman indicated that the current estimate for the Safeguard was the same as the original estimate—namely, $4.1 billion—and that, therefore, there had been no cost growth from the time of the original estimate to the time of the release, which was December 1.

Mr. President, I made some inquiries and I would like to report to the Senate some of the results of those inquiries.

The total cost estimate of the Safeguard ABM system has risen by $277 million since we last considered this issue. Although the Senate Armed Services Committee reported, as I have said, on December 1, 1969, that there had been no increase in the original $4,185,000,000 cost estimate, the Pentagon informed me Saturday, after persistent inquiry, that the cost had escalated by this amount.

The Defense Department has claimed that this 6⅔-percent increase has taken place since its last program status report of June 30, 1969. I do not know why such a cost growth was not reported on December 1, unless an increase of more than a quarter of a billion dollars has taken place in the 12 days since then.

Increasing at a rate of 6⅔ percent every 5 months, the phase I deployment of the Safeguard system will not cost the taxpayers $4,185,000,000, as orginally claimed, but rather $13,700,000,000 by its completion in 1976. Such a projection is not at all unrealistic, for recent history has witnessed the cost of weapons systems growing by such proportions.

Further, the Pentagon's $4.185 billion estimate was only for phase I of Safeguard, or deployment at just two sites. Should we proceed with phase II of the system, the original cost estimate of $10.3 billion could well rise above $25 billion. These are the expenditures that are ultimately at stake by our decisions today.

We all know of the financial crisis within our land. All of us are alarmed by seemingly unchecked inflation. During the debate on the tax bill last week, time after time, colleagues have spoken about the absolute need for fiscal responsibility.

For instance, some argued that we could not give a deduction for the medical expenses of those over 65 and not covered by medicare; we could not afford the $255 million this would have cost us in fiscal year 1970, it was said. But the increase in the ABM during just these past 5 months exceed that, and the total ABM funds in this appropriations bill are more than three times as much.

In explaining the reasons for this cost increase to me, the Pentagon stated that 1⅓ percent was due to "stretchout," 2 percent was due to "design and estimate changes," and 3⅓ percent due to inflation. I find this last cause to be somewhat ironic.

All of us would agree that a certain step toward the control of inflation is the reduction of Government expenditures. But the truth is that the most fiscally irresponsible Government spending today is defense spending.

One reason why the cost of weapons systems increases, then, is simply because massive funds are spent for them during this time of economic instability, becoming a primary cause of inflation.

The reasons for not proceeding with ABM deployment at this time have been clearly set forth in the past. Today, in light of this new information, I wish to emphasize only one: We cannot afford it.

Mr. President, I ask unanimous consent that the fact sheet given to me on Saturday by the Pentagon confirming this cost increase be inserted in the RECORD.

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

FACT SHEET

1. Secretary Laird has placed great stress since coming into office on making the Program Status Reports submitted to the Armed Services and Appropriations Committees an accurate reflection of the major weapons system acquisition programs, characteristics, and costs. The last Program Status Report submitted to you with regard to the Safeguard program was as of 30 June 1969, and showed the DOD acquisition, or DOD investment costs, expected for the Safeguard program as $4185 M. These costs include the DOD RDT&E, PEMA and MCA for Safeguard Phase 1 for the period FY 68 through deployment of the last site.

2. The next Program Status Report on the Safeguard program is now in its final stage of review. It is expected to be forwarded shortly to the Chairmen of the Armed Services and Appropriations Committees. The Report on Safeguard will show a cost increase over the earlier Safeguard reports and we wanted you to have this information as early as possible. The total increase shown in the new report will be $277 M, or a percentage increase from the earlier reported total of about 6⅔ per cent. This increase is brought about by three basic causes.

a. The largest cause is the inflation that has occurred. In this regard, initial estimates of March and those of the 30 June report were based on the price levels as of 31 December 1968. We have now updated those costs to a 31 December 1969 level so that they will be in agreement with the budget and authorization submissions for FY 71 now being prepared. Approximately $136 M of the $277 M is due to this price level change, or 3⅓ percent of the earlier reported total program investment costs.

b. Then, too, as you realize, we have held back on major commitments for construction and PEMA until after passage of the authorization and appropriation bills. This has necessitated our delaying the Equipment Readiness Dates of the two site complexes by 3 months each. Completion of deployment of the second site complex is now delayed from the earlier scheduled July 1974 to October 1974. In other words, it has stretched out the deployment and the period over which our production/engineering base is maintained. This stretch-out has caused an increase of $55 M, or 1⅓ per cent of the earlier reported total program investment costs.

c. Finally, and the second largest, we have had certain changes in the estimates of several line items brought about by further estimation and study and a few necessary design changes. These together account for $86 M of the increase, or about 2 per cent of the earlier reported total investment costs.

d. In summary, then, the total cost increase shown in the next Program Status Report will be one of about 6⅔ per cent: of

which 3⅓ per cent is due to inflation; 1⅓ per cent due to stretchout; and, 2 per cent due to design and estimate changes.

3. As I mentioned earlier, we did want you to have this information as early as possible. Also, I should emphasize, however, that this does not change the requested amount for FY 70—the amount carried in the current Authorization Act and Appropriation Requests.

ABM

Mr. GOODELL. Mr. President, this morning an editorial entitled "Senate and SALT" appeared in the New York Times. It states, rightly so, that debate on the nearly $70 billion Defense appropriations bill offers another opportunity "not to be missed" to examine the arms race.

The question of Safeguard ABM deployment involves many still unresolved issues. As I stated on August 6, the day of the vote on authorizing Safeguard:

If ABM and MIRV go unchecked, we will be in an arms race of proportions unknown in weapons history. We will be racing not only with the Russians and Red China but with ourselves as well.

Today, we are to decide whether to deploy the Safeguard ABM.

No matter what the limited scale of Safeguard which has been proposed, we simply cannot assume that there will be no Soviet response.

I fear what is in store is the inevitable action-reaction cycle.

A natural response to an ABM deployment by the United States would be further Soviet MIRV development and possible deployment.

In turn our own efforts in MIRV capability would increase.

Then will both sides look to deploying land-mobile missiles?

Mr. President, escalating new elements of uncertainty can only weaken the stability of deterrence with resulting peril to the security of our country.

Rather than fill a "deterrent gap" as the Pentagon claims it will, ABM could unleash a weapons race spiralling beyond the possible control by nations.

Mr. President, on August 6 the Senate authorized initial deployment of Safeguard by a vote of 49 to 51, after a 50 to 50 vote to deny deployment.

Now we are being asked to appropriate funds for Safeguard.

Today, we already hear of "cost overruns" for this ABM system. Under the rubric of "cost growth," it is now estimated that phase I of Safeguard will cost $277 million more than the Department of Defense originally estimated. The Senator from Oregon (Mr. HATFIELD), who first disclosed the cost increase, has indicated that at this rate, the cost of phase I may now reach over $13 billion by the target date of 1976. It should be recalled that last May, the Pentagon indicated that the full Safeguard program would cost about $10 billion.

Beyond spiraling costs for the Safeguard ABM system, we must come back to the basic question of spiraling arms systems.

ABM + MIRV > SALT?

Mr. President, will deployment of Safeguard ABM and the buildup in MIRV from city-target to hard-target capability be so great as to render impossible meaningful control of nuclear weapons at the Strategic Arms Limitation Talks—SALT?

According to October testimony by Gen. John D. Ryan, Chief of Staff, U.S. Air Force, on Defense appropriations requests:

The most important factor in the threat is the changing strategic relationship between the United States and the U.S.S.R. A primary Soviet objective is to overcome the U.S. lead in capabilities for nuclear war. Toward this end, the Soviets have built and are deploying impressive offensive and defensive forces. They will undoubtedly seek further advances in their relative strategic position.

A primary aim of the Soviets is to overcome the U.S. lead in capabilities for nuclear war. They are indeed making impressive gains. Their ICBM force continues to grow at a rapid rate. They continue development of new and improved systems such as multiple reentry vehicles. A fractional orbit bombardment system has been tested. They continue a high priority program to expand their ballistic missile submarine force. Their long-range aviation continues to be maintained at impressive levels.

Now, what are we doing in each of these areas? First, in missiles. In recent years the introduction of Minuteman III into the force has been successively stretched out.

. . . There has been criticism of Minuteman costs based on the fact that early estimates for earlier contemplated programs have been greatly exceeded. This criticism fails to take into account that the program has been a rapidly evolving one keeping apace with technological changes—and that the Minuteman in the field today is a far different vehicle with greater capabilities than the one originally envisioned.

Minuteman III will further improve our missile force by making possible the introduction of Multiple Independent Reentry Vehicles (MIRVs) into operational use for the first time. Flight tests of Minuteman III have been highly successful in meeting test objectives.

With respect to new ICBM developments, we have only the Hard Rock Silo and a small advanced ICBM technology effort underway. We, thus, must rely on Minuteman until well in the seventies.

Regarding MIRV developments, General Ryan added:

We have a program we are pushing to increase the yield of our warheads and decrease the circular error probable so that we have what we call a hard target killer which we do not have in the inventory at the present time.

Mr. President, I shall oppose the funding of Safeguard ABM because of my conviction that we simply must halt this offensive/defensive nuclear weapons escalation; we simply must stop spending for false security.

In view of the arms issues facing us today, I ask unanimous consent that the New York Times editorial "Senate and SALT" and an article entitled "AF Developing A-Weapon for 'Hard Targets'" which appeared in the Washington Post be printed in the RECORD.

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

SENATE AND SALT

The $70-billion defense appropriations bill, which provides initial funds for deployment of the Safeguard antiballistic missile (ABM) system, offers the Senate another opportunity to debate the nuclear weapons race, an opportunity not to be missed. The Administration argues that nothing should be done that might weaken the American position in the strategic arms limitation talks (SALT) in Helsinki. Yet there never has been a moment when full debate has been more vital, whether or not ABM opponents—who failed by one vote in August to halt Safeguard deployment—make a new effort to stop it now.

The American delegation went to Helsinki with instructions to make no substantive proposals, but to settle procedural matters and probe Soviet views. The critical decisions are yet to be made on the position the United States will take when the talks enter their substantive stage in late January or February. Before he makes those decisions, President Nixon should have the advice of the Senate and know that he will find support if he takes some risks to head off a new escalation in missiles.

The crucial decision is whether to freeze strategic missiles immediately at about present levels as a preliminary to negotiated reductions, or to leave some new weapons uncontrolled and to set "limits" on others that would legalize a vast expansion of offensive and defensive delivery vehicles before cut-off.

The issue turns on three weapons: MIRV multiple warheads, the ABM and the Soviet SS–9 intercontinental missile. There is time to halt ABM or SS–9 deployment which, at present rates, could not seriously alter the nuclear balance for several years. But MIRV, which must be halted soon or not at all, probably cannot be stopped without a suspension of ABM and SS–9 deployment.

Deployment of MIRV, which the Pentagon plans to begin in May or June, promises a four- to five-fold multiplication of the 1,700 delivery vehicles in the American strategic offensive missile forces and undoubtedly would lead to an equivalent escalation in Soviet missiles. MIRV can only be halted by a test-ban before deployment. Once deployed, it could only be controlled by on-site inspection more intrusive than either the United States or the Soviet Union would be likely to accept.

That is why the General Assembly's Political Committee voted, 67 to 0—with the U.S., the U.S.S.R and their allies among the forty abstainers—for a moratorium on all "further testing and deployment of new offensive and defensive strategic nuclear weapons systems" as the SALT talks proceed.

The U.N. appeal undoubtedly is broader than is necessary. A moratorium on the testing and deployment of multiple warheads and on the further deployment of ABM's and SS–9's is urgent, however, if the SALT talks are to halt the arms race before rather than after an enormous new escalation in the missile forces. This is the issue that cries out for Senate debate, whether or not the opportunity is taken to reverse the August ABM vote.

AF DEVELOPING A-WEAPON FOR "HARD TARGETS"

(By George C. Wilson)

The Air Force is working on a new weapon bound to upset arms-control advocates in this country and likely to be viewed by Russia as a potential threat.

Gen. John D. Ryan, Air Force Chief of Staff, indicated his service is developing an improved MIRV missile in testimony released this week by the House Defense Appropriations Subcommittee.

"We have a program we are pushing to increase the yield of our warheads and decrease the circular error probable so that we have what we call a hard-target killer which we do not have in the inventory at the present time," Ryan said.

The term "hard-target killer" connotes a warhead big enough and accurate enough to destroy missiles or command and control centers buried underground.

FIRST-STRIKE WEAPON

Defense Secretary Melvin R. Laird and his Pentagon colleagues have been portraying the Soviet SS–9 ICBM as just such a weapon,

arguing it gives Russia the capability to knock out American strategic missiles in a first strike.

The local American response, these officials argued in winning congressional approval of the Safeguard antiballistic missile system this year, is to build missiles to protect some of our Minuteman ICBMs. Then they could retaliate if Russia ever attacked the United States first, providing the deterrent to any first strike.

At the same time, Pentagon officials said the multiple MIRV warheads destined for our Minuteman and Poseidon missiles were not big or accurate enough to threaten Russian ICBMs. The American MIRV, the argument went, is basically for blowing up Soviet cities, not hard targets. Therefore, Russia need not build an ABM to protect its missiles.

The Ryan testimony indicates the Air Force is working on an improved version of MIRV which, like the SS–9, could be viewed by the Russians as a first strike weapon.

ACTION-REACTION

This is the kind of action-reaction phenomenon that Sen. Jacob K. Javits (R-N.Y.) and other Senate critics warned about in opposing the plunge into MIRV and ABM.

"Is not the SS–9 the Soviet Union's riposte to our MIRV development?" Javits asked Deputy Defense Secretary David Packard in Senate Disarmament Subcommittee hearings March 26.

"Are we not witnessing here that every time we take a step or every time they take a step," Javits continued, "there is a correlative step accelerating the arms race and that, therefore, there is a great advantage in having one of the parties at some point when they are reasonably secure, if only for six months or a year, saying, "This is it. We are ready to stop now . . .'?"

Packard distinguished between the big Soviet SS–9, with hard-target capability, to American city-busting MIRV's and said the two superpowers had achieved "a hopefully stabilized level" conducive to arms talks.

HARD TARGETS

When asked earlier this year what the Pentagon meant when it said it wanted to increase missile accuracy against hard targets, a spokesman for Laird cited such things as steel mills—not missile silos.

The Ryan statement goes beyond improved accuracy by asserting the Air Force is out to increase the explosive power of its warheads as well. Accuracy and yield are the key to first strike ability—also called counterforce.

Former Vice President Hubert H. Humphrey and other political leaders have portrayed MIRV as a menace to the nuclear balance of terror between the U.S. and Russia.

The argument of the MIRV critics is that once one side figures the other can knock out its missiles in a sneak attack, it will be tempted to fire first.

An Air Force spokesman, when asked for elaboration on the Ryan statement, declined comment. Several disarmament leaders, when queried, said the Air Force statement confirms their fears about MIRV.

Soviet strategists are bound to give the testimony close reading as they prepare their positions for the SALT talks.

The military contention is that the U.S. Air Force must hedge the nation's strategic bet by continually working on weapons improvements. To do less would be irresponsible, said one military official when asked about the improved MIRV.

He said the Soviet Union has not taken such steps as putting bombers on airborne alert, indicating Russian leaders have no worries about the U.S. striking first. The military line is that doves in this country are unjustifiably concerned about MIRV.

A MIRV accurate and big enough to knock out a hardened ICBM site could be used to destroy any remaining missiles after a nation attacked the U.S. first. Therefore, military officials argue, an improved American MIRV is not necessarily a first-strike weapon.

The Air Force has awarded Singer-General Precision Inc. of Little Falls, N.J., a $3.9-million contract to work on improved guidance for MIRV warheads under a broad program called Technology C.

Mr. HART. Mr. President, I rise in support of the amendment of the distinguished senior Senator from Maine (Mrs. SMITH), the ranking minority member of the Senate Armed Services Committee.

We all understand, with deep regret, the reason that occasions the absence of Senator COOPER. We trust that the news with respect to the serious illness in his family is less alarming than that which occasioned his absence, but I am sure he would want me to express his appreciation to the distinguished Senator from Maine as well as my own.

Initially, Senator COOPER and I had favored an amendment which would strike only the deployment funds for Safeguard; namely, $345,500,000. However, on consultation with the Senator from Maine, I am persuaded of the soundness of her position. If the Safeguard ABM will not serve its purpose—or purposes, because the mission of the system blows north, east, south, and west from day to day and from month to month—then let us not devote further millions to this particular system.

The bill before us, without the $769,600,000 which would be struck by this amendment, will still provide ample funds for further research, development, test, and evaluation on anti-ballistic-missile systems. The Senate report on page 6 points out that $12,700,000 has already been appropriated for research and development facilities at Kwajalein, and $1,400,000 for planning. Additionally, on page 114, the report outlines the provision of funds for Nike-X advance development; the amount is classified but I am told it is substantial. On page 134 is an item of $71,700,000 for strategic technology—Defender—a related item for other anti-ballistic-missile systems.

Thus, there is ample provision in this bill, without the funds for Safeguard, to continue research against the possibility that we might one day need seriously to consider deploying an anti-ballistic-missile system. By eliminating funds specifically earmarked for Safeguard, we in no way impair the security of the United States, and, in a time of severe fiscal problems, we permit ourselves to take stock before undertaking the expenditure of still more funds on unneeded programs. This is very much to be desired, particularly when we are reminded so forcefully, as we have been in the past few days, of the urgent need to realign our spending priorities and redirect our national preoccupation.

Mr. President, the Senator from Oregon has ably cautioned us about the direct economic implications. The Senator from Maine, and the long debate of last summer, have made clear the fact that the Safeguard system is of doubtful value. In the intervening months, I hope it has become increasingly clear that there is a much graver threat to America's security and survival than the possibility of a further deployment in Russia or Timbuktu of an anti-ballistic-missile system.

In his interview on the CBS–TV program "Face the Nation" yesterday, Dr. Milton Eisenhower, Chairman of the President's Commission on the Causes and Prevention of Violence, observed that our society is in at least as much danger from internal forces as from any combination of external forces. Dr. Eisenhower was not speaking of the threat of violent overthrow by political subversives. He was talking about the accelerating deterioration of our society through continuing neglect of basic human needs—in housing, in education, and health care, a neglect that will continue as long as this Government continues to preoccupy itself with the external threats it perceives to be greater, and continues to pour billions of dollars into wasteful and unnecessary items like the Safeguard ABM. Another highly respected Republican, John W. Gardner, chairman of the Urban Coalition Action Council, warned last Tuesday of the same misallocation of priorities and of national preoccupation. He said:

> Not only must Mr. Nixon propose social programs adequate to our needs, but when the legislation goes to Congress, he must fight as hard for it as he fought for the ABM and Judge Haynsworth.

Mr. President, we are truly two faced in the ways in which we view our priorities and the manner in which we deal with them. When faced by a clear and present danger of destruction of our society through neglect of basic human needs we grudgingly propose half-loaf solutions or none at all; but when we are faced with the less clear possibility of a threat from without—the suggestion, in the face of most of the evidence, that the Soviet Union might be planning a first strike against the United States, we assume the worst and rush to spend billions on weapons programs which cannot begin to do the job of countering the imagined threat.

Mr. President, the time is now to correct this split-level thinking. If we do not, historians, noting the ruins of 20th century American society, will add it to the long list of great nations which fell because of preoccupation with external threats and neglect of internal weaknesses.

When we became so intent on protecting our "way of life" from external forces we forgot our main task, the constant enrichment and improvement of the quality of American life, without which "our way of life" becomes a concept without meaning.

Let us remember that when history reports the fall of nations that were great and center stage, 19 of 21 of them fell not because the barbarians scaled the walls. They fell because within the walls they failed to do right by each other. Nineteen of the 21 crumbled for neglect at home.

Adoption of the amendment offered by the Senator from Maine gives us an

opportunity to apply some of the resources, which all of us know not to be limitless to waging an all-out fight against the real threat which is reflected in the inadequate housing, insufficient education and the failure of effective medical delivery. We know the litany. It is a litany we recite frequently at luncheon clubs and when we go on campuses. But the test of our willingness really to begin this kind of war—a war that should be infinitely more exciting than all-out war against an enemy—the only way we can launch that kind of war, is to direct more of the resources internally.

I thank the Senator from Maine for giving us another chance to direct this element of our total resource away from the construction and away from the research on a system of doubtful value, against a threat of uncertain measure, to the real target and the real threat—that which is within our walls.

Mrs. SMITH of Maine. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mrs. SMITH of Maine. Mr. President, I thank the distinguished Senator from Michigan for joining me in sponsoring this amendment.

I also join him in expressing our very, very deep sorrow with respect to Senator COOPER'S mother, a woman 91 years of age, who has been keenly interested in all that has been going on here, and I am sorry that he has to be away for that reason.

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

Mr. HART. I yield.

Mr. FULBRIGHT. Mr. President, I wish to associate myself especially with the reasons the Senator from Michigan has expressed so eloquently for supporting the Senator from Maine. I think he has stated it extremely well. His point of calling attention to the report of the commission headed by Milton Eisenhower and the statement of John Gardner is extremely well made. I agree that this is the last chance before we go down a road which is very likely to end up costing us anywhere from $20 to $50 billion, which will be wasted on another one of these missiles which proves to be ineffectual and useless.

I wish to join the Senator from Maine in the report and the Senator from Michigan in the reasons he has given for supporting the Senator from Maine.

Mr. YOUNG of North Dakota obtained the floor.

Mr. ELLENDER. Mr. President, will the Senator yield without losing his right to the floor?

Mr. YOUNG of North Dakota. I yield.

Mr. ELLENDER. Mr. President, I regret that I am unable to handle this part of the bill for the committee. As is well known, I spoke against the ABM when we had extended debate on it. However, I would vote for funds for the ABM if they were limited to research and development on the missile. But this is not the situation, for procurement funds are included. It is not my purpose again to debate the issue, but I ask the distinguished Senator from North Dakota and the distinguished Senator from Mississippi to take part in the debate, since they are both in favor of the ABM and I am opposed to it.

I expect to vote with the distinguished Senator from Maine.

Mr. YOUNG of North Dakota. Mr. President, I usually find myself in an uncomfortable position when I am on the side opposite to that of the Senator from Louisiana. He is always very effective on the floor.

Mr. President, I rise in opposition to the amendment offered by the Senator from Maine and other Senators.

I do not intend to take the time of the Senate to discuss the merits of the proposed Safeguard ABM system. That matter was more than adequately discussed during the debate on the authorization bill. Basically, the issues today are the same as they were then.

However, there are several points I would like to call to the attention of the Senate. The Soviet Union is continuing to increase its deployment of offensive weapons, especially the large SS–9 ICBM. They are continuing with their flight test program of the multiple reentry vehicles. We also have evidence that the Soviets are developing a new strategic bomber aircraft.

In September, the Chinese Communists had two nuclear tests—one on the 22d, which was their first underground test. It is my understanding that this test was a surprise to the Intelligence Community. On the 29th, they tested a 3-megaton device in the atmosphere. These events tell us two things: First, China is continuing its nuclear development program; and, second, we must remember that we just do not know what is going on inside Communist China and the Soviet Union.

Mr. President, I ask unanimous consent to have included in the RECORD at this point a colloquy between Chairman RUSSELL and the Secretary of Defense on December 9, 1969, on these matters.

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

SOVIET UNION AND CHINA

Chairman RUSSELL. It is my understanding that the Soviet Union is continuing to increase its deployment of its large SS–9 ICBM. I wish you would comment on this matter, and especially its deployments over and above the number you discussed when you appeared before the subcommittee last June.

Secretary LAIRD. Since June we have seen indications of continued deployment above the more than 230 [deleted] SS–9 launchers which I noted at that time. The best information that I have at this time is that there have been approximately [deleted] additional starts, but exactly when these starts occurred, I cannot tell you with high confidence. We hope to have better information by the end of the month. I view this continuing deployment with concern.

I also note that the Soviets are continuing flight tests of multiple reentry vehicles. The purposes of the Soviet development of multiple reentry vehicles for their large SS–9 is still not clear. The yield and accuracy of these warheads is such that they could pose a serious threat to U.S. ICBS's if we took on steps to counter them. I do believe that the Soviet multiple reentry vehicle program could lead to another round in the strategic arms race if they continue on their present course. This fact has a direct influence upon the strategic arms limitations talks which have recently begun in Helsinki, Finland, with the Soviet Union.

Chairman RUSSELL. Have there been any further significant developments in the Soviet Union or China since your last appearance? You failed to mention the new Soviet bomber. Please comment on this development.

Secretary LAIRD. I would be happy to, Mr. Chairman. Among the developments in the Soviet Union which cause particular concern are, first, their continuing flight-testing of multiple reentry vehicles which I have already commented upon, and second, their continuing development of their ABM technology.

Regarding the new bomber, the Soviets are believed to have begun flight tests of a new medium bomber. The program is expected to follow a cycle similar to that of other medium bombers. The aircraft is expected to be in the 200,000-pound class. Like Blinder, it will probably have a stand-off air-to-surface missile. Its combat payload will probably be between that of the FB–111—[deleted] pounds—and the AMSA [deleted].

The two nuclear tests by China in September are also of interest. The first, on September 22, took us by surprise because it was their first underground test. We cannot be sure as to the purpose of that test. The second, on September 29, was in the atmosphere, and was in the 3-megaton range. These tests indicate that the Chinese are continuing their nuclear development program and are reminders that we cannot afford to ignore the long-range threat of a nuclear-capable Communist China.

Mr. YOUNG of North Dakota. Mr. President, we have representatives of our Government in Helsinki participating in talks with the Soviet Union on the limitation of strategic weapons that seem to be making progress. I share the hope of every Member of this body that these talks will lead to a satisfactory limitation on the deployment of strategic weapons. However, I can think of nothing that would weaken the position of our representatives more than the adoption of the pending amendment. Mr. President, it is my hope that the pending amendment will be rejected by a sizable majority in order that the representatives of the Soviet Union will know that we are willing to do whatever is necessary to maintain an adequate strategic nuclear capability.

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

Mr. YOUNG of North Dakota. I yield.

Mr. SPONG. Mr. President, the amendment of the Senator from Maine seeks to amend certain figures appropriated for deployment of the ABM. I believe the same figures appear on pages 5 and 6 of the committee report. I am concerned in clarifying just one point. I would like to know if any money provided in this bill will be used for acquistion of land for any sites other than the two sites in North Dakota and Montana?

Mr. YOUNG of North Dakota. No; no money could be used to purchase sites except these two. These are pilot projects and no money will be spent for other sites.

Mr. SPONG. I thank the Senator.

