

and seaports of entry in the United States; to the Committee on Ways and Means.

By Mr. POLLOCK:

H.R. 17388. A bill to authorize certain additions to the Sitka National Monument in the State of Alaska, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PEPPER:

H.R. 17389. A bill to provide for orderly trade in textile articles and articles of leather footwear, and for other purposes; to the Committee on Ways and Means.

By Mr. STAGGERS:

H.R. 17390. A bill to provide for orderly trade in textile articles and articles of leather footwear, and for other purposes; to the Committee on Ways and Means.

By Mr. UDALL:

H.R. 17391. A bill to prohibit the sale or shipment for use in the United States of certain chemical compounds; to the Committee on Agriculture.

H.R. 17392. A bill to establish an urban mass transit fund, and for other purposes; to the Committee on Banking and Currency.

H.R. 17393. A bill to amend the National Emission Standards Act to provide for the elimination of automotive air pollution; to the Committee on Interstate and Foreign Commerce.

H.R. 17394. A bill to provide for a comprehensive program for the control of noise; to the Committee on Interstate and Foreign Commerce.

H.R. 17395. A bill to amend the Solid Waste Disposal Act in order to provide financial assistance for the construction of solid waste disposal facilities, to improve research programs pursuant to such Act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 17396. A bill to insure high-water quality in all U.S. water systems and for other purposes; to the Committee on Public Works.

H.R. 17397. A bill to amend the Federal Water Pollution Control Act to ban polyphosphates in detergents and to establish standards and programs to abate and control water pollution by synthetic detergents; to the Committee on Public Works.

H.R. 17398. A bill to permit the Governor of a State to elect to use funds from the State's Federal-aid highway system apportionment for purposes of paying additional costs incurred by such State in purchasing low-emission vehicles; to the Committee on Ways and Means.

By Mr. MAHON:

H.R. 17399. A bill making supplemental appropriations for the fiscal year ending June 30, 1970, and for other purposes.

By Mr. EDWARDS of Louisiana:

H.J. Res. 1202. Joint resolution proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older; to the Committee on the Judiciary.

By Mr. FASCELL (for himself, Mr. ADDABBO, Mr. CLEVELAND, Mr. DAVIS of

Georgia, Mr. DELLENBACK, Mr. DULSKI, Mr. FARBERSTEIN, Mr. FLOOD, Mr. FRIEDEL, Mr. HALPERN, Mr. HANNA, Mr. HELSTOSKI, Mr. HOWARD, Mr. HOGAN, and Mr. LEGGETT):

H.J. Res. 1203. Joint resolution designating the third Wednesday of April of each year as "Earth Day"; to the Committee on the Judiciary.

By Mr. FASCELL (for himself, Mr. McCLOSKEY, Mr. MAILLIARD, Mr. MEEDS, Mr. MIKVA, Mr. MOSS, Mr. MYERS, Mr. NEDZI, Mr. O'HARA, Mr. REES, Mr. REID of New York, Mr. RODINO, Mr. ROONEY of Pennsylvania, Mr. ROE, and Mr. YATES):

H.J. Res. 1204. Joint resolution designating the third Wednesday of April of each year as "Earth Day"; to the Committee on the Judiciary.

By Mr. UDALL:

H.J. Res. 1205. Joint resolution proposing an amendment to the Constitution to guarantee every person a right to a decent, clean environment; to the Committee on the Judiciary.

By Mr. GROSS:

H. Con. Res. 590. Concurrent resolution directing the President to pursue a military solution of the conflict in Vietnam; to the Committee on Foreign Affairs.

By Mr. OTTINGER (for himself, Mr. KASTENMEIER, Mr. EDWARDS of California, Mr. HELSTOSKI, Mr. STOKES, Mr. BROWN of California, Mr. TUNNEY, Mr. KOCH, and Mr. CONYERS):

H. Con. Res. 591. Concurrent resolution expressing the sense of the Congress with respect to the action of the President of the United States in connection with the involvement of U.S. military forces in Cambodia and censuring the President for such action; to the Committee on Foreign Affairs.

By Mr. BLATNIK:

H. Res. 960. Resolution to disapprove Reorganization Plan No. 2; to the Committee on Government Operations.

By Mr. HELSTOSKI:

H. Res. 961. Resolution expressing the sense of the House of Representatives with respect to any military action involving the United States in Cambodia; to the Committee on Foreign Affairs.

By Mr. ROSENTHAL (for himself, Mr. ADAMS, Mr. ADDABBO, Mr. BINGHAM, Mr. BOLAND, Mr. BRASCO, Mr. BROWN of California, Mr. BUTTON, Mr. CAREY, Mrs. CHISHOLM, Mr. CLAY, Mr. COHELAN, Mr. CONYERS, Mr. DIGGS, Mr. EDWARDS of California, Mr. FARBERSTEIN, Mr. WILLIAM D. FORD, Mr. FRASER, Mr. GILBERT, Mr. GREEN of Pennsylvania, and Mr. HALPERN):

H. Res. 962. Resolution expressing the sense of the House of Representatives with respect to any military action involving the United States in Cambodia; to the Committee on Foreign Affairs.

By Mr. ROSENTHAL (for himself, Mr. KOCH, Mr. LOWENSTEIN, Mr. MATSUNAGA, Mr. MIKVA, Mrs. MINK, Mr.

MOLLOHAN, Mr. MOORHEAD, Mr. MOSS, Mr. NEDZI, Mr. NIX, Mr. HAMILTON, Mr. HARRINGTON, Mr. HAWKINS, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Mr. JACOBS, Mr. KARTH, Mr. KASTENMEIER, and Mr. BURTON of California):

H. Res. 963. Resolution expressing the sense of the House of Representatives with respect to any military action involving the United States in Cambodia; to the Committee on Foreign Affairs.

By Mr. ROSENTHAL (for himself, Mr. O'HARA, Mr. OLSEN, Mr. O'NEILL of Massachusetts, Mr. OTTINGER, Mr. PEPPER, Mr. POBELL, Mr. REES, Mr. REUSS, Mr. ROONEY of Pennsylvania, Mr. ROYBAL, Mr. RYAN, Mr. ST. ONGE, Mr. THOMPSON of New Jersey, Mr. VANIK, Mr. WALDIE, Mr. WOLFF, Mr. YATRON, Mr. YATES, and Mr. SCHEUER):

H. Res. 964. Resolution expressing the sense of the House of Representatives with respect to any military action involving the United States in Cambodia; to the Committee on Foreign Affairs.

By Mr. ST GERMAIN:

H. Res. 965. Resolution expressing the sense of the House of Representatives with respect to the involvement of U.S. military personnel in Cambodia; to the Committee on Foreign Affairs.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FASCELL:

H.R. 17400. A bill for the relief of Dr. Nahid Mansoori Diaz; to the Committee on the Judiciary.

By Mr. PUCINSKI:

H.R. 17401. A bill for the relief of Francisco Stallone; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 17402. A bill for the relief of Benito Arenas-Zuniga and Celia Zuniga de Arenas; to the Committee on the Judiciary.

By Mr. STANTON:

H.R. 17403. A bill for the relief of Jacqueline and Barbara Andrews; to the Committee on the Judiciary.

By Mr. STRATTON:

H.R. 17404. A bill to confer U.S. citizenship posthumously upon Pfc. Franz Tines; to the Committee on the Judiciary.

## MEMORIALS

Under clause 4 of rule XXII,

374. The Speaker presented a memorial of the General Court of the Commonwealth of Massachusetts, relative to supporting the State of Israel; which was referred to the Committee on Foreign Affairs.

## SENATE—Friday, May 1, 1970

The Senate met at 12 o'clock noon 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:

### LAW DAY AND PRISONER OF WAR DAY

Almighty God, our Creator, Redeemer, and Judge, we thank Thee for the laws of nature, for the moral law given at Sinai, and for the higher law of love made known in Nazareth and at Calvary. May we remember that the first bar of

justice was a communion rail and that bowing in court was first before a cross. Make us mindful this day that all law is grounded in Thy sovereign and transcendent nature.

Bless, O Lord, all who make the law, all who interpret the law, all who judge, prosecute, and defend under the law, and all who teach and train for the legal vocations. Make us to know that the way of true freedom is the way of law and order. Temper our understanding and our attitude with human compassion. Replace bad laws with good ones that

equity, justice, and peace may be to all people. Write Thy law upon our hearts, and so fill us with love and grace that every day may be law day.

We remember before Thee this day all prisoners of war, especially our fellow countrymen. Grant that by drawing near to Thee we may be drawn nearer to them in faith and love. Imbue them with grace and strength to endure separation and privation. Grant, O Lord, that their keepers may be guided by the Geneva Convention and by the universal laws of humanity. Keep alive in them

and in us the truth of the invincibility of goodness and the everlasting care of the Heavenly Father.

In the name of the Supreme Judge. Amen.

#### THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, April 30, 1970, be dispensed with.

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

#### ANNIVERSARY OF WARSAW GHETTO UPRISING

Mr. SCOTT. Mr. President, tomorrow marks the anniversary of the Warsaw ghetto uprising. On this day, we commemorate the 40,000 heroic Jews in Poland who chose to fight and die for freedom, dignity, and honor rather than submit to the physical and spiritual humiliation of life in captivity and ultimate extermination.

In 1940, Nazi forces crowded one-half million Jews from Warsaw and other sections into a cramped ghetto. Inhuman living conditions and starvation diets claimed some 85,000 lives by 1942 and 300,000 victims were transferred to labor and extermination camps. The next spring the 40,000 Jews left in the ghetto learned that they were to die to solve the Jewish problem.

Unable to accept passivity any longer, the remaining 40,000 armed themselves any way they could. On April 18, 1942, they began a well-organized military attack on their captors. For nearly 4 weeks, they resisted Nazi machineguns, incendiary bombs, heavy artillery, explosives, and tanks.

In 11 days, 5,000 Warsaw Jews were killed in action, murdered in their houses, or found dead in the wreckage. After 5 weeks, the ghetto was destroyed and the remaining 20,000 who escaped death were shipped to camps outside Poland.

The Warsaw Jews chose to fight a hopeless battle against overwhelming odds rather than accept intolerable degradation and eventual demise. The memory of those heroic and tragic defenders of freedom serves as an inspiration to all people who fight oppression.

#### ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, with the approval of the distinguished Senator from Ohio (Mr. YOUNG) and the distinguished Senator from Idaho (Mr. CHURCH), both of whom have time allotted to them today, I ask unanimous consent that I may proceed for not to exceed 20 minutes.

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 all committees be authorized to meet during the session of the Senate today.

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

#### CAMBODIA

Mr. MANSFIELD. Mr. President, the distinguished minority leader has given me a copy of the statement he made last night at the conclusion of the address by the President of the United States. I appreciate the courtesy of the distinguished minority leader. I think that his statement is a temperate one and now would like to make a statement of my own.

Mr. President, the latest casualty figures from Vietnam as of a week ago yesterday amounted to a total of 322,750 casualties. Of that total, approximately 50,000 have been killed in Vietnam and Southeast Asia. The rest have been wounded.

I do not have the official figures from the Department of Defense yet, but it is my understanding that, as of yesterday, approximately another 100 Americans were killed and something on the order of 1,250 were wounded last week.

Mr. President, these figures come to my office every week. I carry them in my pocket to serve as a reminder of the mistaken war in which we are engaging and the tragedy which has been the norm during the entire tenure of that war.

Mr. President, I listened with grave interest to the President or the United States speaking to the American people about the situation which has developed in Cambodia. Previous to that speech, Members of Congress and the Cabinet met with the President. He gave us an explanation of the situation with reference to the sanctuaries extending from north to south on the Cambodian border. He gave us, too, the reasons why, on the advice of his senior advisers, he had approved the present operation.

I appreciate the fact that the President did call a number of Congressmen to the White House to give us this preview. He has exercised his responsibility, arrived at decisions after some days of consideration and, in announcing them to the American public, has laid his cards on the table.

Mr. President, we, as individual Senators and as a Senate, also have responsibilities to reach conclusions which may or may not coincide with the policy enunciated by the President of the United States. I must, therefore, as a Senator from the State of Montana, and laying aside all political considerations, most respectfully disagree with the campaign into Cambodia. I could not even approve the use of U.S. advisory or auxiliary personnel in connection with what had been previously a South Vietnamese incursion into Cambodia; how much less can I approve of an operation which puts Americans in the spearhead? U.S. combat forces have now been sent across the border and B-52 bombers are being used. Everything we have in our arsenal, at least as it has been used heretofore in Vietnam, is now engaged in the so-called Parrot's Beak of Cambodia which intrudes into South Vietnam and is at its nearest point 35 miles from Saigon.

This particular sanctuary and other sanctuaries along the Cambodian frontier have not been set up within the past month. They have been a factor in the Parrot's Beak of Cambodia which intrudes over the past 3 to 5 years. The

present United States-South Vietnamese thrust into Cambodia, in my opinion, can be regarded in no other light than as a widening of the war and an escalation of the conflict. That the operation is supposed to be "temporary" does not in any way alter this evaluation. I have seen too many so-called temporary operations down through the years in that part of the world. I have watched, too, with concern all too often the transition from temporary operation to continuing operations to forgotten operations.

Even if this thrust is successful within the 4 to 8 weeks before the rainy season begins, what of other sanctuaries in Cambodia, north and south of the Parrot's Beak? What of Laos? What of North Vietnam itself? Will we undertake temporary incursions into those areas? If we withdraw after a successful thrust into the Parrot's Beak, does that mean that the North Vietnamese and the Vietcong will be free to move in once again and establish a replica of the previous situation?

Mr. President, too many people have presented the Cambodian situation as a "golden opportunity" to save American lives and to shorten the war. The stepup into Cambodia can do just the opposite. It may well lengthen the conflict, widen it into an Indochinese war, increase U.S. costs by billions, increase U.S. casualties which now number—to repeat—almost 50,000 dead and almost 275,000 wounded or a total of close to 325,000 American soldiers. At the same time, it may well accentuate problems at home and increase the divisiveness among our people.

On April 16, I expressed my thoughts on Cambodia at which time I said that I did not advocate any kind of aid in any form to Cambodia and that we should not become involved in the affairs of that nation. I did so respectfully and hopefully. Now the turn has been made. The die has been cast. Therefore, I must now state in public that I am just as interested as anyone else in safeguarding U.S. troops in Vietnam and elsewhere, but I do not think that this new policy, this additional campaign, this new ball game is the way to safeguard them. Over the years, the curve of American casualties has gone up with the expansion and intensification of the conflict. It has come down with the President's order to cut back U.S. troops in Vietnam. If there is a way to continue to reduce them, therefore, it is to continue the contraction of the American role and the withdrawal of American forces. If there is a way, it is for the South Vietnamese forces, which number pretty close to a million men which have been trained and equipped by us, which have been, we have been told, pursuing a successful process of Vietnamization, to protect their border with Cambodia. Behind that line, this Nation should not only continue its phased withdrawal from Vietnam, which I have always approved, but speed it up. In that fashion, the South Vietnamese themselves, all factions, may find it expedient to get together, determine what kind of a country they want and delineate their future. That is their responsibility, not ours. It is their country not ours.

What confronts this Nation in Indo-

china is not a question of saving face. It is a question of saving lives. All of us have our personal pride, and I would hope a fitting sense of humility in light of the lives which have already been forfeited in this tragic war. I do not believe there is a Member of the Senate who would not eschew the one and gladly accept the other if it were in the interest of our people to do so. The vital concern of this Nation, and I use the word "vital" advisedly, must be to end our involvement in the war in Vietnam. It is not to become bogged down in another war in all of Indochina.

The President's decision on Cambodia last night relates directly to these questions. It was not a political decision. Politics has no business in his calculations on this grave matter anymore than it has in ours. In the Senate, today, there is no party orientation on the issue of Vietnam. There has not been, and insofar as I am concerned, there will not be.

The President has national responsibilities as he made clear in his remarks last night. As I have stated, the Senate has national responsibilities. Repeated action on Vietnam by Members of both parties in the Senate have underscored the nonpartisan character with which these responsibilities have been discharged.

The President reached a conclusion which was his to reach as Commander in Chief of the Armed Forces under the Constitution. I respect his decision even as I regret it and am deeply concerned about it. I hope that, as he expects, his decision will reduce American casualties, speed the withdrawal of American troops from Vietnam, and hasten the end of the war. I would be less than honest, however, if I did not express the grave doubts which I have expressed today on these expectations. There is nothing in past experience in Indochina to suggest that casualties can be reduced by enlarging the area of military operations. There is nothing in past experience to suggest that the way out of the Vietnamese conflict follows the road of a second Indochina war. Indeed, that road may well meander throughout all of Southeast Asia and end nobody knows where.

If there is a way, Mr. President, which will safeguard the interests of this Nation, it lies in negotiations without further delay, negotiations now. The spread of the fighting into Laos and Cambodia, it seems to me, has put a settlement beyond the scope of the Paris negotiators. Therefore, the administration ought not to let drop the Soviet Union's recent diplomatic suggestion—and it has not—that the Geneva conference may have to be reconvened. Insofar as I am concerned, there might well go forth a call to merge the Paris talks into a revival of the Geneva conference of 1961-62 on Laos, with the membership of the conference appropriately broadened in order to consider the situation of all Indochina and the Southeast Asian mainland. If the Soviet Union is reluctant now to pursue the matter after having suggested it, then let the call be issued by another nation—by this Nation. It is time to ask other Geneva

conferes to join in a reconvening or to set forth alternatives. We will know then with whom we can hope to proceed together to find a solution by negotiations and with whom we cannot.

It is time, too, for this Nation to delineate a clear and unswerving policy in support of the neutralization—the guaranteed neutralization—of all of Indochina, if not the entire Southeast Asian mainland. It is time to join with other outside powers in bona fide multilateral guarantees of the neutrality of the region. On that basis, this Nation should be prepared to terminate forthwith its military participation in the various conflicts on the Southeast Asian mainland, to depart militarily therefore and to work in concert with others for the restoration of the war's terrible devastation.

Mr. President, in conclusion I want to say that this has not been an easy speech for me to make. I have great respect for the Office of the Presidency and for any individual chosen by the people to hold that office. I am aware of any President's responsibilities in the field of foreign affairs and as Commander in Chief. I realize that the ultimate responsibility lies with a President. But I am also aware of the fact that as a Senator I have a direct responsibility to the people of my State and that as a Senate we have responsibilities to the entire Nation.

Therefore, I must reiterate my belief that we are embarked on an ill-advised adventure and that there is grave danger the Parrot's Beak may well turn out to be an albatross before it is done.

Mr. President, I ask unanimous consent that a speech which I made in the Senate on April 16, 1970, relative to Cambodia, be printed in the RECORD at this point.

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

Mr. MANSFIELD. Mr. President, on yesterday, the press carried reports of an urgent request for military aid from the government which is now in control in the Cambodian capital of Phnom Penh. This request comes hardly as a surprise. What is surprising is the rapidity with which it follows the military coup against Prince Sihanouk.

In the circumstances, it would be desirable to sort out what we know about the Cambodian situation and what we do not know. What was for a decade and a half the only oasis of peace in Indochina has been turned into a bloody battlefield in the space of one month. The spreading conflict already involves a civil war between the Cambodians who remain loyal to Prince Sihanouk and those who follow the military government which overthrew him. The conflict already involves deep incursions into Cambodia by North Vietnamese and South Vietnamese, an extension of the battlefields which had been previously avoided throughout the Vietnamese war. The conflict already involves the potential of an ugly genocide by government-stimulated mob-action against the several hundred thousand Vietnamese civilians—for the most part farmers, fishermen and tradesmen who come from both North and South Viet Nam and who have lived for decades in reasonable peace in Cambodia.

In short, the Pandora's Box which was held shut by the leadership and diplomacy of Prince Sihanouk is now wide open. For years, Cambodia was in the eye of the Indochinese hurricane; now it is swept up in the full fury of a racial, ideological and militarist storm.

It is scarcely a month since the successor government claimed authority over Cambodia and this government is already in deep trouble. Its urgent appeal for aid is a broadside which has gone to Communist governments and non-Communist governments—apparently, to anybody who will give support. It comes from a government whose earliest acts include a declaration of martial law and a suspension of personal liberties in a country which did not have martial law and which previously had provided a greater degree of personal freedom than most countries in Southeast Asia.

While the appeal for aid is directed to the world in general, it is reasonable to assume that it is aimed primarily at this country. Where else would urgent aid of any consequence come from in this situation if not from this nation directly or through nations in the area which are supplied by us?

Some may find it difficult to resist an appeal for aid to this country from any source. Some may find the present military government more to their liking than its predecessor and, hence, more "worthy" of aid. Some may ask whether this Southeast Asian country will topple under the domino theory if we do not respond to the appeal for aid. Some may note that it is just some arms-aid that is being sought, not American forces.

If these observations sound familiar it is because they are the siren's songs which have beckoned us time and again ever deeper into the morass of Southeast Asia. If there is ever a time to resist them it is when they are just beginning to become audible.

The fact is that we do not know anything of the character or competence of the government in Phnom Penh which has issued this appeal for aid. We do not know how far its authority extends outside the capital or beyond the main roads. We do not know what acceptability it may have among the Cambodian people. We do not know what will emerge in the end in the way of a Cambodian government from the present upheaval.

We do know, or ought to know on the basis of experience that even with a massive infusion of American equipment we are likely to have minimal constructive effect on that upheaval and we will open the door to another destructive impact on our own national interests. We do know, too, or we should know at this late date—after Viet Nam, after Laos—that each deepening of our involvement in Indochina began with an input of well-meaning aid.

President Nixon has made a wise start in pointing the national course away from our participation in the tragic war in Indochina. It is to be hoped that there will be no deviation from that course. The way to get out is not to go further in—in any way, shape or form. The road out of Viet Nam for this nation does not lead by way of arms-supply or any other involvement in this new extension of the Indochinese tragedy into Cambodia.

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

Mr. MANSFIELD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. PROXMIER). The Senator from Montana asked for 20 minutes. He has 4 minutes remaining. The distinguished Senator from Ohio (Mr. YOUNG) is to be recognized after the Senator from Montana.

Mr. MANSFIELD. Mr. President, I would like to yield to the Senator from Pennsylvania so that he may have the floor in his own right, with the permission of the Senator from Ohio.