Mr. STENNIS. Mr. President, as the Senate already knows, the Defense appropriations bill would appropriate for

fiscal year 1970 all of the funds that were authorized for appropriation in the military procurement legislation as passed by the Senate and finally enacted into law. The amount of these funds in $759.1 million, consisting of $345.5 in procurement, $400.9 million in research and development, and $12.7 million for construction and test facilities at Kwajalein. Other appropriation items for personnel and O. & M. bring the total to $779.4 million.

I would point out, Mr. President, that of the $345 million in procurement funds only about $600,000 will be spent for missile parts which are for certain long-lead components. The remaining funds are to procure the various radars, training equipment for phase I and to provide the required production base support.

Mr. President, as the Senate knows, the ABM matter was probably the hardest fought issue on the floor of the Senate of the entire procurement authorization debate.

I appreciate the earnestness, sincerity, and thoroughness of everyone who voted on that important matter. Whichever way they voted I respect them, of course, just as much and admire them for their earnestness and for the way they went into the matter. That certainly includes the distinguished Senator from Maine (Mrs. SMITH). She and I had a long consultation, not only on this matter but also on many other matters. I appreciate very much the contribution she made to the debate. I told her once that she scared half the life out of me at one time. There is no need to go into all the details here.

Mr. President, I shall not take the time to repeat the various arguments of this debate which are already a matter of record, including the secret session which has been reviewed for security deletions and printed.

I do, Mr. President, however, wish to impress on the Senate a few thoughts which I consider to be in the form of new matter. Some of these points, Mr. President, update the material of our previous debate.

It is an undisputed fact that the Russian threat to our own second-strike nuclear capability is continuing to develop. Last May, Mr. Laird advised the Congress of the Russian missile program, the principal element of which is the SS–9, an ICBM with a 25-megaton warhead. The Russian program of development, construction, and deployment is continuing for the SS–9 program. There is no doubt about that.

In terms of the threat to America the SS–9 system can have only one objective—to destroy this country as we now know it. The purpose of the ABM system, of course, is to provide some degree of protection beginning in the mid-1970's for our land-based nuclear deterrent.

Mr. President, I can appreciate the reluctance of Members to vote funds for weapon systems which are most likely to protect foreign countries, rather than our own. The purpose of the ABM, however, Mr. President, is to protect our homeland—to protect our own people. The ABM, I am confident, will provide a significant degree of protection and I might add, Mr. President, even if the Safeguard system is subject to all the weaknesses its critics indicate, it will be better than no system of protection at all.

Mr. President, as we all know, the SALT talks which have already begun between United States and Russia are of critical importance to the present, as well as future generations of all countries. We all hope and pray that some meaningful result will be produced which will enable the United States and Russia, as well as other countries, to divert their resources to peaceful pursuits, rather than continue an arms race which could result in the mutual incineration of our civilization as we know it. These talks, however, will be long and hard. We must have a discipline in terms of policy on the part of the Congress and the Executive which will enable the President, whoever he might be, to know that he can rely on a solid homefront.

No one is going to follow those talks with any more concern and interest than I shall follow them. I think that, if at all possible, somewhere, sometime, and sometime soon, I hope it is going to be absolutely necessary for the so-called great nuclear powers to get some kind of understanding and basic agreement that will give some control and have a measure of certainty with respect to being able to detect a possible violation.

One of the most significant issues in the SALT talks is the anti-ballistic missile matter. I urge in the strongest possible terms that the Senate not pull the rug from under President Nixon in the SALT talks by refusing to approve the appropriations for the Safeguard system.

Incidentally, Mr. President, I would point out to the Senate that under the authority of the continuing resolutions already enacted there has been obligated as of October 31, 1969, a total of $252.4 million for the Safeguard system; that is, of the money that is in this appropriation bill. Many of these are already obligated under the continuing resolution we passed. A continuing resolution authority, Mr. President, permits the military departments, as well as other agencies of the Federal Government, to obligate moneys at the previous year's level of effort in anticipation of the funds to be appropriated for fiscal year 1970. When the appropriation is finally approved the funds already obligated under the continuing resolution are taken out of the final appropriation. This means that $252 million in effect has already been spent out of fiscal 1970 funds.

Let me interject, Mr. President, that I personally do not like the entire continuing resolution concept. This device has become necessary, however, in view of the lateness of the appropriations acts if the Government is to continue to operate.

If all the funds were to be denied there will be the problem of finding the $252 million elsewhere in the appropriations bill to meet these obligations.

Mr. President, there have been a number of factors on which opposition to the ABM system have been based. Some people believe we will not need it, others do not believe the system is technically workable. Another belief is that in view of the many domestic problems we now have—the city crisis, runaway inflation, and the like, that too great a proportion of our Federal funds are being used for national defense. Mr. President, with respect to the reductions in the Defense funds over the course of just 1 year, I think the facts should speak for themselves and should be quite briefly reviewed.

The original Defense budget submission for fiscal year 1970 by President Johnson was $80.6 billion. This was subsequently reduced in two steps by President Nixon to $75.2 billion. The Defense appropriations bill as passed by the House was $69.9 billion. The bill before the Senate today is $627 million below the House, or only $69.3 billion. Mr. President, these are remarkable figures. From an original request of $80.6 billion, the Defense budget has been reduced to $69.3 billion. This represents a reduction of over $11 billion, or about 14 percent. It can be fairly stated, therefore, Mr. President, that the Defense budget this year has probably been the most carefully scrutinized of the various appropriations before the Congress.

I say that as a member of several subcommittees on Appropriations. This year, we beat all of them in scanning the military items that run into big money. But, they will always run into big money. The Armed Services Committee and the Appropriations Committee have already scanned this ground. My prediction is that the new budget submitted will already have a great deal of scanning done by the Department of Defense. I am not saying it will be as low as the figure in the bill now, but in my judgment, it will be far below what the first one was last year.

I hope that next year there can be even—and I think there should be—further reductions and as one Senator I intend to use every effort to determine where greater savings can be made without critically affecting our defense program.

Let me make clear that I am not promising to stand for the total amount that is less than this bill, because we do not know what we will run into.

At this junction, Mr. President, in view of the cuts that have already been made in the overall Defense budget and in view of the critical need for the Safeguard system, I urge the Senate to support the President in the position he took, and the Congress in its former position took, to provide funds for an ABM system that is aimed at protecting the American people.

Mr. President, I emphasize again that this debate has been very fine this year on all major military items, especially this one. Everyone had a chance. I respectfully say that this matter has had its day in court. A decision has been made. There is only one thing we can do now and that is to move forward. I trust that there will be the necessary votes in the Senate and that the vote will come early.

Mr. President, I ask unanimous consent to have printed in the RECORD the first of the funds obligated under the continuing resolution for Safeguard as of October 31, 1969.

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

Funds obligated under continuing resolution for Safeguard as of October 31, 1969

R.D.T. & E	$210.2
Procurement	29.3
O. & M.A	9.5
Military personnel	3.4
Total	252.4

Mr. ELLENDER. Mr. President, the distinguished Senator stated that there has been money allocated for Project Safeguard.

Mr. STENNIS. Yes.

Mr. ELLENDER. I wonder whether the Senator would put the authority for that in the RECORD. If I recall correctly, under the 1969 act, the money was provided for Sentinel for meeting the protection of our cities. Safeguard is an entirely new program to protect the missiles themselves. I trust that the Senator will place in the RECORD the legal authority for having obligated the funds under the continuing resolution for the Safeguard system, when the money was provided in 1969 for the Sentinel.

Mr. STENNIS. A quick answer there is that I just referred to the fact that we could have both sites under that 1969 money. The Sentinel money was in broad, general language for a missile system of an anti-ballistic-missile type. I will get the book and page number for the Senator. I believe that he has raised a good point. It is not unusual for language as broad as this to be interpreted as being subject to the continuing resolution.

Mr. ELLENDER. Then the Senator will have that printed in the RECORD?

Mr. STENNIS. Yes; if not this evening, I will place it in the RECORD at the earliest possible time.

Mr. President, during the ABM discussion last summer, some concern was expressed about the fact that the Army as a matter of law could proceed and acquire real estate for the phase 1 portion of Safeguard since authority and funds were enacted in fiscal year 1969 for this purpose. The Senator from Virginia (Mr. SPONG) expressed to be some concern over this matter. Insofar as I am concerned, the Safeguard program approved in the authorization bill for fiscal year 1970, and in the appropriation bill, represents an intent that the Army should not proceed beyond phase 1 insofar as site acquisition is concerned.

The Army has furnished a fact sheet, dated December 12, 1969, which in effect states that other than surveying and site investigations, there will be no action on phase 2 real estate sites.

In other words, until Congress specifically authorizes phase 2, there will be no real estate acquisition for these sites.

Mr. President, I ask unanimous consent to have the fact sheet printed in the RECORD.

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

PHASE 2 SITE SELECTION ACTIVITIES

1. Plans for the phased Safeguard deployment announced by the President on 14 March 1969 provided for the selection and acquisition of all twelve sites, although construction and deployment was to be undertaken only for the two Phase 1 sites near Grand Forks AFB, North Dakota, and Malmstrom AFB, Montana. The acquisition of all twelve sites was planned to avoid undue delay in the program in case it became necessary to move ahead rapidly with one of the Optional Phase 2 deployments.

2. As the Deputy Secretary of Defense testified before the Senate Armed Services Committee on 13 May, the approval of acquisition of land for the twelve sites had been requested as a part of Phase 1. At that time, however, Secretary Packard stated ". . . I would not propose that it be used unless the Phase 1 request is approved by the Congress." Similarly, on 22 May the Secretary of Defense testified to the House Appropriations Committee that he had on his own initiative ". . . held up all construction work on ABM sites and any further acquisition of land for these sites, pending Congressional decision on this program."

3. The Army suspended all action toward survey or acquisition of all sites, including those of Phase 1, until Congressional action on the FY 70 Authorization Bill. Following such action on 3 October, the Army submitted real estate acquisition reports covering the sites at Grand Forks AFB, North Dakota, and Malmstrom AFB, Montana. These submissions were preliminary to final survey and engineering activities at these sites. However, in submitting these reports, the Army stated that no action to acquire land in these areas will be taken until enactment of the FY 1970 Defense Appropriation Act. On-site survey, exploratory excavation and engineering has been underway since 9 October 1969 on the Phase 1 sites only.

4. The Army will continue to withhold any survey and selection of Phase 2 sites until after Congressional action is completed on the FY 1970 Defense Appropriation Bill. The Army then proposes to conduct preliminary surveys and site investigations as necessary to make tentative selection of appropriate locations for each of the remaining Phase 2 sites.

a. Safeguard sites will generally be in remote locations, outside metropolitan areas.

b. However, in the case of the site for defense of the National Command Authority (NCA) in Washington, D.C., the Safeguard capability must be provided close to the city so as to give protection to the NCA. At the present time, no final nor tentative Safeguard site in the Washington area has been chosen nor have the field surveys been conducted which would be a necessary prerequisite to selection. If a site is later approved for the Washington area, it will consist of a Missile Site Radar and a Spartan and Sprint missile field. The Sprint must be located reasonably close to the site defended; in this case, the NCA. The Spartan can be located in a second field at a much greater distance from the site to be protected.

5. Final selection of any Phase 2 site and submission to the appropriate committees of Congress of a real estate acquisition report covering the site will be dependent upon approval by the President of a Phase 2 deployment requiring that site. In any case, however, acquisition of land will be withheld pending Congressional authorization of the additional deployments involved.

Mr. STENNIS. Mr. President, I invite the Senate's special attention to the fact that the Senator from Washington (Mr. JACKSON), a very valuable member of the Armed Services Committee, was planning to be here today and had timely and forceful remarks prepared for that purpose.

However, the Senator was called home on account of the passing of a very close and dear relative and could not be with us today.

I therefore ask unanimous consent to have his remarks printed in the RECORD.

There being no objection, the statement by Senator JACKSON was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JACKSON

Mr. President, last August the Congress voted to authorize Phase I of the Administration's plan to proceed with deployment of the Safeguard ABM system. The affirmative vote in the Senate followed more than a month of vigorous debate during which a wide range of issues were subjected to thorough, if not always dispassionate, discussion.

I need hardly remind you that the vote to approve Safeguard was a narrow one. But after extensive hearings in the Armed Services and Foreign Relations Committees, and an exhaustive national debate, Safeguard was incorporated into our national strategic posture on August 6. From that day to this the extensive planning effort that has gone on in the Department of Defense on our strategic posture, and the extremely complex and difficult planning that led to a U.S. position in the Strategic Arms Limitation talks, have proceeded on the assumption that we are committed to a limited and phased deployment of ABM defenses. After much delay—which was not without cost—one major uncertainty affecting our planning was resolved.

One of the many issues surrounding the decision to deploy Safeguard that concerned a number of Senators had to do with the effect of an initial deployment on the talks now underway in Helsinki. It was my view then, and it remains my view now, that the only way to approach the negotiation of limits on ABM and other strategic systems was to place in the President's hands a concrete program demonstrating our determination to provide for the defense of our land-based missiles, our bomber bases and the national command authority in Washington.

What incentive would the Soviets have had to consider seriously limitations on their offensive forces if we were to refrain from undertaking a limited, defensive deployment capable of frustrating any advantage that might result from their proliferation of SS–9 missiles? And why should they entertain limitations on *their* efforts to develop an ABM capability if we were to unilaterally abandon *our own* efforts?

So our preparation for the Helsinki talks assumed a firm commitment to Safeguard as a phased, flexible deployment, consistent with President Nixon's intention to make an annual review taking account of the threat, technical developments, and the diplomatic context, including the SALT talks.

I am pleased at the early indications that the negotiations in Helsinki have indeed been serious and business-like. These are perhaps the most complex negotiations in the long and often discouraging history of the effort to limit armaments, and I am certain that we all welcome the constructive atmosphere that has attended their opening.

But the crucial consideration in these talks—and the fact that makes them so complex—is the difficulty of negotiating an agreement on strategic armaments in a situation where every element of our respective deterrent forces is related to every other element—where no single system can be considered in isolation. Thus our ABM defenses are critically related to Soviet offensive deployments, to the extent, size and accuracy of their ICBM force, to multiple warhead technology and to present and future missile intercept systems.

It is this array of interrelated systems that has determined the nature of the SALT talks—in which we and the Soviets have been building toward identifying areas in which accommodation is possible in the interests of stabilizing our respective deterrent forces.

One crucial element in the fragile structure of these deliberations has been the relationship between Soviet offensive forces, on the one hand, and the Safeguard response to their rapid proliferation, on the other. In this connection, the planned deployment of Safeguard is the President's trump card in the effort of our negotiators to bring a halt to the seriously destabilizing continued build-up of Soviet offensive power. For if Safeguard conveys any message to the Soviet Union it is this: "We are not prepared to sit by while you continue to deploy offensive missiles. We are determined to protect our deterrent force. The extent of the protection we require is related to the size and nature of your forces. The limits you place on your offensive forces will determine the limits we are able to place on our defensive deployments." That is what Safeguard says to the Soviets.

Safeguard, then, is a central element in the SALT talks. Without it, not only would our capacity to arrive at limits on offensive power be seriously diminished, but our effort to control ABM itself would be hopelessly frustrated. For it is almost certainly the case that the Soviets, like ourselves, must prepare for the day when the Chinese are capable of launching nuclear weapons at their homeland. The Soviets appreciate this fact; their record on ABM is clear. They have consistently favored defensive systems, in their military doctrine and their public pronouncements. They have deployed a system around Moscow. They are engaged in extensive research and development with a view to improving their present ABM capability. And they possess an extensive network of surface to air missiles that could well form the basis for an upgraded system with significant capabilities to intercept some ballistic missiles.

Our efforts to constrain these developments—to contain them within stabilizing limits—are postulated on a concrete, visible and limited deployment of our own. Without Safeguard as a base system indicating our requirements, the talks might well end without established parameters to guide the future development of defensive systems for protection from emerging nuclear powers.

The situation we face today is very different from the circumstances that surrounded the debate in the Senate on the military authorization bill this summer. I trust that even those Senators who opposed Safeguard in August will recognize that our commitment to it is an inextricable part of our negotiating posture in Helsinki. To withdraw now the support that was approved in August would not only weaken catastrophically our position in the talks, it would encourage the Soviets in the belief that delay and procrastination will enable them to capitalize on the hesitancy to maintain our military position in the strategic balance.

Those Senators who are today considering whether to deny the President a system he considers essential to our position in the SALT talks—or to substantially cut the funds for Safeguard and delay it further—must recognize that, in so doing, they must bear responsibility for any failure in Helsinki or Vienna that might result from the collapse of our position there. For this is what is at stake—quite apart from the strategic importance of Safeguard in the event that the talks fail for other reasons.

Many opponents of Safeguard were arguing this summer that we must take care not to prejudice the opportunity for a successful round of arms negotiations. We were urged to treat the Soviet Union gingerly—to refrain from a deployment that would create ill-feeling on the eve of the talks. I can find nothing in the history of negotiations with the Soviets that suggests they are influenced by anything other than their calculation of advantage. They are not subtle. They do not determine their military posture by reference to vague conceptions of "good will." They neither give nor expect to receive gestures of kindness. What more convincing proof of this view could I bring to bear than to point out that their unprecedented build-up of strategic nuclear forces remains unabated since the summer, and since the talks in Helsinki began in November? Not a single Soviet program has been slowed down. On the contrary, there are grave indications that they have in the development stage weapons that will take them far beyond the parity some claim they seek.

All across the board the latest intelligence is bleak: in submarines of the Polaris type and their associated missiles, in land-based missiles with enormous megatonnage and improving accuracy, in the development of ABM systems the Soviets are pursuing an aggressive and generously funded program of expansion. In some areas they are developing multiple systems designed for the same operational mission, presumably with the intention of selecting among prototypes in order to deploy the most effective version.

If the Soviets genuinely desire a stabilization of the strategic balance they will negotiate limits in the SALT talks that are responsive to the requirements, for strategic stability. While we must hope that they fully intend to do so, we must recognize the grave consequences of leading them to believe that they need not negotiate—that rather than abandon their continuing offensive deployments they can trust to our reluctance to make the necessary sacrifices to insure our own security.

These disturbing developments, coupled with the delicate state of the negotiations in Helsinki, force us to view the decision to deploy Safeguard in a new light. No longer is the issue one in which the international implications are tangential: they are direct. They are immediate.

A weakening today of the decision made in the Senate in August would undermine the President in Helsinki and strengthen those voices in the Kremlin that have been promoting the unrestrained expansion of Soviet strategic power. This vacillation would be a clear indication to the Soviets that we lack the will and resolve to provide for our own defense. Such an "on-again, off-again" approach to fundamental questions of strategic posture, far from eliciting reasonable and mutually desirable concessions from the Soviets, encourages their intransigence in anticipation of the next "off-again".

Mr. TOWER. Mr. President, during the course of the ABM debate I pointed out that the longer the debate continued and the longer it took to get an authorization and subsequent appropriation, we could expect some appreciation in cost. This is a matter that was brought up by the distinguished Senator from Oregon a moment ago. I think it is easily explained. I think the delay in getting the appropriation bill passed accounts for some of the increase in the long-range cost. It does not, however, affect the amount of money that presently appears in the appropriation bill. It does not mean one more dime will be appropriated.

I ask unanimous consent to have printed in the RECORD at this point a detailed analysis of the matter of increased cost, which amounts to about 6 percent.

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

The latest formal cost estimates on Safeguard transmitted to Congress were ones giving information as of 30 June 1969. These were sent to the Senate and House Appropriations and Armed Services Committees in mid-October as one of the Department of Defense, quarterly, Program Status Reports, sometimes called "Selected Acquisition Reports." That Program Status Report on Safeguard carried $4.185 B as the Department of Defense cost of Safeguard. This cost included the total funding requirement for Research, Development, Test and Engineering (RDT&E), military construction (MCA), and procurement and checkout (PEMA) as of 30 June 1969. These were the estimated costs for RDT&E, PEMA and MCA for the seven-year period FY 68 thru FY 74, the time when the final Phase 1 site would be ready.

Later in testimony to the House Appropriations Committee on 17 November, the Secretary of Defense presented a tabular listing entitled "Selected Acquisition Report on 34 Major Weapon Systems, June 30, 1969, Cost Summary" which showed this same figure for the Safeguard, Department of Defense costs.

The next Program Status Report on the Safeguard program is now in its final stage of review by the Department of Defense and will show the program costs updated to be as of 30 November 1969. It will be forwarded very shortly to the Chairman of the Armed Services and Appropriations Committee. The Report will show a cost increase over the earlier Safeguard reports. The total increase will be $277 M to $4462 M total; or a percentage increase from the earlier reported total of about 6⅔ per cent. This increase is brought about by three things.

a. First, the largest is the inflation that has occurred. In this regard, estimates of the 30 June report were based on the price levels as of 31 December 1968. The new Program Status Report has been updated to a 31 December 1969 level so that it will be in agreement with the budget and authorization submissions for FY 71 now being prepared. Approximately $136 M of the $277 M is due to this price level change, or 3½ per cent of the earlier reported total program investment costs.

b. Second, the Department of Defense has held back on major commitments for construction and procurement until after passage of the authorization and appropriation bills. This has necessitated delaying the final Equipment Readiness Dates of the Phase 1 SAFEGUARD complexes by 3 months. Completion of deployment of the second site complex is now delayed from the earlier scheduled July 1974 to October 1974. In other words, it has stretched out the deployment and the period over which our production/engineering base is maintained. This stretchout has caused an increase of $55 M or 1⅓ per cent of the earlier reported total program investment costs.

c. Finally, and the second largest, the DOD has continued analysis and refinement of the estimates prepared at and shortly after the March 14 announcement of the SAFEGUARD program. Certain changes in the estimates of several line items have been brought about by this further estimation and study and a few necessary design changes have been made. These together account for $86 M of the increase, or about 2 per cent of the earlier reported total investment costs.

d. In summary then the total cost increase shown in the next Program Status Report will be one of about 6⅔ per cent: of which nearly 3⅓ per cent or half is due to inflation; 1⅓ per cent due to stretchout; and, 2 per cent due to design and estimate changes.

Mr. TOWER. Mr. President, I would like to associate myself with the remarks of the distinguished Senator from Mississippi (Mr. STENNIS). I think one of the major features of the debate had before was that if we passed favorably on the ABM, it would delay prospect of the SALT talks. That has been disproven by the fact that not too long after we acted

favorably on the ABM, SALT talks began and are now in progress.

I know the President feels his hand would be vastly strengthened in the SALT talks if we acted favorably here on the ABM appropriation. I think those who desperately want the SALT talks to succeed—and I am one of them—should be in the position of supporting the appropriation on ABM and should oppose the amendment by the distinguished Senator from Maine.

As I say, I think it is essential to the continued success, or any degree of success, or anticipated success, on our part in the SALT talks, that we do this, because it puts us in the right kind of strategic position for us to be able to deal with the Soviets on this matter.

I would like to again express my great esteem for the Senator from Maine. I cannot think of anyone I would rather not oppose on an amendment, but I ask the Senate to approve this appropriation to proceed with the ABM.

Mr. THURMOND. Mr. President, the most important weapon the Pentagon can develop, in my judgment, that would act as a deterrent to a nuclear war is an antiballistic missile system. This is not a weapon that will send a missile across the ocean and kill people and destroy property. It is purely a defensive weapon.

If the Soviets—and they are the threat to the United States and the free world today—should send missiles over here and we have an ABM system, we will be thankful that we do have a system to intervene those missiles. If the Soviets do not send missiles over here, then we have deterred such an attack and can be even more thankful.

Mr. President, I regret that I am on the opposing side from my distinguished leader on the Armed Services Committee, the distinguished and beautiful Senator from Maine, but I hope the Senate in this case will follow the committee and approve the ABM system.

I had prepared an hour and a half speech, but I have boiled it down to 14 minutes.

What does the Safeguard system do?

First. The Safeguard protects our ICBM's, thereby guaranteeing to an aggressor that the United States would retain the power of retaliation if attacked.

Second. The Safeguard posture avoids the suggestion that we may be preparing for a first strike, as might happen if our posture appeared to be that of protecting our cities against retaliation.

Third. It provides early warning and area defense of our bomber bases, by protecting against a FOBS strike coming from the south. The FOBS is the fractional orbital bombing system, a satellite, which the Soviets have tested.

Fourth. It provides an increased protection against Soviet increased deployment of submarine-launched ballistic missiles.

Fifth. It protects against the accidental firing of a few missiles by the Soviets.

Sixth. It will be relatively cheaper in the initial phases, giving time to work out any bugs before full deployment.

Seventh. It gives the President time to see whether the Soviets are serious about negotiations, while not delaying protection.

Eighth. It provides reasonable protection against the capability the Chinese will have by the mid-1970's.

Ninth. It gives the United States a protection which is similar to the protection which the Soviets have had for 6 years.

Tenth. It helps to reestablish the symmetry of the strategic balance. The Soviets have increased their offensive capability. They have more ICBM's in being and under construction than we do, and they are beginning a rapid build-up of nuclear submarines.

Objections have been raised to this program. Critics have raised the point that it will not work. I will simply say that the parts have all been tested, except the perimeter acquisition radar, and all the component parts have been tested individually, with the exception of that particular one.

Some critics say it costs too much. My answer to that is that the cost as given here, $779.4 million and in the military construction bill, which includes $14.1 million, is less than $800 million. This is less than 1 percent of the military budget, and it is less than 10 percent of the amount we spend on welfare.

Some critics say it will escalate the arms race. My answer to that is that the Soviets have it and they did not think it would escalate the arms race.

Some critics say we have the submarines that can launch ballistic missiles and the B–52's if the ICBM's are destroyed, and we do not need the ABM. My answer is that we need a mix of systems and we must not rely on any one system.

Some critics say we can rely on an ICBM deterrent. My answer to that is if the ICBM fails to deter, there is no option then but a nuclear war.

Some critics say that it will delay arms control. My answer to that is that the Soviets asked for arms control talks when the ABM was announced. In other words, the more powerful we are militarily the nearer we will come to getting arms control than if we are weaker militarily or we do not have the ABM.

Some critics say the Soviets have good intentions. My answer to that is that we must plan for capability, not intentions, although I do not subscribe to the belief that the Soviets have good intentions. My answer to that is that we must plan for capability, not intentions, although I do not subscribe to the belief that the Soviets have good intentions, because there is nothing to show they have changed their goal of world domination.