Mr. YOUNG of Ohio. Yes, indeed. And I desire that the majority leader then yield to me.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCOTT. Mr. President, I am always impressed by the patriotism and the candor and the very serious sense of responsibility with which the distinguished majority leader approaches all of these problems which involve the reaction of the Senate. I think also that Americans are unhappy when they see American soldiers fighting with one hand tied behind their backs. It is an attempt to prevent American soldiers from fighting under this type of disability that the President has taken a decision which is difficult and the outcome of which is not guaranteed; but a temporary move which it is hoped can result in removing from American forces a disability which certainly would impede the orderly and planned withdrawal and deescalation of the war.

Mr. President, for the past 5 years or more the Communists in Vietnam have had a decided advantage which has been denied to the South Vietnamese and Americans. They have had a safe haven from which to launch attacks into Vietnam and into which they could retreat quickly and easily when those attacks failed or were turned back.

This has undoubtedly prolonged the war in Vietnam. It has without question cost American lives and has cost American wounded personnel.

I advocated at least 5 years ago the right of hot pursuit, which was subsequently authorized, and the right to enter and clear out sanctuaries which was not adopted until last night.

So until now, for a number of reasons, the United States has not been able to do anything about this Communist haven. The most important of these has been our recognition of the neutrality of Cambodia and our steadfast refusal heretofore to cross the Cambodian frontier.

Now, however, the Communists have apparently overplayed their hand. They no longer even pay lip service to Cambodian neutrality. Their puppet ruler in Cambodia having been deposed, they have begun on their own an offensive against the Cambodian Government and the Cambodian people. They have openly invaded.

Further, for the first time in the Vietnamese war, the Communists have broadened their strategy. They are using these havens on Cambodian soil not only to attack Vietnam, but now to attack to the west, into the heart of Cambodia itself.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCOTT. Mr. President, I ask unanimous consent that I may proceed for 3 additional minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator may proceed for 5 additional minutes.

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

Mr. SCOTT. Mr. President, in short, it seems now the Communists are stretching themselves very thin. They are lengthening their supply lines. They are using their limited manpower and materiel in two wars at once, against Vietnam and against Cambodia.

Prior to this, the United States has felt it was futile to attack the safe-house bases the Communists established across the border in Cambodia.

This has been the official U.S. position; it has not been mine, since I have felt otherwise for 5 years.

Now, the Communists themselves have changed the situation. The expansion of the war into Cambodia has been of their choosing. Apparently they thought their immunity would last forever. Not so, since last night. Should we be passive forever, while we suffer casualties from Cambodian-originated forces?

There is obviously a certain risk in what the United States is now doing. There is also a considerable risk in doing nothing. The President has chosen the course calculated to produce the greater gain, the more positive and the most orderly desired result.

It may be that this attack across into the Communist bases in Cambodia will ultimately stand alongside the fabled Inchon landing undertaken by General MacArthur during the Korean war, because here we again used the most ancient military tactic, the element of surprise.

The action now undertaken by the United States is a purely military action. It must be weighed purely within that context. But it has both tactical and strategic implications, as well as an important message for Hanoi.

If it succeeds—and there appears a good possibility that it can succeed—it will shorten the war, save American lives, and bring Americans home sooner than otherwise might be possible.

This is the hope upon which President Nixon has based this courageous and remarkable decision.

In my judgment, Congress and the country should support him.

I am fully aware, as was the President, of the political risk of supporting an action at this time which involves an apparent extension of the war. I supported President Kennedy and Johnson throughout their decisions as Commanders in Chief of our Nation. I could hardly do less with the present President of the United States.

I will have to accept as the President himself accepted last night the risk of the unpopular course. I do accept it. I accept it because I believe it will shorten the war and improve our chances to deescalate.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCOTT. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

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

Mr. SCOTT. Mr. President, I am aware of the fact that in the Senate there is a strong body of opinion which certainly believes it reflects the body of opinion in America that we should simply fold up, get out, and go home. I wish we could. This is the most unpopular war in our history; and a war that should be ended, and ended as quickly as we can.

Nevertheless, we have only one Commander in Chief; we have only one man who can make the decisions. I believe he

has made the right decision. I am going to support him.

Now, I am going to get ready for that mass of thousands of letters from home, which I have no doubt will be critical of my decision.

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

Mr. SCOTT. I am glad to yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, first I would differ with the distinguished minority leader on his use of the expression "fold up" or applicable to the Senate or any Member of the Senate. I think that would be doing a disservice to individual Senators and the Senate as a whole. Second, I join the Senator in expressing the hope that politics in no way, shape, or form would become involved because this is a matter which transcends both parties; and as far as we as individuals are concerned, who happen to be running for office this year, I think that is of distinctly secondary and minor, if not tertiary, importance. It is the country which must come first. As far as I am concerned, we are just transients passing through.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCOTT. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

Mr. YOUNG of Ohio. Mr. President, do I have the floor? If I do, I yield to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I ask unanimous consent that the Senator from Ohio may be recognized so that he may yield to me briefly.

The PRESIDING OFFICER. The Senator from Ohio has an order which permitted him to be recognized. Does the Senator from Ohio yield to the Senator from Pennsylvania?

Mr. YOUNG of Ohio. Mr. President, I yield to the Senator from Pennsylvania.

Mr. SCOTT. I thank the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCOTT. Mr. President, I agree with the distinguished majority leader that we should not in any sense impugn or appear to impugn the motive of any Senator, and I do not. In using the words "fold up," I want to state the context I have in mind, and that is a suggestion that we should withdraw on a given date, it seems to me, would be a folding up of American operations on that day. I said I disagree with the setting of dates, and that is what I had in mind.

Mr. MANSFIELD. I appreciate the explanation.

Mr. SCOTT. I conclude by saying simply this. I agree with the distinguished majority leader that we should keep politics out of this, and the Lord knows I want to, because I am on the losing side where public opinion is concerned as of now. I have a responsibility as a leader, and as a leader I accept the responsibility.

Mr. YOUNG of Ohio. Mr. President, if the Senator from New York wishes to speak briefly, I yield to him for that purpose.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I wish to make a very brief statement on the constitutional issues involved in the Cambodian operation, especially the authority of the President, which I think is critical here as well as the Congress'. There is no pretense whatever in the President's speech—other than the claim that he is using his authority as Commander in Chief—of constitutional authority as it involves the Congress. The President's authority as Commander in Chief to extend the operations in aid of Cambodia, or other extensions of the war, is a vital question that the Congress has to face in the days ahead. Above all Congress must now take appropriate measures to exercise its authority and responsibility.

In my judgment, this requires consideration of terminating whatever authority was given by Congress under the Gulf of Tonkin resolution. The Foreign Relations Committee has already voted to take such action to terminate the Tonkin Gulf resolution. We expect to undertake additional measures in respect of appropriations for military actions in Cambodia, and perhaps on a timetable for withdrawal from Vietnam. It is clear from the recent statements that we are in Vietnam now for an additional 1 to 3 years under the President's timetable, unless we in Congress choose to take a shorter time through the exercise of our powers.

I agree with the majority leader and the minority leader that the responsibility of the Congress as a unit must be accepted as equal to that of the President; we share authority with the President under the Constitution and I hope and expect we will exercise our authority. Just as the President believes he has not failed in his authority, we should not fail in ours.

The President has apparently defined his authority as Commander in Chief in such a broad and comprehensive manner as to intrude upon, and even preempt, the powers reserved so explicitly to the Congress in the Constitution. The question is not whether we can challenge the President's constitutional authority as Commander in Chief. The question, rather, is whether the President can exercise his Commander in Chief powers in a way which very seriously diminishes the extensive powers in the war-making field which are specifically assigned to the Congress under the Constitution. Certainly, in this crucial situation, the constitutional powers of Congress will remain hypothetical unless we take appropriate steps now to exercise our authority.

The President's statements about defeat and national honor are regrettable and I believe are fully answered by the achievement of the limited objective of our Vietnamese operation, to give the people there a chance for self-determination and the substantial achievement of that objective by the enormous expenditure of blood and treasure in the last 5 years.

As to demonstrating to the world our fidelity to such commitments if any that we have toward Vietnam and our determination to protect small nations against aggression, I believe we have shown that in an order of magnitude beyond what

any other nation or people would come even close to doing. Finally, on the question of drawing into the struggle Chinese volunteers which occurred in the Korean war, I believe that this cannot be the reason for our action or failure to act but certainly if actions are otherwise undesirable in the national interest this is an added factor risk of which will be avoided by not taking such actions.

The President, as he stated so movingly, has deep responsibility for the security of our troops. He also has deep responsibility for the domestic peace and tranquillity of the Nation at home, and for the orderly functioning of duly constituted processes respecting the wishes and needs of the Nation. Our system is based on a division of powers—a sharing of powers—and a system of checks and balances. All these considerations must be weighed and reconciled. They cannot be ignored on grounds that troop security is the only question.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. YOUNG of Ohio. Mr. President, I yield to my brother the distinguished senior Senator from North Dakota (Mr. YOUNG).

Mr. YOUNG of North Dakota. Mr. President, I thank my colleague and my elder namesake from Ohio.

Mr. President, I am always very reluctant to take a position opposite to that of the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), particularly on matters affecting Southeast Asia. I find that about 99 percent of the time he is right, and that is one reason for my reluctance.

President Nixon's decision to destroy Communist sanctuaries in Cambodia is long overdue. Through these bases the enemy has been able to stage and supply powerful offensives with immunity from attack—offensives that unnecessarily cost the lives of thousands of our servicemen.

I was opposed to getting involved in this war from the beginning—even while some of the present doves thought it was a great idea. I cannot help but feel, though, that if we are going to fight this war at all, or even have an orderly withdrawal, certain military actions such as this are necessary. I would have preferred, however, that this action could have been taken without involving our troops at all.

This military action is necessary to consolidate and complete the almost total destruction of the enemy's capability that has already taken place in most of southern South Vietnam.

This is an action approved by the Cambodian Government and one which is expected to be highly successful in a very short time. Since no negotiated settlement of the war is possible, I see no alternative but to support President Nixon's decision which is designed to make possible our continued withdrawal of forces from South Vietnam.

Mr. YOUNG of Ohio. Mr. President, at the outset I express my difference of opinion with my brother from North Dakota, but, very seriously, I desire to express my admiration for the remarks of the distinguished majority leader (Mr. MANSFIELD) and I desire to be associated

with all the remarks that our majority leader made.

#### SENATE CONCURRENT RESOLUTION 65—SUBMISSION OF SENATE CONCURRENT RESOLUTION RELATING TO CAMBODIA

##### AMERICAN SOLDIERS INVADE CAMBODIA

Mr. YOUNG of Ohio. Mr. President, the decision by President Nixon to commit American arms, advisers, and combat troops to an invasion of Cambodia is a tragic mistake. It is a decision to risk the loss of another 50,000, or more, American lives in still another Southeast Asian country. It represents madness and stupidity beyond description.

While the words "mistake," "madness," and "stupidity" can be used to describe the President's decision to commit American lives, they cannot be used to describe his speech to the American people last night. That speech was coldly calculated, political, and demagogic in the worst sense of those words. President Nixon asked for the support of the American people in an action clearly not in their interests. He criticized Members of Congress whose authority he completely usurped. The President claimed to be the protector of American lives when he must know that the best way to protect America's young men is to bring them home immediately in the same manner they were sent into Vietnam—by ships and by planes.

Mr. President, the polite calls throughout our country for restraint in Vietnam, Laos, and Cambodia have fallen on deaf ears. Conciliatory remarks in the Congress also have apparently had little impact. I am now convinced that only the most forceful display of opposition to this stupendous mistake can be meaningful.

Mr. President, I assert if President Nixon does not promptly pull away from this dangerous adventure, the Congress must assert its constitutional powers of restraint in the name of the people who have been asked once too often to swallow the hallucination of victory in Vietnam through escalation and expansion of that conflict.

I send to the desk a concurrent resolution, to be later recorded by the clerk, and then, I hope, referred to the Foreign Relations Committee of the Senate.

The PRESIDING OFFICER. The concurrent resolution will be received and appropriately referred.

The concurrent resolution (S. Con. Res. 65) was received and referred to the Committee on Foreign Relations.

Mr. YOUNG of Ohio. Mr. President, this concurrent resolution expresses the sense of the Congress with respect to the action of the President of the United States in sending into a neutral nation, Cambodia, and across the border of Cambodia with South Vietnam ground forces, combat forces of the United States. This, in the absence of any request of the Government of Cambodia and in the absence of any information whatever to the Congress until following the time this invasion had been undertaken.

The resolution I am introducing reads:

*Resolved*, it is the sense of the Congress that the action of the President of the United

States involving United States military forces in Cambodia and invading the sovereign territory of Cambodia constitutes an unconstitutional involvement of the United States in an undeclared war, a clear violation of Cambodian neutrality and the principles of international law.

Section II. The Congress hereby censures the President of the United States for the actions he has taken in the furtherance of such involvement.

The Congress must make clear what the President has failed to make clear—that the invasion of Cambodia by American troops is a direct violation of Cambodian neutrality and the principles of international law.

#### ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho (Mr. CHURCH) is recognized for 1 hour.

Mr. EAGLETON. Mr. President, will the Senator from Idaho yield me 2 minutes?

Mr. CHURCH. I am happy to yield to the Senator from Missouri.

#### THE SECOND INDOCHINA WAR

Mr. EAGLETON. Mr. President, without question the war in Vietnam has now been enlarged into the war in Indochina.

President Nixon says he is attempting to deescalate our participation in South Vietnam—by escalating our activities first in Laos and now in Cambodia.

What kind of logic is this?

What the President has done is to send American troops across a border into the territory of a sovereign state—without having been requested to send troops by the leaders of that state and without having asked for a declaration of war from Congress.

If our troops fail to achieve their supposedly short-term military objective, then I foresee a permanently widened war, with American fighting men on Cambodian soil for a long time to come.

The President's decision is a deeply disturbing gamble, in which the chips are American lives and the American conscience and, in a very real sense, the security and tranquility of our society.

There has never been a clearly agreed-upon reason for our originally sending ground troops into Vietnam. Both Presidents Johnson and Nixon have given different reasons at different times to justify the massive presence of American soldiers there.

Now it appears the justification is feeding upon itself. Because we have an American presence in South Vietnam—whose purpose has always been unclear—we must protect it by invading Cambodia. The whole thing is tragic.

I believe the President's move will not hasten our withdrawal but instead will serve to prolong and enlarge the American agony and the Vietnamese, Laotian, and Cambodian agony—in Indochina.

#### WAR WITHOUT END

CONGRESS MUST DRAW THE LINE

Mr. CHURCH. Mr. President, when President Nixon took office 15 months

ago, he had two good choices and one bad one for dealing with the war in Vietnam. The promising choices were a negotiated peace based on a compromise coalition government in Saigon, coupled with the swift withdrawal of American forces; or, failing an agreement, a unilateral disengagement by the United States based on a phased but steady and complete withdrawal of American forces. In order to pursue either of these courses in those early days of his administration when all options were open to him, the President would have had to acknowledge the futility of our continued military intervention in Vietnam. He would have had to admit—at least to himself—the impossibility of sustaining at any acceptable cost an anti-Communist regime in Saigon, allied with, dependent on, and supported by the United States.

This, of course, had long been the coveted objective of American policy in Indochina. Mr. Nixon was unprepared to abandon it. The result was the rejection of the two possible means of bringing the war to an early end and the adoption instead of the policy known as "Vietnamization." The tactics of the new course of action soon became clear: instead of escalating, we were going to deescalate, albeit by very gradual stages and over an indefinite period of time; instead of pouring in ever larger numbers of American troops, we were going to gradually substitute South Vietnamese forces in their place and thus keep the war going until the insurgents finally gave up their effort to displace the Saigon regime. Lost to view throughout the year 1969 was the fact that the new policy was only new in the means it employed; the objective remained unchanged.

We are still trying to maintain an anti-Communist regime, resistant to the North, in the southern half of a divided Vietnam. We are still determined to pursue an objective that makes necessary a permanent American military presence in Indochina. We are still bent upon preserving an American bridgehead on the mainland of Asia, next door to China. That is the meaning of Vietnamization.

In January 1969 Mr. Nixon inherited the leadership of an angry, divided, and demoralized country. He had at that time a better opportunity than he will ever have again to diagnose and treat the cause of the country's agony. In keeping with his own record and outlook, however, the new President did not perceive anything fundamentally wrong with the old policy. Instead, he saw only the symptoms: The high casualties, the inflated rhetoric, the student unrest, the Johnson style, and the so-called credibility gap.

It did not occur to Mr. Nixon that the policy itself was deeply unsound, extraneous to American interests, and offensive to American values. The result was a change in tactics but not in goals. The policy has been repackaged; new, improved methods of salesmanship have been adopted; an optimistic new vocabulary has been introduced, full of bright promises of "peace with honor." Hopes have been buoyed by the return of part of our troops: people everywhere are say-

ing that Vietnam is no longer an issue. Or at least they were saying that until yesterday.

But the war goes on. American combat strength in South Vietnam has been reduced, but the war itself is spreading beyond the borders of Vietnam and has become an Indochina war. Nor is there any end in sight. The administration has consistently refused to say—and perhaps does not even know—when if ever the American involvement will be brought to an end. Our withdrawal is said to be "irreversible," but the President continues to warn of "strong and effective measures" if the enemy takes military advantage of it. Such as a measure, as the Senate well knows, was dramatically announced to the American people last night. How a process of irreversible withdrawal can be reconciled with these "strong and effective measures" is not explained; nor is it explained what possible reason we might have for supposing that the enemy will not "take advantage" of our withdrawals.

The Nixon administration has led us into a fundamental contradiction through its temporizing policy of scaled-down but indefinite warfare. The Johnson policy at least moved in one direction: an extravagant objective was matched by extravagant means. Mr. Nixon has moderated the means but retained the objective. The result is a masterpiece of incongruity, a design well conceived for futility and failure.

Sooner or later we are going to have to make a choice, matching our methods to our goals. If we continue to pursue the same extravagant objective in South Vietnam, the American military occupation of that country will have to be extended indefinitely. The alternative is to change the objective, to alter the policy. The latter, as I shall try once again to show, is the course of realism. Once we have chosen that course, once we have bitten the bullet of acknowledging past error, the means of extricating ourselves will pose no insuperable problems. Once we admit that this war is not now and never has been essential to American security, there should be no great difficulty about ending it. Until we do admit it, the war will go on.

#### I. A WAR NOT IN OUR INTEREST

It is no easy thing to admit an error but, as events have shown the scale and consequences of our mistaken venture in Vietnam, more and more Americans have been coming of the opinion that it is better to acknowledge a mistake than to perpetuate it. Even for those not directly involved, a good deal of maturity is required for facing up to a mistaken course of action. For statesmen and soldiers who have had personal involvement with the war in Vietnam, a high degree of fortitude and integrity is required. Nonetheless, an increasing number of men who fought this war have found it necessary to express their doubts about its justification. Late last year, for example, a former Air Cavalry captain who lost his right arm and both legs when he picked up a live grenade at Khe Sanh, summed up his own personal distress in these words:

To the devastating psychological effect of getting maimed, paralyzed, or in some way unable to reenter American life as you left it, is the added psychological weight that it may not have been worth it: that the war may have been a cruel hoax, an American tragedy that left a small minority of young American males holding the bag.

Distasteful though it is, we must review the reasons for our initial involvement in Vietnam. This is not just a case of confession being good for the soul. We need to understand the past so that we can act more wisely in the future. A clear comprehension of past mistakes is the only reliable insurance against repeating them. I do not agree, therefore, with President Nixon's assertion in his speech of May 14, 1969, that the "urgent question" is "not whether we should have entered on this course, but what is required of us today." The two, I believe, are connected: In order to determine "what is required of us today," it is indispensable that we understand why we did what we did in the past, and whether we should have done it.

If indeed the decision to intervene with an American army in 1965 was wise and sound, that would suggest that we now should continue the fight, with whatever force may be necessary, and for whatever time may be required. If, on the other hand, the intervention of 1965 was the result of faulty judgment, then it makes no sense to continue the war for a single day longer than is required to liquidate it in a decent and orderly way. There can be no cure without honest diagnosis. Yet, the administration refuses even to think about past decisions in a critical or analytical way. Instead, it clings tenaciously and defensively to the discredited old arguments. The result is indecision and incongruity. As best I can make it out—and I do not think I can make it out with any real clarity—the administration's position seems to be that the war is and always has been necessary and justified, but that political considerations rule out a greater military effort to win it, while they cannot bring themselves to end it either by a negotiated compromise or a phased-out, complete withdrawal.

The single most important source of this paralyzing ambiguity is the continuing prevalence of the myth so implicit in the President's remarks last evening—a myth of which Mr. Nixon himself was one of the principal perpetrators: the notion that communism is a single, unified, centrally directed, conspiratorial force unalterably committed to conquest of the world. Though often denied, the notion keeps turning up. Mr. Rusk used to warn of the danger of a "world cut in two by Asian communism." Mr. Nixon referred last November 3 to "those great powers who have not yet abandoned their goals of world conquest," and he predicted that American withdrawal from Vietnam would "spark violence wherever our commitments help maintain the peace—in the Middle East, in Berlin, eventually even in the Western Hemisphere." The President did not say how the spark would spread, but the explanation of why he thinks it would is implicit in his words: It is the old notion

of the world Communist conspiracy, nurtured and sustained against all the compelling evidence which shows that, except in those areas such as Western Europe where the Russians bring direct physical power to bear, world communism has broken down into its national components, to such a degree that today communism is scarcely more united a force in the world than anticommunism.

Mr. President (Mr. Spence), in the case of Vietnam, it belabors the obvious—at least it would if the obvious were not under such steady challenge—to assert once again that the real force behind the long internal struggle is not ideology but Vietnamese nationalism. In his recent book on President Johnson's decision to end the escalation and initiate peace negotiations, Mr. Townsend Hoopes, the former Under Secretary of the Air Force, analyzed the war as follows:

North Vietnam was fighting primarily to achieve an unfulfilled national purpose. While it was, to be sure, fully aware of the implications for the wider application of the Mao-Ho-Giap insurgency doctrine, it was fighting not an abstractly ideological war, but a very particular war—in a particular place, characterized by a particular kind of terrain and weather, peopled by a particular breed of men and, above all, conditioned by a particular history. What really drove Ho's sacrificial legions was not the dream of world conquest, nor even the notion of generating a new momentum for Communist advance and triumph throughout Asia. What motivated Hanoi and enabled its leadership to hold 19 million primitive people to endless struggle and sacrifice against odds that were statistically ludicrous was the goal of national independence.