I would remind the Senate of something of the Soviet capability. If we ever had any doubts about the Soviet desire for power, the past year or so should have cast those doubts away, because the age of U.S. strategic superiority has passed. The age of parity has passed. In the past few months, the Soviets have dramatically stepped up their production and deployment of offensive weapons. Listen to this: At the present time, the Soviets have 1,140 ICBM's; we have 1,056. Within the time frame of 5 years, necessary to get the Safeguard ABM in operation, the Soviets will have the capability of deploying 2,500 ICBM's. In 5 years, the U.S. plans to have 1,056 ICBM's.

Whether the Soviets will exercise their capability to produce 2,500 ICBM's in 5 years is beside the point. We cannot afford to second-guess about intentions. It is noteworthy that the Soviets did not stop at parity, as many predicted.

Moreover, the Soviets have been concentrating production on the super-size SS–9 offensive missiles, capable of carrying up to a 25-megaton warhead or three warheads of 10 megatons each. One megaton is equivalent to 50 times the explosive power of the bomb dropped on Hiroshima. The Secretary of Defense says that the Soviets now have 200 SS–99's and will have 500 within the time frame we need to get our ABM deployed.

At the present time, the Soviets are building one Polaris-type submarine a month. At this rate, the Soviets have the capability to exceed the 656 U.S. Polaris missiles by the end of fiscal year 1971. In addition, the Soviet Navy has a 2-to-1 nuclear advantage over the U.S. Navy in attack submarines. The most effective weapon against a nuclear submarine is the attack submarine. The U.S. position is even worse when we consider that nearly half of our attack submarines are of World War II construction, while almost all the Soviet attack submarines have been built within the past 14 years.

At the present time, the Soviets are testing the FOBS, or the fractional orbital bombing system. If the same vehicle with refinements is launched at a different angle, then the FOBS can become a full orbital bomb. The United States has rejected the development of such a system.

At the present time, the Soviets have 700 medium and intermediate range ballistic missiles deployed against targets in NATO countries. The United States has no MRBM's or IRBM's deployed against the Soviet Union. Because of our commitments to NATO, any assessment of the strategic balance must take into the equation the MRBM's and IRBM's. The combined total of ICBM's, IRBM's, MRBM's and SLBM's is 2,750 for the Soviet Union as against 1,710 for the United States.

At the present time, the Soviets have had an ABM system in operation for 6 years. The Soviet ABM is now in its third generation of improvement. Each time it has been carefully evaluated and tested before the new deployments were authorized. I cannot believe that the Soviets would continue to deploy system after system in their ABM defenses if their ABM was, in the words of one critic, "A bunch of junk." I think that the Soviet scientists and military experts who actually had the opportunity to test and evaluate the equipment on the spot would be in a better position to judge the effectiveness of the equipment than those who have only guesses to go by.

There are indications that the Soviet Union has gone beyond anti-ballistic-missile defenses and are testing anti-space defenses designed to immobilize

satellites. Since the function of the U.S. satellites in space is to monitor preparations around the Soviet ICBM sites, it is clear that we would be in a dangerous situation if the Soviets achieve an effective way to counteract our intelligence-carrying satellites.

To sum up the Soviet capabilities, the Soviets are devoting 70 percent of their military budget to strategic forces. Secretary Laird says that they are outspending the United States at the ratio of $3 to every $2 which we spend. In 1968, the Soviets passed the United States in expenditures for research and development. In fiscal 1970, the United States will spend about $15 billion for R. & D. The consensus of experts on the Soviet economy is that in the same period the U.S.S.R. will spend between $15 and $20 billion for research and development.

SOVIETS GOALS

In closing, the question remains, then, as to why the Soviets are putting on such a tremendous push in weapons development. Up to this point, I have said little about Soviet intentions. Our military planners must plan on the basis of their capability. We must plan to meet the Soviet capability not only at the present time, but 5 years from now. Historically, the United States has repeatedly under-estimated the Soviet intentions and capabilities on critical offensive items such as Soviet development of the A-bomb, H-bomb, and advanced jet engines, long-range turbo prop bombers, airborne intercept radar and large-scale production of enriched fissionable material. At the same time, the Soviets have never displayed any serious interest in bilateral arms control agreements which would include effective on-site inspection.

But in the long run, in the light of such developments, it would be folly not to consider them as expressions of the Soviet drive for world domination.

The Soviets have always proclaimed that they would triumph over the West and they continue to prepare for that outcome. As recently as April 21, Gen. Alexei Yepishev, Head of the Main Political Administration of the Soviet Defense Ministry, laid down the party line for all to follow. Yepishev is a close friend of Brezhnev and he wrote in the official journal of the Soviet Communist Party Central Committee. His article clearly expresses the highest policy sanction.

Echoing the speeches of Khrushchev, Yepishev declared that "The imperialists are hypocritically preparing for new world war", and he warned:

> A third world war, if imperialism is allowed to start one, would be the decisive class conflict between two antagonistic social systems.

He said that such a conflict would "guarantee the construction of socialism and communism." Finally, he said:

> Such a war would be a continuation of the criminal reactionary aggressive policies of imperialists . . . From the side of the Soviet Union, it would be a legal and justified counter-action to aggression.

I submit that this is the voice of the Soviet Union that has been preparing for war, that has continued a tough drive to achieve strategic military superiority. In view of such an attitude, it would be folly not to consider the deployment of the Safeguard ABM System to be essential to our Nation's security.

I hope the amendment of the distinguished Senator from Maine will be defeated.

Mrs. SMITH of Maine. Mr. President, I hope there will not be a motion to table this amendment, for that would confuse the issue. Instead, I would ask the Senate to do the clear-cut and direct thing by clearly voting this amendment up or down on the merits, rather than on a parliamentary maneuver that merely confuses the issue.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

Mr. STENNIS. Mr. President, just to make certain that everyone understands—and I shall not make a motion to table—this amendment would strike out all the money in the bill, including research and development, except funds for personnel. The Senator from Maine has explained that point, but other Senators have since come into the Chamber.

This is a sweeping amendment that takes out everything except personnel, as the Senator has related. I hope the amendment will be defeated.

Mrs. SMITH of Maine. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I yield.

Mrs. SMITH of Maine. Is it not clear that there is research and development money, a classified item but a substantial part of the $212 million for the Nike-X advance development?

Mr. STENNIS. Nike-X?

Mrs. SMITH of Maine. Advance development.

Mr. STENNIS. The Senator's amendment would not cover that.

Mrs. SMITH of Maine. That is already in; so there is a substantial part of the $212 million available that is in the bill for research and development.

Mr. STENNIS. Yes, that was a part of the old program. That could be used. But I mean to say the amendment would take out all the research and development money for 1970.

Mrs. SMITH of Maine. It takes out all the research and development money on Safeguard, but not on other developments.

Mr. STENNIS. That is right. It takes out the R. & D. on Safeguard, but not on the old Nike program.

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

Mr. STENNIS. I yield.

Mr. HART. Is it correct to say that the amendment eliminates the money for Safeguard?

Mr. STENNIS. That is correct.

Mr. HART. There is in the bill, however, money for other advanced antiballistic missile concepts?

Mr. STENNIS. That was the point I was making. It takes out the R. & D. money for Safeguard.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

Mr. STENNIS. Mr. President, I yield to the Senator from Wisconsin.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, before the vote is taken on the pending amendment, I should like to make a special and personal plea to all members of the Appropriations Committee that after the disposition of the pending bill, they meet downstairs in room S–128 with the distinguished chairman of the Appropriations Committee, the Senator from Louisiana (Mr. ELLENDER), to consider the disposition, finally I would hope, of the HEW appropriation bill and the transportation appropriation bill.

I make that plea because if we do not do something of that nature, we are not going to have any business to transact when we come in tomorrow morning. We have the mistletoe hanging over our heads. And we have the threat of a call-back if we are not finished by Christmas eve. I would like to get out by Christmas eve. With the concurrence of the Appropriations Committee on the Senate, I think we can make it before that date.

I think the plea will be taken to heart. Anyone whom I can see personally, I will ask to go there, and I hope that the chairman will do the same with respect to anyone whom I do not see.

Mr. MAGNUSON. Mr. President, that is perfectly all right. However, we have the whole HEW appropriations bill finished at this time. There are two items which have been in some conflict. With respect to the so-called Whitten amendment, we have some other language. The Senator from Mississippi was perfectly willing this afternoon to finish that matter and have a time limitation. However, because of the way the defense bill went and the executive session, he had to be up here and the Senator from Louisiana had to be up here. So, we got everything ready.

We thought that we could meet at 9 o'clock in the morning and have 1 hour in which to finish the matter. However, it is perfectly all right with me if we do it tonight.

As long as we have to be here, we can meet tonight and get the matter completed, if it is agreeable with the chairman of the committee.

Mr. MANSFIELD. It is very agreeable with him and also with the Senator from Mississippi.

Mr. MAGNUSON. Then, I made my usual request. When we finish action on the pending bill, everybody on the full committee will please report down in the salt mines.

Mr. McINTYRE. Mr. President, I would like to make a brief statement in explanation of my vote on today's ABM appropriations amendment.

One of the most fateful issues before us as a people at the present time is whether or not we should proceed with the construction of an ABM system. It is an exceedingly complex issue, to which there is no easy answer.

Last summer we engaged here in the Senate in a long and thorough debate of the issue. When the roll was finally called, we found ourselves evenly divided.

I do not regard this vote as a final Senate pronouncement on the issue. Even if it had been more decisive, it would be proper, in my view, to reexamine the issue at a later date.

I do not believe, however, that now is an appropriate time for such a reexamination. Due to the press of business upon us as the holiday season approaches, we simply cannot reopen our deliberations in the depth which our responsibilities require. Under the circumstances, I have decided to vote against today's amendment.

This vote should be interpreted for what it is and no more. I voted last summer against the administration's proposal to move ahead with construction of the Safeguard system. I stand on my vote, but I also feel we should abide at this time with the result of last summer's rollcall. My vote today, therefore, is directed against the timeliness rather than the substance of today's amendment. I simply do not believe that it would be proper to reopen the underlying issue at this time.

SAFEGUARD IS NO SAFEGUARD

Mr. McGOVERN. Mr. President, the Safeguard hard-point ABM is a system of many weaknesses. Not the least of these is the missile site radar, or MSR, which is so inadequate as to invalidate the entire system.

All four major Safeguard components are carried over from the Sentinel and Nike-X city-defense systems; none are suitable for the hard-point defense mission. Let us consider the missile site radar as an example. It is possible for the Soviet Union to mount an inexpensive reliable attack on the MSR's which would render the entire Safeguard system inoperable.

Because of its high cost—current estimates run at about $165 million per copy—it is impractical to build more than one MSR for each Minuteman ICBM farm. An MSR is necessary for all ABM interceptions. Because of its short range, there is no overlap between MSR's. Thus, destruction of a Minuteman farm's MSR would leave that farm without ABM protection. Destruction of all 12 of Safeguard phase 2's MSR's would render the entire system inoperable.

Let us assume the Safeguard ABM system will be 70 percent effective. Even allowing for multiple interceptor firings at a single Soviet warhead, this is a generous assumption of ABM system effectiveness under ideal test conditions. In the context of a real-life heavy sophisticated surprise attack, it is extremely generous.

The following three estimates of Soviet offensive missile capability are based on official Pentagon statements. If, in fact, the Soviet capability is not as great as the Pentagon claims, our ICBM's are not seriously threatened and we do not need Safeguard. If the Soviet missile capability is as good or better than the Defense Department claims, Safeguard will not help us, as I shall now demonstrate.

First, let us assume Soviet missile accuracy will be such that a 5-megaton warhead will have a 95-percent probability of destroying a hardened ICBM silo. Since an MSR is only one-tenth as "hard" as a silo, a one-half megaton warhead will have a 95-percent probability of destroying an MSR.

Second. Let us assume 20 percent of the Soviet warheads will malfunction at some point.

Third. Let us assume the Soviet SS–9 missile is capable of carrying a single 20- to 25-megaton warhead, or three 5-megaton independently targetable MIRV warheads. From this it can be extrapolated that an SS–9 could carry 10 one-half megaton warheads and have some payload left over for penetration aids.

Applying standard statistical procedures to these three assumptions, one can calculate that an attack by 8 one-half megaton warheads would leave a 13-percent probability of MSR survival. An attack by 16 warheads reduces the probability of 1.8 percent; 20 warheads reduce it to a negligible 0.7 percent.

Dr. Foster of the Defense Department has estimated the cost of a single warhead SS–9 at $30 million. Based on this, a 10-warhead MIRV SS–9 might cost $35 million. Thus, the cost of destroying an MSR would be two SS–9 missiles, or about $70 million. The entire 12–MSR Safeguard system, which will cost at least $12 billion, can thus be rendered inoperable by 24 SS–9's costing a total of $840 million.

So each dollar we spend on Safeguard can be neutralized by a Soviet expenditure of 7 cents. Safeguard is a poor investment indeed.

Several alternative proposals have been suggested, some of which offer some hope of economical and effective hardpoint defense. But none of these have any major components in common with Safeguard. Therefore, if we eventually decide to build an effective ABM defense, all money spent on Safeguard deployment will have been wasted.

The PRESIDING OFFICER. The question is on agreeing to the Smith-Cooper-Hart amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COOK (when his name was called). On this vote I have a live pair with the Senator from Iowa (Mr. MILLER). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. SAXBE (when his name was called). On this vote I have a live pair with the Senator from South Dakota (Mr. MUNDT). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. MAGNUSON (after having voted in the affirmative). On this vote I have a live pair with the Senator from Georgia (Mr. RUSSELL). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. METCALF (after having voted in the affirmative). On this vote I have a live pair with the Senator from Washington (Mr. JACKSON). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Maryland (Mr. TYDINGS). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Washington (Mr. JACKSON) is absent because of a death in his family.

On this vote, the Senator from New Jersey (Mr. WILLIAMS) is paired with the Senator from Alabama (Mr. SPARKMAN). If present and voting, the Senator from New Jersey would vote "yea," and the Senator from Alabama would vote "nay."

I further announce that, if present and voting, the Senator from Missouri (Mr. SYMINGTON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER) is necessarily absent.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Kentucky (Mr. COOPER) would vote "yea."

The respective pairs of the Senator from Iowa (Mr. MILLER) and that of the Senator from South Dakota (Mr. MUNDT) have been previously announced.

The result was announced—yeas 36, nays 49, as follows:

[No. 235 Leg.]

YEAS—36

Bayh	Hart	Moss
Brooke	Hartke	Muskie
Case	Hatfield	Nelson
Church	Hughes	Pell
Cranston	Inouye	Percy
Eagleton	Javits	Proxmire
Ellender	Kennedy	Randolph
Fulbright	Mathias	Ribicoff
Goodell	McCarthy	Schweiker
Gore	McGovern	Smith, Maine
Gravel	Mondale	Yarborough
Harris	Montoya	Young, Ohio

NAYS—49

Aiken	Cannon	Griffin
Allen	Cotton	Gurney
Allott	Curtis	Hansen
Baker	Dodd	Holland
Bellmon	Dole	Hollings
Bennett	Dominick	Hruska
Bible	Eastland	Jordan, N.C.
Boggs	Ervin	Jordan, Idaho
Burdick	Fannin	Long
Byrd, Va.	Fong	McClellan
Byrd, W. Va.	Goldwater	McGee

McIntyre	Scott	Thurmond
Murphy	Smith, Ill.	Tower
Packwood	Spong	Williams, Del.
Pastore	Stennis	Young, N. Dak.
Pearson	Stevens	
Prouty	Talmadge	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—5

Cook, for.	Metcalf, for.
Saxbe, for.	Mansfield, against.
Magnuson, for.	

NOT VOTING—10

Anderson	Mundt	Tydings
Cooper	Russell	Williams, N.J.
Jackson	Sparkman	
Miller	Symington	

So the amendment of Mrs. SMITH of Maine was rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ECONOMIC OPPORTUNITY ACT AMENDMENTS OF 1969

Mr. NELSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3016.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3016) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, to authorize advance funding of such programs, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Economic Opportunity Act Amendments of 1969".

TITLE I—EXTENSION OF AUTHORIZATION

SEC. 101. For the purpose of carrying out programs under the Economic Opportunity Act of 1964 for which there are no separate authorizations of appropriations in such Act, there are hereby authorized to be appropriated $1,563,000,000 for the fiscal year ending June 30, 1970, and such amount as may be necessary for the fiscal year ending June 30, 1971.

SEC. 102. Sections 161, 245, 321, 408, 615, and 835 of the Economic Opportunity Act of 1964 are each amended by striking out "1967" and by inserting in lieu thereof "1969". Section 523 of such Act is amended by striking out "June 30, 1968, and the two succeeding fiscal years" and by inserting in lieu thereof "June 30, 1969, and the three succeeding fiscal years".

TITLE II—SPECIAL WORK AND CAREER DEVELOPMENT PROGRAMS

SEC. 201. Title I of the Economic Opportunity Act of 1964 is amended redesignating part E as part F, by renumbering section 161 (as amending by section 102 of this Act) as section 171, and by inserting after part D the following new part:

"PART E—SPECIAL WORK AND CAREER DEVELOPMENT PROGRAMS

"STATEMENT OF PURPOSE

"SEC. 161. The Congress finds that the 'Operation Mainstream' program aimed primarily at the chronically unemployed and the 'New Careers' program providing jobs for the unemployed and low-income persons leading to broader career opportunities are uniquely effective; that, in addition to providing persons assisted with jobs, the key to their economic independence, these programs are of advantage to the community at large in that they are directed at community beautification and betterment and the improvement of health, education, welfare, public safety, and other public services; and that, while these programs are important and necessary components of comprehensive work and training programs, there is a need to encourage imaginative and innovative use of these programs, to enlarge the authority to operate them, and to increase the resources available for them.

"SPECIAL PROGRAMS

"SEC. 162. (a) The Director is authorized to provide financial assistance to public or private nonprofit agencies to stimulate and support efforts to provide the unemployed with jobs and the low-income worker with greater career opportunity. Programs authorized under this section shall include the following:

"(1) A special program to be known as 'Mainstream' which involves work activities directed to the needs of those chronically unemployed poor who have poor employment prospects and are unable, because of age, physical condition, obsolete or inadequate skills, declining economic conditions, other causes of a lack of employment opportunity, or otherwise, to secure appropriate employment or training assistance under other programs, and which, in addition to other services provided, will enable such persons to participate in projects for the betterment or beautification of the community or area served by the program, including without limitation activities which will contribute to the management, conservation, or development of natural resources, recreational areas, Federal, State, and local government parks, highways, and other lands, the rehabilitation of housing, the improvement of public facilities, and the improvement and expansion of health, education, day care, and recreation services;

"(2) A special program to be known as 'New Careers' which will provide unemployed or low-income persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic, or cultural condition of the community or area served in fields of public service, including without limitation health, education, welfare, recreation, day care, neighborhood redevelopment, and public safety, which provide maximum prospects for on-the-job training, promotion, and advancement and continued employment with Federal assistance, which give promise of contributing to the broader adoption of new methods of structuring jobs and new methods of providing job ladder opportunities, and which provide opportunities for further occupational training to facilitate career advancement.

"(b) The Director is authorized to provide financial and other assistance to insure the provision of supportive and follow-up services to supplement programs under this part including health services, counseling, day care for children, transportation assistance, and other special services necessary to assist individuals to achieve success in these programs and in employment.

"ADMINISTRATIVE REGULATIONS

"SEC. 163. The Director shall prescribe regulations to assure that programs under this part have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, availability of in-service training and technical assistance programs, and other policies as may be necessary to promote the effective use of funds.

"SPECIAL CONDITIONS

"SEC. 164. (a) The Director shall not provide financial assistance for any program under this part unless he determines, in accordance with such regulations as he may prescribe, that—

"(1) no participant will be employed on projects involving political parties, or the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

"(2) the program will not result in the displacement of employed workers or impair existing contracts for services, or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

"(3) the rates of pay for time spent in work-training and education, and other conditions of employment, will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant; and

"(4) the program will, to the maximum extent feasible, contribute to the occupational development and upward mobility of individual participants.

"(b) For programs which provide work and training related to physical improvements, preference shall be given to those improvements which will be substantially used by low-income persons and families or which will contribute substantially to amenities or facilities in urban or rural areas having high concentrations or proportions of low-income persons and families.

"(c) Programs approved under this part shall, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement.

"(d) Projects under this part shall provide for maximum feasible use of resources under other Federal programs for work and training and the resources of the private sector.

"PROGRAM PARTICIPANTS

"SEC. 165. (a) Participants in programs under this part must be unemployed or low-income persons. The Director, in consultation with the Commissioner of Social Security, shall establish criteria for low income, taking into consideration family size, urban-rural and farm-nonfarm differences, and other relevant factors. Any individual shall be deemed to be from a low-income family if the family receives cash welfare payments.

"(b) Participants must be permanent residents of the United States or of the Trust Territory of the Pacific Islands.

"(c) Participants shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.

"EQUITABLE DISTRIBUTION OF ASSISTANCE

"SEC. 166. The Director shall establish criteria designed to achieve an equitable distribution of assistance among the States. In developing those criteria, he shall consider, among other relevant factors, the ratios of population, unemployment, and family income levels. Of the sums appropriated or allocated for any fiscal year for programs authorized under this part not more than 12½ per centum shall be used within any one State.

"LIMITATIONS ON FEDERAL ASSISTANCE

"SEC. 167. Programs assisted under this part shall be subject to the provisions of section 131 of this Act.

"AUTHORIZATIONS

"SEC. 168. For the purpose of carrying out programs under this part, there are hereby authorized to be appropriated $110,000,000 for the fiscal year ending June 30, 1970, and such amount as may be necessary for the fiscal year ending June 30, 1971."

TITLE III—SPECIAL COMPREHENSIVE PRESCHOOL PROGRAMS AND PROGRAMS PROVIDING FOR INTENSIVE FOLLOW THROUGH EDUCATION FOR PRIMARY SCHOOL CHILDREN

SEC. 301. (a) The Economic Opportunity Act of 1964 is amended by adding at the end thereof the following:

"TITLE IX—SPECIAL COMPREHENSIVE PRESCHOOL PROGRAMS AND PROGRAMS PROVIDING FOR INTENSIVE FOLLOW THROUGH EDUCATION FOR PRIMARY SCHOOL CHILDREN

"FINDINGS AND PURPOSE

"SEC. 901. The Congress finds that children participating in Head Start projects and other preschool programs are afforded an increased opportunity for learning and healthy maturation, that more effective and maximum benefits accrue to children participating in preschool programs when special educational programs are provided for such children in the early primary grades immediately following their preschool participation, and that preschool and special educational programs and services provided in the early primary school years afford children with culturally deprived, educationally lacking, or economically distressed family backgrounds an essential opportunity to participate in the economic, social, and political mainstream activities of American life. It is the purpose of Congress in this title to afford broad authority to the Director, either acting directly or by delegation pursuant to the provisions of title VI of this Act, to broaden the opportunities of the children described in this paragraph for preschool and early primary education, including provisions for parental and home involvement, utilizing to the maximum extent possible existing agencies and organizations and resources to accomplish such purposes.

"AUTHORIZATIONS

"SEC. 902. For the purpose of carrying out the provisions of this title, the Director is authorized to make grants to community action agencies, local educational agencies, or other public or nonprofit agencies with the approval of the appropriate community action agency, or to a local educational agency or other public or nonprofit agency in an area where there is no community action agency. For the purposes of carrying out programs under this title, there are hereby authorized to be appropriated $578,000,000 for the fiscal year ending June 30, 1970, and such amount as may be necessary for the fiscal year ending June 30, 1971.

"ALLOTMENT OF FUNDS; LIMITATIONS ON ASSISTANCE

"SEC. 903. The sums which are appropriated or allocated for the purpose of making grants under this title shall be allotted pursuant to section 225 of this Act and such sums and project assistance shall be subject to the provisions of that section.

"USES OF FUNDS

"SEC. 904. (a) Grants made pursuant to this title may be used for (1) the continuation of programs authorized by sections 22(a) (1) and (2) of this Act prior to the enactment of the Economic Opportunity Act Amendments of 1969, and known as 'Project Head Start' and 'Follow Through', where consistent with the purposes of this title, (2) planning for and taking steps leading to the development of early childhood programs for the benefit of children with culturally deprived, educationally lacking or economically distressed family backgrounds, including appropriate arrangements with educational agencies for special educational programs and services for the further intensified provision of educational opportunities for such children during the early years of compulsory school attendance, (3) the provision within such programs of such comprehensive health, nutritional, social, and other services as the Director finds will assist such children in gaining their full potential, (4) providing for direct participation of the parents of such children in the development, conduct, and overall program direction at the project operating level, (5) the establishment, maintenance, and operation of preschool and early primary school programs for the children described in this section, including the lease or rental of necessary facilities and the acquisition of necessary equipment and supplies necessary to provide comprehensive programs as described in this section, (6) the provision of comprehensive physical and mental health services for children needing such assistance in order to profit from educational programs, (7) food and nutritional services, including family consultative and educational programs to improve nutrition in the home, (8) special social services to broaden the educational environment in the homes of the children participating in such programs, and (9) other social and educational activities, including summer, weekend, and vacation programs for such children which we deemed by the Director to further the purposes of this title."

SEC. 302. Section 222(a) of the Economic Opportunity Act of 1964 is amended by striking out paragraphs (1) and (2) thereof.

TITLE IV—INTENSIVE PROGRAMS TO ELIMINATE HUNGER AND MALNUTRITION

SEC. 401. The Economic Opportunity Act of 1964 is amended by adding at the end thereof the following:

"TITLE X—INTENSIVE PROGRAMS TO ELIMINATE HUNGER AND MALNUTRITION

"STATEMENT OF PURPOSE

"SEC. 1001. Congress finds that existing programs aimed at providing surplus foods and free meals to needy children and families often are structured so as to have no or little impact on extremely economically disadvantaged children and families; that to reach the many victims of such impoverished circumstances, existing programs must be supplemented and broadened to produce effective results; that supplementary activities, requiring improved delivery services, increased family food subsidies, intensive family and child educational components, and emergency family medical services, are required frequently in the homes of the most economically disadvantaged; and that such conditions operate most severely on the elderly and the very young. It is the purpose of this title to provide broad authority to meet such needs expeditiously.

"AUTHORITY TO PROVIDE FOOD AND MEDICAL SERVICES AND SUPPLIES

"SEC. 1002. The Director is authorized to provide, directly or by delegation of authority pursuant to the provisions of title VI of this Act, financial assistance for the provision of such medical supplies and services, nutritional foodstuffs, and related services, as may be necessary to counteract conditions of starvation or malnutrition among the poor. Such assistance may be provided by way of supplement to such other assistance as may be extended under the provisions of other Federal programs, and may be used to extend and broaden such programs to serve extremely economically disadvantaged families with particular emphasis on the elderly and the extremely young where such services are not now provided and without regard to the requirements of such laws for local or State administration or financial participation. In extending such assistance, the Director may make grants to community action agencies or local public or private nonprofit organizations or agencies to carry out the purposes of this title. The Director is authorized to carry out the functions under this title through the Secretary of Agriculture and the Secretary of Health, Education, and Welfare in a manner that will insure the availability of such foodstuffs, medical services and supplies through a community action agency where feasible, or other agencies or organizations if no such agency exists or is able to administer programs to provide such foodstuffs, medical services, and supplies to needy individuals and families.

"AREAS OF SPECIAL EMPHASIS

"SEC. 1003. The Director shall take steps to assure that programs under this title shall be designed to deal particularly with the incidence of malnutrition, hunger and serious medical needs among persons in economically disadvantaged circumstances who are fifty-five years of age and older and young children. In the conduct of such programs, the Director shall encourage the employment of such elderly persons as regular, part-time, and short-term staff in programs designed to carry out the provisions of this title.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1004. For the purpose of carrying out programs under this title, there are hereby authorized to be appropriated $92,000,000 for the fiscal year ending June 30, 1970, and such amount as may be necessary for the fiscal year ending June 30, 1971."

SEC. 402. Section 222(a) of the Economic Opportunity Act of 1964 is amended by striking out paragraph (5) thereof.

TITLE V—MISCELLANEOUS

AMENDMENT OF RURAL LOAN PROGRAM

SEC. 501. Section 302(a) of the Economic Opportunity Act of 1964 is amended by striking out "such families, and" and inserting "such families, or".

LIMITATION ON LEGAL SERVICES PROGRAMS

SEC. 502. Section 222(a) (3) of the Economic Opportunity Act of 1964 is amended by striking out "counseling, education, and other appropriate services" and inserting in lieu thereof "legal counseling, education in legal matters, and other appropriate legal services".

AVAILABILITY OF LEGAL SERVICES TO ARMED FORCES PERSONNEL

SEC. 503. Section 222(a) (3) of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following: "Members of the Armed Forces, and members of their immediate families, shall be eligible to obtain legal services under such programs in cases of extreme hardship (determined in accordance with regulations of the Director issued after consultation with the Secretary of Defense). The costs of providing such services shall be reimbursed by the Secretary of Defense."

APPLICABILITY TO TRUST TERRITORY

SEC. 504. Section 609(1) of the Economic Opportunity Act of 1964 is amended by striking out "and title II" and inserting ", title II, title III–A, and title IV".

AUTHORIZATION OF NARCOTIC ADDICT RECOVERY PROGRAM

SEC. 505. Section 222(a) of such Act is further amended by adding to the end thereof the following new paragraph:

"(9) A 'Narcotic Addict Recovery' program designed to discover and bring about post and/or preinstitutional treatment for narcotic addiction. Such a program shall be community based, with appropriate participation by parents, youth, educators and others in the community, serve the objective of maintaining the family structure as well as the recovery of the individual addict, encourage the use of neighborhood facilities and the services of former addicts as program workers and facilitate the re-entry of addicts into society. Such a program shall also emphasize the coordination and full utilization of existing community services which pertain to the treatment of addiction and/or related disorders."

And amend the title so as to read "An Act to provide for the continuation of

programs authorized under the Economic Opportunity Act of 1964, and for other purposes."

Mr. NELSON. Mr. President, I move that the Senate disagree to the amendments of the House on S. 3016; agree to the request of the House for a conference on the disagreeing votes thereon; and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. NELSON, Mr. YARBOROUGH, Mr. PELL, Mr. KENNEDY, Mr. MONDALE, Mr. CRANSTON, Mr. HUGHES, Mr. MURPHY, Mr. JAVITS, Mr. PROUTY, Mr. DOMINICK, and Mr. SMITH of Illinois conferees on the part of the Senate.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1970

The Senate resumed the consideration of the bill (H.R. 15090) making appropriations for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes.

Mr. JAVITS. Mr. President, I send to the desk an amendment on behalf of myself, the junior Senator from New York (Mr. GOODELL), the Senator from New Jersey (Mr. CASE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Pennsylvania (Mr. SCHWEIKER), and the senior Senator from Pennsylvania (Mr. SCOTT), and ask that it be stated.

The PRESIDING OFFICER (Mr. DODD in the chair). The amendment will be stated.

The assistant legislative clerk read as follows:

On page 8 after line 26, insert the following:

"No part of the funds appropriated under this Act shall be used for the purpose of repairing, maintaining, or overhauling any naval vessel at any private facility, other than a facility located in the home port of such vessel, pursuant to any contract which has not been awarded on the basis of competitive bidding, pursuant to chapter 137 of title 10, United States Code, open to all drydock or other repair facilities which are located within 350 miles of the home port of such vessel."

Mr. MANSFIELD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JAVITS. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 20 minutes on the amendment, the time to be equally divided between the Senator from New York and the acting chairman of the committee.

Mr. JAVITS. I wanted 15 minutes.

Mr. MANSFIELD. Very well; 15 minutes to a side.

The PRESIDING OFFICER. Is there objection?

The Chair hears no objection, and it is so ordered.

Mr. SCOTT. Mr. President, will the Senator yield briefly?

Mr. JAVITS. I yield.

Mr. SCOTT. Mr. President, first I gladly cosponsor the amendment.

Second, if the distinguished majority leader has no objection, I would like to offer as part of the bill a resolution in which he and I have joined—to see whether or not this might be considered later. I shall not submit it now.

In addition, I wish to state that the President has just announced the withdrawal of 50,000 troops by April 15. In this announcement he has been consistent with his promises and, therefore, creditable. He has been persistent in his determination to deescalate the war, and he has been persistent in his effort to bring our soldiers home alive as soon as possible.

Mr. President, I thank the Senator for yielding.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, I request that the Chair maintain order so that Senators can hear. We do not know what is happening.

The PRESIDING OFFICER. The Senate will be in order.

Mr. JAVITS. Mr. President, this is a long-standing inequity we have been trying to correct for some time respecting naval ship repairs. It does not relate to conversion, but relates only to repairs.

Apparently we are up against regulation, not a law, of the Navy that provides that where repairs are to be done on a vessel in private facilities other than facilities in its home port, the competitive bidding is confined to the Naval district in which that home port is located.

The configuration of the Naval districts has the great concentration of the Naval ships in the area of the Fifth Naval District, which is the Virginia area. The configuration of the district is such as to shut out major centers like Philadelphia and New York from which they could succeed in obtaining by competitively bidding for it—perhaps and perhaps not. But at least they would have a chance at the work. Now the bidding is confined to ports within the naval district.

The inequity arises in the fact that the distance between major ports in certain naval districts is much greater than the 350-mile limitation which is suggested in this amendment as a fair distance. For example, within the 6th Naval District, one can go as far as 700 miles from Charleston, S.C., to New Orleans, La.

The fact is, because of this regulation, there has been a very material bulge in ship repair work done in certain ports which benefit from this kind of setup as against ship repair work in other ports which has fallen very materially.

For example, in 1963, Boston had 62 percent of all ship repairs; in 1966, the figure dropped to 11 percent. That is the last year for which we have figures. New York had 18 percent in 1963. We are by no means one of the big ports in that regard. However, our ship repairs dropped to 7 percent in 1966. On the other hand, in Newport News, the figure went from 9 percent in 1963 to 31 percent in 1966.

If the bids are won competitively, that is fine, but if not, we think to have very arbitrary distinctions is not compatible with the best interest of the United States and it does not make a real effort to spread the ship repair work.

I shall point up this argument by pointing out the juxtaposition of the Senate and the House reports. We know a report is not legislation, but I have served on the Committee on Appropriations, too, and I know how influential a report is with a Government department. We know what a report means to a Government department which is proceeding by regulation rather than on the basis of statute law. That is all this comes down to.

The other body, in its report, took cognizance of this situation and said in its report exactly what this amendment provides. I point to page 39 of the House report, where the Committee on Armed Services of the House of Representatives said, after discussing the matter:

The committee feels this practice is unnecessarily restrictive and the better price and better desirability of repair work among available facilities could be accomplished if repairs were open to competition.

If only the Senate had done that I assume the Navy would change its regulation, but the Senate committee did not do that. What the Senate committee did, as found on page 36 of its report which is before us today, is as follows:

The committee feels that the morale and retention rate of Navy personnel is of paramount importance and recommends that ship repair work be performed in, or as near as possible to, the home port of the vessel, since many of the ship's personnel will have families living in the area.

Of course, that begs the question completely because there is no argument in my amendment about the home port doing the work. That is the end of it and there is no outside bidding. The question is where the home port does not do the work and where the home port is much farther from the place of repair because it is within that naval district than it would be if there were open competition and some of the larger ship repair businesses in other districts were able to compete.

So the Senate report leaves it up in the air and does not nail it down. The attitude of the Senate on this matter differed from the House. I tried to introduce this matter last year. I felt we had to introduce this amendment to crystallize the situation. Last year we proposed 1,000 miles. In other words we provided that competitive yards within 1,000 miles of the home port could bid. Now we have cut that distance to 350 miles for two reasons: First, the House of Representatives Armed Services Committee passed on the question of fact that that is a fair distance from the ship repair facility to the home port; and second, because the argument was made last year that the crews that go along with a ship should be within some kind of weekend distance so that they could get from the place of repair to the home port. With modern methods of travel 350 miles is not excessive in that regard.

Mr. President, that is the case. The present Navy policy is an inequity and it does not meet standards of best bidding for the United States. It is strictly a

contrived arrangement that is very costly to certain ports. It does not stand up to the best prices and services. It is not attributable to any convenience of travel. Once we get out of the home port we cannot confine the distance question to the naval district. It may be further from the naval district than if the ship was repaired within the 350 miles. That is often the case. For all these reasons, to correct the inequity based on Navy regulations, which apparently is locked in so that we cannot move in, we have interposed this amendment so that the Senate, at long last, as the House has recognized, will see the injustice involved and will help us to correct it.

Mr. SPONG. The Senator from New York has mentioned that he has offered an amendment similar to this before. Other than the difference in the mileage, reducing it from 1,000 to 350 miles, is there any other difference in the amendment than the one of 2 years ago?

Mr. JAVITS. No. They are similar. There is only one technical difference; that is in the words "private facility." We used the word "facility" before. We now use "private facility." This is a matter that applies only when private work is involved and does not involve naval shipyards.

Mr. SPONG. This matter was considered in the Senate in October of 1968. Have there been any hearings on this either on the House side or the Senate side dealing with this subject? I notice that the Senator from New York uses the same statistics today that he used 2 years ago.

Mr. JAVITS. There have been no hearings. Of course I cannot control that. The House of Representatives were satisfied, apparently, without hearings. I might tell the Senator that we have been trying to get updated figures from the Navy as closely as we can, but not for 1968 or 1969. But we have been unsuccessful. I do not understand that. However one feels about the amendment, I do not understand the Navy's conduct on this issue.

Mr. SPONG. I would say to the Senator from New York that I would welcome hearings on this subject. The percentages he quotes are exactly the percentages he quoted in October of 1968.

Mr. JAVITS. That is right.

Mr. GOODELL. Mr. President, will my colleague yield?

Mr. JAVITS. I yield.

Mr. GOODELL. I might say to the Senator from Virginia that the amendment is a simple one. All it does is provide for competitive bidding, so that a contract could go outside of Virginia or any other area, say, New York, Philadelphia, or somewhere else within 350 miles of the home port so that the taxpayers may be saved some money by lower prices. This would open it up in a way that will be to the taxpayers' interest. They may not be able to bid lower, but it is a way for the Navy to try to save money, presumably, by regulation and competitive bidding in a situation where we could get low bids and save the taxpayers some money.

Mr. SPONG. It seems to me we are repeating the same argument used 2 years ago with respect to this amendment. First, I agree with the Senate committee which has stated that the morale of the crews is a factor in this matter and, second, I think that the Navy needs maximum flexibility, in its policy of ship repair which this amendment does not take into account. There is also the factor of an emergency situation. I do not believe that, without any hearings, we should come to the floor of the Senate and change the entire ship repair system of the U.S. Navy in a matter of minutes.

The proper way to dispose of this would be the introduction of a bill, the holding of hearings, and the introduction of evidence on the entire problem of Navy ship repair. We do not have that now.

I therefore believe that the pending amendment should be overwhelmingly rejected.

Mr. JAVITS. The question of an emergency is involved by another section which is in no way changed by this amendment. This amendment would not apply to any emergency. It would apply to normal operations.

As to the question of hearings, the best answer is that the Armed Service Committee in the other body were with us all the way. It seems to me that is a pretty conclusive determination that the facts are as we have stated them, that hearings would be just another way to delay what is elemental justice.

Mr. ELLENDER. Mr. President, as has been stated, there have been no hearings held on this proposal. The only thing we find is a statement in the House report which in a manner, agrees with the Javits amendment. Then we have in the Senate report a statement which conflicts with the House report. This amendment would, as the distinguished Senator from Virginia has just stated, change the manner in which repairs are now being made on ships, which are done usually in the naval district of the home port of the ship. This would change the method entirely.

Mr. FULBRIGHT. Mr. President, if the Senator will yield, would, in his opinion, it save us any money if the Javits amendment were to be adopted?

Mr. ELLENDER. It might, by expanding competitive bidding on these ship repairs.

Mr. President, as I said, it is my belief that we should have hearings on this.

I hope that the amendment will be rejected.

Mr. BYRD of Virginia. Mr. President, one of the most important problems which the Navy faces today is that of retaining its skilled officers and enlisted men. It is vital that the Navy have the means of maintaining high morale in order to keep essential skills in its ranks.

The pending amendment would deprive the Navy of one of its most effective methods for maintaining high morale.

The Navy Ship Systems Command for some time has followed a policy of having ships repaired as close as possible to their home ports. This enables personnel aboard the ships to make frequent trips to their homes during shipyard periods—and shipyard periods represent one of the few opportunities that Navy men have to spend time with their families.

Any gains which the amendment now before us would produce would be more than offset by the blow to the critical retention program.

The Navy's system for allocating shipyard work has been in operation for a number of years and has proven its efficiency. It would be unwise to revise this system by legislative action without committee hearings.

If it is to function efficiently and maintain the morale of its personnel, the Navy needs maximum flexibility in its ship repair practices. The pending amendment would deprive the Navy of part of its flexibility, and is therefore undesirable.

In the interests of maintaining an efficient Navy with high morale, I hope that the pending amendment will be rejected.

Mr. FONG. Mr. President, I am opposed to the amendment because there have been no hearings held on it.

One of the prime considerations, when a ship is to be repaired in drydock, is the morale of the men on that ship. Many ships have a complement of 3,000 to 4,000 men.

If we have competitive bidding outside the area of the home port, we will find that there will be many men who will be left stranded, or away from home. There is no doubt that the morale of these men will suffer.

We looked into this matter some time ago, and found that it was of the greatest importance to consider the morale of the crews. They should be at home with their families and their children if it is at all possible. If we have competitive bids, away or outside from the home port, we will find that these men will be forced to be away from their homes and families.

Therefore, I join the distinguished Senator from Louisiana in opposing the amendment and I urge that it be rejected.

Mr. JAVITS. Mr. President, to conclude debate on this matter, I am sorry that the Senator from Hawaii (Mr. FONG) has left the Chamber, but it is not a question of morale on the home port problem, because this does not apply where there is home port repair. Once we get out of the home port, it could be further than 350 miles. It is 750 miles from Charleston to New Orleans, for instance. The same is true of other naval districts.

In summary, the amendment would provide for the opening up of competitive bidding, without any disadvantage to the men in any way, shape, or form.

This is a longstanding injustice on the part of the Navy and the only way to remedy it is on the floor of the Senate. I repeat, it is really just amazing that that has not been done before, I cannot understand why. I do not see a single reason against it. Yet we have had this problem right along.

I hope now, by reducing the distance from 1,000 miles to 350 miles—which is certainly an answer to the problem of the morale and convenience of the crew—the Senate will, at long last, right this longstanding injustice.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to the amendment offered by the Senator from New York, for himself and other Senators. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Washington (Mr. JACKSON) is absent because of a death in his family.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Alabama (Mr. SPARKMAN) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER) is necessarily absent.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Iowa (Mr. MILLER) would vote "nay."

The result was announced—yeas 45, nays 43, as follows:

[No. 236 Leg.]

YEAS—45

Allott	Goldwater	Muskie
Baker	Goodell	Packwood
Bayh	Griffin	Pastore
Bennett	Gurney	Pearson
Boggs	Hansen	Pell
Brooke	Hart	Prouty
Case	Hatfield	Ribicoff
Cook	Hruska	Saxbe
Cotton	Hughes	Schweiker
Curtis	Javits	Scott
Dodd	Jordan, Idaho	Smith, Maine
Dole	McCarthy	Smith, Ill.
Dominick	Mondale	Stevens
Fannin	Moss	Tower
Fulbright	Murphy	Williams, Del.

NAYS—43

Aiken	Gore	Metcalf
Allen	Gravel	Montoya
Bellmon	Harris	Nelson
Bible	Hartke	Percy
Burdick	Holland	Proxmire
Byrd, Va.	Hollings	Randolph
Byrd, W. Va.	Inouye	Spong
Cannon	Jordan, N.C.	Stennis
Church	Magnuson	Talmadge
Cranston	Mansfield	Thurmond
Eagleton	Mathias	Yarborough
Eastland	McClellan	Young, N. Dak.
Ellender	McGee	Young, Ohio
Ervin	McGovern	
Fong	McIntyre	

NOT VOTING—12

Anderson	Long	Sparkman
Cooper	Miller	Symington
Jackson	Mundt	Tydings
Kennedy	Russell	Williams, N.J.

So the amendment was agreed to.

Mr. McINTYRE. Mr. President, along with my distinguished colleague, Senator COTTON, who is downstairs with the Appropriations Committee at this moment, I desire to record my objection and my request that the Appropriations Committee has seen fit to reduce the number of planned Polaris to Poseidon submarine conversion from six to two. The Senate and House Authorization Committee had agreed to the six—as had the House Appropriations Committee.

One of the prime reasons assigned for this committee action was that the Poseidon missile in testing to date appeared to be doubtful in accuracy and reliability. A high naval official informed me today that the Navy had conducted 13 tests of the Poseidon—nine had proved satisfactory, four were failures. The last test was most successful and overcame the trouble points that had been the reason for the four previous failures.

The testing of this new missile continues with every prospect of success.

Mr. President, it is better to convert our present Polaris SSBN's to Poseidon for the following reasons:

First. Based upon our best estimates, a new Poseidon submarine incorporating all the advances in submarine technology that we have made would cost from $190 million to $200 million.

Second. The second of a series of similar new Poseidon submarines would cost about $175 million and thereafter gradually reduce to about $150 million each.

Third. It would take between 4½ to 5 years from funding and authorization to the commissioning of the first of the additional SSBN's and about 40 months from contract to commissioning for each of the subsequent ones.

Fourth. The individual ship fiscal year 1970 Poseidon conversion cost is about $74 million which includes the cost for overhauling and refueling. Only about $33 million is directly attributed to conversion since conversions are scheduled to coincide with overhauls. Overhauls are keyed to the depletion of reactor cores thus the need for refueling.

Fifth. The $33 million cost of actual conversion to Poseidon is substantially less than a new Poseidon ship construction cost of $150 to $190 million.

Sixth. The Polaris submarine fleet is relatively new and modern. The oldest of the 31 SSBN's which are scheduled for Poseidon conversion was commissioned in April 1963 and the newest of the 31 was commissioned in April 1967. The 10 oldest SSBN's of the 41 SSBN force are not scheduled for conversion.

Thus, the continuation of the Poseidon conversion program is the least risky, quickest, and also the least costly method of maintaining the strategic deterrent strength of the FBM submarine force.

My hope in which my distinguished senior colleague, Senator COTTON joins, is that the Senate conferees will listen carefully to the position and arguments of the House conferees—and as a result restore the conversion to six in number.

Mr. HATFIELD. Mr. President, today we are asked to approve the expenditure of $69.3 billion for the purpose of defense. This is the most massive and crucial sum of money we will appropriate all year. It is also the appropriation most of us understand the least.

We devote only a few hours to the consideration of an appropriation which will do more than any other to shape the face of our Nation.

Congress is charged with the clear constitutional responsibility of determining what amounts of money shall be spent for the purposes of defense. The Constitution never intended for us to be a body that merely ratifies predetermined decisions of the Pentagon.

The Assistant Secretary of Defense, Comptroller—Robert C. Moot—himself underscored these facts when he testified last June:

> In short, Congress can change the Defense budget totals directly and expeditiously through the appropriation process. For most of the remainder of the Budget, this is not the case. In this sense, I believe, the Defense budget system is a more effective instrument for the prompt registration of congressional policy choices.

This Defense appropriation represents a reduction of $5.9 billion from the administration's revised budget estimate, as has been pointed out, and about $8.4 billion reduction from the original Johnson budget. These reductions are truly historic, and represent the initial impact of congressional concern over the level of military spending. The Appropriations Committees of the House and the Senate, in my opinion, have wisely recommended reductions below the level of funds requested by the Defense Department.

Yet, we must be candid in analyzing the true significance of these budget reductions. Of the $5.9 billion reduction from the administration's revised budget, about $3 billion were made by Secretary Laird through such actions as the retirement of older ships, a reduction in flying hours, trims in manpower, and other similar steps. The remaining cuts recommended by the House and Senate Appropriations Committees are distributed through a wide range of areas.

Although laudable cuts have been in the bill as it is before us, it still does contain funds for all the new major controversial weapons systems. The impact of these items will have a substantial escalatory effect on future defense budgets. Therefore, I remain strongly opposed to many of the funds contained in this bill.

The sum of $779.4 million for the Safeguard ABM system is appropriated by this act.

The sum of $40 million for the main battle tank—MBT–70—would be appropriated by this bill, due to the amendment cutting $10 billion just accepted. The history of staggering cost increases, delays, and problems associated with this program merit its cessation, in my opinion, as I stated earlier.

The sum of $425.1 million is requested for a new nuclear attack aircraft carrier. This maintains our unreasonable commitment to an unquestioned number of carrier task forces, 15, costing more than a billion dollars each and operated by the only country that builds carriers, believing they still have a role in modern warfare.

The sum of $450 million is recommended by the Senate Appropriations Committee for the F–14 aircraft, restoring the wise cut of about $125 million made by the House Appropriations Committee. It is doubtful, to say the least, that the F–14 will be able to perform all its various roles effectively, and the House committee shares this skepticism. Pro-

curement of the F–14 is based upon the future role of our carriers, and even the Senate Armed Services Committee agreed to study the effectiveness and need for carriers in the coming decade. The total costs of this program would eventually range between $15 and $30 billion.

The sum of $100.2 million would be spent for the AMSA—advanced manned strategic aircraft—in an attempt to perpetrate the strategic bomber in this age of missiles; $8 to $23 billion would eventually be required for the completion of the AMSA in the numbers projected.

Finally, this appropriation is based upon a troop level strength of 3.2 million men in June of 1970. In addition to our troops in Vietnam, that manpower strength is based upon a projection of threats and contingencies that are far overdrawn and bear little relation to the contemporary realities of international affairs. Further, this appropriation allows us to station troops on foreign soil throughout the globe, where their mere presence often contributes more to the undermining of our relations with foreign nations than to our own security. At least $10,000 could be saved for each soldier reduced from our current manpower level.

Therefore, although this appropriations bill contains considerably less funds then originally requested, it furthers our commitment to highly questionable weapons systems and an overextended manpower level. These trends, if they continue, will insure massive Defense budgets in the future.

Our future Defense budgets will be dependent upon the plans and decisions we make today. Reductions in military spending will be a function of our rate of withdrawal from Vietnam, the fundamental baseline we choose, determining our force levels, and whether or not we proceed with the unquestioned procurement of costly new weapons systems, particularly those I have mentioned.

We can establish a future Defense budget of between $50 and $55 billion if we adopt reasonable options on each of these issues.

Some continue to question the urgent necessity of reducing Defense spending, charging that our security may be jeopardized. It would take little effort to demonstrate how $55 billion could adequately insure our security. But far more important is that the current level of Defense spending is a primary cause of our contemporary national insecurity.

During the past week, the Presidential Commission on the Causes and Prevention of Violence completed its 18-month study. This distinguished group of thoughtful Americans, led by the brother of one of our greatest Presidents and military leaders, echoed what many of us have said before:

> We solemnly declare our conviction that this nation is entering a period in which our people need to be as concerned by the internal dangers to our free society as by any probable combination of external threats . . . the graver threats today are internal.

That Commission—studying the causes and prevention of violence—recommended that we reduce our military spending as a step toward easing the violence and tension in our own land. They stated:

> In our judgment, the time is upon us for a reordering of national priorities and for a greater investment of resources in the fulfillment of two basic purposes of the Constitution—to "establish justice" and to "insure domestic tranquility."

Our Nation, obsessed with protecting against unrealistic threats of violence abroad, has spawned violence at home.

If I were one who wished to aid the cause of destructive revolutionaries today, I would adopt one simple tactic: that would be the support of every item of military spending which comes before us. For I would know that as long as defense spending continues to assume such an enormous portion of our financial resources, then it will be impossible to meet the urgent socioeconomic needs of our land. Each day, as such needs remain unmet, the invitation to violence draws more followers, the polarization throughout the land intensifies, and the fabric of our Nation becomes even more fragile.

If our Nation is to survive the challenges it faces, we must learn how to "provide for the common defense" in a manner allowing us to "promote the general welfare, insure domestic tranquillity, secure the blessings of liberty to ourselves and our prosperity, establish justice, and form a more perfect union."

Mr. PEARSON. Mr. President, I want to take this opportunity to just briefly state for the RECORD that no Department of Defense funds are appropriated for the purchase of bulk milk dispensers. The Appropriations Committee has consistently rejected DOD requests for funds for the purchase of bulk milk dispensers for use in the continental United States. And last year, the committee not only rejected such a request but in its report specifically prohibited the use of any DOD funds for the purchase of bulk milk dispensers. Past requests have been rejected on the grounds that the military should not purchase specialized capital equipment and undertake the servicing and maintenance that equipment of this kind requires if it can be economically leased from private enterprise suppliers. The record shows that private suppliers through their leases with the military installations have provided economical and efficient service.

The Department of Defense did not request funds for this fiscal year. However, because there continue to be isolated situations where bulk milk dispensers have been purchased at military installations, I want to repeat my view, which I know is shared by many others, that the Department of Defense should continue to follow a policy of leasing rather than purchasing bulk milk dispensers. Mr. President, this policy has proven to be economical for the Government and equitable for small business.