If our hands were cleared of the burden and our minds cleared of the Communist monolith obsession, we would perceive readily that the small country of North Vietnam, with which we have been at war for the last 5 years, is an authentically independent country, pursuing its own national objectives. These are the expulsion of foreign influence, the reunification of Vietnam and, quite probably, the establishment of their own dominant influence in all of former French Indochina. Though disagreeable to the United States and hardly benevolent, these designs are by no means to be confused with a conspiracy for the conquest of Asia. North Vietnamese ambitions are far less ideological, and much too restricted by the power limitations of a small, undeveloped country to possibly be a serious threat to the United States, or even to those Southeast Asian countries which have any real measure of political coherence and support from their own populations.

Some Americans argue that we must stay in South Vietnam in order to prevent the population from falling under the yoke of a Communist dictatorship. Whatever altruism that idea may have in the abstract, it has little merit in actuality. For most of the people of Southeast Asia—certainly for the Vietnamese—there is no available democratic alternative. The choice lies between the harsh but relatively efficient and purposeful Communist dictatorship of the North and the equally harsh but corrupt and incompetent non-Communist dictatorship of the South.

Ideology in any case is of little consequence to poor and underdeveloped societies. Their requirements are more basic: they need governments which will refrain from robbing and plundering them, which will permit them the use and benefit of the land on which they live, and perhaps give them some assistance in cultivating it; which will provide basic medical services to protect them from common diseases; and which will provide at least elementary education for their children. Perhaps the time will come when political philosophy will acquire some importance for the villagers of Vietnam, Laos, and Cambodia. In the meantime, nothing could be further from their needs than those warring political ideologies which agitate the minds of statesmen in Washington, Moscow, and Peking.

To suppose in any case that the regime we are defending in South Vietnam has any knowledge of, interest in, or commitment to, democratic freedoms requires a greater capacity for self-delusion than is to be found among any but that dwindling band of old-school cold warriors whose demeaning definition of a democratic government is any regime, however decadent, which preaches undying hostility to communism.

Another superficially compelling rationalization for our continued participation in this war, in which we have no vital interest of our own, is the threat of a massacre in South Vietnam if we should leave. Raising this specter in his speech of November 3, Mr. Nixon warned that our "precipitate withdrawal would inevitably allow the Communists to repeat the massacres which followed their takeover in the North 15 years before."

Last evening, I must add, the President, once again, raised the same outmoded specter in his address. Even if it were as certain as the President takes it to be that a victorious Vietcong would murder large numbers of South Vietnamese civilians, it is not a rational policy to hold off this calamity by perpetuating the killing of both Vietnamese and Americans in this endless war. Even if the Communists were to do everything that Mr. Nixon fears, it is doubtful that they could match the daily, continuing bloodbath of the war itself.

For this has become a war of indiscriminate killing on both sides. Unable to distinguish between soldiers and civilians, as likely to have a grenade thrown at him by a woman or child as by an identifiable soldier, the American GI has learned to shoot first and ask questions later. He is doing no more than any of us would do under the circumstances—but he is doing it.

This war in which the enemy is indistinguishable from the people is the real bloodbath in Vietnam. To continue it so as to prevent possible Communist reprisals after the war is to rely on the same perverse logic as that contained in the now famous words of the American major who said after the Tet offensive in 1968: "We had to destroy Ben Tre in order to save it."

If once we made the decision that we were going to withdraw from Vietnam—finally and completely—it should be possible to have guarantees for the lives

of South Vietnamese civilians included among the provisions of a negotiated settlement. The North Vietnamese—for what it is worth—insist that they have no intention of perpetuating a peacetime massacre. They say that they are prepared to live and even cooperate with anyone who favors the “independence, peace, and neutrality” of South Vietnam.

If in the end we should withdraw without a formal peace settlement, it would be a matter of honor to provide asylum for those South Vietnamese who might be unwilling to trust their fate to Communist promises. If it came to that, it would be far better to open our own gates to those who felt themselves endangered than to keep on sending Americans to die for them in their own land. As for the Saigon generals, there should be ample facilities for them on the French Riviera.

On all counts, the evidence is overwhelming that this war is not necessary, that, indeed, its continuation is immensely detrimental both to our own interests and to those of the peoples involved. We keep fighting in Vietnam because we are not yet willing to acknowledge that we should never have gone there in the first place. The result is a policy of pure contradiction: torn between its stubborn adherence to the war and its political need to get out of it, the Nixon administration has devised a policy with no chance of winning the war, little chance of ending it, and every chance of perpetuating it into the indefinite future—the policy called Vietnamization.

## II. VIETNAMIZATION

The official logic of Vietnamization is that, by some miraculous means, we are going to strengthen our bargaining hand by weakening our military effort. It is indeed a unique strategy, quite probably unprecedented in the history of warfare: bringing pressure to bear on the enemy by withdrawing from the battlefield. As the President explained it in his press conference of December 8, 1969, gradual American withdrawal is supposed to induce Hanoi to negotiate on our terms because, as he put it, “Once we are out and the South Vietnamese are there, they will have a much harder individual to negotiate with.”

If the President was speaking of Mr. Thieu's attitude toward negotiations, there can be no argument: He is much harder. But the President neglected to mention that it is not the political toughness of the South Vietnamese that is going to count if American forces are withdrawn but their military toughness, and in that department—despite the optimism expressed by the President in his speech of April 20—they are hardly a match for their Communist adversaries. That, let it never be forgotten, is why we went there with half a million American troops in the first place.

Novel as it may be, Vietnamization is a dangerous and unsound policy, more likely to lead to that “defeat and humiliation” which President Nixon so rightly deplores than to anything resembling an “honorable” peace. What it comes down to in plain commonsense

terms is that, when you reduce your strength, you reduce your bargaining power. Thus far, our withdrawals have not been sufficient to make a major difference in the military balance. But, by the spring of 1971, when American forces are scheduled to be reduced to around 265,000 men, the military balance will be significantly altered—unless the ARVN shows a far greater capacity of improving its effectiveness than we have any reason now to expect. What, then, if the Communists undertake a massive offensive aimed at winning the war outright? Would we reescalate the war, taking those “strong and effective measures” of which President Nixon has repeatedly warned, or would we accept the defeat?

Neither American military personnel in Vietnam nor the South Vietnamese themselves are sanguine about the prospects of Vietnamization. According to staff members of the Senate Foreign Relations Committee who went on a study trip to Vietnam in December 1969, American military officers have very little to say about the prospect for South Vietnamese military self-sufficiency, and when they do talk about it, it is in the time span of 2 to 4 years. President Thieu said recently that the withdrawal of American ground combat forces by the end of 1970 was an “impossible goal” and that, instead, “it will take many years” to remove these forces. President Nixon said nothing in his speech of April 20 to indicate a different assessment on his part.

Congress is as much in the dark as everybody else about the timetable for Vietnamization. Even in closed session of the Senate Foreign Relations Committee, the Secretaries of States and Defense have consistently declined to indicate how long the process is expected to take and how many Americans might remain in South Vietnam for the indefinite future. It is well to remember that there are still 50,000 American soldiers in Korea, 17 years after the end of the Korean War, despite the fact that the Republic of Korea has a large and effective army of its own, a defensible frontier, and freedom from internal subversion. How many Americans may be required to sustain the Saigon regime, which has none of the assets of South Korea? The administration steadfastly refuses to divulge the answer. That, I think, is because it has no answer.

## III. AN INDOCHINA WAR

Even if it worked, Vietnamization would be a futile policy, because it no longer covers the situation in Southeast Asia. “I feel,” the late Vietnam expert Bernard Fall once remarked, “like it is 1913, and I am an expert on Serbia who is about to be outstripped by events.” The import of Fall's apprehension was that Vietnam might one day be consumed in a far wider conflict just as the Serbian controversy was consumed and then forgotten in the flames of World War I. One hopes it will never come to that, but the spread of hostilities to Laos and Cambodia has already made it obsolete to speak of a Vietnamese war. In fact, with or without official recognition, we are now quite busily engaged in what Fall

had the prescience several years ago to perceive as a “second Indochina war,” a sequel to the struggle between the Vietnamese and the French for domination of the entire Indochinese peninsula.

Increasingly the North Vietnamese and even the Chinese are referring to the conflicts in Vietnam, Laos, and Cambodia as a single “struggle for Indochina.” As Mr. Stanley Karnow, one of the most perceptive journalists reporting from Indochina, commented recently:

The Communists are making it clear that they are prepared to expand the war over the artificial boundaries that separate the Indochinese states, and there is no reason to doubt their intentions.

There is hope as well as menace in this new situation, depending upon how the Nixon administration responds to it. If it follows the counsel of some of its military and civilian advisers in Vietnam and expands American military activities in Laos and Cambodia, then a predictable spiral of challenge and response will soon put an end both to Vietnamization and deescalation of the war. If, on the other hand, Mr. Nixon and his advisers see what Bernard Fall perceived long ago, that there can be no solution to Vietnam except in the context of a general solution to Indochina, they might then revise their entire strategy and put us for the first time on a sensible course toward peace.

Stalemated by superior American firepower in Vietnam, the Communists appear to have embarked upon a general Indochinese strategy aimed at surrounding and isolating the American position in South Vietnam.

In Laos, despite a momentary abatement of hostilities, the military strength of the American-supported army of Meo tribesmen appears to be slowly deteriorating. Although the Communists have made no thrust toward the administrative capital of Vientiane, their dominance over northeastern Laos is virtually unchallenged except by continuing American air attacks. These air strikes, according to reports, are being conducted round the clock, amounting to an estimated 18,000 sorties a month. Meanwhile, despite fearful harassment from the air, the North Vietnamese continue to move supplies across the Plain of Jars toward the few remaining anti-Communist strongholds in northeastern Laos.

As an American diplomat recently explained to a diligent reporter:

The important thing is that the clandestine army is being destroyed and the U.S. bombing cannot stop it. This happens every day, in little skirmishes you never hear about. When Long Tieng finally crumbles, the Communists will have consolidated their own on northeast Laos. American bombing can make life hell for them, but it cannot stop them. Laos, in its typically leisurely way, is going down the drain.

In truth, our position in Laos borders on helplessness. Secretary of State Rogers all but confessed as much in a television statement on March 17. “We hope,” he said, “that what they are up to is to make their negotiating position a little stronger. We hope that they do not intend to overrun Laos.”

Whatever the precise Communist objective in Laos, it is already having the

effect of undermining the foundations of the Nixon Vietnamization policy. In a military sense, it raises the long-term prospect of locking American forces into a beleaguered South Vietnamese enclave, while North Vietnam establishes its hegemony over the rest of Indochina.

Aside from continuing our indecisive bombing campaign in Laos and hoping for the best, the administration has two equally distasteful alternatives. It can simply give up any further hope for salvaging Laos and thereby see its Vietnamization strategy undermined by indirection; or it can send American ground forces, or a greatly increased number of Thais, into the Laotian war thereby abandoning the Vietnamization strategy and reverting to escalation. In the latter event, there is no telling where the escalation would stop. In a phrase reminiscent of the days before their "volunteers" swarmed into Korea in 1950, the Chinese have already responded to the entry of Thai forces into Laos with the warning that they "will not sit idly by."

The situation is hardly more promising in Cambodia; it may indeed be worse. With more bravado than wisdom, the new regime of General Lon Nol has undertaken to drive the North Vietnamese and Vietcong forces out of the borderlands of Cambodia. The trouble is that the weak Cambodian Army is in no position to do it unless it receives a massive injection of American arms, and that, in fact, is exactly what appears to be in the offing.

With indeterminate but unmistakable American support—support, incidentally, that was revealed more fully to the American people last evening—South Vietnamese troops have been striking at North Vietnamese and Vietcong units inside Cambodia. The Communists in turn have called on the Cambodian people to overthrow their new government and are using their forces within Cambodia to weaken the new regime. The Phnom Penh regime, for its part, is showing itself impotent against the Vietcong, while its troops, with or without official approval, have committed atrocious mass murders of Vietnamese civilians living in Cambodia.

It has long been the desire of American and South Vietnamese military officials to attack the Communist sanctuaries in Cambodia. From a purely military standpoint this is understandable, but the political implications are ominous. They raise the possibility of escalation in still another direction, under circumstances the Thieu government must surely welcome as a golden opportunity to put an end to American troop withdrawals by plunging the United States into a wider, Indochinese war.

Mr. Nixon and his advisers may feel tempted to come to the support of the anti-Communist but relatively powerless new regime in Phnom Penh. On the other hand, the administration must surely recognize the risks involved in an expansion of the war into Cambodia. The Vietcong and North Vietnamese have already turned that formerly neutral country into a battleground, and done so with the blessing of the ousted Prince Sihanouk, who has cloaked the

Communists with legitimacy by creating a government in exile and by calling for a national liberation army to fight "with other anti-imperialist peoples forces of fraternal countries."

It escapes my understanding how, under these altered circumstances, the administration still fails to recognize that it is involving itself in an Indochina war which can only be resolved by an Indochina strategy. To continue relying on Vietnamization under these circumstances is comparable, in Bernard Fall's World War I analogy, to throwing resources into Serbia long after the Western Front had exploded. The Communists have made it abundantly clear that they are not going to allow us to press our military advantage in Vietnam without circumventing it by exploiting the power vacuums in Laos and Cambodia. Even more to the point, they have made it abundantly clear that, although they cannot expel us from Indochina, they are able and determined to thwart the policy of Vietnamization. The premise of that policy is that American intervention can be reduced to a level at which it may be sustained indefinitely without undue political disruption at home. That premise has been discredited by events in Laos and Cambodia, if not indeed by conditions in Vietnam as well. We are going to have to plunge into Indochina all the way and face the enormous consequences at home and abroad, or we are going to have to get out.

#### IV. THE WAY OUT

The obvious and desirable way out is through a negotiated political settlement. President Nixon, however, appears to have given up on the Paris negotiations, insisting that the only alternative to Vietnamization is "immediate precipitate withdrawal." The North Vietnamese Government, he told Congress in his report of February 18, "has adamantly refused even to discuss our proposals" and, further, "has insisted that we must unconditionally and totally accept its demands for unilateral U.S. withdrawal and for the removal of the leaders of the Government of South Vietnam." He repeated this in scarcely altered words on April 20.

Reports by numerous unofficial and foreign observers suggest that the President's reading of the North Vietnamese position is inaccurate. Reputable individuals who have met with North Vietnamese officials both in Hanoi and in Paris assert that they do not insist on a complete American withdrawal prior to the conclusion of a settlement, nor do they demand a Vietcong takeover of South Vietnam. What they do insist upon, according to these observers, is an American commitment to a definite schedule for complete withdrawal of American forces and a transitional coalition regime to rule in Saigon until such time as a permanent government can be constituted. What the North Vietnamese and Vietcong are not able to accept are the following: an indefinite American presence; the continuation of the present South Vietnamese constitution—known to them as the "Johnson constitution"—which prohibits Communists from any participation in the government; and control of the election procedure for a

permanent government by the present Saigon regime.

Aside from the continued presence of American forces in Indochina, the crucial question is quite simple: Who is going to rule South Vietnam? That is what the war is all about.

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

Mr. CHURCH. I am happy to yield to the distinguished Senator from Tennessee.

Mr. GORE. Unless the United States is willing to negotiate and perhaps compromise on this issue, can there be any successful negotiations?

Mr. CHURCH. Of course not; and President Nixon's constant repetition of the unwillingness of the other side to negotiate, like the similar refrain of his predecessor, never acknowledged that as long as we remain committed to the perpetuation of the Saigon regime there is nothing for the other side to negotiate about.

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

Mr. CHURCH. I yield.

Mr. GORE. I recently read an article by the noted writer, Theodore White, in which he characterizes his position as offering nothing but humiliating defeat. Indeed, he expressed the view that neither side offered the other side in the Paris conference anything but humiliating defeat.

Mr. CHURCH. I concur. As long as both sides hold to that position, obviously there is no hope for a negotiated settlement. It is not the obstinacy of the other side alone that has prevented a settlement; it is the fact that our terms, as well as theirs, call for what is tantamount to surrender. As long as this position continues, there will be no progress at the negotiating table.

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

Mr. CHURCH. I am happy to yield to the distinguished Senator from Tennessee.

Mr. GORE. I know the able Senator wishes, and I am sure the senior Senator from Tennessee wishes, to proceed with the greatest of caution in this tragic and critical day. Even in that spirit I wonder if it would be in order to ask the able Senator if the actions now under way in Cambodia and the President's statement with respect thereto do not in fact specifically involve a widening of the commitment of the United States in Southeast Asia to the point of committing us to support the lone No. 1 government in Cambodia.

Mr. CHURCH. This, as the Senator well knows, is the grave danger. The President last night, for the first time, announced his decision to furnish the Cambodian Government with substantial quantities of arms, in response to the request of the new regime.

We know from our experience in Vietnam that once we undertake to supply arms to a foreign government, the pressure immediately begin to build for larger and larger quantities of arms, and for more and more sophisticated arms. Then comes the need to send in instructors in the use of these arms, thus committing American personnel. Then comes

the call for American troops to bolster an army we are assisting through advice, instruction, and the gift of arms. The same progression of events looms before us as took us into the bottomless bog in South Vietnam.

With that bitter experience immediately behind us, I think it is a serious error to assume a new set of obligations to the government in Phnom Penh to which we owe nothing—no treaty, no promise, no commitment—until last night. I think this is a course fraught with peril.

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

Mr. CHURCH. I am happy to yield to the Senator.

Mr. GORE. An invasion of a small country, for whatever purpose, creates not only great political problems for the United States, both domestically and throughout the world, but also, specifically in this case, our action taken without treaty obligations, and as the Senator has stated, without authorization by Congress, creates a pattern which looks apprehensively like the Vietnam pattern. Indeed, is this not Vietnam all over again?

Mr. CHURCH. I say to the Senator it could easily become just that. The first step we have now taken in Cambodia is very much like the first step we took in Vietnam.

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

Mr. CHURCH. I yield.

Mr. GORE. The Senator listed a few moments ago the chronology of the escalation of a commitment. I think the Senator omitted the last one, which is to continue and maintain U.S. military forces and economic aid to whatever extent necessary to maintain in power those leaders which we find agreeable.

Mr. CHURCH. That certainly has been the course we have followed in Vietnam. I would hope it is not duplicated in Cambodia.

The President sought to reassure the country last night that our military strikes into Cambodia are meant to be temporary in nature; that the objectives are, first, to seize the caches of weapons and supplies that the Vietcong and the North Vietnamese have located along the borderlands of Cambodia and, second, to eliminate their forward bases in the area. After which, the President said, the U.S. forces and the South Vietnamese forces would withdraw.

If this is really going to be a temporary military ploy, then the best we can hope for from it is a temporary result; for surely, after we have withdrawn, if 5 years of bitter experience in Vietnam mean anything at all, it follows that the enemy will return to the same areas and reestablish the same kind of bases all over again. And this war, which is becoming endless, which is now the longest war in our history, and one of the costliest, will continue. It will then be necessary, based on the President's logic last night, to return again and destroy these bases.

So, it seems to me, the military justification for this move is very doubtful. Indeed, unless the purpose is to occupy portions of Cambodia and remain there, so as to exclude the enemy from these

borderlands indefinitely, then the most that can be hoped for is the temporary removal of the bases about which the President complained.

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

Mr. CHURCH. Yes, I am happy to yield.

Mr. GORE. The unhappy experience which the senior Senator from Tennessee has observed from behind the closed doors of the Senate Foreign Relations Committee is not very reassuring. I recall that we were advised that a "bloodying of the nose"—I believe that phrase was used—of North Vietnam after the so-called Tonkin incident was somehow going to save American lives. I recall how we were going to bomb North Vietnam to the conference table, though the conference did not actually begin until after the bombing ceased. Indeed, I recall a number of things, so many that it is frustrating and depressing in this—

Mr. CHURCH. May I remind the Senator of an observation he made in the committee only yesterday which I regarded as pertinent and profound—

Mr. GORE. Anytime someone finds an observation of mine which is pertinent and profound, I want him to shout it to the rooftop.

Mr. CHURCH. I will now proceed to shout it to the rooftop.

Mr. GORE. Be sure every one hears it.

Mr. CHURCH. The distinguished Senator from Tennessee turned to me at one point of the proceedings yesterday behind the closed doors of the Committee on Foreign Relations and he said,

All of this action is premised upon the need to eliminate enemy sanctuaries.

He said,

Where are these sanctuaries? If today they are on the Cambodian frontier, tomorrow they will be just behind it, just beyond the furthestmost reach of the American military penetration. Indeed, the enemy sanctuary lies in all of Asia behind it.

The Senator from Tennessee went on to observe:

And we have sanctuaries, too. What is Thailand, but our sanctuary? What is the sea around the peninsula of Indochina, totally dominated by American naval forces, but our sanctuary? What is the air above the fighting ground, completely controlled by the United States, but a form of sanctuary?

Then he went on to observe that if this war becomes a pursuit of sanctuaries, every thrust will be met by a counterthrust. That is the conclusion which must be drawn from the last 5 years of experience, and the effect will be a spreading war.

Mr. GORE. It sounds even more profound when it is repeated.

Mr. CHURCH. I think the Senator from Tennessee presented a complete rebuttal to the argument made by the President last evening.

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

Mr. CHURCH. I am happy to yield.

Mr. GORE. I was in the committee, sitting across the table, once again, listening with the distinguished Senator from Idaho when Secretary McNamara expressed the view, some 4 or 5 years

ago, that the American boys would be home for Christmas. Only a year ago I heard Secretary Laird, in response to my interrogation, say, "We have turned the corner." The best I recall, that was about the fourth time that I heard officials of the executive branch in high positions of high authority express the view that we had turned the corner in Southeast Asia. According to my calculations, when you turn the corner the fourth time, you start all over again around the block.

I recall that just a few months ago—perhaps about a year ago—an official of the administration proclaimed that he could see the light at the end of the tunnel.

Mr. CHURCH. And it turned out to be Cambodia.

Mr. GORE. And it was only 11 days ago that President Nixon himself told the American people that he could say confidently that peace was in sight.

Can it possibly be that this major military operation was not in preparation 10 days ago? This is disturbing. I do not know when the decision was made. I make no charges about it. I do not know. But I cannot believe that a major invasion of a country with thousands of troops would be initiated overnight. There must have been some planning. There must have been some logistic movement. There must have been troop preparation and positioning. And, yet, 11 nights ago we heard a speech entirely different from the one last evening. Only last Monday Secretary Rogers was before the Senate Foreign Relations Committee in executive session.

I do not wish to reveal any of those proceedings, but I can say that nothing regarding a major invasion of Cambodia was whispered to the committee.

Mr. CHURCH. No, nor indeed even hinted at. That is how the Senate was advised of the extension of this war into another country in Southeast Asia.

Mr. President, aside from the continued presence of American forces in Indochina, the crucial question is quite simply: Who is going to rule South Vietnam? The only feasible basis for compromising that question is a sharing of power between the warring factions; the appropriate term, so much out of favor, is a coalition. When all the political manifestos and diplomatic terms of art are set aside, the conditions for peace in South Vietnam are clear: Either some form of coalition is going to be formed, or the war is going to go on until one side or the other prevails.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHURCH. I ask unanimous consent that I may proceed for an additional 15 minutes.

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

Mr. CHURCH. If we can agree to these two basic conditions—ultimate, total American withdrawal by a definite date and some form of coalition—a negotiated peace is probably attainable. My own belief, for the reasons I have tried to spell out, is that a settlement along these lines is consistent with our interests, compatible with the security of Southeast Asia, and quite possibly in the best inter-

ests of the South Vietnamese people. It is obviously not a desirable arrangement from the personal standpoint of Mr. Thieu and Mr. Ky, but—lest it be forgotten—we are not as a Nation committed to those two gentlemen or to the perpetuation of their political careers.

The real question on which the prospect for a negotiated peace turns is the attitude of President Nixon and his advisors. If they can bring themselves to acknowledge the character of America's interests in Southeast Asia, the realities of an Indochina war and the necessity for an Indochina settlement, the logjam might be broken more speedily than anyone now supposes. If, on the other hand, as seems more probable—in fact, as seems, sadly, to be the case, based upon the disclosures of last evening—they cling to the crumbling premises of Vietnamization, there can be little prospect of a negotiated settlement. In that event, it would seem appropriate for the Congress, with its own special responsibilities for foreign policy, to reevaluate its position and the resources available for giving weight to its judgments.

In the belief that Congress has the responsibility—not just the right but the responsibility—to provide the President with advice as well as consent in matters of foreign policy, a number of us in the Senate have taken legislative initiatives in recent months designed to advance the kind of peace settlement which we believe to be in our national interest. Most of these legislative proposals have been hortatory rather than mandatory, designed to encourage the President as strongly as possible to bring the war to an early end but not to impose upon him an inflexible course of action.

The administration has scarcely shown any interest much less responsiveness, to the various recommendations of Senators of both parties—except in those few instances in which Senators have praised or endorsed the course which the administration is already following. It has, therefore, seemed appropriate to go a step beyond exhortation and to begin to use the explicit war and appropriations powers vested in the Congress by the Constitution.

To this end, I joined with the majority leader, Senator MANSFIELD, and my distinguished Republican colleague on the Senate Foreign Relations Committee, Senator COOPER, in sponsoring last December an amendment to the fiscal 1970 military appropriations bill prohibiting the use of any funds under the bill "to finance the introduction of American ground troops into Laos or Thailand." The Church-Cooper amendment was adopted by a four-to-one margin—73 to 17.

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

Mr. CHURCH. I am happy to yield.

Mr. GORE. In retrospect, does not the distinguished Senator now regret that he did not include Cambodia in that amendment?

Mr. CHURCH. I do, indeed. If Congress had taken action then to include Cambodia in a timely way, I think we would not today be faced with the grim prospect of a widening war.

Last week, Senator COOPER and I announced that we shall ask the Senate to expand this prohibition to include Cambodia, which has now been invaded by South Vietnamese troops aided and supported by American Forces.

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

Mr. CHURCH. Yes, I am happy to yield.

Mr. GRIFFIN. The Senator stated that Cambodia has been "invaded" by South Vietnamese forces. Does he mean to leave the impression that there is an intention on the part of South Vietnam to occupy any of the territory of Cambodia? Does the Senator intend to leave that impression?

Mr. CHURCH. Oh, yes, I purposely used the word "invasion," because that is what it is. The Senator is acquainted with the definition of the term "invasion." If he looks at that definition, either as comprehended by international law or as found in Webster's dictionary, I defy him to distinguish our action and that of the South Vietnamese forces from the definition he will find.

Mr. GRIFFIN. How does the Senator—

Mr. CHURCH. Let me finish. The Senator has asked the question.

No one contends—the President did not contend last night—that this movement of American and South Vietnamese forces into Cambodia comes at the request of the Cambodian Government. In fact, the news of yesterday indicated that the Cambodian Government had protested our action.

It is true that the President said his objectives were temporary.

If his objectives are temporary, then the results will be temporary; and the very problem of which he complains, the existence of these sanctuaries, will reappear again shortly after we withdraw.

I do not think that a temporary military ploy has ever brought permanent military results.

Mr. GRIFFIN. I regret that I was not in the Chamber earlier and I have not heard all of the Senator's speech. How would he characterize the presence of North Vietnamese and Vietcong forces in Cambodia?

Mr. CHURCH. As an invasion. I just want to be candid enough to admit that an invasion is an invasion. What sense does it make to say that the enemy invades, when it occupies Cambodian territory without the consent of the Cambodian Government, but that we do not when we occupy Cambodian territory without its Government's consent?

Mr. GRIFFIN. There is quite a difference, however, because the Communists are occupying Cambodian territory and have been occupying it; on the other hand, we do not intend to occupy Cambodian territory and everyone knows that is the case.

Mr. CHURCH. I suggest to the Senator that the fact that these sanctuaries have existed for 5 years means that the Vietcong and the North Vietnamese had indeed invaded Cambodia, but nothing in the developments of the last week or two in Phnompenh has changed the nature of the military situation in South Vietnam occasioned by the existence of these

sanctuaries. The President had heretofore premised his Vietnamization policy upon an acceptance of that situation. Last night he changed his policy.

But we cannot honestly say that it is an invasion when somebody else does it, but it is not an invasion when we do it.

In addition, Senator COOPER and I are joined this week by Senator MANSFIELD and the ranking Republican member of the Foreign Relations Committee, Senator AIKEN, in the sponsorship of an amendment to the pending military-sales bill that would, if adopted, prohibit the delivery of arms, or the introduction of American military instructors or advisors, into Cambodia, and set the limits on any American participation in combat within or above Cambodia.

It is unquestionably within the constitutional power of Congress to bar the dispersal and delivery of American military weapons, services and supplies to a foreign government. Legislative prohibitions are needed now, because of the pending request of the new Cambodian Government for military aid from the United States—far in excess of what the President has already granted. No reliable assessment exists in respect to this new Cambodian Government. We know not of its character; nor do we know the limits of the popular support it may command. Moreover, the United States owes no obligation to this new government, we have no defense treaty with it—nor with its predecessor. We have made no previous commitment to Cambodia. We have no responsibility to come to its defense. Yet, without giving Congress any prior notice, let alone asking for its consent, President Nixon has already started through the opened door. He has ordered American forces to participate with South Vietnamese in an invasion of Cambodian territory. This is done in the name of denying the enemy its supply depots and forward bases just within Cambodia's borders. But when it comes to sanctuaries, we would do well to remember that all of Indochina behind the enemy line is its "sanctuary."

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

Mr. CHURCH. I yield.

Mr. GRIFFIN. The Senator said the President has taken this action "in the name of" cleaning out Communist sanctuaries. I am sure the Senator does not intend to infer that there is some other reason or that the President is not telling the truth?

Mr. CHURCH. No, of course not.

Mr. GRIFFIN. I thank the Senator. His words could have left that impression.

Mr. CHURCH. If that was the impression left in the Senator's mind, let me clear it up. Obviously, the objectives, as the President explained, are these sanctuaries. But, as I was saying, when it comes to sanctuaries, we would do well to remember that all of Indochina behind the enemy lines is its "sanctuary."

We would do well to remember that we have our "sanctuaries" too—in Thailand, for example. If this is now to become a war in pursuit of "sanctuaries," then past experience suggests that each new thrust will be met with a counterthrust, and the war will spread.

Mr. President, I want to acknowledge that this observation was prompted by the remarks of the distinguished Senator from Tennessee in the discussions in the Committee on Foreign Relations yesterday.

Mr. GORE. I thank the Senator. Will the Senator yield?

Mr. CHURCH. I yield.

Mr. GORE. Where is the key sanctuary of North Vietnam? Is it in Cambodia, is it in Laos, or is it in North Vietnam itself?

Mr. CHURCH. Of course, North Vietnam itself.

Mr. GORE. If, by reason and logic, the security of the United States impels an invasion of another nation, why should we pick upon neutral, little Cambodia? I am not advocating an invasion of North Vietnam. Indeed, the nature of the war in Indochina, in essence, though it be one war, argues not for a widening of the war but for a settlement of the war, a compromise peace. But, if we must pursue sanctuaries, why start after the minor sanctuaries? I think it is an unsound policy, in the first place.

Mr. CHURCH. I agree with the Senator. The pursuit of sanctuaries is endless.

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

Mr. CHURCH. Either we engage in one strike and withdraw, in which case the sanctuaries will be reestablished, or we pursue the receding sanctuaries until finally, as the Senator from Tennessee suggests, we occupy the whole of the enemy territory.

I am happy to yield to the Senator from Wyoming.

Mr. HANSEN. I thank my distinguished colleague.

The PRESIDING OFFICER. The additional 15 minutes of the Senator from Idaho have expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator may be allowed an additional 15 minutes.

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

Mr. HANSEN. Mr. President, I need advise no Member of this body that I am not a member of the Committee on Foreign Relations. I readily admit that members of the Committee on Foreign Relations undoubtedly have had far greater access to classified information than I have had, and I do not rise at all to take issue with my distinguished and good friend from Idaho on the basis of what I know as compared with what he knows. I rise, rather, simply to make an observation that I hope might bring back into the context of the understanding of the average person a little more clearly what the President said last night.

In my judgment, I think the President of the United States made clear that we are still fighting the same enemy we started fighting back in the beginning of the decade of the 1960's. The only thing that I see that was changed by the actions he took last night was to say that no longer would we let that enemy choose the battleground. We propose now to exercise some of the latitude which heretofore has been almost solely at the discretion of the enemy as to where that battle should take place. I think now the President has made clear that we pro-

pose, on our initiative, to decide where we might fight the enemy, as well as where he may choose to fight us.

Mr. CHURCH. I thank the Senator for his observation.

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

Mr. CHURCH. I am happy to yield to the Senator from Minnesota.

Mr. MONDALE. As I listened to the President's message last night and as I have listened to the excellent speech of the Senator from Idaho, which I wholeheartedly endorse, I wondered what the status of the so-called Nixon doctrine or Guam doctrine is in the light of our intervention in Cambodia. Would the Senator help place that in perspective?

Mr. CHURCH. I would say to the Senator that, as I have understood the Guam doctrine, the President intended hereafter that other Asian governments should assume the primary responsibility for their own defense and that American troops would not be employed again for that purpose.

On the particular facts of this case, it is possible to make a distinction. Of course, it is always possible to distinguish one case from another. But this action clearly is contrary to the spirit of the Guam doctrine. Moreover, it directly contradicts the Vietnamization policy, for it looks in the direction of a reduced American involvement toward bringing our troops home, while this action looks in the direction of a new front and, with it, all the risks of a widening war.

Mr. MONDALE. Mr. President, as a matter of fact, the Senator's excellent speech confirmed my feelings following the President's message of last night that, among other things, this new effort is an admission that Vietnamization is not working.

I do not recall the President ever having conditioned his withdrawal policy, which I have supported and which I think all of us have supported, on the ground that it would work only if the sanctuaries were removed from Cambodia, Laos, or any other place. Thus, it would seem to me that this new policy, announced last night, is an admission that U.S. troops are needed, in any escalating way, to do something that had to be done because of the fact that Vietnamization forces are unable to take care of their own problems and defend themselves. Would that be correct?

Mr. CHURCH. I find it hard to argue with that proposition. Eleven days ago, the President told us that Vietnamization was working, that he was confident it would prove successful, and that 150,000 more American troops would come out in the coming year. All of that was premised upon these same sanctuaries which have existed for 5 years. No new, sudden, dramatic change of this situation has occurred in South Vietnam.

I think that if the President was right in his expression of confidence 11 days ago, then the South Vietnamese troops, that he believes to be adequate for the defense of the entire country, certainly should have been adequate to deal with a few sanctuaries along the Cambodian border.

Mr. MONDALE. I believe that this is perhaps the most tragic mistake our new President has made. We are ex-

panding the war. This is a major escalation. I think it will widen the war. It will cause it to last longer. The number of American boys killed and seriously injured will rise.

I deeply hope that the President will change his policy immediately.

I intend to join with any of my colleagues in any reasonable step to use the power of Congress to prevent governmental authority on appropriations to be used to pursue this policy.

Mr. CHURCH. Mr. President, once the Cambodian boundary has been breached, it takes no exercise of the imagination to forecast that pressures will soon develop for sending a full-scale American military mission into that country which, in turn, will generate a whole new set of American obligations to defend the new Cambodian regime. It is this very sequence of events that led us ever deeper into the morass in Vietnam. We travel down that tragic trail again in Cambodia.

The overriding concern for us in Southeast Asia should be the military situation in South Vietnam, where our troops are already so heavily committed. Here, our position has not been altered by the recent overthrow of Sihanouk. For years now, the Vietcong and North Vietnamese have been utilizing border bases in Cambodia. But this administration, like its predecessors, had accepted that very condition. President Nixon himself had premised his policy of "Vietnamization" on acceptance of that condition. By extending aid to South Vietnamese troops invading Cambodia, the President has opened up a new war front in Indochina and, thereby, has placed in the gravest jeopardy his declared policy of deescalating American participation in the war.

The time has come for the Congress to draw the line against an expanded American involvement in this widening war.

Mr. President, we do have responsibilities that extend beyond acquiescence to the President of the United States when it comes to broadening the perimeter of this war.

The war power was vested by the Constitution of the United States in Congress.

The power of the purse belongs to Congress.

It is within our means, therefore, to establish the outer limits of American participation in this widening war.

Too much blood has been lost—too much patience gone unrewarded—while the war continues to poison our whole society. Whether by a negotiated compromise or by a phased, orderly but complete American withdrawal, it is time to put an end to it. If the executive branch will not take the initiative, then the Congress and the people must—the longer the bankrupt policy of Vietnamization continues, the closer it brings us to that which it purports to avoid: disaster and defeat.

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

Mr. CHURCH. I yield.

Mr. MANSFIELD. I commend the distinguished Senator from Idaho for expressing very frankly the views which he holds on Vietnam and which he has

held consistently down through the years.

What the Senator from Idaho and other Senators who have spoken today, on both sides of the aisle, are indicating is an uneasiness which affects all of us, regardless of party. All of us—and I am sure the President as well—are aware of the tremendous stakes involved and the potential danger inherent in the situation which now confronts the Nation.

I only hope that out of this will come a better degree of understanding among all of us, a recognition of the fact that this war has cost us approximately 325,000 casualties, that we have spent more than \$100 billion, that because of this war our problems at home have become exacerbated, that because of this war the divisions among our people have increased and that because of this war the difficulties which we will have to face up to—whether we like it or not—throughout the Nation, have either been aborted, decreased, or forgotten altogether.

Thus, I hope that this debate will remain on a respectable basis—and a respected basis, as well—that it will be carried on responsibly, and that what the Senate has to say, regardless of one's personal feelings in the matter, will indicate to the administration that there is concern, that there is uneasiness, that there is worry about the situation which has developed, which we think affects all of us, including the President, the Members of the Senate and the House of Representatives, and the American people as a whole.

I commend the distinguished Senator from Idaho for his remarks today.

Mr. CHURCH. Mr. President, I thank the distinguished majority leader.

Mr. President, I ask unanimous consent for sufficient time to yield to the distinguished Senator from Rhode Island.

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

Mr. PELL. Mr. President, I congratulate the distinguished Senator from Idaho on his speech and associate myself with his words and those of the majority leader.

I, also, do not agree with the words and actions of President Nixon. However, having made them, I only hope that the actions will be successful. Personally, I do not think they will be. In fact, I believe that this enlargement of the war can result not only in a geographic enlargement, but also in an increase in the level of violence and certainly in the number of our men killed.

We also have to bear in mind that there is an indefinite source of manpower available to the North Vietnamese. We may be successful in securing the areas into which we are entering. We may drain off some more North Vietnamese manpower. But whenever they run out of manpower, there is an almost inexhaustible source of Chinese manpower more than anxious to enter into the fray.

I hope that will not happen.

Mr. President, yesterday on the floor I suggested that the matter be taken up at the Security Council. Events have moved rapidly since then. However, I still believe that this is a matter that could be taken up there.

Perhaps our actions would be criticized in that forum. Nevertheless, I think the net result would be to share the burdens in that part of the world with other nations and perhaps be able to more properly remove ourselves from Indochina, sharing the responsibility a bit more equitably.

I had heard to my regret that there are those who would like to form a Democratic coalition to oppose the President in this matter and that the Democratic National Committee might move in this regard.

I think that would be a dreadful mistake.

This matter is beyond partisan consideration. There are just as many Republicans as Democrats who are opposed to the President and just as many Democrats as Republicans who are in favor.

I know that last night I received a phone call in the middle of the night from a friend of 30 years standing, a conservative Republican in Colorado. He wanted to know what he could do as a good Republican to divert us from the course of disaster which he saw ahead.

I think that if our Democratic leadership or party were to move in a partisan direction, they would be making a great mistake. The opposition or support for this move is far beyond politics. I would hope that we would bear this in mind.

Mr. CHURCH. Mr. President, I fully concur with the distinguished Senator from Rhode Island.

The reason that I have joined with the Senator from Kentucky (Mr. COOPER) in offering certain amendments to be considered in the Committee on Foreign Relations was to dramatize the bipartisan character of our dissent.

It is only on that basis that the Senate would consider such amendments, for in a matter of war and peace there is no party aisle that divides the Senate.

Mr. President, I yield the floor.

Mr. MONDALE. Mr. President, I ask unanimous consent to have printed in the RECORD an excellent editorial published in the New York Times which states that the President is rejecting his own Nixon doctrine.

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

#### MILITARY HALLUCINATION—AGAIN

The assurances that the American-backed South Vietnamese drive into Cambodia is a limited, one-strike operation, an integral part of American operations in Vietnam and designed only to protect American and "free world" forces there, have a familiar and wholly unconvincing ring.

This is the same kind of reassuring rhetoric Americans have heard from their leaders at every stage of this country's long, misguided plunge into the Southeast Asian morass. Time and bitter experience have exhausted credulity of the American people and Congress. Presidential assurances can no longer be accepted in an area where actions, as Mr. Nixon's aides have observed in another context, speak louder than words.

The President's action in sanctioning the South Vietnamese invasion of Cambodian territory, with American advisers and air and other support, goes far beyond the Cambodian policy followed by Mr. Nixon's predecessors, even at times when the predica-

ment of allied forces in Vietnam was far more perilous than anyone would claim it is today.

This latest and largest in a series of allied intrusions onto Cambodian soil which have occurred regularly since the change of government in Pnompenh has far-reaching and serious implications even if the immediate objectives are limited, as the Administration avows.

If reports from Pnompenh that the attack was launched without consultation with the Cambodian Government are true, the strike is a clear breach of Cambodian neutrality, the Geneva Accords and the principles of international law which the Administration has repeatedly cited in connection with the long-known and equally illegal Communist Vietnamese presence on Cambodian soil.

The allied drive into the Parrot's Beak will almost certainly provoke some reaction from Hanoi, and perhaps from Peking, with consequences throughout Southeast Asia that cannot be predicted but which could be fateful. At the very least, new threats to Pnompenh and fresh appeals for further American assistance can be expected.

Whatever he may plead to the contrary, President Nixon has rejected his own Nixon Doctrine in Southeast Asia, escalating a war from which he had promised to disengage. This is not the "new" Nixon who campaigned on a platform pledged to peace. It is more like the old Nixon who as Vice President in 1954 said the United States would have to send troops into Indochina if there were no other way to prevent its fall to the Communists, then on the verge of defeating the French.

Fortunately, now as then, Mr. Nixon's tough approach had produced strong opposition in both houses of Congress, even among some former staunch supporters of his Vietnamization policy. If the President does not promptly pull back from this dangerous adventure, Congress will have to assert its constitutional powers of restraint in the name of a people who have been asked once too often to swallow the military hallucination of victory through escalation.

Mr. MONDALE. Mr. President, on one other point. I do not recall this ever happening in my 5½ years of service in the Senate, but every hour, telegrams are pouring into my office from my State.

They are not inspired. They are obviously from deeply concerned Minnesotans from all parts of the State expressing outrage, concern, and heartache over the President's new policy.

At this point, the ratio of those favoring the President's policy as against it, is running 89 to 1 against the President.

I ask unanimous consent to have these telegrams printed in the RECORD.

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

EDINA, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We deplore Nixon's involvement in Cambodia.

Mr. and Mrs. WILLIAM F. TURNER.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Demand that Congress stop the President's move in Cambodia immediately.

Mr. and Mrs. GORDON PETERSON.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Urge strongest opposition to Cambodia action earth needs, demands peace.

Mr. and Mrs. JAMES KEANE.

EDINA, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Please can you intervene negatively in the President's decision to become militarily involved in Cambodia? I am asking this as a United States citizen, a Minnesota taxpayer who has always supported you, an active voter, but most of all as a mother of a United States Marine.

Mrs. PATRICIA DE REMER.

DULUTH, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We oppose any involvement in Cambodia Fight for further deescalation in Vietnam. Try harder!