THE TOW ANTITANK FUNDS ARE UNNEEDED

Mr. PROXMIRE. Mr. President, while I congratulate the committee on the overall work it has done on the military appropriations bill, there is one item to be found on page 15 under the funds appropriated for Army procurement which I wish to question. That item is the $100 million for the TOW antitank missile included in the $4.28 billion appropriation found on page 15, line 6 of the bill.

DUPLICATE FUNDS

TOW stands for tube-launched, opensighted, wire-guided missile system. It is an infantry antitank weapon. That is its stated purpose.

Funds for the TOW were not included in the House-passed military authorization bill. It was authorized in the Senate bill. However, both House and Senate Appropriations Committees have $100 million in the bill for its development and deployment.

But this weapon is a duplication of a weapon we already have. And it is a billion-dollar duplication. We now have the Shillelagh antitank weapon. The TOW is also an antitank weapon. The alleged difference is that TOW is an infantry missile and Shillelagh is shot from a tank or a helicopter.

But this is a vast exaggeration. First of all, the Shillelagh has been fired in the infantry mode. This was done by the Army a number of years ago. This fact was brought out in the House debate by Congressmen STRATTON and GUBSER. The Shillelagh, at relatively little cost, could be used in the infantry mode. At least that should be tried before we go ahead with TOW.

The reason is that the Shillelagh is now in production. Its unit costs are about $2,900. Its total cost will be about $686 million. But TOW will cost $6,300 per weapon and its ultimate cost is almost $1 billion.

WEIGHT ALMOST IDENTICAL

TOW is almost identical with Shillelagh in other aspects. TOW weighs 50 pounds compared with 60 pounds for Shillelagh. But half of this difference is due to the larger and heavier warhead fired by Shillelagh. In this respect, they are alike.

TOW NOT A WALKING SOLDIER'S WEAPON

TOW is not an infantryman's weapon that he can carry with him anywhere at any time. First of all, it takes one man to carry the weapon and three more men to carry the launcher, or a total of four men. TOW itself, because of its weight and size, can be hand carried only about 200 yards. It needs a jeep to be mobile. And it needs the launcher to go with it. Incidentally, the launching tubes will cost $96,000 each, a phenomenal price. It is thus not a walking infantryman's weapon.

LESS MOBILE THAN A SHILLELAGH

It is, in fact, less mobile than the Shillelagh antitank weapon mounted on a Sheridan tank. A Sheridan tank can go many places a jeep cannot go. It is safer and more effective for the weapon to be mounted on a tank rather than on the ground in the open.

Thus, there is no mobility argument for this vast duplication.

The Army itself, according to Congressmen STRATTON and GUBSER, who are experts on this subject, back in 1962 stated in their study that the most expensive method of going about develop-

ing an antitank weapon was to have two weapons. We should choose one or the other.

And since the performance of each is very nearly the same, we should go with the weapon we have rather than duplicate it at a cost of almost $1 billion.

NO NEED FOR IT NOW

There are those who argue for Tow on grounds that we need it soon to protect the West against a potential tank attack from the Soviet Union. This argument has very little merit at all.

First of all, we are talking about a period of time in the year 1974—at least 4 years from now.

Second, we have stopped our M–60 deployment, which is the main antitank weapon. In fact, we have sold M–60's out of our inventory to non-NATO countries.

If we need an antitank weapon so bad, why are we selling off our main antitank weapon?

The Army cannot have it both ways. They cannot argue we must have Tow as an antitank weapon to guard against a Russian tank attack in the center of Europe and, at the same time, sell off or give to others outside Europe our major antitank weapon; namely, the M–60 tank.

Third, if we need to defend against a Russian tank attack, why not deploy the Sheridan tank with Shillelagh antitank weapons in Europe now. We can put 500 Shillelaghs into Europe overnight. We have the Sheridan tanks in storage. If we need quick antitank protection, why not get it with the Sheridan-Shillelagh.

Fourth, if the Russians make a massive attack on Western Europe, the ballgame is over. No infantry antitank weapon is going to stop them. We will call into play our strategic weapons. Intermediary and intercontinental missiles will be used. That is World War III.

Finally, we are talking about the 1974–76 time period before Tow is fully deployed. Yet we are now seriously considering removing most of our NATO troops by that time.

AN UNACCEPTABLE REDUNDANCY

For all of these reasons, the House Armed Services Committee description of Tow as an "unacceptable redundancy" is true.

THE MODE OF FIRING

Let me return to the question of the mode of firing.

The Tow missile is not now fired by a tank. It can be fired by infantrymen but is still relatively immobile. It can be fired from a helicopter. In fact, it was first developed to be fired from the Cheyenne helicopter.

But the Shillelagh cannot only be fired from a helicopter and by a tank, but it has also been fired in the infantry mode, according to the reports which both Congressmen STRATTON and GUBSER mentioned in the House debate. In any case, we should spend funds to develop the Shillelagh for the infantry mode before proceeding with a billion-dollar outlay to duplicate it.

WHAT TO DO

In view of all these facts, should we not wait, ask the Army to spend some of their research funds on adapting the Shillelagh to the infantry mode, and test the weapon, before going ahead with the Tow which is a duplicate weapon.

I commend that action to the chairman of the committee, to the Army, and to the Defense Department. I think it makes sense. And it makes sense also because this is one time we can make this determination before we have wasted hundreds of millions of dollars on an unneeded weapon instead of waiting until it is too late.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. SCOTT. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The BILL CLERK. The Senator from Pennsylvania (Mr. SCOTT) proposes an amendment as follows:

At the end of the bill, add a new section affirming the support of the Senate for the President's efforts to negotiate a just peace in Vietnam:

"*Resolved*, That the Senate affirms its support for the President in his efforts to negotiate a just peace in Vietnam, expresses the earnest hope of the people of the United States for such a peace, calls attention to the numerous peaceful overtures which the United States has made in good faith toward the Government of North Vietnam, approves and supports the principles enunciated by the President that the people of South Vietnam are entitled to choose their own government by means of free elections open to all South Vietnamese and that the United States is willing to abide by the results of such elections, and requests the President to call upon the Government of North Vietnam to join in a proclamation of a mutual cease-fire and to announce its willingness to honor such elections and to abide by such results and to allow the issues in controversy to be peacefully so resolved in order that the war may be ended and peace may be restored at last in Southeast Asia."

Mr. SCOTT. Mr. President, this is the so-called Mansfield-Scott resolution for a just peace in Vietnam, in which, with 45 cosponsors, we urge the President to proceed under every possible means to secure a mutual cease-fire in Vietnam. I have simply offered the amendment to call the attention of the Senate to it. I understand that it would involve a good deal of discussion, and, therefore, I am concerned only that we can have early hearings on this resolution, since nearly half of the Senators have supported it.

I have spoken with the distinguished majority leader, and I believe it is his understanding that hearings can be had early next year; and upon that assurance, when we receive it, I shall withdraw the resolution.

I yield to the majority leader.

Mr. MANSFIELD. Mr. President, I am delighted that the distinguished Republican leader has adopted this course. I have talked with the chairman of the Committee on Foreign Relations, and he has indicated that somewhere around the 18th or 20th of next month, hearings will be held on this and other proposals.

May I say that I am in sympathy with and very much interested in the Mathias amendment as well, and I think I can assure the distinguished Republican leader that those two as well as the Goodell resolution and other resolutions pending before the committee will be given hearings beginning at that time.

Mr. SCOTT. Particularly with reference to the resolution the majority leader and I have sponsored, together with 45 cosponsors?

Mr. MANSFIELD. That is right, and I am particularly interested in testifying in person on the Mansfield-Scott amendment and the Mathias amendment.

Mr. SCOTT. I thank the majority leader. I am qutie satisfied with that assurance, and, therefore, ask unanimous consent that I may withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DOLE. Mr. President, I support the amendment which would provide a necessary and clear-cut statement of support for the President's efforts to bring peace in Vietnam. He has underscored his determination to end the war as recently as 2 hours ago.

The text of this amendment is that of the resolution adopted overwhelmingly by the House of Representatives on December 2. The language is appropriate for several reasons. First, it is clear and to the point in expressing support for the President's efforts toward a just peace. I believe that Senators see the importance of supporting the President as he continues the delicate and monumentally important task to which he has dedicated his foreign policy from the day he took office. We are all devoted to the cause of peace. As men of good will and reason, our ideas concerning details of policy may from time to time diverge, but in the long view we seek the same end, peace with justice. This is the President's stated and reiterated goal, and surely none of us has a contrary one.

A second reason the language of this amendment is appropriate lies in the House's consideration of it. While the Senate might well express its views in language dissimilar to that chosen by the other body, the use of identical terminology furnishes a distinct element of unity and cohesiveness which enhances the expressed support. Many distinguished Congressmen addressed themselves to the substance and effects of the House resolution. The weight of their remarks, when taken with the Senate's own deliberations, can provide the quest for peace with benefits of significant domestic and international proportions.

Mr. President, I urge Senators to support this amendment and thus provide President Nixon the knowledge that, as well as the House, the Senate stands with him; and, to use his words:

When peace for America and for the world is involved, we are not Democrats, we are not Republicans, we are Americans.

I am pleased hearings will be held and trust that prompt and honorable action will be taken. The President is to be commended for his announcement today to withdraw 50,000 more American troops by April 15, 1970.

Mr. PEARSON. Mr. President, while many questions remain unanswered about the Safeguard anti-ballistic-missile system and the wisdom of proceeding with its deployment at this time, in my

judgment the Senate has already taken its decision on this weapons system in the 1970 Defense procurement bill. During the weeks of debate and by the final vote, I made clear my opposition to deployment of the system while urging further research and development on its component parts and, for that matter, on the system as a whole.

The Senate voted to proceed with deployment by a narrow margin. However close the vote, I said at the time that I would accept the decision of the Senate and would not reopen the battle by the appropriations process. There are many ills, and few rewards, for our legislative system in the business of using appropriations bills to overturn the will of the Senate as measured in the process of authorizing legislation. While one might favor this approach out of conviction for a particular matter, he will soon find himself opposing it out of equal conviction on another issue. Therefore, Mr. President, I have taken a decision to oppose any amendment to the Defense appropriation bill, H.R. 15090, that would substantially alter the decision taken by the Senate earlier this year in favor of proceeding with deployment of ABM. I do this out of consideration for an effective legislative process, and without attempting to prejudice any later debate on future authorizations of the system.

Mr. PROXMIRE. Mr. President, I want to make a general comment on the Defense appropriation bill. Compared with the original Johnson administration budget request, there is an $8.4 billion cut in the Defense budget. This action by the Senate Appropriations Committee is the biggest step of the year toward a reordering of American priorities.

A massive cut in military spending is now assured. The war against inflation has won its biggest battle.

This $8.4 billion cut is not all. There is also about a $4 billion reduction due if we recognize and allow for the fact that inflation gives us less for the dollars we spend. This means that the goal many of us set early in the year of a $10 to $12 billion cut in military spending has been substantially met.

The hearings my Economy in Government Subcommittee held on military waste, the exposé of huge cost overruns, the evidence of duplication of weapons, and the long fight many of us made on the military authorization bill have now produced real results. The work of the Senate Armed Services Committee and its subcommittees, and the work of the House and Senate Appropriations Committees have been unprecedented this year in their critical review of the military budget.

While military spending is not yet under control, military spending is no longer out of control. But just as small increases in appropriations produce huge spending later, even small cuts now can mean much larger cuts later. That is why we welcome these reductions.

This bill is a victory for the taxpayers of the United States. It is a victory for those who believe that the security of this country is better served by a trim and fit Military Establishment than one grown fat and lazy.

This is a great beginning. Our fight has been vindicated. These cuts make the long hours of hearings, the initial defeats on some of our amendments, and the hostility of the big defense contractors more than worthwhile.

Mr. ALLOTT. Mr. President, before the third reading of the bill, I have a few questions on legislative history, which I should like to direct to the manager of the bill. They will be very short, but I have to do it before the third reading, so that I do not preclude a possible amendment.

I direct the chairman's attention to the following statement, located at page 111 of the committee report:

> The authorization act authorized the use of $20 million for the development of a modified Shillelagh missile to be used as a ground anti-tank weapon. The House bill does not provide funds for this purpose. The Committee has no objection to the use of a reasonable amount to investigate the feasibility of this proposal. However, no additional funds have been provided for this purpose. The initiation of a full scale development program for this proposal is to be considered as a matter of special interest.

As the chairman is already aware, the report of the conference committee for the defense authorization bill in discussing the possible redundancy between the Shillelagh and the TOW missiles states at page 16 of the conference report:

> The conferees also agreed that $20 million should be allocated to the development, test, and evaluation of the Shillelagh missile for both the infantry ground mode, including application to the M–113 and light wheel vehicle and the helicopter model. Priority should be given to the Shillelagh for its use in the infantry mode with an open-breech launcher in a manned portable configuration.

Mr. President, in order to make the legislative history clear with regard to the intention of our Appropriations Committee in not adding funds for this specific purpose, I would like to ask the chairman if it was not the committee's intention that the Department of Defense should expend a reasonable amount of its appropriated funds to determine the feasibility for the development, test, and evaluation of the Shillelagh missile in airborne and infantry roles, including actual missile flights.

Mr. ELLENDER. The idea, as I understand it, is to determine feasibility before we proceed with the full-scale development program. I am quite certain that the Senator will agree that before we proceed to provide for the development of this missile, a thorough study should be made to determine the feasibility of the proposal. I am informed that there is money available that will be sufficient to make a feasibility study of the proposal.

I have no doubt that if it is feasible, the Defense Department will proceed with full-scale development.

Mr. ALLOTT. There are various elements of feasibility. The Shillelagh is a missile which is in actual existence. And I think the point here is that the feasibility should include the testing of it with an actual vehicle rather than just a paper study such as many of these involve.

Mr. ELLENDER. Mr. President, of course, if feasibility is determined, let me say, within the next 4 or 5 months, the program can then go on. However, the point I wish to stress, and I am sure the Senator would agree, is that we should not substantially spend funds on this missile unless we know that it is feasible.

Mr. ALLOTT. The Senator means for the construction of the missile.

Mr. ELLENDER. The Senator is correct. Really it is the modification of the existing Shillelagh.

Mr. ALLOTT. I agree entirely with the Senator in that respect. My only point was that in developing the feasibility, where we have a missile already in existence, flights of the actual missile should be involved in the feasibility.

Mr. ELLENDER. I can assure the Senator that if the Army determines that there has to be flight tests to determine feasibility, such tests can be made.

Mr. ALLOTT. Mr. President, in this regard, I ask the chairman, Was it also not implicit that the Appropriations Committee desired to have the results of this feasibility test and evaluation program of the Shillelagh missile available to it prior to making a decision on the Department of Defense requests for their funds for fiscal year 1971?

Mr. ELLENDER. I believe that is correct.

Mr. ALLOTT. Mr. President, if the feasibility requires actual missile firing in these evaluation tests, this, too, would be included in the scope of the language of the Senate report.

Mr. ELLENDER. That is my understanding.

Mr. ALLOTT. Mr. President, I thank the Senator very much.

Mr. THURMOND. Mr. President, the Shillelagh is a closed breech weapon built for Sheridan armed recon vehicle and fires Shillelagh infrared antitank guided missiles. TOW is ground mode antitank weapon for infantryman and is a follow-on to European developed antitank missiles, all wire guided.

POINTS AS TO WHY SHILLELAGH WOULD NOT FIT WELL INTO GROUND MODE

Shillelagh has dip problem; that is, missile dips after leaving tube. Missile dips 3 feet 50 percent of time, 6 feet 5 percent of time. While this is acceptable when fired from Sheridan armed recon vehicle for which Shillelagh was developed, it would not be acceptable from ground mount where launcher is closer to ground and where many shots would be made from defilade position to protect infantryman. Contractor admits dip problem.

Weight is critical to infantryman in ground role. TOW rounds plus container weigh 50 pounds whereas Shillelagh rounds are 61 pounds with weight of undeveloped container to be added.

TOW has more maneuverability and can hit moving targets at full range of 3,000 yards while Shillelagh cannot hit moving targets except at lesser ranges where the enemy tank guns would be in range to engage ground firing unit.

Tow proven in ground role, over 300 firings of which last 75 were hits with only one wire break. Army wants Tow badly, it was designed to enable infantryman to handle Warsaw Pact tank su-

periority without matching them in costly tanks. Germany and Italy have ordered sizable quantities of Tow after seeing demonstrations in Europe.

While Tow is costly, any weapon is costly at beginning of buying curve. Average unit cost of missile is now $6,300 but will drop to $3,800 when we get further into buy. These are contractor figures. Shillelagh costs less now because it is an end of buying curve. Costs for launcher of both missiles are expected to be about same.

Tow is wire-guided, and not as susceptible to countermeasure devices as infrared guided Shillelagh. Infrared problem is acceptable when Shillelagh is on Sheridan as it can maneuver to different position, but in ground configuration infantrymen would be hard put to move position after firing.

Both Shillelagh and Tow have been in research and development for some 8 years, Tow winning competition for ground role and Shillelagh for Sheridan role. Why turn around now and spend millions and delay buying Tow to make Shillelagh do what Tow already does?

Shillelagh was demonstrated from ground mount in 1962 but film showing tests reveals a dummy was used for firing and not a man. Tow exits tube on motor blast while in launcher, and second motor starts when missile is far enough out so infantrymen will not get hurt by blast. Shillelagh comes out tube with full blast, thus endangering infantryman who fires missile. Shillelagh in ground mode would have canted jets on missile, but safety or missile firer has not been demonstrated. All previous tube launched antitank missiles, that is, Law, Redeye, Bazooka, get main thrust from second motor after leaving tube so Shillelagh would be trying principle never before attempted in man-fired launcher.

Mr. LONG. Mr. President, I move to reconsider the vote on the Javits amendment.

The PRESIDING OFFICER. Motion has been made to reconsider the vote on the Javits amendment.

Mr. CANNON. Mr. President, what is the pending business?

The PRESIDING OFFICER. Motion has been made to reconsider the vote that was had on the Javits amendment.

Mr. LONG. Mr. President, I ask for the yeas and nays.

Mr. WILLIAMS of Delaware. Mr. President, is the Senator on the winning side?

Mr. LONG. Mr. President, I was not present. I ask for the yeas and nays.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the Javits amendment was adopted.

Mr. JAVITS. Mr. President, does the Senator who makes the motion qualify?

The PRESIDING OFFICER. The Senator is qualified. He did not vote on the motion. Is there a sufficient second? There is a sufficient second, and the yeas and nays are ordered.

Mr. JAVITS. Mr. President, I move to lay that motion on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the motion to reconsider on the table. There is a sufficient second. The yeas and nays are ordered. The clerk will call the roll.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. Mr. President, the motion to table would be a motion to table the motion to reconsider. And a vote "aye" would be in that case for the Javits amendment. And a vote "nay" would be against it.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the motion to table the motion to reconsider. On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Washington (Mr. JACKSON) is absent because of a death in his family.

On this vote, the Senator from New Jersey (Mr. WILLIAMS) is paired with the Senator from Washington (Mr. JACKSON). If present and voting, the Senator from New Jersey would vote "yea" and the Senator from Washington would vote "nay."

I further announce that, if present and voting, the Senator from Alabama (Mr. SPARKMAN) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER) is necessarily absent.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Iowa (Mr. MILLER) would vote "nay."

The result was announced—yeas 40, nays 49, as follows:

[No. 237 Leg.]

YEAS—40

Allott	Goldwater	Pearson
Baker	Goodell	Pell
Bayh	Griffin	Percy
Bennett	Gurney	Prouty
Boggs	Hansen	Saxbe
Brooke	Hart	Schweiker
Case	Hatfield	Scott
Cotton	Javits	Smith, Maine
Curtis	Jordan, Idaho	Smith, Ill.
Dodd	McCarthy	Stevens
Dole	McIntyre	Tower
Dominick	Muskie	Williams, Del.
Fannin	Packwood	
Fulbright	Pastore	

NAYS—49

Aiken	Gravel	Mondale
Allen	Harris	Montoya
Bellmon	Hartke	Moss
Bible	Holland	Murphy
Burdick	Hollings	Nelson
Byrd, Va.	Hruska	Proxmire
Byrd, W. Va.	Hughes	Randolph
Cannon	Inouye	Ribicoff
Church	Jordan, N.C.	Spong
Cook	Long	Stennis
Cranston	Magnuson	Talmadge
Eagleton	Mansfield	Thurmond
Eastland	Mathias	Yarborough
Ellender	McClellan	Young, N. Dak.
Ervin	McGee	Young, Ohio
Fong	McGovern	
Gore	Metcalf	

NOT VOTING—11

Anderson	Miller	Symington
Cooper	Mundt	Tydings
Jackson	Russell	Williams, N.J.
Kennedy	Sparkman	

So the motion of Mr. JAVITS to table the motion of Mr. LONG to reconsider the vote by which the amendment of Mr. JAVITS was agreed to was rejected.

The PRESIDING OFFICER. The question is now on the motion to reconsider the vote by which the amendment was agreed to. On this question the yeas and nays have been ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is this motion debatable?

The PRESIDING OFFICER. The motion is debatable.

Mr. JAVITS. I should like to be recognized.

I shall not detain the Senate. I think that would be very unfair. But I do think that those who did change their vote about this matter—and obviously there were some—perhaps did not hear the discussion we had when we had it.

I think it is fair to say that not a single word was uttered in the debate in defense of this practice. I said the practice is indefensible, and I think it is. No effort has been made to defend it.

I believe the Senate prides itself on its objective judgment; and, having given an opportunity to vote to the Member who feels that he was overlooked and did not vote—that is not our fault—I think the Senate should now at least consider why it voted as it did before.

Mr. President, the essence of the matter is simply this: Because of a Navy regulation, which is not law, the competitive bidding in respect to private ship repair work other than at the home port of a given ship is confined to each naval district, notwithstanding the fact that that is discriminatory against other ports which can engage in ship repair, wish to bid and are within easier reach of the given home port than ports which get the work within that naval district.

It seems to me that one of the great things upon which we always pride ourselves is the vitality of the free enterprise system and the fact that we wish to save the taxpayers' money. Competition is a way to save money.

Here we have an opportunity to open up the situation to more general bidding without in any way inconveniencing any more than they are already inconvenienced the crews who have to leave the home port to go somewhere to get a

ship repair job done—notwithstanding that the Senate has now taken a different view than before. However, that is neither here nor there. The important thing is that the inequities remain as they were. It is an indefensible practice.

The only argument made is that this matter did not have hearings. We have been dealing with this matter for some years. The House of Representatives in its report condemned the practice. The Senate in its report did not. It really did not say anything about it, which left the question open.

Having an absolute brick wall situation with the Navy as long as we have had it, I felt the only way it could be undone at long last was through some action by the Senate.

Mr. President, my final point is that the last time we moved to amend, which was last year, we specified 1,000 miles as the area within which competitive bidding could take place. This amendment would make the distance 350 miles for two reasons: First, that is the distance proposed by the House of Representatives in its report as being a fair one for an area within which bids could be made; and the other reason is that with air transportation, and so forth, it is a convenient and manageable distance which would not inconvenience any crew which has to leave its home port anyway.

I gave the example of Charleston, S.C., and New Orleans, La. The great Norfolk Port, about which all of this argument is taking place, is within easy reach of other great ports, where bidding could take place up, and down the New England coast, including the middle Atlantic States, New York, Pennsylvania, and New Jersey. That is the issue.

I hope very much that the Senate will look at this matter objectively in pursuance of our long-standing feeling that we do look at matters objectively, and that we are not casting courtesy votes but that we are anxious to save the taxpayers' money where we can.

Mr. President, I close as I began. I heard not a single argument against opening free competition of free enterprise in relation to ship repairs away from the home port. Finally, this has nothing to do with emergencies in time of war. That would be exempted and the amendment would not affect that at all.

In view of the fact that no substantive argument has been made against this effort to open up the situation, the Senate should stand by what it did before.

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

The PRESIDING OFFICER (Mr. INOUYE in the chair). Does the Senator yield?

Mr. JAVITS. I yield.

Mr. PELL. Approximately what amount of money would this save the taxpayers? Does the Senator have any idea?

Mr. JAVITS. I understand at least $20 million a year is involved in work of this character. I would assume opening the work up for competition would get a better price. It has that element of actual savings and the element of decency and principle.

Mr. President, here is a very blatant case where the Navy has dug in its heels. It is hard to know for what reason. They have given no reason, nor has a reason been advanced on the floor of the Senate. If we do not correct things that have no reason for being artificial, something is wrong somewhere. I may not find out what it is, but obviously it is not right.

Mr. FONG. Mr. President, I oppose the amendment because I think it is not a good amendment from the standpoint of many of the navy yards. We know many of these navy yards have peaks and valleys. We want to keep the work of these Navy yards constant. If we tie the hands of the Navy how are we going to keep the level of employment constant? It may be beneficial to leave the decision to the discretion of the men who run the Navy as to whether that work should be done in a particular yard.

Now, we know that many of these ships have crews between 3,000 and 4,000 men. When repairs are required they may take months to be completed. When these crews are far from their home ports the morale of these men who have been out to sea for a long time must be considered.

I feel that there are good reasons to have some flexibility in the hands of those who run our Navy. We have a hard time finding men who wish to make the Navy their career and if we force the Navy to make repairs away from home ports we may lose many of these men.

In the navy yard at Pearl Harbor, whenever we have an overload, we find it very difficult to recruit skilled men. We are forced to offer them inducements to accept employment there and if there is a reduction in the workload at Pearl Harbor, many of these men will leave.

It is very mandatory that we keep the level of work at Navy shipyards constant, if we expect to keep skilled men.

To keep the work of all navy yards constant we must give the Navy the flexibility of assigning the ships wherever it can do the most good.

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

Mr. FONG. I yield.

Mr. MAGNUSON. Mr. President, there is another point. We always had a problem, as the Senator knows, at established navy yards in connection with housing. We built up housing so that people in the Navy on a ship that has a home port can establish themselves in the area and they have housing. If they are sent somewhere else, they might have no housing and their families have to follow.

Mr. FONG. The Senator is correct.

Mr. MAGNUSON. There are certain stipends which the families get for transportation and housing off the base, and things of that nature. Therefore, contrary to saving money it will cost more money.

As the Senator pointed out, the efficiency of the yard is so much greater if the work is kept at a steady pace and there are not peaks and valleys. I think it will cost more money rather than save money.

Mr. FONG. The Senator is absolutely correct. We should also consider that most of the crew will have to stay on the ship and work to keep it in shape. In addition, if they are forced to be away from their families for a great length of time, there will be a morale breakdown.