Mr. and Mrs. DAVID GIBBENS.

DULUTH, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Stop our intervention in Cambodia. Bring our sons home now.

Mr. and Mrs. WILBUR FREED.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Cambodian involvement tragic mistake, urge immediate withdrawal all US troops from Southeast Asia.

DONALD S. LEHMAN, M.D.

DULUTH, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

I'm against any escalation of aid to Cambodia.

Mrs. ROBERT BRIDGES.

DULUTH, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Let not Cambodia be another Vietnam. Cannot sacrifice sons lives for something don't believe in.

Mrs. CAROL FRANKLIN.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Please help stop this latest involvement in Cambodia.

Mr. and Mrs. ROY E. MULLIN.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Don't let Nixon send our Air Force or our advisors into Cambodia.

NANCY BRASKET.

WINONA, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Do not support President Nixon's Cambodia escalation.

Mrs. HARRY BARNES.  
Mrs. KENNETH KNOLL.

DULUTH, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We strongly oppose involvement in Cambodia. Pray you will do all to help prevent this.

BEN and JEANNE OVERMAN.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We strongly oppose and resent the extension of the war into Cambodia. We want to get out of Southeast Asia now.

Professor and Mrs. LEONARD PARKER.

NORTHFIELD, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We do not wish U.S. soldiers fighting in Cambodia. Next will be Red China.

Mr. and Mrs. C. S. CARLSON.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We support all action necessary to prevent intervention in Cambodia and expansion of Indochina War.

Mr. and Mrs. DAVID L. JOHNSON.

COON RAPIDS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Strongly urge no involvement in Cambodia. An immediate withdrawal from Vietnam will not support President.

Mr. and Mrs. JAMES JAGELSKI.

MINNEAPOLIS, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

We deplore the presidential action involving Americans in Cambodia. We strongly urge you to protest on our behalf.

Dr. and Mrs. MARVIN L. STEIN.

WINONA, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

Please voice vehement protest in further involvement in Southeast Asia.

Mr. and Mrs. HERMAN WEISMAN.

ST. PAUL, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

Urge you exert every effort and influence to end Asian and Middle East involvement.

Mr. JOHN W. PETERS.

ST. PAUL, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

We consider Cambodia further involvement in the Asian war and we protest.

Mr. and Mrs. MAX SCHNITZER.

ST. PAUL, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

I am against sending American men or material into Cambodia.

Mrs. BELLE SINGER.

ST. PAUL, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

Urge in strongest terms you fight insane new military commitment in Cambodia.

EUGENE OGAN.

ST. PAUL, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

As mother of 18-year-old boy I'll send mine to Sweden rather than slaughter.

Mr. and Mrs. DICK YAGER.

ST. PAUL, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

Stop the generals in Cambodia.

RICHARD C. GREENE.

ST. PAUL, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

We are completely opposed to President's extending war into Cambodia. Please do something immediately.

Mr. and Mrs. ROBERT BREMER.

ST. PAUL, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

We oppose our commitment in Cambodia.

Mr. and Mrs. H. C. POWELL.

DULUTH, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Believe Cambodia involvement counter to national interest strongly urge Senate curb the executive and military.

Mr. and Mrs. JOHN POOLEY.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Was shocked by the President's decision to aid Cambodia. Cannot support decision for another war.

Mr. and Mrs. JAMES S. LEE.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We urge your opposition to the President's decision to enter America into war in Cambodia.

Mr. and Mrs. RICHARD WEATHERMAN.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We support all action necessary to prevent intervention in Cambodia and expansion of Indochina war.

Mr. and Mrs. ROBERT A. WINDSOR.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Urge you do all in your power to prevent Nixon's widening war in Southeast Asia.

Mr. and Mrs. DON YELLOTT.

Senator WALTER MONDALE,  
Washington, D.C.:

We strongly object to the Cambodian action resulting in deeper involvement in Southeast Asia.

Mr. and Mrs. LEW HOKKANEN.

ONEIDA.

MINNEAPOLIS, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

I urge you to vigorously work to cut off all financial support for the new American military involvement in Cambodia regardless of the rhetoric about aiding the Vietnamization program. This new escalation can only result in more deaths. The President has contemptuously rejected the advice of the Congress by this action, and you have no alternative but to use your constitutional power over funds to balance the excessive power of the executive and military.

I greatly appreciate your efforts to date in this regards sincerely.

EARL CRAIG,  
New Democratic Coalition.

TRAVERSE CITY, MICH.

Senator WALTER MONDALE,  
Washington, D.C.:

Stop slaughter of Americans, and Southeast Asians. Get United States out of Cambodia-Vietnam now.

ROBERT G. LONG.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

I have sent the following telegram to President Nixon quote please keep all U.S. military personnel weapons and vehicles out

of Cambodia and Laos. Your people will not believe reasons for becoming involved there. Please give the needs of America first priority unquote.

MAX O. SCHULTZE.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Demand U.S. troops be withdrawn from Cambodia. Senate action requested to restrain presidential power.

Sister MARY KAY BUSKIN.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We consider Cambodia further involvement in the Asian war and we protest.

Mr. and Mrs. MAX SCHNITZER.

DULUTH, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

Strongly oppose our involvement in Cambodia. Urge you to do whatever you can in your power to cease the U.S. aid and involvement.

BEVERLY and ERWIN GOLDFINE.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We are absolutely opposed to Nixon's sending troops and aid to Cambodia. Trust Senate can block such.

Dr. and Mrs. ROBERT HARLOW.

FARIBAULT, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Strongly urge you to use all possible influence to resist any commitment whatsoever in Cambodia. We must concentrate all effort to disengage Vietnam and avoid any further disasters in Asia.

R. C. BLISS.

MOORHEAD, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Extremely upset over President's decision to extend war. Please help; feel this war is wrong.

Mrs. ARVID BENSON.

WASHINGTON, D.C.

Senator WALTER MONDALE,  
Washington, D.C.:

Please do what you can to reverse Nixon's Cambodia decision.

MARY HARLOW.

DULUTH, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

You, as representative of the people of the United States, must assert yourself in our behalf in this Southeast Asian crisis.

DOROTHY B. FOCHS.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Do all you can to prevent Nixon's expansion of the war work to make illegal what he has done.

JAMES MACDONALD.

BEVERLY HILLS, CALIF.

Senator WALTER F. MONDALE,  
Washington, D.C.:

125,000 mothers say no to Cambodia. We support any action to re-establish constitutional right of Congress to declare war.

DONNA REED OWEN,

DOROTHY B. JONES,

BARBARA AVEDON,

Co-Chairmen, Another Mother for Peace.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Request you take immediate Senatorial action blocking unconstitutional, unlicensed imprudent action announced today.

JOHN and MARY JEAN DEROSIER.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We will not tolerate neither money nor arms nor advisers nor troops in Cambodia.

Mr. and Mrs. DANIEL E. WEINBERG.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Urge you to oppose in all possible ways any commitment in Cambodia.

Mr. and Mrs. WILLIAM D. MUNRO.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

As a Republican I strongly protest the involvement of Americans in Cambodia.

THEODORE F. RYAN.

MINNEAPOLIS, MINN.

Hon. WALTER MONDALE,  
Washington, D.C.:

Stop the President's move to send U.S. forces to Cambodia.

Mr. and Mrs. RAY CHISHOLM.

MINNEAPOLIS, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

Applaud your challenge of the President on ABM urge your challenge of him on Cambodian intervention.

ELDON MASON.

AUSTIN, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We must stop involvement in Cambodia.

ELIZABETH HOLMES.

ST. PAUL, MINN.

Hon. WALTER F. MONDALE,  
Washington, D.C.:

We protest our additional involvement in Cambodia.

Mr. and Mrs. RICHARD J. NOVAK.

DULUTH, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

We strongly oppose U.S. involvement in Cambodia please help bring our boys home.

Mr. and Mrs. RONALD J. WURSEN.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Pressure President, military abandon mad Asiatic nightmare before country completely bankrupt morally, financially.

Mrs. ROBERT A. GRAY.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Congress must act immediately to halt Cambodian intervention stop no more Vietnams.

MARTHA ROSEN.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We deeply protest any further involvement in Asian war.

Mr. and Mrs. NORMAN ROSE.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Urge you exert every effort and influence to end Asian and Middle East involvement.

Mrs. JOHN W. PETERSON.

DULUTH, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

No expansion of war in Southeast Asia or military aid to Cambodia.

Mr. and Mrs. THOMAS VECCHI.

DULUTH, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

America wants formal commitment. Pro or con. Please have vote.

L. and S. CHRISTIANSON.

NORTHFIELD, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Deeply disturbed by President's decision on Cambodia. Implore you to oppose U.S. military involvement there.

CARL and DOROTHY HOLMGREN.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Cambodian adventure shocking betrayal. American democratic process demand withdrawal on moral legal humanitarian grounds.

Mr. and Mrs. FRED PTASHNE.

DULUTH, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Our family strongly opposes enlarging the war in Asia. Please do something.

NORMAN SUNDQUIST FAMILY.

DULUTH, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

I strongly oppose any involvement in Cambodia.

Mrs. YALE DAVIS.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Having heard the address by the President I want you to know as one of your constituency that I support in essence the President's decision. I hope you will support him.

Sincerely,

JOHN I. OWEN.

DULUTH, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Strongly opposed extension of military involvement in Indo-China. Urgently request immediate and total withdrawal of all US troops. United Nations, not the U.S. should police the world. Priorities at home make this imperative. Since we are so deeply committed to ABM and MIRV programs it is criminal to dissipate American lives in foreign wars. We demand Congressional action prerequisite to continuance or extension of involvement in Southeast Asia. Press for UN action in Southeast Asia.

DULUTH DFL WOMEN.

HAGER CITY, WIS.

Senator WALTER MONDALE,  
Washington, D.C.:

Get Vietnam war stopped. No military help for Cambodia.

MARY GWEN OWEN SWANSON.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

The Asian war must be stopped. Not escalated. The Senate must say no to Cambodia.

Mrs. JANET KAMPS.

MINNEAPOLIS, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

While we cannot speak for the silent majority, we have no interest in maintaining a powerful image, saving face, or any of the other irrationalizations that have been used as justification for the continuation and ex-

tension of this war. The President's action in sending troops into Cambodia is reprehensible. We applaud your antiwar stand and trust that you will do everything possible to stop the President from pursuing this course of action.

SUE DEVRIES.  
PEGGY NEWTON.  
JANICE THYER.  
JANET KINNEY.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Please support the President on Cambodia.  
Dr. and Mrs. RALPH R. GRAMS.

MOUND, MINN.

Senator WALTER F. MONDALE,  
Washington, D.C.:

Nixon's action is a blatantly illegal executive usurpation of war making power. Our duly elected officials in Congress must prevent this destruction of our constitutional system.

PAT and FRED FREVERT.

EDINA, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

President Nixon does not hear voice of silent majority who wish hope and pray to end Vietnam and its involvements we now have extension of this war so "we will not be humiliated we will not be defeated" wise men have swallowed pride and admitted defeat before and probably will again isn't there anything you as our elected representative can do or should the silent majority find out whether only voice heard is that of the striker anarchist rioter.

RICHARD B. BARNES.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We want our boys not our prestige no to Nixon.

The RICHARD SWANSON FAMILY.  
CANDY McDONALD.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Stop the President and the Generals.  
HOWARD and MARY ANN HUELSTER.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Violently opposed to entering Cambodia please stop President and end this war.

Dr. and Mrs. ERNEST M. HAMMES, JR.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Our absolute support in opposing Nixon's foreign policy position in the expansion of war in Indochina.

JOHN E. HARRIS.  
BESSIE HARRIS.  
KAREN.  
JOHN.

PALO ALTO, CALIF.

Honorable WALTER MONDALE,  
Washington, D.C.:

Preserve Senates integrity and national honor keep us out of Cambodia Minnesota voter at Stanford.

ROBERT I. FINK.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

For God's sake stop Nixon's Indochina war now. We support all your efforts to restore

CXVI—871—Part 10

sanity to U.S. foreign and domestic policy. The Administration's lack of reason, morality and responsibility warrants censure or if necessary impeachment.

Mr. and Mrs. PAUL S. HIGGINS.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Get out of Cambodia as well as Vietnam.  
Col. and Mrs. NAT WISSER.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We voters strongly urge you to continue your fight against Cambodian involvement.  
Dr. and Mrs. F. E. FLYNN MICHAEL.

ST. PAUL, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

Can't we ever learn from our mistakes?  
Censure him.

Mr. and Mrs. RUSSELL HOBIE,  
Precinct Chairman, Falcon Heights Four.

MINNEAPOLIS, MINN.

Senator WALTER MONDALE,  
Washington, D.C.:

We are appalled at the action of President Nixon of involving U.S. forces in Cambodia. This action is not only in direct contradiction to Senate, congressional and public view, but also to Nixon's own stated policy of disengagement from S.E. Asia.

We encourage your support of Senate moves for immediate disengagement of U.S. forces from Cambodia.

Bruce Hanson, Leroy Curwick, Kay Curwick, Tim Callaghan, Donald Kuist, Ron Bennett, Kathryn Bennett, Jon Zbasnik, Paul Tamm, Tie Hutchinson, Lie Toth, Lanny Schmidt, Leroy Clauenna, Douglas Stone, Robert Carr, Howard Hickman, Richard Minday, Edward Conway, Departments of Metallurgical, Mineral, and Chemical Engineering, University of Minnesota at Minneapolis.

EDINA, MINN.,  
May 1, 1970.

Senator WALTER F. MONDALE,  
Washington, D.C.:

We disagree completely with Nixon's speech of this date.

Dr. and Mrs. EDWARD G. HUSTAD.

MANKATO, MINN.,  
May 1, 1970.

Senator WALTER MONDALE,  
Washington, D.C.:

Please do all in your power to stop expansion of war in Cambodia and to end American involvement in Viet Nam. The President's speech and announced military plans are a profound threat to democracy in the United States and to world peace.

JANE and JOHN FOSTER.

MINNEAPOLIS, MINN.,  
May 1, 1970.

Senator WALTER MONDALE,  
Washington, D.C.:

We adamantly oppose any U.S. involvement in Cambodia. Support any action you take to prevent same.

Respectfully,

Mr. and Mrs. STEVE WIETING.

ST. PAUL, MINN.,  
May 1, 1970.

Senator WALTER MONDALE,  
Washington, D.C.:

I oppose the President's decision to enter Cambodia. Congress must end the war now.  
MRS. DONALD HAARSTICK.

ST. PAUL, MINN.,  
May 1, 1970.

Senator WALTER MONDALE:  
Washington, D.C.:

We deplore the capitulation of President Nixon to the military industrial complex in their latest venture into Cambodia. We hope the Senate will demonstrate more wisdom.  
Judge and Mrs. HYAM SEGELL.

ST. PAUL, MINN.,  
May 1, 1970.

Senator WALTER MONDALE,  
Washington, D.C.:

There is a fourth option: withdrawal from all Indochina and to hell with "our humiliation."

C. STEVENSON.

MINNEAPOLIS, MINN.,  
May 1, 1970.

Senator WALTER MONDALE,  
Washington, D.C.:

Congratulations. Tonight we are very proud of our President. An American first and a politician second. A man with the courage to tell his countrymen, and the world, that the time has arrived when Americans will stand and be counted.

Mr. and Mrs. L. A. ELSTAD.

Mr. CHURCH. Mr. President, I want to say to the distinguished Senator from Minnesota that I appreciate his contribution. My experience is the same. As early as yesterday morning, my office received a telegram from my own hometown of Boise, Idaho, with more than 250 signatures on it which, in the matter of an hour or two, had been pulled together and sent to me.

The word from home keeps coming in much the same way as the Senator from Minnesota has described the reaction from his State.

Mr. JORDAN of Idaho. Mr. President, for the first time since Vietnam hostilities began, the President has launched a bold new offensive to strike the enemy headquarters sanctuary and staging centers across a border that for 5 long years has been neutral in name only. By so doing, he has broadened the war for the purpose of saving the lives of American soldiers already committed to action in South Vietnam.

I am in full agreement with his stated objective. Without better information than is now available to me I cannot challenge his judgment. For this reason, I have no other choice but to support him for a reasonable time, but I do it sadly and with great reluctance. If I am less than enthusiastic it is because too often in the past 5 years we have been led down the primrose path of hope only to end in deeper involvement and greater disaster.

It has been evident for some time that neither side can be victorious in this miserable war. It has become a nightmare that haunts us day and night and threatens the unity of our Nation. In lives and treasure the cost is too great to long endure. I hope and pray that the President's judgment will be vindicated by early achievement of his stated objective; that is, to shorten the war and save the lives of Americans.

Fifteen months ago President Nixon became Commander in Chief. He inherited a war that was hopelessly bogged down with an insatiable demand for more

men and more money. He has reversed that trend. American troops are coming home. Steadfastly and surely he has implemented a course of disengagement. On the basis of that record and in furtherance of that objective he is entitled to more time.

Mr. ANDERSON. Mr. President, I listened with great interest to President Nixon's speech concerning Cambodia last night. His remarks correctly emphasized the grave nature of the decision to send thousands of American troops into Cambodia. I know it was an agonizing decision to make, and I sympathize with the President for having to make it.

But I simply cannot give my assent to U.S. military intervention in Cambodia. If Vietnam has taught us anything, it is that seemingly small, temporary decisions become escalating commitments. Once on the slippery slope of war in Asia, it is almost impossible to climb out. Deepening involvement in a wider Indochinese war, just as we are wisely disengaging from Vietnam, would be a grave mistake and a tragedy.

It is rare that I speak out on international issues, Mr. President. I am not and do not pretend to be an expert on the complex affairs of Southeast Asia. It is my duty, however, to speak out clearly and strongly when our Nation is embarking on a new, dangerous, and potentially very tragic course. I speak with compassion—for the President and his advisers, and for American soldiers in Asia—but I also speak with conviction. If I were to remain silent, I would not be fulfilling my obligation to the people of my State and this Nation.

While I do not intend to address myself to specific aspects of the war in Indochina, I feel compelled to point out several general issues relating to the American involvement there.

First, it should be noted that President Nixon's speech contained several fallacies and contradictions. The President stated that the raid by American troops on sanctuaries was essentially a defensive measure to protect the continued success of the Vietnamization program. It is a contradiction to call a rather large offensive operation, in another country, a defensive measure for troops in Vietnam. We can and should take defensive actions to protect American soldiers in Vietnam, but it is quite a different thing to introduce thousands of offensive troops into Cambodia for this purpose.

Second, that large intervention into Cambodia could have the undesirable and eventually tragic effect of causing the North Vietnamese soldiers now in the sanctuaries to divert their attention to Phnompenh, the capital of Cambodia. Then we could, and undoubtedly would, be called upon to provide even more extensive aid to that Government than has already been the case. The call for assistance would be a difficult one to resist, once American troops already were fighting in Cambodia. The Government in Cambodia is a new one, it came to power through undemocratic means, and it certainly cannot be said to have the full support of the Cambodian people. We must not find ourselves in the untenable

position of having the Cambodian regime as a client state of the United States, one in which we have a vested interest. But that is the course upon which we are embarked.

Third, it must be said that President Nixon is deluding himself—or is being deluded by his advisers—if he believes the massive raid on Cambodian sanctuaries can be a clean, fast, surgical military operation. Another thing we have learned, or at least should have learned, from Vietnam is that land operations in the jungles of Asia are never clean, fast, and surgical. War in Asia is like quicksand. It drags down and entraps the well-meaning as well as those we regard as the enemy. It is tempting to believe that a quick raid into heretofore forbidden territory would hasten the end of the Asian conflict, but, sadly, Vietnam has taught us that this cannot be. The President may well believe that the actions he announced are temporary and moderate, but the risks of wider involvement are grave and cannot be ignored.

Fourth, it is time to raise the constitutional question. The Congress, as almost all of us now agree, was remiss in its duties by allowing the executive branch alone to engage the United States so deeply in Vietnam in the absence of a declaration of war. I am as blameworthy as anyone, Mr. President, and I certainly do not intend to plead a case here. I am simply saying that, with this as with other issues, Vietnam should have taught us a lesson. The effect of President Nixon's decision was to commit thousands of American soldiers to offensive action in Cambodia. To contend that we are scrupulously respecting Cambodia's neutrality does not change the facts. Our actions belie the words. It could well be that the Congress would, once examining the facts, decide that a declaration of war would be necessary. I doubt very seriously that it would, but it is possible. In the meantime, however, this has not occurred. And so I believe we should respond very alertly to the constitutional issue involved, and not continue to abrogate our constitutional responsibility.

Finally, Mr. President, I am gravely concerned about our own country. I fear that a wider land war in Asia—whether declared or not, but especially if not—will further aggravate the tensions in the United States and worsen the climate of violence.

Let me reiterate that I sympathize with President Nixon. I fully recognize that he is under intense, conflicting pressures. Only the President himself can fully realize the intensity of those pressures, and only he can cope with them. But our great, enduring Constitution requires that we, the elected representatives of the people, share with the executive the grave issues of war and peace. We cannot embark on a unilateral, offensive military intervention in Cambodia. In that decision lies the seeds of a wider, more bloody conflict throughout Indochina.

Mr. INOUE. Mr. President, I know it is the prayer of every American that the new course, upon which the President has now embarked our Nation in Indochina is a correct one. This is a prayer

which I share deeply and fully. As a Member of the U.S. Senate and as an American citizen, I want very much to support my President, particularly on an issue of such magnitude in these trying times.

But if the experience of this past decade has within it any lessons—particularly for the Congress—for those of us who are fixed with some direct responsibility for the conduct of our Nation's foreign policy—then we must recognize the act on that higher responsibility to our Nation's welfare. This is too important a matter to leave to those who demonstrate in the streets. We cannot abdicate our responsibility.

I, therefore, respectfully announce that I cannot support the President's decision to widen the war. I deplore the President's decision to launch an American attack into Cambodia. I regret and disagree with his decision to send material to the troops of Lon Nol. This decision makes a sham of our policy of Vietnamization—of our policy to disengage and withdraw troops from Vietnam. It destroys our hopes for reduced draft calls. And worst of all it adds as yet untold numbers to the more than 41,000 young Americans who have died in combat to date in this longest war in our history.