Mr. GOODELL. Mr. President, the Senator made a very persuasive argument to require repairs to be done outside the home port but the amendment very specifically excludes the situation where the work will be done in home ports. The amendment has no impact where that is the situation.

If the Navy decides a ship should be repaired in the home port, there would be no competitive bidding under the amendment. The only instance where there would be competitive bidding under the amendment is where the Navy decides repairs have to be done outside the home port. The lowest bidder would win in that instance. As the senior Senator from New York pointed out, that port where repairs are done will be closer to the home port than is now the practice under Navy regulations.

The Senator made a very persuasive argument, but I think he has misunderstood the amendment.

The amendment does not apply where repairs will be done in the home port. So far as I can see, it will have no impact on Hawaii.

Mr. JAVITS. I did not want to interrupt the Senator. I wanted him to make his argument but, really, it has no relevance to this situation. It does not affect home ports at all. It does not affect the problem of the navy yards. It affects only private work. So it does not affect home ports. It does not affect the problem of navy yards.

As to flexibility, this would give more, not less, flexibility. Flexibility is restricted now by the naval districts. This would open up new places within 350 miles of the home port, or in or outside of naval districts. The Navy will get low bids in the naval district or anywhere within 350 miles.

I repeat, I appreciate that it is hard to understand this in the arguments, but it has been brought up, so let us look at it.

What are the reasons against it?

This would give flexibility. It does not affect the problems of the naval shipyards. It applies only to private work. It does not affect the home ports.

What else is there?

So, it knocks down every other argument there is against it. So, what is the reason?

What is the Navy doing except digging in its heels and not moving? Are we going to give courtesy votes here?

If we want the confidence of the country, if this is the best argument that can be made against this amendment, then, Senators, vote your consciences on this amendment.

There is no reason justifying present practice except the Navy has dug in its heels.

Mr. ELLENDER. Mr. President, I reiterate my opposition to the Javits amendment because of the position of the Navy that it is in the interest of all concerned that the existing ship repair work policy continue.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the amend-

ment of the Senator from New York (Mr. JAVITS) was agreed to.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HARRIS (after having voted in the negative). On this vote I have a pair with the Senator from Washington (Mr. JACKSON). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Washington (Mr. JACKSON) is absent because of a death in his family.

On this vote, the Senator from Alabama (Mr. SPARKMAN) is paired with the Senator from New Jersey (Mr. WILLIAMS). If present and voting, the Senator from Alabama would vote "yea" and the Senator from New Jersey would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

If present and voting, the Senator from Iowa (Mr. MILLER) would vote "yea."

The result was announced—yeas 45, nays 43, as follows:

[No. 238 Leg.]

YEAS—45

Allen	Gore	McGovern
Bellmon	Gravel	Metcalf
Bible	Hartke	Mondale
Burdick	Holland	Montoya
Byrd, Va.	Hollings	Moss
Byrd, W. Va.	Hruska	Nelson
Cannon	Hughes	Proxmire
Church	Inouye	Randolph
Cook	Jordan, N.C.	Ribicoff
Cranston	Long	Spong
Eagleton	Magnuson	Stennis
Eastland	Mansfield	Talmadge
Ellender	Mathias	Thurmond
Ervin	McClellan	Yarborough
Fong	McGee	Young, N. Dak.

NAYS—43

Aiken	Goldwater	Pearson
Allott	Goodell	Pell
Baker	Griffin	Percy
Bayh	Gurney	Prouty
Bennett	Hansen	Saxbe
Boggs	Hart	Schweiker
Brooke	Hatfield	Scott
Case	Javits	Smith, Maine
Cotton	Jordan, Idaho	Smith, Ill.
Curtis	McCarthy	Stevens
Dodd	McIntyre	Tower
Dole	Murphy	Williams, Del.
Dominick	Muskie	Young, Ohio
Fannin	Packwood	
Fulbright	Pastore	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Harris, against.

NOT VOTING—11

Anderson	Miller	Symington
Cooper	Mundt	Tydings
Jackson	Russell	Williams, N.J.
Kennedy	Sparkman	

So the motion to reconsider the vote by which the Javits amendment was agreed to was agreed to.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Do we now vote on the amendment?

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from New York.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. RIBICOFF (when his name was called). On this vote, I have a pair with the Senator from Washington (Mr. JACKSON). If he were present and voting, he would vote "nay"; if I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Washington (Mr. JACKSON) is absent because of a death in his family.

On this vote, the Senator from New Jersey (Mr. WILLIAMS) is paired with the Senator from Alabama (Mr. SPARKMAN). If present and voting, the Senator from New Jersey would vote "yea" and the Senator from Alabama would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER) is necessarily absent.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Iowa (Mr. MILLER) would vote "nay."

The result was announced—yeas 43, nays 45, as follows:

[No. 239 Leg.]

YEAS—43

Aiken	Goldwater	Pastore
Allott	Goodell	Pearson
Baker	Griffin	Pell
Bayh	Gurney	Percy
Bennett	Hansen	Prouty
Boggs	Hart	Saxbe
Brooke	Hatfield	Schweiker
Case	Hruska	Scott
Cotton	Javits	Smith, Maine
Curtis	Jordan, Idaho	Smith, Ill.
Dodd	McCarthy	Stevens
Dole	McIntyre	Tower
Dominick	Murphy	Williams, Del.
Fannin	Muskie	
Fulbright	Packwood	

NAYS—45

Allen	Eastland	Inouye
Bellmon	Ellender	Jordan, N.C.
Bible	Ervin	Long
Burdick	Fong	Magnuson
Byrd, Va.	Gore	Mansfield
Byrd, W. Va.	Gravel	Mathias
Cannon	Harris	McClellan
Church	Hartke	McGee
Cook	Holland	McGovern
Cranston	Hollings	Metcalf
Eagleton	Hughes	Mondale
Montoya	Randolph	Thurmond
Moss	Spong	Yarborough
Nelson	Stennis	Young, N. Dak.
Proxmire	Talmadge	Young, Ohio

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Ribicoff, for.

NOT VOTING—11

Anderson	Miller	Symington
Cooper	Mundt	Tydings
Jackson	Russell	Williams, N.J.
Kennedy	Sparkman	

So the amendment was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I wish to ask the manager of the bill one question. There has been an inquiry as to whether the committee has cut the funds out of the bill for the Kodiak Naval Base. Can the manager answer that question?

Mr. ELLENDER. It has not. No funds for this facility have been cut.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the record of my vote on the first vote on the Javits amendment be corrected to record my vote as "yea."

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

Mr. MOSS. Mr. President, I send to the desk an amendment.

Mr. ALLOTT. Mr. President, I did not understand the unanimous consent request.

The PRESIDING OFFICER. The request was to correct the RECORD on the vote of the Senator from New Hampshire. The ruling had no effect on the outcome of the vote.

Mr. ALLOTT. Mr. President, as a matter of procedure, I think it is a very dangerous thing to permit any Senator to change his vote after the vote has occurred. All of us have suffered at one time or another from this. I object to the granting of the unanimous-consent request, after the vote has been announced. In fact, as I understand the rule, it is not even in order to entertain such a request.

The PRESIDING OFFICER. The Parliamentarian has advised the Chair that it is in order for a Senator to request, by unanimous consent, to have the RECORD corrected.

Mr. ALLOTT. Then I must ask the clerk to show how the Senator was recorded at that time. I think we are getting into a very dangerous area here. A Senator came to me the other day and asked if he could do this, and my advice to him, with the advice of the Parliamentarian, was that he could not. I do not think that we should get into a position where we permit the RECORD to be corrected after a vote has been announced, by unanimous-consent request, and I object.

The PRESIDING OFFICER. The Chair has already announced the ruling on the unanimous-consent request.

Mr. ALLOTT. Well, Mr. President, there was so much confusion in the Chamber none of us could hear the request or the announcement. We just heard the bare implications of the announcement.

Mr. McINTYRE. Mr. President, I ask

unanimous-consent that I may withdraw my unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McINTYRE. The Senator from Colorado has just named the reason why I made the error. The subsequent vote, of course, straightened me out. But the confusion in the Senate was what caused me to make the wrong vote.

Mr. ALLOTT. I am sorry, but I think this is one of the rules we must all abide by, unless we are to get ourselves into very serious difficulty.

The PRESIDING OFFICER. Does the Senator wish the Chair to read the rule?

Mr. McINTYRE. I ask that the Chair read the rule.

The PRESIDING OFFICER. This is rule XII, paragraph 1, which reads as follows:

When the yeas and nays are ordered, the names of Senators shall be called alphabetically; and each Senator shall, without debate, declare his assent or dissent to the question, unless excused by the Senate; and no Senator shall be permitted to vote after the decision shall have been announced by the Presiding Officer, but many for sufficient reasons, with unanimous consent, change or withdraw his vote. No motion to suspend this rule shall be in order, nor shall the Presiding Officer entertain any request to suspend it by unanimous consent.

I have been advised by the Parliamentarian that this has been done several times this week.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MOSS. Mr. President, I have an amendment at the desk, and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Utah (Mr. Moss) proposes an amendment as follows:

On page 46, between lines 8 and 9, insert the following new title:

"TITLE VII—ESTABLISHMENT OF COLLEGE OF THE VIRGIN ISLANDS AND UNIVERSITY OF GUAM AS LAND GRANT COLLEGES

"SEC. 701. The College of the Virgin Islands and the University of Guam shall after the date of enactment of this Act be considered land-grant colleges established for the benefit of agriculture and mechanic arts in accordance with the provisions of the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C. 301–305, 307, 308).

"SEC. 702. In lieu of extending to the Virgin Islands and Guam those provisions of the Act of July 2, 1862, as amended, supra, relating to donations of public land or land script for the endownment and maintenance of colleges for the benefit of agriculture and the mechanic arts, there is authorized to be appropriated to both the Virgin Islands and Guam the sum of $3,000,000 each. Amounts appropriated under this section shall be held and considered to have been granted to the Virgin Islands and Guam subject to the provisions of that Act applicable to the proceeds from the sale of land or land script.

"SEC. 703. The Act of August 30, 1890, as amended (26 Stat. 417; 7 U.S.C. 322–326), is further amended—

"(1) by striking the words 'and Territory' wherever they appear and substituting in lieu thereof the words ', Puerto Rico, the Virgin Islands, and Guam';

"(2) by striking the words 'and Territories' wherever they appear and substituting in lieu thereof the words ', Puerto Rico, the Virgin Islands, and Guam';

"(3) by striking the words 'or Territory' wherever they appear and substituting in lieu thereof the words ', Puerto Rico, the Virgin Islands, or Guam';

"(4) by striking the words 'or Territories' wherever they appear and substituting in lieu thereof the words ', Puerto Rico, the Virgin Islands, or Guam'; and

"(5) by striking the words 'or Territory' where they appear.

"SEC. 704. Section 22 of the Act of June 29, 1935, as amended (49 Stat. 439; 7 U.S.C. 329), is further amended—

"(1) by striking the words 'and Puerto Rico' wherever they appear and substituting in lieu thereof the words ', Puerto Rico, the Virgin Islands, and Guam';

"(2) by striking the figure '$7,800,000' and substituting in lieu thereof the figure '$8,100,000'; and

"(3) by striking the figure '$4,320,000' and substituting in lieu thereof the figure '$4,360,000'.

"SEC. 705. The Act of March 4, 1940 (54 Stat. 39; 7 U.S.C. 331), is amended—

"(1) by striking the words 'and Territories' wherever they appear and substituting in lieu thereof the words ', Puerto Rico, the Virgin Islands, and Guam';

"(2) by striking the words 'or Territories' wherever they appear and substituting in lieu thereof the words ', Puerto Rico, the Virgin Islands, or Guam'; and

"(3) by striking the word 'State' wherever it appears in the third proviso of that Act and substituting in lieu thereof the words 'State, Puerto Rico, the Virgin Islands, or Guam'.

"SEC. 706. Section 207 of the Agricultural Marketing Act of 1946 (60 Stat. 1091; 7 U.S.C. 1626), is amended by striking the period at the end of the section and adding the following words: ', and the term "State" when used in this chapter shall include the Virgin Islands and Guam.'

"SEC. 707. Section 3 of the Act of May 8, 1914, as amended (38 Stat. 373; 7 U.S.C. 343), is further amended by redesignating subsection (b) as paragraph (1) of subsection (b) and adding a new paragraph (2) to subsection (b) to read as follows:

"'(2) There is authorized to be appropriated out of money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1971, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to this Act, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this Act.'

"SEC. 708. Section 10 of the Act of May 8, 1914, as amended (supra), as added by the Act of October 5, 1962 (76 Stat. 745; 7 U.S.C. 349), is amended by striking the words 'and Puerto Rico' and inserting in lieu thereof the words ', Puerto Rico, the Virgin Islands, and Guam'.

"SEC. 709. Section 4 of the Act of October 10, 1962 (76 Stat. 806; 16 U.S.C. 582a–3), is amended by striking the period at the end of the first sentence thereof and adding the following language: ', except that for the fiscal years ending June 30, 1971, and June 30, 1972, the matching funds requirement hereof shall not be applicable to the Virgin Islands and Guam, and sums authorized for such years for the Virgin Islands and Guam may be used to pay the total cost of programs for forestry research.'

"SEC. 710. Section 8 of the Act of October 10, 1962 (76 Stat. 807; 16 U.S.C. 582a–7), is amended by striking the period at the end thereof and adding the words ', the Virgin Islands and Guam.'

"SEC. 711. Section 1 of the Act of August 11, 1955 (7 U.S.C. 361a–361l), is amended by striking the period after the second sentence and adding the words, 'Guam and Virgin Islands,' and deleting 'and' between the words 'Hawaii and Puerto Rico.'

"SEC. 712. Section 3 of the Act of August 11, 1955 (7 U.S.C. 361a–361l), is amended by redesignating subsection (b) as paragraph (1) of subsection (b) and adding a new paragraph (2) as subsection (b) to read as follows:

"'(2) There is authorized to be appropriated out of money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1971, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to this Act, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this Act.'

"SEC. 713. With respect to the Virgin Islands and Guam, the enactment of this title shall be deemed to satisfy any requirement of State consent contained in laws or provisions of law referred to in this title."

Mr. MOSS. Mr. President, I shall try to be very brief on this matter.

This is a bill that was pending on the calendar on Friday, having been through the hearing stage, having been approved by all of the departments involved, and having been reported to the Senate by the Committee on Interior and Insular Affairs.

I am the author of the bill. When I read the RECORD Saturday morning, I read that late Friday night, after all the business of the Senate was concluded except this one item, this bill was suddenly withdrawn from the calendar by a unanimous-consent request, which I ascertained had not been cleared with the leaders and, as far as I can learn, had not been cleared with the minority. It certainly had not been cleared with me, the author of the bill.

I think my only recourse at this point is to bring it up now as an amendment, because I have discussed with the Senator who withdrew it the fact that it is to be withdrawn and taken into a department where it is to be scuttled and killed.

Let me say very briefly what the amendment would do.

In the United States, the only areas that belong to the United States which do not have the advantage of the land-grant college system that we have in our country are the Virgin Islands and Guam. We have it in the District of Columbia and in all of the States, of course, and it has been applied to every other part of the country. This amendment would simply provide that these two entities, these two possessions or territories of the United States, could participate, with their colleges, as part of the land-grant system. They do not have lands.

This whole thing started 100 years

ago, as we know, by giving surplus lands to the colleges in the various States for educational purposes. We long since have passed that stage. This act provides that money be provided for them in lieu of lands, as we did when we did it for Hawaii, for Puerto Rico, and for the District of Columbia. My amendment would provide the same benefits for these two territories.

Guam has approximately 100,000 citizens, and since 1952 there has been in existence the University of Guam. The Virgin Islands has a population of about 65,000, and it has had in existence the College of the Virgin Islands since 1962, approximately the last 6 years.

The only thing we can do, in fairness, is to say, "All right, we will do just exactly what we do for everybody else, in proportion to the numbers." It does not give them any advantage, but it does not leave them at a disadvantage. It says that these people are citizens of the United States, just the same as the residents of the various States, the District of Columbia, and Puerto Rico are citizens of the United States.

Therefore, this measure having been reported on favorably by the Department of the Interior, the Department of Agriculture, the Department of Health, Education, and Welfare, and the Bureau of the Budget, I now offer it as an amendment, and urge that it be agreed to.

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

Mr. MOSS. I yield to the Senator from Alaska.

Mr. STEVENS. I wish to say, as a member of the committee, that the Senator is very alert. I think his amendment was well taken, and if we do not do it now, these two small universities may well be left out of these benefits for another year.

Mr. MOSS. I agree that the measure is urgently needed now.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

Mr. ELLENDER. Mr. President, I am the one who made the motion as chairman of the Committee on Agriculture and Forestry. And before doing so, I took the matter up with the chairman of the Committee on Interior and Insular Affairs, the Senator from Washington (Mr. JACKSON). He urged no objection.

To begin with, the bill the Senator refers to should have gone to the Committee on Agriculture and Forestry instead of to the Committee on Interior and Insular Affairs.

I have nothing further to say. This is a legislative matter on an appropriation bill. I make the point of order against the amendment on the grounds that it is legislative, and not in order under title XVI of the Standing Rules of the Senate.

Mr. MOSS. Mr. President, may I be heard?

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. MOSS. Mr. President, I have been unable to communicate with the Senator from Washington (Mr. JACKSON). He is out of the city, and I have not been able to talk with him.

I have checked with the leader. I have tried to check with other Senators. I have not been able to do so. But it was not mentioned to me.

Second, I dispute that it is a jurisdictional matter. This was not referred by me. It was referred by order of the Parliamentarian.

The purpose of the bill is to amend the organic acts of those two territories. I cannot see any place where it belongs jurisdictionally other than in the Committee on Interior and Insular Affairs.

It has nothing to do with land. As I pointed out, the bill does not provide for the transfer of lands, but for money, as has been done in recent years, since we have not had a lot of public land to give to the States. The bill provides for the support of two colleges in need of timely support.

The PRESIDING OFFICER. The Chair sustains the point of order under rule XVI.

Mr. MOSS. Mr. President, I appeal from the ruling of the Chair and ask for the yeas and nays.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MOSS. Well, what is one going to do when somebody takes his bill off the calendar after he has had hearings and has been through all of the processes and the bill is sitting right there? It is then pulled off the calendar without a word having been said.

Some are more equal than others around here.

Mr. President, I ask for the yeas and nays

The PRESIDING OFFICER. Is the Senator appealing from the ruling of the Chair?

Mr. MOSS. I am appealing from the ruling of the Chair.

The PRESIDING OFFICER. An appeal has been heard. Is there a sufficient second? There is a sufficient second.

The question is, Shall the decision of the Chair stand as the judgment of the Senate?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll and Mr. AIKEN answered in the affirmative.

Mr. MOSS. Mr. President, will the Presiding Officer inform the Senate of the effect of a "yea" and "nay" vote?

The PRESIDING OFFICER. A "yea" vote sustains the decision of the Chair.

Mr. MANSFIELD. Mr. President, this is most unusual. However, I think there is a little difficulty on the part of a few of the Members in interpreting the effect of a yea and nay vote.

I wish the Chair would once again—and I ask unanimous consent because of the situation—explain what the actual situation is.

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

The Senator from Utah took an appeal from the decision of the Chair. The Senate is now voting on whether the decision of the Chair shall be the judgment of the Senate.

The question posed by the Presiding Officer was, "Shall the decision of the Chair stand as the judgment of the Senate?"

A vote "yea" will sustain the Presiding Officer. A "nay" vote will be against the decision of the Chair.

The clerk will resume the call of the roll.

The rollcall was concluded.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Washington (Mr. JACKSON) is absent because of a death in his family.

I further announce that, if present and voting, the Senator from Alabama (Mr. SPARKMAN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

The Senator from Alaska (Mr. STEVENS) is detained on official business.

If present and voting, the Senator from Iowa (Mr. MILLER) and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

The result was announced—yeas 66, nays 22, as follows:

[No. 240 Leg.]

YEAS—66

Aiken	Fannin	Murphy
Allen	Fulbright	Packwood
Allott	Goldwater	Pastore
Baker	Goodell	Pearson
Bellmon	Gore	Pell
Bennett	Griffin	Percy
Bible	Gurney	Prouty
Boggs	Hansen	Proxmire
Byrd, Va.	Hatfield	Randolph
Byrd, W. Va.	Holland	Saxbe
Cannon	Hollings	Schweiker
Case	Hruska	Scott
Church	Hughes	Smith, Maine
Cook	Inouye	Smith, Ill.
Cotton	Javits	Stennis
Curtis	Jordan, N.C.	Talmadge
Dodd	Jordan, Idaho	Thurmond
Dole	Long	Tower
Dominick	Mathias	Williams, Del.
Eastland	McClellan	Yarborough
Ellender	McIntyre	Young, N. Dak.
Ervin	Metcalf	Young, Ohio

NAYS—22

Bayh	Hart	Montoya
Brooke	Hartke	Moss
Burdick	Magnuson	Muskie
Cranston	Mansfield	Nelson
Eagleton	McCarthy	Ribicoff
Fong	McGee	Spong
Gravel	McGovern	
Harris	Mondale	

NOT VOTING—12

Anderson	Miller	Stevens
Cooper	Mundt	Symington
Jackson	Russell	Tydings
Kennedy	Sparkman	Williams, N.J.

So the ruling of the Chair was sustained as the judgment of the Senate.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MOSS. Mr. President, I accept the verdict of the Senate. Obviously, this was legislation on an appropriations bill. I knew the difficulties of that, to begin with. I had ascertained that there were no more legislative bills coming up in this session, unless they were noncontro-

versial and were going to go through without any discussion. Therefore, I felt it was the only way I could make the point.

I hope that out of this we have established a precedent, perhaps—or a principle, at least—and I still hope that the case for these two worthy schools has not been jeopardized.

Mr. McINTYRE. Mr. President, today we conclude our deliberations for this year on our national defense budget.

It has been a year quite unlike all others of recent memory. For the first time the Congress has taken the bit between its teeth and really exercised its constitutional responsibilities in this most expensive of legislative fields. Much of the credit for our accomplishments during the year must go to the distinguished chairman of our Armed Services Committee. The Senator from Mississippi (Mr. STENNIS) has at all times throughout the year exercised effective and indeed brilliant leadership.

I have myself been privileged to participate quite extensively in our endeavors by virtue of my responsibilities as chairman of the Armed Services Committee's Research and Development Subcommittee. And I would like to comment briefly at this time on what has transpired during the past 12 months in terms of our efforts in the R.D.T. & E. field.

Both the Johnson and Nixon administrations initially requested R.D.T. & E. funds in excess of $8 billion.

It soon became clear, however, that a new mood existed in the Congress. Confronted by this mood, the Nixon administration moved on its own to reduce R.D.T. & E. expenditures. Most significantly, it removed a large portion of the $400 million targeted initially for the manned orbiting laboratory from its final budget request.

We then took over where the Nixon administration left off. Directing particular attention to such fields as offensive chemical and biological weapons development and military science programing, the legislative branch eventually trimmed R.D.T. & E. expenditures to approximately $7.3 billion, roughly 11 percent less than the original Nixon administration request. This cut is reflected in the appropriations bill we are considering today.

On the whole, I would regard this past year as one of significant accomplishment. We saved American taxpayers close to $1 billion in R.D.T. & E.-projected funds. We succeeded in imposing on the Defense Department a tougher burden of proof than it had faced previously in justifying fund requests for expensive new projects. And we learned a great deal about our Government's R.D.T. & E. efforts which most of us had not known, thus laying the groundwork for even more effective legislative review next year and in succeeding years.

I am already looking forward to beginning that review when we return to Washington after the holidays. I am now in the process of preparing for hearings in late January on the subject of independent research and development.

In closing, I would like to say a word of thanks to the other members of my subcommittee for their help during the past year. The Senator from Virginia (Mr. BYRD), the Senator from Ohio (Mr. YOUNG), the Senator from California (Mr. MURPHY), and above all the Senator from Massachusetts (Mr. BROOKE) served to ease significantly the task with which I was faced.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. BYRD of West Virginia, Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I also announce that the Senator from Washington (Mr. JACKSON), is absent because of a death in the family.

I further announce that, if present and voting, the Senator from New Mexico (Mr. ANDERSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. JACKSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Iowa (Mr. MILLER) is necessarily absent.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Kentucky (Mr. COOPER) and the Senator from Iowa (Mr. MILLER) would each vote "yea."

The result was announced—yeas 85, nays 4, as follows:

[No. 241 Leg.]

YEAS—85

Aiken	Byrd, Va.	Dominick
Allen	Byrd, W. Va.	Eagleton
Allott	Cannon	Eastland
Baker	Case	Ellender
Bayh	Church	Ervin
Bellmon	Cook	Fannin
Bennett	Cotton	Fong
Bible	Cranston	Fulbright
Boggs	Curtis	Goldwater
Brooke	Dodd	Gore
Burdick	Dole	Gravel
Griffin	McCarthy	Randolph
Gurney	McClellan	Ribicoff
Hansen	McGee	Saxbe
Harris	McGovern	Schweiker
Hart	McIntyre	Scott
Hartke	Mondale	Smith, Maine
Holland	Montoya	Smith, Ill.
Hollings	Moss	Spong
Hruska	Murphy	Stennis
Hughes	Muskie	Stevens
Inouye	Nelson	Talmadge
Javits	Packwood	Thurmond
Jordan, N.C.	Pastore	Tower
Jordan, Idaho	Pearson	Williams, Del.
Long	Pell	Yarborough
Magnuson	Percy	Young, N. Dak.
Mansfield	Prouty	
Mathias	Proxmire	

NAYS—4

Goodell	Metcalf	Young, Ohio
Hatfield		

NOT VOTING—11

Anderson	Miller	Symington
Cooper	Mundt	Tydings
Jackson	Russell	Williams, N.J.
Kennedy	Sparkman	

So the bill (H.R. 15090) was passed.

Mr. ELLENDER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. INOUYE in the chair) appointed Mr. RUSSELL, Mr. MCCLELLAN, Mr. ELLENDER, Mr. STENNIS, Mr. JACKSON, Mr. YOUNG of North Dakota, Mrs. SMITH of Maine, and Mr. ALLOTT conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, though the hour is late, I wish to make a few remarks about the splendid manner in which this funding proposal for the Defense Department was handled both in committee and on the floor today.

There is no Member of this body who better understands or appreciates more thoroughly the security needs of the Nation than does the senior Senator from Georgia (Mr. RUSSELL). The Appropriations Subcommittee for the Defense Department made every effort to reduce this vast budget item where reductions could properly be made. Those efforts are to be highly commended and, as I am certain every Senator would agree, most of the credit belongs to the able and distinguished chairman of the committee. My only regret is that he was unable to be present today. The Senate owes him a deep debt of gratitude for this outstanding achievement.