The President's words and actions must make us doubt our ability to learn from the past. These are the same arguments which were summoned forth in sending advisers to South Vietnam a decade ago. These are but a repetition of what we heard when advisers became combat divisions. It is but a reiteration of the voices which were raised in justification of the bombing of North Vietnam. Must each American President learn anew from the experience of his own administration?

Our President's message of April 30 indicates that this may be so. With this message he opened another and even more dangerous chapter in the tragedy of our involvement in Indochina. History shows that this involvement came in a three-step phase. First, American advisers were sent to assist the South Vietnamese. Second, with the Tonkin Gulf resolution, our President requested of the Senate the authority to deploy American combat troops into Vietnam. This measure met with the overwhelming support of the Senate, with only two Senators voting against it. Third, was the bombing of North Vietnam. The war escalated and still there was no victory in sight and President Johnson then moved to de-escalate the war.

And now, President Nixon has opened a new phase of this tragedy, with one fell swoop, by announcing this expansion of the conflict and our involvement in it to Cambodian soil. Not only were American advisers being used in an attack on Cambodia but American troops were also being deployed for this purpose.

With this announcement, our President presented us with a fait accompli. His announcement was made without prior consultation with the Senate, much less its approval. In fact, only a few days ago while plans were being made to send our troops into Cambodia and some men were dispatched on this mission, our Secretary of State sat before the Senate For-

Foreign Relations Committee and assured its members that the administration had no plans to become embroiled in the Cambodian conflagration.

By his act President Nixon has now renounced his own statement of policy and purpose of last November. This is no longer a war to be curtailed, contained or settled politically. This is now once again a war for military victory.

The President justifies his action as necessary to prevent the defeat and humiliation of our great Nation. Frankly, what is so wrong with a great people swallowing some pride and admitting mistake? What is the test to true greatness? Is it to continue and expand a bankrupt policy? I think not. I pray not.

Can we possibly achieve peace by insisting that it is Hanoi, and China, and the Soviet Union, which must acknowledge defeat and admit humiliation? I think not.

If we are to be true to ourselves—to our highest ideals—we must be big enough to place the peace of the world and the saving of human life above saving face. We must be willing to admit error and so adjust our policy. For neither our conscience nor the conscience of mankind will permit us to use our awesome weapons of war which will be essential if we insist on military victory and expand this conflict to that end.

I shall, therefore, exert my every effort to try to bring an early end to this new involvement.

#### LET US GIVE THE PRESIDENT A CHANCE

Mr. BENNETT. Mr. President, again, last night, we witnessed the heavy and almost indescribable burdens of the Presidency. In his role as Commander in Chief of the U.S. military forces, President Nixon was required to make a historic and agonizing decision. It will not be popular and it will complicate even further the chaotic domestic political situation.

Nevertheless last evening I gained a new and a deeper respect for President Nixon. He exhibited to this Nation a dramatic "profile in courage."

Based upon information available only to him, President Nixon decided, over a period of several days, that American lives would be increasingly threatened by North Vietnam and Vietcong buildups in sanctuaries located in Cambodia, just over the South Vietnam border. He correctly determined that to allow this buildup to continue would be a serious threat to his Vietnamization efforts and to American fighting men in South Vietnam. The President realized the need for decisive action.

For more than 2 years this Nation has deescalated the war in Vietnam. We have stopped all bombing north of the 17th parallel. We have withdrawn nearly 100,000 troops. We have done more than should be expected from a world power desiring of peace. Parenthetically, I should point out that North Vietnam has failed to take any similar action; and in the days and weeks ahead, when the President is denounced at home and abroad by his opponents and by his enemies, I recommend that all Americans remember that fact.

For 2 years the United States has been saying, "I am scaling down the war; I am meeting, in part, the demands of the enemy." And, in the process, we have been saying if you do not negotiate, "I will continue to deescalate." That has always struck me as being a strange way to deal with an aggressive nation.

Now the President has put Hanoi on notice that if they do not negotiate and if they continue to ignore the peace initiatives of the United States, they cannot expect further capitulation.

I personally believe President Nixon has enhanced the possibility of serious negotiations. If, on the other hand, Hanoi fails to get that message, they must suffer the consequences.

There has been some criticism aimed at the President, charging that he has violated the neutral rights of Cambodia. Until the time when Prince Sihanouk was replaced in Cambodia, the allied powers respected the neutrality of that nation as it was created in the 1954 Geneva accords. We paid dearly for that respect of neutrality because for many years North Vietnam has violated the Geneva accords in this respect, as well as the 1962 agreement making Laos a neutral state. The Communists have transported their troops and supplies through these neutral nations to be gathered in sanctuaries for later use against American and allied personnel. The Communists returned to these sanctuaries for retraining and to treat their wounded and to resupply. For many years we followed those Communist forces to the border and then stood helplessly by while they prepared further attacks almost within the view of our forces. After the fall of Prince Sihanouk, the situation in Cambodia became precarious. The Communists not only are threatening the capital of Cambodia, but they are in a position to use these sanctuaries along South Vietnam's border as never before.

President Nixon has fully recognized this threat, and he wisely has decided not to wait until it became a reality in the form of new and intensified attacks on allied positions and personnel. I feel it would be the height of irresponsibility for the Commander in Chief to stand by any longer while these sanctuaries are improved and broadened by the North Vietnamese Government. We have not violated the neutrality of Cambodia. It has been violated long and extensively by the Communists, and I believe this Nation has a right with its allies to deny these privileged sanctuaries to the enemy.

There has been and will be a great deal said about the President's right to do this. He has assured us this is not an invasion of Cambodia per se, nor is it a widening of the war into other nations, as has been alleged. The President stated that after the sanctuaries have been cleaned out American personnel will return behind the borders of South Vietnam. I believe the President of the United States not only because I accept Richard Nixon as an honest President, but because I believe when a man lays the office of the Presidency on the line and the fate of his own political party, he is not playing games with the truth. There is, at this time, a great deal of

consternation about why the President never consulted the Congress. The Senate is the greatest deliberative body in the world, and in most cases it must be consulted. Unfortunately, it also can be one of the leakiest bodies in the world. Had the President called in the Congress, there is a good chance that the element of surprise so vital to the success of this operation would have been lost. The President is the only man with all of the facts available to him. He has determined that an attack on the Communist headquarters and other sanctuaries is necessary. This is basically a tactical decision by the Commander in Chief. I frankly do not view it as a decision requiring congressional approval. I am somewhat encouraged that President Nixon is weighing carefully the advice of his military experts. For too long in the previous administration military criteria were not given the necessary consideration.

The President has assured the country that this operation will be ended as soon as possible and that he has no intention of sending American troops into Cambodia on a permanent basis, nor does he have any intention of occupying any real estate.

In closing, I would like to say also that we face in America a time of serious crisis. I do not support, I am not in sympathy with the protest movements that are systematically destroying some of our great universities and decaying many of our institutions. I do believe, however, that many of the goals of our young people are commendable, and we have much to do at home. I think we can better succeed in improving the quality of American life if we can end the Vietnam war honorably and as early as possible.

I call upon all Americans, and particularly the people of Utah, to stand behind our President.

I think one of the proudest moments in our history was in October 1962 when our youngest President faced the crisis that became the Cuban missile situation. For several days, in spite of the decisions and factors that led to that crisis, almost all Americans stood behind John F. Kennedy and party differences were forgotten. At a time when a courageous decision was made, the President had the support of the people.

I will stand behind my President now because he is my President and the Commander in Chief of the military forces of this Nation. Let us give him a chance.

#### THE CAMBODIAN INVASION—A MONSTROUS MISTAKE

Mr. WILLIAMS of New Jersey. Mr. President, like millions of other Americans, I was shocked by President Nixon's announcement that American combat troops have attacked across the Cambodian border.

This operation is a monstrous mistake which could have tragic consequences for the United States. It is wrong, it is indefensible, and it should be ended immediately.

American military forces are now involved in a full-scale combat operation within the borders of a country we previously recognized as neutral.

We have no military treaty commitments to Cambodia. The Government of

that country has not asked us to commit our fighting men. It is very difficult to see how it is in any way in our national interest to fight in Cambodia. Yet, we are there.

Our actions amount to an invasion. No amount of far-fetched arguments can change the fact that we have sent American troops, uninvited, into a sovereign nation. This cannot be explained away, and it cannot be justified.

There is no question that this action represents a major broadening of the war. Whereas yesterday we were fighting a Vietnam war, today we are fighting an Indochina war. What will tomorrow bring?

The events of yesterday seem like a nightmare. It is a nightmare we have lived through before. I cannot believe we are being asked to live through it again.

It will do no good for the administration to label our invasion of Cambodia a "surgical strike" or a "counterattack" or a "one-shot" operation.

The truth is that the Cambodian operation represents a deliberate escalation of the war in Southeast Asia.

The truth is that this Cambodian intervention, if allowed to continue, can commit our country to fight an endless war throughout Indochina.

The truth is that President Nixon has reversed whatever slight movement existed toward disengagement of American troops from Southeast Asia.

Mr. Nixon's attempt to justify his actions through a direct appeal to the American people was dramatic. It was also irrelevant.

The emphasis he put on politics, on the question of whether he would be a one-term or a two-term President, should have had no place in a discussion of major new military action.

The politics of a situation is not a consideration that should go into making a judgment involving the lives of American fighting men.

The arguments Mr. Nixon advanced to justify the military escalation were not new. They have been advanced by some generals for the past 5 years.

But even President Johnson, while tragically escalating our role in Vietnam, did not allow himself to be convinced that it was in our interest to invade Cambodia.

Twice before this country's leaders have justified widening the war in Southeast Asia by saying the action was necessary to protect our troops. Each time it led only to the deaths of thousands of additional American fighting men.

This argument is no longer acceptable. There is only one certain way to protect the lives of our troops in Vietnam, and that is to bring them home.

I believe President Nixon has abandoned his promise to end, as quickly as possible, the war in Vietnam. That promise led many Americans to place their faith in Mr. Nixon, and now they are shocked, frustrated, and bitter over his actions.

Telephone calls and telegrams have been pouring into my office without interruption since word of the Cambodian invasion first reached us.

They have been virtually unanimous in their indignation over the President's

actions and their insistence on an immediate halt to the Cambodian operation. I am sure the situation has been the same in the office of every other Member of Congress.

A couple in Clifton, N.J. wired they were "outraged" over the "Cambodia escapade."

A man in Newark pleaded:

For God's sake, keep us out of Cambodia.

And a man from Arlington, N.J. said:

The actions of Washington at this hour are beyond the comprehension of reasonable men everywhere.

Mr. President, I agree. This Cambodian intervention is beyond the comprehension of reasonable men.

Just 10 days ago Mr. Nixon told us, in relation to Vietnam:

We finally have in sight the just peace we are seeking.

Today, we have lost sight of that peace.

I implore President Nixon to call an immediate halt to the Cambodian invasion. The American people are sick of this endless war in Southeast Asia. They are sick of seeing their sons sucked into the jungle on the other side of the world.

The American people want peace, not a new war. I cannot believe the President will ignore the overwhelming sentiment of the people. I fervently hope he does not.

#### AMENDMENT OF SECTION 3006A OF TITLE 18, UNITED STATES CODE

Mr. HRUSKA. Mr. President, on yesterday, the Senate passed S. 1461, the Criminal Justice Act. One of the amendments made by the committee had inadvertently not been entered in the text of the bill. It appears in the report. It is in the minutes of the committee. It is the desire of the committee and the managers of the bill to correct that situation.

I ask unanimous consent, therefore, that the vote by which S. 1461 was passed yesterday be reconsidered, together with the third reading of the bill, and that the bill be amended on page 15, line 9, to strike out the figure "\$20" and insert "\$30", and that the bill as thus amended be passed.

The PRESIDING OFFICER (Mr. ALLEN). Is there objection? The Chair hears none, and it is so ordered.

The bill (S. 1461), as amended, read the third time, and passed, is as follows:

S. 1461

An act to amend section 3006A of title 18, United States Code, relating to representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That (a) subsections (a)-(f) of section 3006A of title 18, United States Code, are amended to read as follows:

"(a) CHOICE OF PLAN.—Each United States district court, with the approval of the judicial council of the circuit, shall place in operation throughout the district a plan for furnishing representation for any person financially unable to obtain adequate representation (1) who is charged with a felony or misdemeanor (other than a petty offense as

defined in section 1 of this title) or with a violation of probation, (2) who is under arrest, (3) who is subject to revocation of parole, in custody as a material witness, or seeking collateral relief, as provided in subsection (g), or, (4) for whom the Sixth Amendment to the Constitution or any Federal law requires the appointment of counsel. Representation under each plan shall include counsel and investigative, expert, and other services necessary for an adequate defense. Each plan shall include a provision for private attorneys. The plan may include, in addition to a provision for private attorneys in a substantial proportion of cases, either of the following or both:

(1) attorneys furnished by a bar association or a legal aid agency; or

(2) attorneys furnished by a defender organization established in accordance with the provisions of subsection (h).

Prior to approving the plan for a district, the judicial council of the circuit shall supplement the plan with provisions for representation on appeal. The district court may modify the plan at any time with the approval of the judicial council of the circuit. It shall modify the plan when directed by the judicial council of the circuit. The district court shall notify the Administrative Office of the United States Courts of any modification of its plan.

"(b) APPOINTMENT OF COUNSEL.—Counsel furnishing representation under the plan shall be selected from a panel of attorneys designated or approved by the court, or from a bar association, legal aid agency, or defender organization furnishing representation pursuant to the plan. In every criminal case in which the defendant is charged with a felony or a misdemeanor (other than a petty offense as defined in section 1 of this title) or with a violation of probation and appears without counsel, the United States magistrate or the court shall advise the defendant that he has the right to be represented by counsel and that counsel will be appointed to represent him if he is financially unable to obtain counsel. Unless the defendant waives representation by counsel, the United States magistrate or the court, if satisfied after appropriate inquiry that the defendant is financially unable to obtain counsel, shall appoint counsel to represent him. Such appointment may be made retroactive to include any representation furnished pursuant to the plan prior to appointment. The United States magistrate or the court shall appoint separate counsel for defendants having interests that cannot properly be represented by the same counsel, or when other good cause is shown.

"(c) DURATION AND SUBSTITUTION OF APPOINTMENTS.—A person for whom counsel is appointed shall be represented at every stage of the proceedings from his initial appearance before the United States magistrate or the court through appeal, including ancillary matters appropriate to the proceedings. If at any time after the appointment of counsel the United States magistrate or the court finds that the person is financially able to obtain counsel or to make partial payment for the representation, it may terminate the appointment of counsel or authorize payment as provided in subsection (f), as the interests of justice may dictate. If at any stage of the proceedings, including an appeal, the United States magistrate or the court finds that the person is financially unable to pay counsel whom he had retained, it may appoint counsel as provided in subsection (b) and authorize payment as provided in subsection (d), as the interests of justice may dictate. The United States magistrate or the court may, in the interests of justice, substitute one appointed counsel for another at any stage of the proceedings.

"(d) PAYMENT FOR REPRESENTATION.—

"(1) HOURLY RATE.—Any attorney appointed pursuant to this section or a bar association or legal aid agency or community defender organization which has provided the

appointed attorney shall, at the conclusion of the representation or any segment thereof, be compensated at a rate not exceeding \$30 per hour for time reasonably expended and shall be reimbursed for expenses reasonably incurred, including the costs of transcripts authorized by the United States magistrate or the court.

"(2) MAXIMUM AMOUNTS.—For representation of a defendant before the United States magistrate or the district court, or both, the compensation to be paid to an attorney or to a bar association or legal aid agency or community defender organization shall not exceed \$1,000 for each attorney in a case in which one or more felonies are charged, and \$400 for each attorney in a case in which only misdemeanors are charged. For representation of a defendant in an appellate court, the compensation to be paid to an attorney or to a bar association or legal aid agency or community defender organization shall not exceed \$1,000 for each attorney in each court. For representation in connection with a post-trial motion made after the entry of judgment or in a probation revocation proceeding or for representation provided under subsection (g) the compensation shall not exceed \$250 for each attorney in each proceeding in each court.

"(3) WAVING MAXIMUM AMOUNTS.—Payment in excess of any maximum amount provided in paragraph (2) of this subsection may be made for extended or complex representation whenever the court in which the representation was rendered, or the United States magistrate if the representation was furnished excessively before him, certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the chief judge of the circuit.

"(4) FILING CLAIMS.—A separate claim for compensation and reimbursement shall be made to the district court for representation before the United States magistrate and the court, and to each appellate court before which the attorney represented the defendant. Each claim shall be supported by a sworn written statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the United States magistrate and the court, and the compensation and reimbursement applied for or received in the same case from any other source. The court shall fix the compensation and reimbursement to be paid to the attorney or to the bar association or legal aid agency or community defender organization which provided the appointed attorney. In cases where representation is furnished exclusively before a United States magistrate, the claim shall be submitted to him and he shall fix the compensation and reimbursement to be paid. In cases where representation is furnished other than before the United States magistrate, the district court, or an appellate court, claims shall be submitted to the district court which shall fix the compensation and reimbursement to be paid.

"(5) NEW TRIALS.—For purposes of compensation and other payments authorized by this section, an order by a court granting a new trial shall be deemed to initiate a new case.

"(6) PROCEEDINGS BEFORE APPELLATE COURTS.—If a person for whom counsel is appointed under this section appeals to an appellate court or petitions for a writ of certiorari, he may do so without prepayment of fees and costs or security therefor and without filing the affidavit required by section 1915(a) of title 28.

"(e) SERVICES OTHER THAN COUNSEL.—

"(1) UPON REQUEST.—Counsel for a person who is financially unable to obtain investigative, expert, or other services necessary for an adequate defense may request them in an ex parte application. Upon finding, after appropriate inquiry in an ex parte

proceeding, that the services are necessary and that the person is financially unable to obtain them, the court, or the United States magistrate if the services are required in connection with a matter over which he has jurisdiction, shall authorize counsel to obtain the services.

"(2) WITHOUT PRIOR REQUEST.—Counsel appointed under this section may obtain, subject to later review, investigative, expert, or other services without prior authorization if necessary for an adequate defense. The total cost of services obtained without prior authorization may not exceed \$150 and expenses reasonably incurred.

"(3) MAXIMUM AMOUNTS.—Compensation to be paid to a person for services rendered by him to a person under this subsection, or to be paid to an organization for services rendered by an employee thereof, shall not exceed \$300, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the court, or by the United States magistrate if the services were rendered in connection with a case disposed of entirely before him, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit.

"(f) RECEIPT OF OTHER PAYMENTS.—Whenever the United States magistrate or the court finds that funds are available for payment from or on behalf of a person furnished representation, it may authorize or direct that such funds be paid to the appointed attorney, to the bar association or legal aid agency or community defender organization which provided the appointed attorney, to any person or organization authorized pursuant to subsection (e) to render investigative, expert, or other services, or to the court for deposit in the Treasury as a reimbursement to the appropriation, current at the time of payment, to carry out the provisions of this section. Except as so authorized or directed, no such person or organization may request or accept any payment or promise of payment for representing a defendant."

(b) Subsections (g), (h), and (i) of this section are redesignated as subsections (j), (k), and (l), respectively, and the following new subsections (g) and (h) are inserted before subsection (i) as redesignated by this subsection:

"(g) DISCRETIONARY APPOINTMENTS.—Any person subject to revocation of parole, in custody as a material witness, or seeking relief under section 2241, 2254, or 2255 of title 28 or section 4245 of title 18 may be furnished representation pursuant to the plan whenever the United States magistrate or the court determines that the interests of justice so require and such person is financially unable to obtain representation. Payment for such representation may be as provided in subsections (d) and (e).

"(h) DEFENDER ORGANIZATION.—

"(1) QUALIFICATIONS.—A district or a part of a district in which at least two hundred persons annually require the appointment of counsel may establish a defender organization as provided for either under subparagraphs (A) or (B) of paragraph (2) of this subsection or both. Two adjacent districts or parts of districts may aggregate the number of persons required to be represented to establish eligibility for a defender organization to serve both areas. In the event that adjacent districts or parts of districts are located in different circuits, the plan for furnishing representation shall be approved by the judicial council of each circuit.

"(2) TYPES OF DEFENDER ORGANIZATIONS.—

"(A) FEDERAL PUBLIC DEFENDER ORGANIZATION.—A Federal Public Defender Organization shall consist of one or more full-time salaried attorneys. The organization shall be supervised by a Federal Public Defender appointed by the judicial council of the circuit,

without regard to the provisions of title 5 governing appointments in the competitive service, after considering recommendations from the district court or courts to be served. The Federal Public Defender shall be appointed for a term of four years, unless sooner removed by the judicial council of the circuit for incompetency, misconduct in office, or neglect of duty. The compensation of the Federal Public Defender shall be fixed by the judicial council of the circuit at a rate not to exceed the compensation received by the United States attorney for the district where representation is furnished or, if two districts or parts of districts are involved, the compensation of the higher paid United States attorney of the districts. The Federal Public Defender may appoint, without regard to the provisions of title 5 governing appointments in the competitive service, such full-time attorneys and other personnel as may be necessary. Compensation paid to such attorneys and other personnel of the organization shall be fixed by the Federal Public Defender at a rate not to exceed that paid to attorneys and other personnel of similar qualifications and experience in the office of the United States attorney in the district where representation is furnished or, if two districts or parts of districts are involved, the higher compensation paid to persons of similar qualifications and experience in the districts. Each organization shall submit to the Director of the Administrative Office of the United States Courts, at the time and in the form prescribed by him, reports of its activities and financial position and its proposed budget. The Director of the Administrative Office shall submit to the President a budget for each organization for each fiscal year and shall out of the appropriations therefor make payments to and on behalf of each organization. Payments under this subparagraph to an organization shall be in lieu of payments under subsection (d) or (e).

"(B) COMMUNITY DEFENDER ORGANIZATION.—A Community Defender Organization shall be a nonprofit defense counsel service established and administered by any group authorized by the plan to provide representation. The organization shall be eligible to furnish attorneys and receive payments under this section if its bylaws are set forth in the plan of the district or districts in which it will serve. Each organization shall submit to the Judicial Conference of the United States an annual report setting forth its activities and financial position and the anticipated caseload and expenses for the coming year. Upon application an organization may, to the extent approved by the Judicial Conference of the United States:

"(i) receive an initial grant for expenses necessary to establish the organization; and  
 "(ii) in lieu of payments under subsection (d) or (e), receive periodic sustaining grants to provide representation and other expenses pursuant to this section."

Sec. 2. A United States commissioner for a district may exercise any power, function, or duty authorized to be performed by a United States magistrate under the amendments made by the first section of this Act if such commissioner had authority to perform such power, function, or duty prior to the enactment of such amendments.

Sec. 3. The provisions of this Act shall be applicable in the District of Columbia. The plan for the District of Columbia shall be approved jointly by the District of Columbia Court of Appeals, and the Judicial Council of the District of Columbia Circuit.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MANSFIELD, from the Committee on Foreign Relations, without amendment:

S. Con. Res. 64. A concurrent resolution to terminate certain joint resolutions authorizing the use of the Armed Forces of the United States in certain areas outside the United States (Rept. No. 91-834).

By Mr. ANDERSON, from the Committee on Aeronautical and Space Sciences, with an amendment:

H.R. 16516. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (Rept. No. 91-833).

By Mr. EAGLETON, from the Committee on the District of Columbia, without amendment:

H.R. 12673. An act to authorize the transfer by licensed blood banks in the District of Columbia of blood components within the District of Columbia (Rept. No. 91-836).

By Mr. SPONG, from the Committee on the District of Columbia, with an amendment:

S. 2820. A bill to amend title II of the act of September 19, 1918, relating to industrial safety in the District of Columbia (Rept. No. 91-835).

### BILLS INTRODUCED

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

By Mr. BENNETT (for himself, Mr. Cook, and Mr. SMITH of Illinois):

S. 3788. A bill to amend the Coal Mine Health and Safety Act of 1969 to provide a period during which violations of health and safety standards promulgated thereunder may be corrected without the imposition of a civil penalty, and for other purposes; to the Committee on Labor and Public Welfare.

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

### S. 3788—INTRODUCTION OF A BILL TO AMEND THE COAL MINE HEALTH AND SAFETY ACT OF 1969

Mr. BENNETT. Mr. President, on December 30, 1969, the Federal Coal Mine Health and Safety Act of 1969 became law. This act was the culmination of several years of endeavor by the Interior Department, the coal industry, the United Mine Workers Union, and the Congress, and represented a tremendous step toward assuring the health and safety of the individual coal miner.

By the act, Congress charged the Department of the Interior with enforcement of its provisions, and the Department has relegated that function to the Bureau of Mines. However, in its enforcement of the act, the Bureau of Mines has brought to the surface several inherent defects in this act. It is those defects which I now seek to correct.

The Federal Coal Mine Health and Safety Act contains a countless number of explicit provisions governing the working conditions of this Nation's coal mines. It specifies, in great detail, the goals to be achieved, the equipment to be used in furthering the health and well-being of the coal miner, the permissible levels of coal dust in a cubic meter of air, the fines to be levied for noncompliance, and the appeals process by which the individual mine operator

can appeal those penalties levied against him. In specifically stating all of these things, the Congress was performing its constitutional function. But it now appears that we may have been overzealous.

This act went into full effect on March 30, 1970—just 90 days after it became law. In that 90-day period, both the Interior Department and the Department of Health, Education, and Welfare had to formulate and issue rules and regulations to assure the enforcement of this act. During that time also, at least theoretically, the mine operator was to make his plans for compliance with the act. This, at least, was the way things were supposed to happen.

But events did not proceed as planned. The regulations were not issued until March 31, in some cases, and the act went into full effect on April 1. There was no time for comment on the rules and regulations. There was no time for the mine operator, with a complete set of regulations in his possession, to make the necessary arrangements for compliance with the act. Yet, under the provisions of this act, Federal mine inspectors since April 1 have issued citations and notices of penalties assessed to mine operators across the country. These citations are for violations of all sections of the act, except those not yet in effect, and carry civil penalties of up to \$10,000 per violation cited. It is not difficult to sympathize with the small coal mine operator who has received 20 citations for violations of this act but who has not yet even received a copy of the regulations governing his operation.

But the problem is further compounded by several provisions of the act itself. The mine operator can be cited for violation of many provisions of the act which are impossible for him to fulfill. In some cases, the equipment required under the act is simply not available on the market—to anyone, for any price. In other cases, the act requires that the operator use equipment of a type approved by the Secretary of Interior. But there has not been sufficient time for adequate tests to be run on equipment, and consequently, the Secretary has not issued approvals for that equipment. Yet the act is so strong and so specific that it requires that citations issue to an operator who does not possess this equipment.

Mr. President, I cannot continue, as a U.S. Senator, to require the enforcement of provisions of this act when those provisions are impossible for the mine operator to fulfill, and it is in this sense that I introduce three amendments to this act. The Congress' power extends to areas other than just creating the law. The Congress also provides for the enforcement of the law, and at least attempts to exercise its responsibility of legislative review. In this latter process, we re-examine laws which we have created, probing them for inequities, for weaknesses, and measuring the effects which they have in fact against their intended effects. When a law does not live up to the intentions of Congress, the Congress must perform its duty to re-examine that law.

Mr. President, I feel that these three amendments will correct, or at least ameliorate, the inequities contained in the Federal Coal Mine Health and Safety Act of 1969. My first amendment retracts all civil penalties assessed to date and makes further civil penalties assessable only after September 1, 1970. In the meantime, however, it requires that careful, public records be kept of each violation of this act by either the mine operator or the individual miner, and further requires that he be made specifically aware of the nature of his violation and the steps he will have to take in order to comply with the act. It is important to note in considering this amendment that the Bureau of Mines would retain its powers to make inspections, cite violations, and issue withdrawal orders when necessitated by imminent danger or unwarrantable failure. The power to issue withdrawal orders is particularly important, for it means that the Bureau of Mines can withdraw all miners from a mine where the conditions are so dangerous as to warrant such an action. I feel that all of these powers would continue to provide the Bureau with sufficient control over the safety conditions existing in the various mines, while at the same time allowing the mine operator sufficient time to comply with the requirements of the act, without being liable in the meantime for civil penalties.

My second amendment would change the provision requiring automatic brakes on every mine car used underground. The present law requires that each car, regardless of its use, have automatic brakes. Two problems have arisen under this provision: First, there is no such equipment available—the automatic brakes are simply not made for mine cars of the type presently in use. Second, many doubts have arisen that there is a great need for the use of such equipment on every car; it seems much more reasonable to require only that the entire train stop within the proper margin of safety. My amendment would require that a locomotive or its equivalent be equipped with automatic brakes, where space permits, or with other approved equipment where space does not permit automatic brakes. This is a change from the present requirement that every car be equipped with brakes. I have added a new section making it mandatory that the entire train be equipped with automatic brakes if possible, but allowing substitute equipment of an approved type where conditions dictate. But this substitute equipment must prove its safety value by showing its ability to stop the entire train within the margin of safety. I feel this amendment will correct the present problems by removing the necessity for using unavailable equipment on mine cars by allowing for an acceptable substitute.

My final amendment is of a technical nature, but is of no less importance than the others. The law as it stands requires that the mandatory health provisions of the act apply in every section of every mine. It does this by defining "working face" as "every section" of every mine where work is done. My amendment

would clarify the intention of Congress by redefining "working face" to include "each" section—thus making the health provisions applicable in "every or each" section of the mine where work is being conducted. The purpose of the Federal Coal Mine Act is to protect the miner, not the mine. By defining "working face" in the manner I propose, we require that health standards be complied with in those areas where men are actually working, but at the same time we allow for noncompliance, within the limits of unreasonable danger, in those sections where no work is being conducted and none is contemplated. There is no rational reason for applying the health standards to those portions of a mine where no men are working and where no work is contemplated, and I anticipate that this amendment will so allow.

Mr. President, my colleague in the House of Representatives, Mr. BURTON, joined last week with Mr. BROCK of Tennessee in introducing substantially these same amendments into that body. In so doing, these two fine gentlemen faced up to the responsibilities of the legislature to review the laws it enacts. It gives me great pleasure to sponsor this bill in the Senate, and I would hope that their consideration will provoke a thorough review of this entire matter and that its passage can be expedited.

The PRESIDING OFFICER (Mr. PROXMIER). The bill will be received and appropriately referred.

The bill (S. 3788) to amend the Coal Mine Health and Safety Act of 1969 to provide a period during which violations of health and safety standards promulgated thereunder may be corrected without the imposition of a civil penalty, and for other purposes, introduced by Mr. BENNETT (for himself, Mr. COOK, and Mr. SMITH of Illinois), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

#### ADDITIONAL COSPONSOR OF A BILL

S. 3388

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCOTT), I ask unanimous consent that, at the next printing, the name of the Senator from Colorado (Mr. DOMINICK) be added as a cosponsor of S. 3388, to establish an Environmental Quality Administration.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

#### SENATE CONCURRENT RESOLUTION 65—SUBMISSION OF A CONCURRENT RESOLUTION EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE ACTION OF THE PRESIDENT OF THE UNITED STATES IN SENDING GROUND AND COMBAT FORCES INTO CAMBODIA

Mr. YOUNG of Ohio submitted a concurrent resolution (S. Con. Res. 65) expressing the sense of the Congress with respect to the action of the President of the United States in sending into a neu-

tral nation, Cambodia, ground and combat forces of the United States in the absence of any request of the Government of Cambodia and in the absence of any information whatever to the Congress until following the time this invasion had been undertaken, which was referred to the Committee on Foreign Relations.

(The remarks of Mr. YOUNG of Ohio when he submitted the concurrent resolution appear earlier in the RECORD under the appropriate heading.)

#### RAIL PASSENGER SERVICE ACT OF 1970—AMENDMENT

AMENDMENT NO. 608

Mr. MANSFIELD. Mr. President, I submit on behalf of Senators MAGNUSON, COTTON, HARTKE, and PROUTY an amendment to S. 3706 in the nature of a substitute. I ask unanimous consent that the text of the amendment, the brief explanation and general discussion materials prepared by the staff of the Senate Committee on Commerce be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. ALLEN). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment and explanation will be printed in the RECORD.

The amendment (No. 608) is to strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Rail Passenger Service Act of 1970".

#### TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

##### § 101. Congressional findings and declaration of purpose

The Congress finds that modern, efficient, intercity railroad passenger service is a necessary part of a balanced transportation system; that the public convenience and necessity require the continuance and improvement of such service to provide fast and comfortable transportation between crowded urban areas and in other areas of the country, that rail passenger service can help to end the congestion on our highways and the overcrowding of airways and airports; that the traveler in America should to the maximum extent feasible have freedom to choose the mode of travel most convenient to his needs; that to achieve these goals requires the designation of a basic national rail passenger system and the establishment of a rail passenger corporation for the purpose of providing modern, efficient, intercity rail passenger service; that Federal financial assistance as well as investment capital from the private sector of the economy is needed for this purpose; and that interim emergency Federal financial assistance to certain railroads may be necessary to permit the orderly transfer of railroad passenger service to a railroad passenger corporation.

##### § 102. Definitions

For purposes of this Act—

(a) "Railroad" means a common carrier by railroad, as defined in section 1(3) of part I of the Interstate Commerce Act, as amended (49 U.S.C. 1(3)) other than the corporation created by title III of this Act.

(b) "Secretary" means the Secretary of Transportation or his delegate unless the context in which it appears indicates otherwise.

(c) "Commission" means the Interstate Commerce Commission.

(d) "Basic system" means the system of intercity rail passenger service designated by the Secretary under title II of this Act.

(e) "Intercity rail passenger service" means all rail passenger service other than commuter and other short-haul service in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride and commutation tickets and by morning and evening peak period operations.

(f) "Avoidable loss" means the avoidable costs of providing passenger service, less revenues attributable thereto, using the methodology used in the report of the Commission of July 16, 1969, entitled "Investigation of Costs of Intercity Rail Passenger Service."

(g) "Corporation" means the National Railroad Passenger Corporation created under title III of this Act.

#### TITLE II—BASIC NATIONAL RAIL PASSENGER SYSTEM

##### § 201. Designation of system

In carrying out the congressional findings and declaration of purpose set forth in title I of this Act, the Secretary, acting in cooperation with other interested Federal agencies and departments, is authorized and directed to submit to the Commission and to the Congress within thirty days after the date of enactment of this Act his preliminary report and recommendations for a basic national rail passenger system (hereinafter referred to as the "basic system"). Such recommendations shall specify those points between which intercity passenger trains shall be operated, identify all routes over which service may be provided, and the trains presently operated over such routes, together with basic service characteristics of operations to be provided within the system, taking into account schedules, number of trains, connections, through car service, and sleeping, parlor, dining, and lounge facilities. In recommending said basic system the Secretary shall take into account the need for expeditious rail passenger service within and between all regions of the continental United States, and the Secretary shall consider the need for such service within the States of Alaska and Hawaii and the Commonwealth of Puerto Rico. In formulating such recommendations the Secretary shall consider opportunities for provision of faster service, more convenient service, service to more centers of population, and/or service at lower cost, by the joint operation, for passenger service, of facilities of two or more railroad companies; the importance of a given service to overall system viability; adequacy of other transportation facilities serving the same points; unique characteristics and advantages of rail service as compared to other modes; the relationship of public benefits of given services to the costs of providing them; and potential profitability of the service.

##### § 202. Review of the basic system

The Commission shall, within thirty days after receipt of the Secretary's preliminary report designating a basic system, review such report consistent with the purpose of this Act and provide the Secretary with its comments and recommendations. The Secretary shall give due consideration to such comments and recommendations. The Secretary shall, within ninety days after the date of enactment of this Act submit his final report designating the basic system to the Congress. Such final report shall include a statement of the recommendations of the Commission together with his reasons for failing to adopt any such recommendations. The basic system as designated by the Secretary shall become effective for the purposes of this Act upon the date that the final report of the Secretary is submitted to Congress and shall not be reviewable in any court.

#### TITLE III—CREATION OF A RAIL PASSENGER CORPORATION

##### § 301. Creation of the Corporation

There is authorized to be created a National Railroad Passenger Corporation (here-

inafter referred to as the "Corporation"). The Corporation shall be a for profit corporation, whose purpose shall be to provide intercity rail passenger service, employing innovative operating and marketing concepts so as to fully develop the potential of modern rail service in meeting the Nation's intercity passenger transportation requirements. The Corporation will not be an agency or establishment of the United States Government. It shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this Act at any time is expressly reserved.

#### § 302. Process of organization

The President of the United States shall appoint not fewer than three incorporators by and with the advice and consent of the Senate, who shall also serve as the board of directors for one hundred and eighty days following the date of enactment of this Act. The incorporators shall take whatever actions are necessary to establish the Corporation, including the filing of articles of incorporation, as approved by the President.

#### § 303. Directors and officers

(a) The Corporation shall have a board of fifteen directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the board to serve as chairman. Eight members of the board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, for terms of four years or until their successors have been appointed and qualified, except that the first three members of the board so appointed shall continue in office for terms of two years, and the next three members for terms of three years. Any member appointed to fill a vacancy may be appointed only for the unexpired term of the director whom he succeeds. At all times the Secretary shall be one of the members of the board of directors appointed by the President. Three members of the board shall be elected annually by common stockholders, and four shall be elected annually by preferred stockholders of the corporation. The members of the board appointed by the President and those elected by stockholders shall take office on the one hundred and eighty-first day after the date of enactment of this Act. Election of the remaining members of the board shall take place as soon as practicable after the first issuance of preferred stock by the Corporation. Pending election of the remaining four members, seven members shall constitute a quorum for the purpose of conducting the business of the board. No director appointed by the President may have any direct or indirect financial or employment relationship with any railroad or railroads during the time that he serves on the board. Each of the directors not employed by the Federal Government shall receive compensation at the rate of \$300 for each meeting of the board he attends. In addition, each director shall be reimbursed for necessary travel and subsistence expense incurred in attending the meetings of the board. No director elected by railroads shall vote on any action of the board of directors relating to any contract or operating relationship between the Corporation and a railroad, but he may be present at directors' meetings at which such matters are voted upon, and he may be included for purposes of determining a quorum and may participate in discussions at such meeting.

(b) The board of directors is empowered to adopt and amend bylaws governing the operation of the Corporation providing that such bylaws shall not be inconsistent with the provisions of this Act or of the articles of incorporation.

(c) The articles of incorporation of the Corporation shall provide for cumulative

voting for all stockholders and shall provide that, upon conversion of one-fourth of the outstanding shares of preferred stock, the common stockholders shall be entitled to four directors and the preferred stockholders shall be entitled to three; upon the conversion of one-half of the outstanding shares of preferred stock the common stockholders shall be entitled to elect five directors and the preferred stockholders shall be entitled to two; upon the conversion of three-fourths of the outstanding shares of preferred stock the common stockholders shall be entitled to elect six directors and the preferred stockholders shall be entitled to elect one; and upon conversion of all outstanding shares of preferred stock the common stockholders shall be entitled to seven directors. Any changes of directors resulting from such stock conversion shall take effect at the next annual meeting of the Corporation following such stock conversion.

(d) The Corporation shall have a president and such other officers as may be named and appointed by the board. The rates of compensation of all officers shall be fixed by the board. Officers shall serve at the pleasure of the board. No individual other than a citizen of the United States may be an officer of the Corporation. No officer of the Corporation may have any direct or indirect employment or financial relationship with any railroad or railroads during the time of his employment by the Corporation.

#### § 304. Financing of the Corporation

(a) The Corporation is authorized to issue and have outstanding, in such amounts as it shall determine, two issues of capital stock, a common and a preferred, each of which shall carry voting rights and be eligible for dividends. Common stock may be initially issued only to a railroad. Preferred stock may be issued to and held only by any person other than a railroad or any person controlling, as defined in section 1(3)(b) of the Interstate Commerce Act, one or more railroads. The articles of incorporation of the Corporation shall provide for the following respective rights of each issue of stock:

(1) **COMMON STOCK.**—Common stock shall have a par value of \$10 per share and shall be designated fully paid and nonassessable. No dividends shall be paid on the common stock whenever dividends on the preferred stock are in arrears.

(2) **PREFERRED STOCK.**—Preferred stock shall have a par value of \$100 per share and shall be designated fully paid and nonassessable. Dividends shall be fixed at a rate not less than 6 per centum, and shall be cumulative so that, if for any dividend period dividends at the rate fixed in the articles of incorporation shall not have been declared and paid or set aside for payment on the preferred shares, the deficiency shall be declared and paid or set apart for payment prior to the making of any dividend or other distribution on the common shares.

Preferred stock shall be entitled to a liquidation preference over common stock, which shall entitle preferred stockholders to a liquidating payment not less than par value plus all accrued unpaid dividends prior to any payment on liquidation to common stockholders.

Preferred stock shall be convertible into shares of common stock at such time and upon such terms as the articles of incorporation shall provide.

(b) At no time after the initial issue is completed shall the aggregate of the shares of common stock of the Corporation owned by a single railroad or any person controlling, as defined in section 1(3)(b) of the Interstate Commerce Act, one or more railroads, directly or indirectly through subsidiaries or affiliated companies, nominees, or any persons subject to its direction or control, exceed 33⅓ per centum of such shares issued and outstanding.

(c) At no time may any stockholder, or

any syndicate or affiliated group of such stockholders, own more than 10 per centum of the shares of preferred stock of the Corporation issued and outstanding.

(d) The articles of incorporation shall provide that no shares of any issue of stock may be redeemed or repurchased for five years, following the date of enactment of the Act.

(e) The Corporation is authorized to issue, in addition to the stock authorized by subsection (a) of this section, nonvoting securities, bonds, debentures, and other certificates of indebtedness as it may determine.

(f) The requirement of section 45(b) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29-920(b)) as to the percentage of stock which a stockholder must hold in order to have the rights of inspection and copying set forth in that subsection shall not be applicable in the case of holders of the stock of the Corporation, and they may exercise such rights without regard to the percentage of stock they hold.

#### § 305. General powers of the Corporation

The Corporation is authorized to own, manage, operate, or contract for the operation of intercity rail passenger trains; to carry mail and express in connection with passenger service; to conduct research and development related to its mission; and to acquire by construction, purchase, or gift, or to contract for the use of, physical facilities, equipment, and devices necessary to rail passenger operations. The Corporation shall rely upon railroads to provide the crews necessary to the operation of its passenger trains. To carry out its functions and purposes, the Corporation shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

#### § 306. Applicability of the Interstate Commerce Act and other laws

(a) The Corporation shall be deemed a common carrier by railroad within the meaning of section 1(3) of the Interstate Commerce Act and shall be subject to all provisions of the Interstate Commerce Act other than those pertaining to—

(1) regulation of rates, fares, and charges;

(2) abandonment or extension of lines of railroads and the abandonment or extension of operations over lines of railroads, whether by trackage rights or otherwise;

(3) regulation of routes and service and, except as otherwise provided in this Act, the discontinuance or change of passenger train service operations.

(b) The Corporation shall be subject to the same laws and regulations with respect to safety and with respect to dealings with its employees as any other common carrier subject to part I of the Interstate Commerce Act.

(c) The Corporation shall not be subject to any State or other law pertaining to the transportation of passengers by railroad as it relates to rates, routes, or service.

(d) Leases and contracts entered into by the Corporation, regardless of the place where the same may be executed, shall be governed by the laws of the District of Columbia.

(e) Persons contracting with the Corporation for the joint use or operation of such facilities and equipment as may be necessary for the provision of efficient and expeditious passenger service shall be and are hereby relieved from all prohibitions of existing law, including the antitrust laws of the United States with respect to such contracts, agreements, or leases insofar as they may be necessary to enable them to enter thereinto and to perform their obligations thereunder.

#### § 307. Sanctions

(a) If the Corporation engages in or adheres to any action, practice, or policy inconsistent with the policies and purposes of this Act, obstructs or interferes with any activities authorized by this Act (except in the

exercise of labor practices not otherwise prescribed by law), refuses, fails, or neglects to discharge its duties and responsibilities under this Act, or threatens any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which the Corporation or other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States or, in a case involving a labor agreement, upon petition of any individual affected thereby, to grant such equitable relief as may be necessary or appropriate to prevent or terminate any violation, conduct, or threat.

(b) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this Act.