Acting for the distinguished chairman, however, was the highly able and capable senior Senator from Louisiana (Mr. ELLENDER), the ranking member of the Appropriations Committee. His presentation was exemplary. His ready knowledge of every feature of the proposal was outstanding, and he is to be commended for a magnificent achievement. He is to be especially commended for taking the leadership on this measure and steering it so successfully through the Senate on short notice. The Senate is deeply grateful.

Equal praise must go to the distinguished senior Senator from North Dakota (Mr. YOUNG). His cooperation and support as the ranking minority member of the committee made possible the efficient and expeditious consideration of this bill. So to Senator Young and to the

many others who joined the discussion, I extend the gratitude of the entire membership.

PROGRAM

Mr. MANSFIELD. Mr. President, if I may have the attention of this crowded Chamber at this late hour I would just like to say I feel like Don Quixote tilting at windmills.

I announced earlier it was my hope and desire that the Committee on Appropriations would meet this evening at the conclusion of the disposal of the Defense appropriation bill. However, the bill has taken longer than anticipated, not because of the outstanding and sterling work of the acting chairman, who performed magnificently on short notice, but because of the number of amendments and the discussion that has taken place.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 13111, the appropriation bill for the Departments of Labor and Health, Education, and Welfare be made the pending business when reported. I do this so that it may become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 13111) making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1970, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported by the Committee on Appropriations with amendments.

Mr. MANSFIELD. Mr. President, this is an unusual procedure, but with the shadow of the President's statement hanging over us that he would call us back the day after Christmas if we did not perform, I point out that this matter will be presented by the Committee on Appropriations tomorrow morning at 9 o'clock.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns tonight, it stand in adjournment until 10 o'clock tomorrow morning.

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

Mr. MANSFIELD. Mr. President, when we complete action on the appropriation bill for Labor-HEW at some later date, we have the Transportation appropriation bill, the foreign assistance and the supplemental appropriation bill. So we will have lots to do in the days ahead. However, I think with the cooperation and coordination which has been shown today we are on the road to a sine die adjournment at a reasonable time.

Mr. MAGNUSON. Mr. President, I am glad the Senator has announced the 9 o'clock meeting tomorrow morning. I have announced so many meetings of the Subcommittee on HEW that I am almost embarrassed to announce another meeting. We are going to meet as the majority leader announced.

If the distinguished majority leader feels like Don Quixote, on this bill I feel like the fellow who had a baseball team with a star left fielder. The star left fielder took sick and the manager asked the shortstop to play left field. The shortstop said, "I can't play left field; I am a shortstop." The manager said, "You have to play left field anyway." He missed two easy ones and he fanned twice and the team was losing the game. The manager said, "I understand. I will go out and play left field." So he went out and he was worse. He fanned three times and he missed three easy ones. He went back to the bench and he said, "You have left field so fouled up nobody can play it."

Actually, Mr. President, the Health-HEW Appropriation bill has been ready for 2 weeks, but we had a problem in connection with two provisions in the general language. The money part of the bill was decided 2 weeks ago.

It is a large bill with over $20 billion involved, and there are over 400 line items. We heard over 452 witnesses.

We have been ready for a long time but we have been hung up over the argument on general language, the so-called Whitten amendment, which I am sure Senators have heard about.

We finally got to the point and we had thought we would do this today but some of the full committee members came along with amendments, none of them of great importance, but there were about 15 of them.

We have a bill. I do not know whether we can explain it all, but I think we can do a good job.

We had to wait for a while on OEO, which is no small sum, being in the amount of $2.88 billion, which has not been authorized yet by Congress. Finally, the House did authorize it.

Then, there is advance funding which the House did not consider, which was another $2.288 billion. So we have had some problems about differences in authorization.

There have been several last minute items. One of them came up on November 28. So it has been very difficult to know what the plan was in connection with the so-called Johnson budget and the revised budget.

Many items the House could not consider. As in the case of the majority leader, I hope we will be able to resolve differences and that we will be able to vote it up or down. We will be here with the bill. There may be some question and there may be some argument on some of the items but I think we can proceed with due dispatch.

I do not know whether or not the House will have a conference. Committee members have told me personally they will stay here all this week and we can meet in the morning until late at night in the hope that we can get a conference on the bill. It may not take as long as we anticipate.

So, in the meantime, we have the other appropriation bills which are behind us but I wanted to get this up and get it moving.

HENRY FORD VOWS INTENSIFIED EFFORT TO CURB POLLUTION

Mr. MAGNUSON. Mr. President, for several years I have been diligently working to stimulate the development of smogless cars. It was with great pleasure, therefore, that I noted on the front page of the New York Times last week this headline "Henry Ford Vows 'Intensified Effort' To Curb Pollution"—and he promised to do this "in the shortest possible time." I congratulate Mr. Ford for this stand.

I sincerely hope that Mr. Ford's remarks represent more than a strong verbal commitment to solving the automobile pollution problem. I hope that Mr. Ford quickly leads his company toward development of inherently pollution free vehicular propulsion systems. No longer can consumers in the United States tolerate emission control attempts which are only half-way measures—that only temporarily operate to reduce emissions.

My ultimate hope is that Mr. Ford's statement will usher in a new era of research and development that will bring to the American public a nonpolluting, reliable propulsion system—a new technology and not one which merely patches up existing engines.

I congratulate Mr. Ford for his stand and look forward in the near future to inspecting the fruits of his company's new commitment to smogless car development.

Mr. President, I ask unanimous consent that The New York Times article of December 11, 1969, discussing Mr. Ford's statement be printed in the RECORD.

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

HENRY FORD VOWS "INTENSIFIED EFFORT" TO CURB POLLUTION

(By Jerry M. Flint)

DEARBORN, MICH.—Henry Ford 2d, chairman of the Ford Motor Company, committed his company today to "an intensified effort to minimize pollution" from its products and plants "in the shortest possible time."

Speaking at a news conference at Ford's headquarters in Dearborn, Mr. Ford called environmental pollution "by far the most important problem" facing his company and the entire automobile industry in the next 10 years.

"I cannot emphasize too strongly my own personal concern and that of Ford Motor Company with removing automobile-related pollutants as a threat to the environmental quality," Mr. Ford said.

"This concern will be reflected not only in words but in specific, concrete actions based upon all the scientific, engineering and manufacturing skills at our command.

"We are making this commitment because of our recognition that the quality of the environment warrants extraordinary effort on the part of all who may be in a position to improve our physical surroundings."

To back up his company's commitment, Mr. Ford announced the following antipollution measures:

A program to feed hundreds of experimental, low-emission automobiles into auto fleets for testing.

The development of an experimental clean air package that could be used on older cars now on the road.

Experiments at one factory to develop a method of testing each automobile for pollution control as it rolls down the assembly line.

Development of a "little white box" to help garagemen diagnose pollution problems in cars.

Mr. Ford said his company would spend $31 million on vehicle pollution control next year and $60 million in the next two years on cutting air and water pollution at Ford plants. In the last 10 years, he said, Ford spent $6 million to curb pollution at its plants.

"We are able to make this commitment at this time," he said, "because years of research, development and testing have now brought us to the point where we can foresee, in the near future, the practical achievement of levels of pollution control that seemed out of reach until recently."

Mr. Ford's remarks represented the strongest verbal commitment of any automobile executive on the pollution issue, although the General Motors Corporation, the largest auto manufacturer, and other auto makers are also spending heavily to develop pollution control equipment.

A MAJOR SHARE

The executive warned that pollution control would be costly and that the car buyer would pay "at least a major part." He said: "everybody's going to have to pay for the environmental problem."

The major automobile pollutants are unburned gasoline or hydrocarbons, carbon monoxide and oxides of nitrogen.

At the news conference, two experimental projects were shown: One was a car with a series of muffler-like devices using catalysts and air pumps to remove exhaust pollutants; the other was an engine equipped with reactors to burn off fumes. Both systems were said to cut more than 90 per cent of the major auto exhaust pollutants.

While more work appears to be needed on both systems, Donald Jensen, Ford's top pollution expert, said he expected to see some of the equipment on cars by 1974 or 1975.

The experimental car and engine would cut hydrocarbons 97 per cent, carbon monoxide 93 per cent and nitrogen oxides 90 per cent from precontrol levels, Mr. Jensen said.

Among the specific programs detailed, Mr. Ford said that, by the end of 1971, his company would be offering to sell cars with the experimental pollution control systems to private fleets, and would lend vehicles to pollution control authorities in California and Washington, D. C., for testing. Several hundred cars would be involved, he said.

He also noted the company's efforts to curb water and air pollution at its plants. At a new Kentucky truck plant near Louisville he said, Ford is cooperating with local government in establishing "the nucleus of a waste water treatment plant that will provide collection and treatment facilities not only for our own plant but for all other users at a wide geographical area."

Although there is "No such thing as a completely clean motor vehicle or industrial plant," Mr. Ford said, "we will achieve products and manufacturing facilities that do not significantly contaminate our atmosphere, waters or landscape."

While much of Mr. Ford's 45-minute talk was devoted to the pollution problem, he also announced that Ford was cutting back on its automobile racing program; that a new Volkswagen-size car was being readied for production in the United States, and that a massive housing-office building project in Dearborn, costing hundreds of millions of dollars, would be started.

EXPORT ADMINISTRATION ACT OF 1969

Mr. MUSKIE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4293.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the conference report on the amendment of the Senate to the bill (H.R. 4293) to provide for continuation of authority for regulation of exports, and further announcing that it recedes from its disagreement to the said amendment, and that it agrees to the amendment of the Senate, with an amendment, in which it requests the concurrence of the Senate.

Mr. MUSKIE. I move that the Senate disagree to the amendment of the House to the amendment of the Senate, and ask for a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MUSKIE, Mr. WILLIAMS of New Jersey, Mr. MONDALE, Mr. HUGHES, Mr. TOWER, Mr. BENNETT, and Mr. BROOKE conferees on the part of the Senate.

EXECUTIVE ENCROACHMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an article written by James E. Remmert, entitled "Executive Order 11,246: Executive Encroachment," as published in the November 1969 issue of the American Bar Association Journal.

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

EXECUTIVE ORDER 11,246: EXECUTIVE ENCROACHMENT

(By James E. Remmert)

(Section VII of the Civil Rights Act of 1964, forbidding discriminatory employment practices, was the product of legislative compromise, Executive Order 11,246, issued by President Johnson in 1965 and applicable to Government contractors, was the product of unilateral Executive judgment and consequently not only forbids discriminatory employment practices but requires employers to take affirmative action to ensure against them. Will the Executive always be serving a good cause when he uses the contract power to skirt the legislative process?)

The Civil Rights Act of 1964 was made the law of the land amidst great controversy, extended debate and considerable compromise. With far less controversy or compromise and with no Congressional debate, President Johnson on September 24, 1965, signed Executive Order 11,246, the latest in a series that has played at least as significant a role in implementing the objective of equal employment opportunity as has Title VII of the 1964 Civil Rights Act.[1] Section 202(1) of this executive order, as amended, requires that every employer who is awarded a Government contract or subcontract that is not exempted by the Secretary of Labor must contractually undertake the obligation not to "discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin".

Since Title VII of the 1964 Civil Rights Act had to endure the rigors of passing both houses of Congress, it is the product of compromise attendant upon the legislative process. Executive Order 11,246, by comparison, was the responsibility of only the President. Consequently, it imposes much broader substantive obligations, and the procedure adopted for its enforcement conveys to the enforcing agency significantly more authority than was given to the Equal Employment Opportunity Commission by the 1964 Civil Rights Act.

Evidence of the broader substantive obligation imposed by Executive Order 11,246 is the fact that Title VII imposes only the obligation *not* to do that which is prohibited, *i.e.*, discriminate on the basis of race, color, religion, sex or national origin. By comparison, Executive Order 11,246 not only requires that Government contractors and subcontractors not discriminate but also that they "take *affirmative action* to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin [Section 201(1); emphasis supplied]". Regulations issued by Secretary of Labor Willard Wirtz under authority of Executive Order 11,246 further require that Government contractors and subcontractors develop a "written affirmative action compliance program"[2] documenting the steps they have taken and setting goals and timetables for additional steps to fulfill the "affirmative action" obligation. The submission of these written programs has also been imposed as a prerequisite to the award of some Government contracts. However, on November 16, 1968, Comptroller General Elmer B. Staats ruled that "until provision is made for informing bidders of definite minimum requirements to be met by the bidder's program and any other standards or criteria by which the acceptability of such program would be judged",[3] contract awards must be made to the lowest eligible bidder without reference to the affirmative action program.

PRESIDENT SIMPLY TOOK POWER THAT CONGRESS WOULDN'T GIVE

That the Executive was willing to assume by executive order significantly greater enforcement authority than Congress was willing to convey to it can be seen by comparing the adjudicatory processes under Title VII and Executive Order 11,246. If an employer disagrees with the Equal Employment Opportunity Commission over the legal requirements imposed by Title VII, or if the employer is unable to comply with the remedies prepared by the commission to rectify a discriminatory practice, he may have traditional recourse through the judicial process before any sanction is imposed. To the contrary, however, the regulations issued by Secretary of Labor Wirtz for the administration of Executive Order 11,246 provide that upon request for a hearing to adjudicate a contractor's or subcontractor's compliance with the executive order, the Secretary of Labor's designee may suspend all contracts or subcontracts held by the employer pending the outcome of the hearing.[4] In addition, as a part of the adjudicatory process, the agency responsible for investigation or supervising the investigation of contractor's compliance and prosecuting those contractors alleged to be in noncompliance is also responsible for imposing the sanctions of cancellation and suspension from participation in Government contracts.[5] In other words, the chief investigator, prosecutor and final judge with respect to cancellation and suspension of Government contracts is the Department of Labor.

WITH THE CONTRACT POWER, WHO NEEDS CONGRESS?

These substantive and procedural contrasts between Title VII of the 1964 Civil Rights Act and Executive Order 11,246 illustrate the considerable power that the Executive can acquire by pursuing a social objective through the use of the contract power in addition to or in place of legislation. Such broad and sweeping powers are premised on the concept that the Federal Government has the "unrestricted power . . . to determine those with whom it will deal, and to fix the terms and conditions upon which it will make needed purchases."[6] This power is founded on the premise that in the ab-

Footnotes at end of article.

sence of a Congressional prohibition or directive the Executive branch is free to enter into contracts on whatever conditions and provisions are deemed to promote the best interests of the Government.[7]

Without question, Executive Order 11,246 has done much to advance the cause of equal employment opportunity, because the Federal Government's bargaining position enables the Executive to require such terms as are found in this order as a condition to a United States Government contract. Once such a broad and sweeping obligation is accepted, the accepting contractor or subcontractor is in an untenable position to oppose steps that are required by the administering agency with respect to the conditions covered by the contract.

To illustrate the impact of this use of the Executive's contract power, one need only consider a list of the top 100 corporations and institutions holding Defense Department contracts.[8] These corporations are understandably some of the largest in the United States and collectively employ well over ten million persons. Even though the list does not include contractors with any department other than Defense or the many subcontractors involved in Defense Department prime contracts, it aptly illustrates the significant indirect control which the Executive can exert over the private sector of the economy by use of the contract power.

There is very little case law deciding the extent to which the President may by executive order impose ancillary conditions to Government contracts. Some have questioned the validity of Executive Order 11,246 on the ground that the Executive does not have the authority to impose conditions that are unrelated to the purposes for which Congress appropriated funds[9] and on the basis that the affirmative action obligation conflicts with provisions in the 1964 Civil Rights Act. These provide that preferential treatment on the basis of race, color, religion, sex or national origin is not required to correct an imbalance.[10] However, at least one federal district court[11] and two United States courts of appeals[12] have said that Executive Order 11,246 has the full force and effect of statutory law. If these courts are correct and the order is a valid exercise of the Executive's contract power, then some examination of the potential extension of this power is in order.

Although the writer is unaware of any publication listing all firms holding competitively bid or negotiated United States Government contracts or subcontracts, it is the writer's belief that the vast majority of the major commercial enterprises in this country and a great many not-for-profit institutions and smaller commercial enterprises hold one or more Government contracts or subcontracts. Consider, for example, the diverse scope of the organizations holding Government research grants, the utilities and communications services used by federal installations, the dependence of such industries as automotive, aircraft, shipbuilding and munitions on Government contracts, the heavy reliance of the construction industry on such programs as urban renewal and highway construction sponsored by federal funding, and the entrenchment of United States Government financing and deposits as a factor in the financial institutions throughout the country.

WHERE DOES THE PRECEDENT LEAD?

Consideration should also be given to some of the possible future applications of the concept behind Executive Order 11,246. The contract power could be used to circumvent the intrastate-interstate dichotomy that has to some extent precluded complete preeminence of the Federal Government in such fields as air and water pollution control regulation of common carriers and labor relations. One extension already suggested by the AFL–CIO is the debarment of Government contractors found to have committed flagrant unfair labor practices.

Another avenue for extension of the Executive's contract power is in areas within federal jurisdiction but which Congress has left unregulated or has regulated only to a lesser extent than that deemed desirable by the Executive. An example of this use of the contract power is found in Executive Order 11,246. In enacting Title VII of the 1964 Civil Rights Act, the Congressional consensus was that the prohibition against discrimination on the basis of race, color, religion, sex and national origin was sufficient to accomplish the objective of eliminating employment discrimination on such bases.

The Executive, however, felt that the then-existing executive order prohibiting discrimination by Government contractors did not go far enough in dealing with the objective of equal employment opportunity, and thus the affirmative action obligation was added to place a greater responsibility on government contractors.

By using the contract power, the Executive could accomplish many objectives deemed desirable without using the legislative process so long as the particular contract clause does not conflict directly with a federal statute. Thus, this technique affords the Executive a limited bypass of the legislative process and gives it the power to give its objective "the force and effect given to a statute enacted by Congress"[13] without the concurrence of Congress.

Several questions should be answered before this procedure proliferates. The first is whether the concentration of this power in the hands of the Executive is desirable in view of the fact that it allows the President to carry an objective into effect without resort to the legislative process established by the Constitution. In this connection, it is significant to note that Congress considered sanctioning the Executive's use of the contract power to achieve equal employment opportunity but rejected the idea. The original House bill (H.R. 7152) that eventually became the 1964 Civil Rights Act, after numerous amendments, contained a Section 711(b), which read as follows:

The President is authorized to take such action as may be appropriate to prevent the committing on continuing of an unlawful employment practice by a person in connection with the performance of a contract with an agency or instrumentality of the United States. During the consideration of H.R. 7152 by the House Congressman Emanuel Celler (D. N.Y.) sponsored an amendment to eliminate this section of the bill. The amendment was accepted by the House, and in the course of the discussion Congressman John Dowdy (D. Tex.) voiced the view that, "Many of us have felt section 711 to be a highly dangerous section of the bill and accordingly much of our debate has been predicated upon the fact that this language should be removed."[14]

With reference to Executive Order 11,246, it has been argued that although this use of the contract power is extraordinary the need for equal employment opportunity justifies this departure from traditional concepts. Those who would rush to the conclusion that the cause of equal employment opportunity does justify a departure from the legislative process would do well to remember that the sword of Executive power cuts in two directions. Thus, the first question that should be considered in connection with Executive Order 11,246 is not whether equal employment opportunity should be pursued but whether this means is consistent with the basic framework and power balance with which our form of government has successfully endured innumerable crises over the last two centuries.

HISTORY THAT SHOULD BE REPEATED

At another time in our nation's history, the Supreme Court had occasion to consider whether a crisis of similar magnitude justified an expansion of Executive power. In holding that President Truman's executive order seizing the steel mills during the Korean conflict was unconstitutional despite the pending emergency, Justice Douglas in a concurring opinion gave the sage advice that:

The language of the Constitution is not ambiguous or qualified. It places *some* legislative power in the Congress; Article I, Section 1 says "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

* * * * *

Today, a kindly President uses the seizure power to reflect a wage increase and to keep the steel furnaces in production. Yet tomorrow another President might use the same power to prevent a wage increase, to curb trade-unionists, to regiment labor as oppressively as industry thinks it has been regimented by this seizure.[15]

In a separate concurring opinion in the same case, Justice Jackson expressed a similar view concerning the overreaching use of Executive power that is highly relevant and appropriate to the concept behind Executive Order 11,246:

The opinions of the judges, no less than executives and publicists, often suffer the infirmity of confusing the issue of a power's validity with the cause it is invoked to promote, of confounding the permanent executive office with its temporary occupant. The tendency is strong to emphasize transient results upon policies—such as wages or stabilization—and lose sight of enduring consequences upon the balanced power structure of our Republic.[16]

CONGRESS DOES NOT BELONG ON THE SIDELINES

Congress shoud give thoughtful consideration to and develop a considered national policy on the use of the contract power exemplified by Executive Order 11,246 rather than stand on the sidelines and allow its proliferation without Congressional guidance. Congress should decide the kind of contracts and the kind of ancillary obligations that it will allow the Executive to impose in disbursing the funds that Congress appropriates. A mechanism should be established that will insure a legislative watchdog over the Executive's use of the contract power and will allow the Executive sufficient flexibility to administer efficiently the disbursement of Congressional appropriations.

With specific reference to Executive Order 11,246, Congress should eliminate the double standard that now exists between employers generally, who are required not to discriminate by Title VII of the 1964 Civil Rights Act, and employers who, as Government contractors, are subject to a different standard and a differing enforcement procedure in measuring their compliance with the obligations. The identical obligation imposed by Title VII of the 1964 Civil Rights Act should apply, procedurally, substantively and with equal vigor to Government contractors without reference to the extraordinary obligation to take "affirmative action." There is no justification for the multiplicity of government agencies enforcing Title VII of the 1964 Civil Rights Act and Executive Order 11,246. At present, the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance and every agency that awards Government contracts are all involved in enforcement activities. This duplication has produced inconsistent enforcement standards, confusion and a wasteful use of Government manpower and resources.

Congress should immediately take appropriate steps properly to realign Congressional and Executive authority, and in doing so it might well consider some further words from Justice Jackson's concurring opinion in *Youngstown Sheet & Tube Company* v. *Sawyer*. In referring to the over-

Footnotes at end of article.

extended use of the executive order, Justice Jackson said:

Such power either has no beginning or it has no end. If it exists, it need submit to no legal restraint. I am not alarmed that it would plunge us straightway into dictatorship, but it is at least a step in that wrong direction.

* * * * *

With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations.[17]

FOOTNOTES

[1] 42 U.S.C. § 2000c.
[2] 41 C.F.R. § 60–1.40.
[3] Comptroller General's Letter B–163026.
[4] 41 C.F.R. § 60–1.26(b)(2)(iii).
[5] 41 C.F.R. § 60–1.24 and 41 C.F.R. § 60–1.27.
[6] *Perkins* v. *Lukens Steel,* 310 U.S. 113, at 127 (1940).
[7] *Kern-Limerick* v. *Scurlock,* 347 U.S. 110 (1954).
[8] TIME, June 28, 1968, at 72.
[9] See Pasley, *The Nondiscrimination Clause in Government Contracts,* 43 VA. L. REV. 837 (1957).
[10] 42 U.S.C. § 200e–2(j).
[11] *United States* v. *Local 189, United Papermakers & Paperworkers,* 282 F. Supp. 39, 43 (E.D. La. 1968).
[12] *Farkas* v. *Texas Instrument,* 375 F. 2d 629, 632 (5th Cir. 1967), and *Farmer* v. *Philadelphia Electric Company,* 329 F. 2d 3, 8 (3d Cir. 1964).
[13] *Farkas* v. *Texas Instrument,* 375 F. 2d at 632.
[14] CONGRESSIONAL RECORD, vol. 110, pt. 2, p. 2575.
[15] *Youngstown Sheet & Tube Company* v. *Sawyer,* 343 U.S. 579, at 630, 633–634 (1952).
[16] 343 U.S. at 634.
[17] 343 U.S. at 653, 655.

THE PHILADELPHIA PLAN

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Comptroller General of the United States, Elmer B. Staats, before the Subcommittee on Separation of Powers of the Judiciary Committee regarding the Philadelphia plan.

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

STATEMENT OF ELMER B. STAATS

Mr. Chairman and members of the Subcommittee: we appreciate this opportunity to appear before your Subcommittee to discuss our position with respect to the revised "Philadelphia Plan." We are concerned about both the legality of the Plan and the situations which appear to have arisen as a result of our endeavors to discharge our statutory duties and responsibilities in connection with the Plan.

I believe the members of the Subcommittee are by now aware of the basic facts, which are (1) that the Department of Labor has issued an order requiring that major construction contracts in the Philadelphia area, which are entered into or financed by the United States, must include commitments by the contractors to goal of employment of minority workers in specified skilled trades; (2) that by a decision dated August 5, 1969, we advised the Secretary of Labor that we considered the Plan to be in contravention of the Civil Rights Act of 1964 and would be required to so hold in passing upon the legality of expenditures of appropriated funds under contracts made subject to the Plan; and (3) that the Attorney General on September 22, 1969, issued an opinion to the Secretary of Labor advising him of his conclusion that the Plan is not in conflict with any provision of the Civil Rights Act; that it is authorized by Executive Order No. 11246; and that it may be enforced in awarding Government contracts.

We would like to offer for the record copies of our decision and of the Attorney General's opinion.

The revised Philadelphia Plan was issued on June 27, 1969, with the announcement that it was designed to meet GAO's objections to a lack of specificity in a prior plan. The new plan is frank and direct in stating its purpose. It gives a rundown of the history of alleged discriminatory practices by the Philadelphia construction unions in admitting members; it states that the percentage of minority group membership in the unions and the construction trades is far below the ratio of minority group population to the total Philadelphia population, and it advises that the purpose of the Plan is to achieve greater participation of minority group members in the construction trades.

The Plan states that there shall be included in invitations for bids (IFBs) on both Federal and federally assisted construction contracts in the Philadelphia area, specific ranges of minority group employees in each of six skilled construction trades; that each bidder must designate in his bid the specific number of minority group employees, within such ranges, that he will employ on the job; and that failure of the contractor to "make every good faith effort" to attain the minority group employment "goals" he has established in his bid may result in the imposition of sanctions, which might include termination of his contract.

The primary question considered in our decision of August 5 was whether the revised Plan violated the equal employment opportunity provisions of the Civil Rights Act of 1964.

In the formulation of that decision, we regarded the Civil Rights Act of 1964 as being the law governing nondiscrimination in employment and equal employment opportunity obligations of employers. Therefore we considered the 1964 Act as overriding any administrative rules, regulations, and orders which conflicted with the provisions of that Act or went beyond such law and purported to establish, in effect, additional unlawful employment practices for employers who engaged in Federal or federally assisted construction.

We think the basic policy of the equal employment opportunity part of the Act is set out in pertinent parts in section 703(a) as follows:

"It shall be an unlawful employment practice for any employer—

(1) to fail or refuse to hire * * * any individual * * * because of such individual's race, color, religion, sex, or national origin."

The basic policy of the Act as it relates to federally assisted contracts, is stated in pertinent part in section 601, as follows:

"No person * * * shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Another pertinent provision of the Act is set out in section 703(j), which provides in part as follows:

"Nothing contained in this title shall be interpreted to require any employer * * * to grant preferential treatment to any individual or to any group because * * * of an imbalance which may exist with respect to the total number or percentage of persons of any race * * * or national origin employed by any employer [or] referred * * * for employment by any * * * labor organization * * * in comparison with the total number or percentage of persons of such race * * * or national origin in any community * * * or in the available work force in any community * * *."

This part of the law is known as the prohibition against "quotas"; that is, the prohibition against requiring an employer to hire a specified proportion or percentage of his employees from certain racial or national origin groups.

It seems to have been generally accepted by Labor, Justice and minority group spokesmen that "quotas" are illegal. But in defense of the Philadelphia Plan the Department of Labor argued that the "goals" for minority group employees which would be included in IFBs and in contracts under the Plan could not violate the Civil Rights Act of 1964 because—

1. A quota is a fixed number or percentage of minority group members, whereas ranges to be established under the Plan are flexible in that the bidder may choose as his goal any number or percentage within the ranges set out in the IFB.

2. Failure to attain the "goals" does not constitute noncompliance, since such failure can be waived if the contractor can show that he made "every good faith effort" to attain the goals.

3. The Philadelphia Plan was promulgated under Executive Order 11246, not under the Civil Rights Act of 1964, and affirmative action programs under the Executive Order may properly require consideration of race or national origin if such consideration is necessary to correct the present results of past discrimination.

4. The Plan provides that the contractor's commitment to specified goals of minority group employment shall not be used to discriminate against any qualified applicant or employee.

In considering these arguments in our decision of August 5 we said that in our opinion the distinction between quotas and goals was largely a matter of semantics. The plain facts are, however, that the Plan sets a definite minimum percentage requirement for employment of minority workers; requires an employer to commit himself to employ at least a corresponding minimum number of minority workers; and provides for sanctions for a failure to employ that number (unless the contractor can satisfy the agency personnel concerned that he has made every good faith effort to attain such number). It follows, therefore, that when such sanctions are applied they will be a direct result of the contractor's failure to meet his specified number of minority employees.

In our decision of August 5 we also said that the basic philosophy of the equal employment opportunities portion of the Civil Rights Act is that it shall be an unlawful employment practice to use race or national origin as a basis for hiring, or refusing to hire, a qualified applicant. And we said the Plan would necessarily require contractors to consider race and national origin in hiring.

In reply to the Department's contention that the Plan itself says a contractor's goals shall not be used to discriminate against any qualified applicant or employee, we expressed the opinion that the obligation to make every good faith effort to attain his goals under the Plan will place contractors in situations where they will undoubtedly grant preferential treatment to minority group employees. Later, I will address this point again.

It is our opinion that the legislative history of the Civil Rights Act shows beyond question that Congress in legislating against discrimination in employment recognized the discrimination that is inherent in a quota system, and regarded the term "discrimination" as including the use of race or national origin as a basis for hiring; the assignment of numerical ratios based on race or national origin; and the maintaining of any racial balance in employees.

In considering Labor's contention that it could properly consider race or national origin under affirmative action programs established under Executive Orders, we pointed out that while the term "affirmative action" was included in Executive Order 10925, which

was in effect at the time Congress was debating the bill which was subsequently enacted as the Civil Rights Act of 1964, no specific affirmative action requirements of the kind here involved had been imposed upon contractors under authority of that Executive Order at that time. We therefore did not think it could be successfully contended that Congress, in recognizing the existence of the Executive Order and in failing to specifically legislate against it, was approving or ratifying the type or methods of affirmative action which the present Plan imposes upon contractors.

While the Labor Department cited various court cases in support of its position that reverse discrimination may properly be used to correct the present results of past discrimination, our examination of those cases showed that the majority involved questions of education, housing, and voting. He said we could see a material difference between the circumstances in those cases and the circumstances which gave rise to the Philadelphia Plan, since in those cases enforcement of the rights of the minority to vote, or to have unsegregated housing, or unsegregated school facilities, did not deprive members of the majority group of similar rights, whereas the employment field, each mandatory and discrimatory hiring of a minority group worker would preclude the employment of a member of the majority group. In those cases which did involve Title VII of the Civil Rights Act of 1964, we found them to be concerned with practices of labor unions or with treatment by employers of their employees in matters of seniority and promotion, and even in such circumstances, we found the courts to be divided between condoning and condemning the practice.

Our decision also pointed out that the effect of the Plan was to require an employer to abandon his customary practice of hiring through a local union if there is a racial or national origin imbalance in the membership of such union, and we concluded that such a requirement would be in violation of section 703(j) of the Act. We cited numerous portions of the legislative history of the Act which supports, we think, the view that Congress intended to prohibit and preclude the sort of program and procedures which are now included in the Philadelphia Plan when it drafted section 703(j).

In this connection we expressed the opinion that it would be improper to impose requirements on contractors to incur additional expenses in affirmative action programs which are designed to correct the discriminatory practices of unions, since such requirements would result in the expenditure of appropriated funds in a manner not contemplated by Congress. And we pointed out that if unions were, in fact, discriminating, they could be required to correct their discriminatory practices under provisions of the National Labor Relations Act, under Title VII of the Civil Rights Act, and under section 207 of Executive Order 11246. We suggested use of one of these remedies.

Finally, we concluded that until the authority for any agency to impose or require conditions in invitations for bids which obligate bidders, contractors, or subcontractors, to consider the race or national origin of their employees or prospective employees, is clearly and firmly established by the weight of judicial precedent, or by additional statutes, we must consider conditions of the type proposed by the revised Philadelphia Plan to be in conflict with the Civil Rights Act of 1964, and we will necessarily have to so construe and apply the act in passing upon the legality of matters involving expenditures of appropriated funds for Federal or federally assisted construction projects.

On August 6, the day after our decision of August 5, the Secretary of Labor held a press conference at which he expressed the opinion that "interpretation of the Civil Rights Acts has been vested by Congress in the Department of Justice"; that Justice had already decided that the Philadelphia Plan was not in conflict with the Act; that GAO properly could pass upon whether the Philadelphia Plan violated procurement law; and that Labor therefore had no choice but to follow the opinion of Justice and proceed to implement the Plan. For the record, it should be noted that the only Department of Justice opinion Labor had, at the time it issued the revised Plan and at the time the Secretary held his press conference, was one rendered in two short paragraphs by the Assistant Attorney General for the Civil Rights Division. On September 22, 1969, the Attorney General did, however, issue a formal opinion, which was essentially in the form of a critique of our August 5 decision.

The fundamental bases of the Attorney General's opinion are his contentions that the Executive has authority to include in contracts made by the United States or financed with Government assistance any terms and conditions which are not contrary to a statutory prohibition or limitation on contractual authority; that the requirements imposed upon contractors by the Philadelphia Plan are not prohibited by the Civil Rights Act; and the fact that the Act does not affirmatively require or authorize the imposition of such requirements upon all employers does not preclude their imposition by the Executive upon employers who enter into contracts with the Government or which are financed through Government assistance.

We believe that the argument with respect to the authority of the Executive to include terms and conditions in contracts fails to take into consideration two material factors: first, with respect to contracts executed by the Government, Congress has imposed a number of specific requirements and limitations, both procedural and substantive, entirely independent of and unrelated to the provisions of the Civil Rights Act, but which we believe to be material to the determination of the validity of the Plan; and second, with respect to contracts financed by Federal assistance, Congress has in the several acts authorizing such assistance prescribed the terms and conditions upon which it is to be furnished. With respect to the latter area, we do not believe it could be argued that the Executive has any authority from the Constitution or from any source other than those Congressional acts, and the Attorney General's argument is to that extent inapplicable to federally aided contracts or programs.

Considering the contractual authority of the Federal Government, it is recognized that the Executive agencies may, in the absence of contrary legislative provisions, perform their authorized functions and programs by any appropriate means, including the use of contracts. In doing so, however, they are bound to observe all statutory provisions applicable to the making of public contracts. The Attorney General's opinion states that the power of the Government to determine the terms which shall be included in its contracts is subject to limitations imposed by the Constitution or by acts of Congress, but that existence of the power does not depend upon an affirmative legislative enactment.

Second to the statutory limitation that no contract shall be made unless it is authorized by law or is under an appropriation adequate to its fulfillment (41 U.S.C. 11) the most important congressional limitation on contracting is the requirement that Government contracts shall be made or entered into only after public advertising and competitive bidding, on such terms as will permit full and free competition. The purpose of the advertising statutes is not only to prevent frauds or favoritism in the award of public contracts, but also to secure for the Government the benefits of full and free competition.

The Supreme Court of the United States has adopted the policy, as set out in the procurement laws and regulations issued pursuant thereto, that competitive bidding should obtain the needs of the Government at prices calculated to result in the lowest ultimate cost to the Government. (*Paul v. United States*, 371 U.S. 245, 252 (1963)). Even before the decision by the Supreme Court the rule generally applied by my predecessors and at least one of the Attorney General's predecessors, and, so far as I know, never contested by any prior Attorney General, is that the inclusion in any contract of terms or conditions, not specifically authorized by law, which tend to lessen competition or increase the probable cost to the Government, are unauthorized and illegal. The situation in which this rule has been applied have most frequently involved proposals to impose stipulations concerning employment conditions or practices.

In 1890 the Attorney General advised the President as follows, with respect to a request of a labor organization for implementation of the act of June 25, 1868, which provided that eight hours shall constitute a day's work:

"Again sections 3709, etc., require contracts for supplies or services on behalf of the Government, except for prisoners' services, to be made with the lowest responsible bidder, after due advertisement. These statutes make no provision for the length of the day's work by the employees of such contractors, and a public officer who should let a contract for a larger sum than would be otherwise necessary by reason of a condition that a contractor's employees should only work eight hours a day would directly violate the law.

"In short, the statutes do not contain any such provision as would authorize or justify the President in making such an order as is asked. Nor does any such authority inhere in the Executive office. The President has, under the Constitution and laws, certain duties to perform, among these being to take care that the laws be faithfully executed; that is, that the other executive and administrative officers of the Government faithfully perform their duties; but the statutes regulate and prescribe these duties, and he has no more power to add to, or subtract from, the duties imposed upon subordinate executive and administrative officers by the law, than those officers have to add or subtract from his duties.

"The relief asked in this matter can, in my judgment, come only through additional legislation."

On the same principle our Office has held that a contract could not prescribe minimum wages in the absence of specific statutory authority (10 Comp. Gen. 294 (1931)); compliance with the National Labor Relations Act of 1935 could not be required by contract, nor noncompliance therewith be made ground for rejection of a bid (17 Comp. Gen. 37 (1937)); periodic adjustment of minimum wages incorporated in a contract pursuant to the Davis-Bacon Act could not be stipulated in the contract (17 Comp Gen. 471 (1937)); provisions of a Procurement Division Circular Letter purporting to require contractors to report payroll statistics could not be incorporated in Government contracts (17 Comp. Gen. 585 (1938)); construction contracts could not contain provisions concerning collective bargaining (18 Comp. Gen. 285 (1938)); a requirement for compliance with the Fair Labor Standards Act could not be included in Government contracts (20 Comp. Gen. 24 (1940)); a low bid on a Government contract could not be rejected because the bidder did not employ union labor (31 Comp Gen. 561 (1952)); construction contracts could not include provisions for a 40-hour workweek and overtime compensation for excess time, when the only pertinent statute merely required overtime compensation for work in excess of eight hours per day (33 Comp Gen. 477

(1954)); and a clause requiring contractors to comply with wage, hour and fringe benefit provisions resulting from a labor-management agreement could not be included in construction contracts in the absence of statutory authorization (42 Comp. Gen. 1 (1962)).

Of course, many of those proposed requirements were subsequently authorized by Congressional enactment and, together with other similar requirements, are today accepted features of Government contracting in the social-economic area. The point is, that they were not permitted until the Congress, rather than the Executive, had determined that they should be. So far as I know there was no attempt in any of those instances by the Executive branch to disregard the decisions of the Comptroller General.

In the face of this history, we cannot agree that the Attorney General's position that the Executive may impose upon contractors any conditions which have not been specifically prohibited, is correct.

In contending that the Plan is not in conflict with any provision of the Civil Rights Act, the Attorney General attempts to reconcile provisions of the Plan which we feel are irreconcilable. As summarized by the Attorney General, the Plan requires the contractor to set specific goals for minority group hiring, and to make "every good faith effort" to meet these goals. This, however, he says does not require the contractor to discriminate, because the Plan includes the express statement that he may not in attempting to meet his goals discriminate against any qualified employee on grounds of race, color, religion, sex, or national origin. As we stated in our decision of August 5 this is a statement of a practical impossibility. The provision is, in effect, no more than a statement of the provisions of the Civil Rights Act, and it is difficult to avoid the conclusion that the Attorney General is saying that no requirement, obligation or duty can be considered contrary to law if it is accompanied by a statement that in meeting it the law will not be violated.

It should also be noted that the Attorney General confines his argument to consideration of the provisions of Section 703(a) of the act, and ignores section 703(j), which in our view is an express prohibition against imposition of a program such as is included in the Plan.

Finally the Attorney General falls back on the plea that, while the Plan might be clearer if it stated what "good faith efforts" are expected, it must be assumed that the Plan will be so fairly administered that no contractor will be forced to choose between noncompliance with his obligation to achieve his goal and violation of the act. Therefore, he says, it is premature to assert the invalidity of the Plan because of what may occur in its enforcement; any unfairness in administration should be left for judicial remedy.

The foregoing would indicate that the Attorney General does not fully recognize the pressure which the Plan will impose upon contractors to attain their minority group employee goals. A failure to achieve such goals will immediately place the contractor in the role of defendant, and to avoid sanctions he must then provide complete justification for his failure. Furthermore, in the first instance at least, the question whether he made every good faith effort will be determined by the same Federal personnel who imposed the requirement. In our opinion the coercive features inherent in the Plan cannot help but result in discrimination in both recruiting and hiring by contractors subject to the Plan.

In the final sentence of his opinion the Attorney General undertook to advise that the Department of Labor "and other contracting agencies and their accountable officers" may rely on his opinion in their administration of Executive Order 11246. We are especially concerned by this statement. In making it the Attorney General appears to have ignored completely section 304 of the Budget and Accounting Act of 1921, 31 U.S.C. 74, which provides that "Balances certified by the General Accounting Office, upon the settlement of public accounts, shall be final and conclusive upon the Executive Branch of the Government."

In this connection, I would like to point out as emphatically as I can that I believe that one of the most serious questions for the Subcommittee's consideration is whether the Executive branch of the Government has the right to act upon its own interpretation of the laws enacted by the Congress, and to expend and obligate funds appropriated by the Congress in a manner which my Office, as the designated agent of the Congress, has found to be contrary to law.

In our decision, we informed the Secretary of Labor that the General Accounting Office would regard the Plan as a violation of the Civil Rights Act in passing upon the legality of matters involving expenditures of appropriated funds for Federal or federally assisted construction. Our jurisdiction in that respect is derived from the authority and duty to audit and settle public accounts which was vested in and imposed upon the accounting officers of the Government by the act of March 3, 1817, 3 Stat. 366, and which was transferred to the General Accounting Office by the Budget and Accounting Act, 1921, 42 Stat. 24. Under section 8 of the Dockery Act of July 31, 1894, 28 Stat. 207, as amended by section 304 of the Budget and Accounting Act (31 U.S.C. 74), disbursing officers, or the head of any Executive departments, may apply for and the Comptroller General is required to render his decision upon any question involving a payment to be made by them, or under them, which decision, when rendered, shall govern the General Accounting Office in passing upon the account containing the disbursement. A similar provision concerning certifying officers and other employees appears at 31 U.S.C. 82d, which also provides that the liability of certifying officers or employees shall be enforced in the same manner and to the same extent as now provided by law with respect to enforcement of the liability of disbursing and other accountable officers. It is within the framework of these authorities that we propose to act in the enforcement of our decision of August 5, 1969.

The Attorney General's opinion concluded with the statement that the contracting agencies and their accountable officers could rely on his opinion. Considering the fact that the sole authority claimed for the Plan ordered by the Labor Department is the Executive order of the President, it is quite clear that the Executive branch of the Government is asserting the power to use Government funds in the accomplishment of a program not authorized by Congressional enactment, upon its own determination of authority and its own interpretation of pertinent statutes, and contrary to an opinion by the Comptroller General to whom the Congress has given the authority to determine the legality of expenditures of appropriated funds, and whose actions with respect thereto were decreed by the Congress to be "final and conclusive upon the Executive Branch of the Government." We believe the actions of officials of the Executive branch in this matter present such serious challenges to the authority vested in the General Accounting Office by the Congress as to present a substantial threat to the maintenance of effective legislative control of the expenditure of Government funds.

We believe the opinion of the Attorney General and the announced intention of the Labor Department to extend the provisions of the Plan to other major metropolitan areas can only create such widespread doubt and confusion in the construction industry and in the labor field (which may also be shared to a considerable extent by the Government's contracting and fiscal officers) as to constitute a major obstacle to the orderly prosecution of Federal and federally assisted construction. We further believe there is a definite possibility that, faced with a possibility of not being able to obtain prompt payment under contracts for such work as well as the probability of labor difficulties resulting from their efforts to comply with the Plan, many potential contractors will be reluctant to bid. Of course, if this occurs the Plan will result in restricting full and free competition as required by the procurement laws and regulations. Also, those who do bid will no doubt consider it necessary to include in their bid prices substantial contingency allowances to guard against loss.

In addition to recognizing the chaotic situation which could result from use of the Plan by the Executive agencies, I believe I would not be fulfilling my duties and responsibilities if I ignored the detrimental effect upon the competitive bidding process, and the improper use of public funds which the Plan entails.

On September 23, the day following the Attorney General's opinion, Labor issued another revised Philadelphia Plan which explains, *for the first time*, the manner in which the "ranges" of minority group employment goals have been determined, and the criteria for determining whether a contractor has made good faith efforts to attain his goals.

I stress that these matters are set out for first time in the September revision of the Philadelphia Plan primarily because our decision of August 5 gave no consideration to the adverse effect that these factors, when established, might have upon application of the rules of competitive bidding to the overall Plan.

We fully expect to receive a bid protest in some future procurement which questions inclusion of the Philadelphia Plan in the IFB and the contract, and we realize the effect a decision sustaining such a protest could have on the construction industry, the contracting agencies and the disbursing officers. But we think the question is sufficiently important to justify and require such a decision.

Basically, it has been our position that the law is to be construed as written and enforced in accordance with the legislative intent when it was enacted. We believe this is what the law requires. Also, we are part of the Legislative branch of the Government and we think this approach is the only proper one we can take.

If, following enactment of a law, it should occur that social conditions, economic conditions, the political atmosphere, or any other circumstances should change to such an extent that different treatment should be given, that different objectives should be established, or that different results should be obtained, it has always been our position that the arguments in favor of change should be presented to the Congress, . . . and if the Congress, in its wisdom, agrees that social, economic, or political circumstances so dictate, it will enact legislation to permit or require the Executive branch to take necessary action to attain new objectives. This is the very procedure which Congress directed should be followed in this particular situation. As we pointed out in our decision of August 5, 1969, by section 705(d) of the Civil Rights Act of 1964, Congress charged the Equal Employment Opportunity Commission with the specific responsibility of making reports to the Congress and to the President on the cause of and means of eliminating discrimination, and making such recom-

mendations for further legislation as may appear desirable.

We concur with the authority of the Executive branch to establish and carry out social programs or policies which are not contrary to public policy, as that policy may be stated or necessarily implied by the Constitution, by Federal statutes or by judicial precedent. But we do not agree that where a statute, such as the Civil Rights Act of 1964, clearly enunciates Federal policy and the methods for enforcing such policy, the Executive may institute programs designed to achieve objectives which are beyond those contemplated by the statute by means prohibited by the statute.

We therefore hope that, as a result of these hearings, there will issue from Congress a clear and unequivocal indication of its will in this matter by which all parties concerned may be guided in their future actions.

This concludes my statement, Mr. Chairman. We will be pleased to answer any questions.

ADJOURNMENT UNTIL 10 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 9 o'clock and 20 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, December 16, 1969, at 10 a.m.)

NOMINATIONS

Executive nominations received by the Senate December 15, 1969:

U.S. CIRCUIT JUDGE

Wilbur F. Pell, Jr. of Indiana, to be a U.S. circuit judge, seventh circuit, vice John S. Hastings, retired.

U.S. ATTORNEY

Hosea M. Ray, of Mississippi, to be U.S. attorney for the northern district of Mississippi for the term of 4 years. (Reappointment.)

EXTENSIONS OF REMARKS

ONE TOWN MAKES A GREAT SACRIFICE

HON. PAUL J. FANNIN

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Monday, December 15, 1969

Mr. FANNIN. Mr. President, I invite attention to an article published in the Tucson, Ariz., Daily Citizen of December 10, 1969.

The article details the death of the sixth Marine from this mining town in the mountains of Arizona. On July 4, 1966, nine boys left this mining community for San Diego to be a part of the Marine Corps. Now only three of the nine remain. One is an Indian, one a Mexican-American, and one an "Anglo."

The town of Morenci has made a tremendous sacrifice in the defense of the Nation. I ask unanimous consent that the article be printed in the RECORD.

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

[From the Tucson (Ariz.) Daily Citizen, Dec. 10, 1969]

A FAMILIAR SCENE IN MORENCI—FUNERAL FOR A MARINE

(By Jim Berry)

Citizen Staff Writer

MORENCI.—In spattering rain from leaden clouds, they buried Sgt. Clive Garcia Jr., U.S. Marine Corps, serial number 2269656.

Born Sept. 17, 1947. Killed Nov. 26, 1969.

Shortly after 5 p.m. yesterday, his gray, metal casket was lowered to its final berth.

The U.S. Flag was handed to his mother, who stood bravely through the rites, and the ceremony was over.

But for the more than 300 persons who gathered around the fog-shrouded Bunkers Cemetery, it was a grim reminder.

Six times now, they've buried a Marine.

And there are only three left.

It was on July 4, 1966, that nine youths from here shook hands with their fathers and boarded a bus for San Diego. They wanted to be in the "Corps."

The drums rolled and the guns of Vietnam clicked off their toll:

Lance Cpl. Robert B. Draper, 19, Aug. 12, 1967.

Lance Cpl. Bradford S. King, 21, Nov. 6, 1967.

Lance. Cpl. Alfred V. Whitner, 21, April 13, 1968.

Lance Cpl. Larry J. West, 19, May 17, 1968.

Sgt. Jose Moncayo, 22, June 18, 1968.

Sgt. Clive Garcia Jr. 22, Nov. 26, 1969.

Surviving are Mike Cranford, David Leroy Cisneros and Jose Sorrelman.

Cranford and Cisneros now work for the Phelps Dodge Corp., as do most of the town's breadwinners. Sorrelman reportedly has moved to Phoenix. All three were discharged from the Marines earlier this year.

"It's weird," said a Morenci man. "Almost as if by design, one man of all our races came back—one Mexican-American, one Anglo and one Indian. I don't understand it."

How does a community accept this?

The Rev. Cornelius McGrenra looked into his coffee and offered this:

"They're just youngsters who are going out into the world."

Asked why this area is relatively free of the hippie and war protest movements, he said "Maybe living in the mountains has something to do with it."

"These are patriotic people, but not the flag-waving type," said the Rev. William C. Bryne of nearby Clifton.

Upon arriving, Morenci, you get the flavor of the material the residents are made of.

"We're a hawk community, pretty much. We feel, 'do it right or don't do it,'" said one.

"There may be one or two hippies around here," said one resident, but he said he doubted there are any more than that.

A young waitress said:

"We don't get them and we don't want them."

GREAT GREY ICE GATHERING

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1969

Mr. HOWARD. Mr. Speaker, too little is heard about the outstanding contributions being made to mankind by the young people of today.

Everywhere I go I am highly impressed by the concern these young people show for the future of this country. Naturally, they are concerned about our plight in Vietnam. But they are just as concerned about other matters, including civil rights, and our fight to improve our environment.

One resident of my district, Randall M. Simmons of Monmouth County, N.J., is an example of what fine contributions our young people are making. Mr. Simmons is a graduate student, who will be earning his master's degree in environmental sciences this summer. Mr. Simmons and a group of other responsible young people will participate in a "Great Grey Ice Gathering" in Richmond, Va., on December 30, 1969.

Mr. Speaker, the Richmond Times-Dispatch carried an article on these young people and what they are doing to improve the quality of our environment. I am placing this article in the RECORD in the hope that all of my colleagues will take a few minutes from their busy schedules and review this important story:

[From the Richmond Times-Dispatch, Dec. 10, 1969]

A GREAT GREY ICE GATHERING: ACID ROCK DANCE MAY DEFUSE BOMB

(By Hamilton Crockford)

The Federal Water Pollution Control Administration's regional director talked about "a time bomb," and noted "the young people are going to have to live with it."

The students talked about an "acid rock dance," and an "experience" that will last "until the music and word no longer stir the gathering."

They put it all together and announced yesterday there's going to be a "Great Grey Ice Gathering" here Dec. 30, and it will be a dilly.

It will be a blend of "hard rock music movies, speeches, young people and Federal Water Pollution Control Administration officials."

They'll be registering "a first step by FWPCA's boss," Secretary of the Interior Walter J. Hickel, "to involve young people in what is turning out to be a life-or-death struggle to quit destroying our environment," the news releases said.

The joint sponsors will be FWPCA and the just formed Mid-Atlantic unit of the Student Council on Pollution in the Environment (SCOPE).

The plans were laid out at a news conference by the FWPCA regional head man, Eugene T. Jensen; and University of Richmond coed Patti Collins and University of Virginia graduate student Randall Simmons, who overnight had become SCOPE's regional co-chairmen.

They hope the crowd will come from all the Middle Atlantic states.

The crowd won't "gather at the river" as the old hymn goes, but rivers are what it's all about. It won't be an ice show, either.

But it's cold outside in late December, baby,