#### § 308. Reports to the Congress

(a) The Corporation shall transmit to the President and the Congress, annually, commencing one year from the date of enactment of this Act, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this Act, including a statement of receipts and expenditures for the previous year. At the time of its annual report, the Corporation shall submit legislative recommendations for amendment of this Act as it deems desirable, including the amount of financial assistance needed for operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived.

(b) The Secretary and the Commission shall transmit to the President and the Congress, one year following the date of enactment of this Act and biennially thereafter, reports on the state of rail passenger service and the effectiveness of this Act in meeting the requirement for a balanced national transportation system, together with any legislative recommendations for amendments to this Act.

#### TITLE IV—PROVISION OF RAIL PASSENGER SERVICES

##### § 401. Assumption of passenger service by the Corporation; commencement of operations

(a) (1) On or before March 1, 1971, and on or after March 1, 1973, but before January 1, 1975, the Corporation is authorized to contract with a railroad to relieve the railroad of its entire responsibility for the provision of intercity rail passenger service commencing on or after March 1, 1971. The contract may be made upon such terms and conditions as necessary to permit the Corporation to undertake passenger service on a timely basis. Upon its entering into a valid contract (including protective arrangements for employees), the railroad shall be relieved of all its responsibilities as a common carrier of passengers by rail in intercity rail passenger service under part I of the Interstate Commerce Act or any other law relating to the provision of intercity passenger service: *Provided*, That any railroad discontinuing a train hereunder must give notice in accordance with the notice procedures contained in section 13a(1) of the Interstate Commerce Act.

(2) In consideration of being relieved of this responsibility by the Corporation, the railroad shall agree to pay to the Corporation each year for three years an amount equal to one-third of 50 per centum of the fully distributed passenger service deficit of the railroad as reported to the Commission for the year ending December 31, 1969. The payment to the Corporation may be made in cash or, at the option of the Corporation, by the transfer of rail passenger equipment or the provision of future service as requested

by the Corporation. The railroad shall receive common stock from the Corporation in an amount equivalent in par value to its payment.

(3) In agreeing to pay the amount specified in paragraph (2) of this subsection, a railroad may reserve the right to pay a lesser sum to be determined by calculating either of the following:

(A) 100 per centum of the avoidable loss of all intercity rail passenger service operated by the railroad during the period January 1, 1969, through December 31, 1969; or

(B) 200 per centum of the avoidable loss of the intercity rail passenger service operated by the railroad between points within the basic system during the period January 1, 1969, through December 31, 1969.

If the amount owed the Corporation under either of these alternatives is agreed by the parties to be less than the amount paid pursuant to paragraph (2), the Corporation shall pay the difference to the railroad. If the railroad and the Corporation are unable to agree as to the amount owed, the matter shall be referred to the Interstate Commerce Commission for decision. The Commission shall decide the issue within ninety days following the date of referral and its decision shall be binding on both parties.

(4) The payments to the Corporation shall be made in accordance with a schedule to be agreed upon between the parties. Unless the parties otherwise agree, the payments for each of the first twelve months following the date on which the Corporation assumes any of the operational responsibilities of the railroad shall be in cash and not less than one thirty-sixth of the amount owed.

(b) On March 1, 1971, the Corporation shall begin the provision of intercity rail passenger service between points within the basic system unless such service is being provided by a railroad with which it has not entered into a contract under subsection (a) of this section.

(c) No railroad or any other person may, without the consent of the Corporation, conduct intercity rail passenger service over any route on which the Corporation is performing scheduled intercity rail passenger service pursuant to a contract under this section.

##### § 402. Facility and service agreements

(a) The Corporation may contract with railroads for the use of tracks and other facilities and the provision of services on such terms and conditions as the parties may agree. In the event of a failure to agree, the Interstate Commerce Commission shall, if it finds that doing so is necessary to carry out the purposes of this Act, order the provision of services or the use of tracks or facilities of the railroad by the Corporation, on such terms and for such compensation as the Commission may fix as just and reasonable. If the amount of compensation fixed is not duly and promptly paid, the railroad entitled thereto may bring an action against the Corporation to recover the amount properly owed.

(b) To facilitate the initiation of operations by the Corporation within the basic system the Commission shall, upon application by the Corporation, require a railroad to make immediately available tracks and other facilities. The Commission shall thereafter promptly proceed to fix such terms and conditions as are just and reasonable.

##### § 403. New service

(a) The Corporation may provide service in excess of that prescribed for the basic system, either within or outside, the basic system including the operation of special and extra passenger trains, if consistent with prudent management.

(b) Any State, regional, or local agency may request of the Corporation rail passenger service beyond that included within the

basic system. The Corporation shall institute such service if the State, regional, or local agency agrees to reimburse the Corporation for a reasonable portion of any losses associated with such services.

(c) For purposes of this section the reasonable portion of such losses to be assumed by the State, regional, or local agency, shall be no less than 50 per centum of, nor more than the solely related costs and associated capital costs less revenues attributable to such service. If the Corporation and the State, regional, or local agency are unable to agree upon a reasonable apportionment of such losses, the matter shall be referred to the Secretary for decision. In deciding this issue the Secretary shall take into account the intent of this Act, and the impact of requiring the Corporation to bear such losses upon its ability to provide improved service within the basic system.

##### § 404. Discontinuance of service

(a) Unless it has entered into a contract with the Corporation pursuant to section 401(a) (1) of this Act, no railroad may discontinue any passenger service whatsoever prior to January 1, 1975, the provisions of any other law notwithstanding. On and after January 1, 1975, passenger train service operated by such railroad may be discontinued under the provisions of section 13a of the Interstate Commerce Act. Upon the filing of a notice of discontinuance by such railroad, the Corporation may undertake to initiate passenger train operations between the points served.

(b) (1) The Corporation must provide the service included within the basic system until January 1, 1975, to the extent it has assumed responsibility for such service by contract with a railroad pursuant to section 401 of this Act.

(2) Service beyond that prescribed for the basic system undertaken by the Corporation upon its own initiative may be discontinued at any time.

(3) If at any time after January 1, 1975, the Corporation determines that any train or trains in the basic system in whole or in part are not required by public convenience and necessity, or will impair the ability of the Corporation to adequately provide other services, such train or trains may be discontinued under the procedures of section 13a of the Interstate Commerce Act (49 U.S.C. 13a): *Provided, however*, That at least thirty days prior to the change or discontinuance, in whole or in part, of any service under this subsection, the Corporation shall mail to the Governor of each State in which the train in question is operated, and post in every station, depot, or other facility served thereby notice of the proposed change or discontinuance. The Corporation may not change or discontinue this service if prior to the end of the thirty-day notice period, State, regional, or local agencies request continuation of the service and within ninety days agree to reimburse the Corporation for a reasonable portion of any losses associated with the continuation of service beyond the notice period.

(4) For purposes of paragraph (3) of this subsection the reasonable portion of such losses to be assumed by the State, regional, or local agency shall be no less than 50 per centum of, nor more than, the solely related costs and associated capital costs less revenues attributable to such service. If the Corporation and the State, regional, or local agencies are unable to agree upon a reasonable apportionment of such losses, the matter shall be referred to the Secretary for decision. In deciding this issue the Secretary shall take into account the intent of this Act and the impact of requiring the Corporation to bear such losses upon its ability to provide improved service within the basic system.

##### § 405. Protective arrangements for employees

(a) A railroad shall provide fair and equi-

table arrangements to protect the interests of employees adversely affected by the following discontinuances of passenger service:

(1) those arising out of a contract with the Corporation pursuant to section 401(a) (1) of this Act, and occurring prior to January 1, 1975; and

(2) those undertaken pursuant to section 404(a) of this Act.

(b) Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) to such employees under existing collective-bargaining agreements or otherwise; (2) the continuation of collective-bargaining rights; (3) the protection of such individual employees against a worsening of their positions with respect to their employment; (4) assurances of priority of reemployment of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 5(2)(f) of the Interstate Commerce Act. Any contract entered into pursuant to the provisions of this title shall specify the terms and conditions of such protective arrangements.

Final settlement of any contract under section 401(a) (1) of this Act between a railroad and the Corporation may not be made unless the Secretary of Labor has certified to the Corporation that adversely affected employees have received fair and equitable protection from the railroad.

(c) After commencement of operations in the basic system, the substantive requirements of subsection (b) of this section shall apply to the Corporation, and the certification by the Secretary of Labor shall be a condition to the discontinuance of any trains by the Corporation pursuant to section 404 (b) of this Act.

(d) The Corporation shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under any contract or agreement entered into under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Corporation shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to Public Law 91-54 (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts or agreements.

(e) The Corporation shall not contract out any work normally performed by employees in any bargaining unit covered by a contract between the Corporation or any railroad providing intercity rail passenger service upon the date of enactment of this Act and any labor organization, if such contracting out shall result in the layoff of any employee or employees in such bargaining unit.

#### TITLE V—ESTABLISHMENT OF A FINANCIAL INVESTMENT ADVISORY PANEL

##### § 501. Appointment of advisory panel

Within thirty days after enactment of this Act, the President shall appoint a seven-man financial advisory panel. The panel shall include representatives of investment banking, commercial banking, rail transportation, and the Secretary of the Treasury.

##### § 502. Purpose of advisory panel

The advisory panel appointed by the President shall advise the directors of the Cor-

poration on ways and means of increasing capitalization of the Corporation.

##### § 503. Report to Congress

On or before January 1, 1971, the panel shall submit a report to Congress evaluating the initial capitalization of the Corporation and the prospects for increasing its capitalization.

#### TITLE VI—FEDERAL FINANCIAL ASSISTANCE

##### § 601. Federal grants

There is authorized to be appropriated to the Secretary in fiscal year 1971, \$40,000,000 to remain available until expended, for payment to the Corporation for the purpose of assisting in—

(1) the initial organization and operation of the Corporation;

(2) the establishment of improved reservations systems and advertising;

(3) servicing, maintenance, and repair of railroad passenger equipment;

(4) the conduct of research and development and demonstration programs respecting new rail passenger services;

(5) the development and demonstration of improved rolling stock; and

(6) essential fixed facilities for the operation of passenger trains on lines and routes included in the basic system over which no through passenger trains are being operated at the time of enactment of this Act, including necessary track connections between lines of the same or different railroads.

##### § 602. Guaranty of loans

The Secretary is authorized, on such terms and conditions as he may prescribe, to guarantee any lender against loss of principal or interest on securities, obligations, or loans issued to finance the purchase by the Corporation of new rolling stock, rehabilitation of existing rolling stock and for other corporate purposes. The maturity date of such securities, obligations, or loans, including all extensions and renewals thereof, shall not be later than twenty years from their date of issuance, and the amount of guaranteed loans outstanding at any time may not exceed \$60,000,000. The Secretary shall prescribe and collect from the lending institution a reasonable annual guaranty fee. There are authorized to be appropriated such amounts as necessary to carry out this section not to exceed \$60,000,000.

#### TITLE VII—INTERIM EMERGENCY FEDERAL FINANCIAL ASSISTANCE

##### § 701. Interim authority to provide emergency financial assistance for railroads operating passenger service

For the purpose of permitting a railroad to enter into or carry out a contract under section 401(a) (1) of this Act, the Secretary is authorized, on such terms and conditions as he may prescribe, to (1) make loans to such railroads, or (2) to guarantee any lender against loss of principal or interest on any loan to such railroads. Interest on loans made under this section shall be at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans adjusted to the nearest one-eighth of 1 per centum. No loan may be made, including renewals or extensions thereof, which has a maturity date in excess of five years. The maturity date on any loan guaranteed, including all renewals and extensions thereof, shall not be later than five years from the date of issuance. The total amount of loans and loan guaranties made under this section may not exceed \$75,000,000.

##### § 702. Authorization for appropriations

There are hereby authorized to be appropriated such amounts not to exceed \$75,000,-

000 as may be necessary to carry out the purposes of this title. Any sums appropriated shall be available until expended.

#### TITLE VIII—MISCELLANEOUS PROVISIONS

##### § 801. Adequacy of service

The Commission is authorized to prescribe such regulations as it considers necessary for the comfort and health of intercity rail passengers. Any person who violates a regulation issued under this section shall be subject to a civil penalty of not to exceed \$500 for each violation. Each day a violation continues shall constitute a separate offense.

##### § 802. Effect on pending proceedings

Any regular intercity passenger train in operation on the date of enactment of this Act may be discontinued only pursuant to this Act, notwithstanding any provision of Federal or State law, or any regulation or order of any Federal or State court or regulatory agency issued before or subsequent to that date.

##### § 803. Separability

If any provision of the Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

##### § 804. Accountability

Section 201 of the Government Corporation Control Act of 1945 (31 U.S.C. 856; 59 Stat. 600) is amended by striking "and (4)" and inserting in lieu thereof "(4) Federal Deposit Insurance Corporation and (5)" and adding "National Railroad Passenger Corporation" at the end thereof.

The explanation, presented by Mr. MANSFIELD, is as follows:

#### BRIEF EXPLANATION OF SUBSTITUTE

The proposed substitute differs from S. 3706 in two principal respects. First, it provides for establishment of a corporation with a mixed Board of Directors (8 to be appointed by the President and 7 elected by each of two classes of private stockholders) to operate Intercity Rail Passenger Service within a basic system to be designated by the Secretary of Transportation instead of subsidizing railroad operation of passenger service within the basic system. Second, Federal participation is limited to the following: \$40 million contribution to initial capitalization of the corporation; \$60 million in guarantees of obligations of the corporation; and \$75 million in loans or guarantees of loans to railroads to enable them to participate in the corporation.

S. 3706 would have provided for \$435 million in Federal expenditures over four years (\$240 million in direct operating subsidies to the railroads and \$195 million for the purchase and refurbishing of rail passenger service equipment).

#### TITLE I—FINDINGS AND PURPOSES

Sets forth the Congressional findings and declaration of purpose relative to the need for improved rail passenger service in the United States. Definitions are also included in this Title.

#### TITLE II—BASIC NATIONAL RAIL PASSENGER SYSTEM

Provides the Secretary of Transportation with the authority to establish a basic national rail passenger system. The Secretary will specify those points between which service shall be provided together with the basic service characteristics of operations. The Secretary must submit his report and recommendations to the Congress and the Interstate Commerce Commission 30 days after enactment of the Act. The Commission will have 30 days to review the Secretary's report and provide the Secretary with its comments and recommendations. Thirty days later (90 days after enactment) the Secretary must submit a final report which will

thereupon become effective as the basic system.

#### TITLE III—CREATION OF A RAIL PASSENGER CORPORATION

This Title provides for the establishment of a National Rail Passenger Corporation. Such corporation will be a "for profit" quasi public corporation. The Board of Directors shall have 15 members, eight of whom are selected by the President, three by the common stockholders (initially those will be railroads), and four by the preferred stockholders (persons other than railroads).

The Corporation will have broad powers to provide for the operation of passenger trains. Federal sanctions are provided in the event the corporation does not discharge its responsibilities.

#### TITLE IV—PROVISION OF RAIL PASSENGER SERVICE

On or before March 1, 1971 the corporation shall commence entering into contracts with railroads. The corporation is to commence providing service on or after March 1, 1971. Railroads entering into contracts and thereby relieved of their intercity rail passenger service obligations.

In consideration of being relieved the railroad shall agree to pay, over a three-year period, a portion of its passenger deficit for 1969. The payment may be made in cash or at the corporation's option, in equipment or future service. The railroad would receive common stock from the corporation in an amount equivalent in par value (\$10 a share) to its payment.

Disagreements on the amount of payments would be resolved by the ICC within 90 days.

The corporation is directed to initiate service on March 1, 1971 unless service is being provided by a railroad not party to a contract with the corporation.

The corporation may initiate service outside the basic system or expand the system; if a state or regional authority so requests, the corporation shall initiate service upon State agreeing to underwrite a portion of the losses (50% or more).

A railroad which does not enter into a contract with the corporation cannot discontinue any passenger service whatsoever until January 1, 1975. If a railroad files to discontinue trains after that date the corporation may undertake to initiate the service.

The corporation may not discontinue service in the basic system until after January 1, 1975. At that time it may apply for discontinuance under the regular Interstate Commerce Act procedures, but must notify the Governors of all affected States. If the States, within 120 days agree to reimburse a "reasonable portion" (50% or more) of losses the corporation must continue the service.

#### TITLE V—SPECIAL FINANCIAL ADVISORY PANEL

The President is directed to appoint a special board to submit by January 1, 1971 a report to Congress on the capitalization of the corporation together with suggested improvements.

#### TITLE VI—FEDERAL FINANCIAL ASSISTANCE

The Secretary of Transportation is authorized to expend \$40,000,000 to assist the corporation in getting underway.

The Secretary of Transportation is also authorized to guarantee up to \$60,000,000 in 20 year loans to the corporation for purchase and rehabilitation of rolling stock and for other corporate purposes.

#### TITLE VII—INTERIM EMERGENCY FINANCIAL ASSISTANCE

The Secretary of Transportation is authorized to make loans or loan guarantees to assist railroads to meet contractual obligations under the Act. Some carriers desirous of entering into a contract may not have sufficient cash readily available.

#### TITLE VIII—MISCELLANEOUS PROVISIONS

This Title contains separability and accountability provisions and a provision making all discontinuance proceedings subject to this Act upon enactment.

#### THE NATIONAL RAIL PASSENGER CORPORATION: HOW IT WOULD BRING IMPROVED RAIL PASSENGER SERVICE TO THE AMERICAN PUBLIC PURPOSES AND MAJOR CHARACTERISTICS

The substitute for S. 3706 starts with the presumption that rail passenger service—if offered on an improved, higher-quality basis—can play an important role in satisfying the nation's intercity passenger needs. The Metroliner experience persuasively demonstrates that relatively high speed, comfortable, and modern rail service can attract large numbers of intercity travelers, offering them a convenient transportation alternative to our increasingly congested highways and airways. But if the potential of rail passenger service is to be achieved, there must be a sharp break with the past. Rail service in the United States is dwindling rapidly, in amount and quality. Railroads, for whatever reasons—have, with rare exception, evidenced little interest in improving passenger service. Under these conditions it would be inappropriate to rely on present railroad management to bring to the public better passenger service, even if government aid were authorized. What is critically needed is a new organization—a new administrative apparatus—that can concentrate its attention on the single objective of the rejuvenation of rail passenger service in the United States. Such an organization should bring together the strengths of private, corporate-style management and broad public involvement.

If the Corporation is to be successful, however, it must bring more to the challenge than a firm commitment to the potential of rail passenger service and aggressive marketing and operating skills. It must also have capital, sufficient in amount to permit it to purchase modern equipment and establish an efficient national ticketing and reservations system. To meet its capital requirements, financing of the Corporation takes several forms. First, the nation's railroads are given a strong inducement to join the Corporation as stockholders. If they do so, they are relieved of their existing rail passenger obligations, which currently burden the railroads with more than \$200 million a year in avoidable losses, under the basic formula prescribed in the substitute bill, if all the railroads with passenger service affiliate with the Corporation, their capital contributions will amount to approximately \$200 million. A second source of capital is the Federal Government. Under the measure it will provide \$40 million in initial grants programs and an additional \$60 million for the guarantee of the Corporation's obligations. Third, provision is made for public participation through the purchase of a special issue of preferred stock. This can supply still additional support.

With this financing, the Corporation will be in a position to bring high speed, modern, and frequent train service to short-haul and long-haul routes in every region of the country at the earliest practicable moment. The sponsors of this substitute are convinced that this service will give the public an alternative means of transportation that will prosper over the years to come and ease the strain on the highways and airways, thus contributing substantially to an efficient intercity transportation system and in the long run having a reasonable opportunity to be financially self-sustaining.

#### HOW THE BASIC SYSTEM WILL BE DEFINED

Under the substitute measure, the Secretary of Transportation is directed to prepare a report, for submission to the Congress,

within 90 days of enactment, specifying those points to and between which intercity passenger service should be operated throughout the country together with basic service characteristics of operations to be provided within the system. In making this report, the Secretary is required to consider several factors, including opportunities for provision of faster and more convenient rail service, the unique characteristics and advantages of rail service as compared with other modes, the adequacy of other transportation service serving the same points, and the potential profitability of passenger service. In carrying out this obligation, the Secretary is also to be guided by a broad declaration of Congressional purpose expressing the view that modern, efficient, intercity rail passenger service is a necessary part of a national transportation system and that the establishment of a rail passenger corporation is essential to realization of this objective. When this preliminary report is done, the Secretary is required to submit it to the Interstate Commerce Commission for review and comment. The Secretary must give due consideration to the Commission's views. The Secretary in submitting his report designating the basic system give his specific reasons for failing to adopt such recommendations. In his report the Secretary will identify those points between which intercity trains should be operated, indicate all routes between such points over which service may be offered, and set forth the basic service characteristics of operations.

#### CREATION OF THE CORPORATION

Paralleling in time the Secretary's review and designation of the Basic System, a National Rail Passenger Corporation will be created by incorporators, appointed by the President, with the advice and consent of the Senate. The Corporation is to have a board of 15 directors, with 8 appointed by the President and approved by the Senate. The remaining 7 are chosen by the stockholders. The Articles of Incorporation will provide for common stock (to be issued at the outset, to railroads affiliated with the Corporation) and an issue of cumulative preferred stock (to be sold, at an appropriate time, to the general public). The Articles will empower the Corporation to operate or otherwise provide for the operations of intercity railroad passenger trains, to acquire the necessary physical facilities and equipment, and to conduct research and development related to its mission.

#### HOW THE CORPORATION WILL TAKE OVER AND PROVIDE PASSENGER SERVICE

On or before March 1, 1971, the Corporation is authorized to contract with each railroad company to relieve it of its intercity passenger service responsibility as of that date. No railroad is obligated to enter into any such agreement, but if it does so, it receives substantial economic advantages in that it is relieved of the existing legal burden of supplying passenger service that now usually yields a large deficit. Accordingly, a railroad wishing to enter into such an agreement must agree to pay to the Corporation each year for three years an amount equal to one-third of 50 percent of its fully distributed passenger service deficit in Calendar 1969. (Alternative formulas for the calculation of such payment are contained in the substitute bill, with a railroad to pay the minimum amount required under any of the three standards.) Prior to March 1, 1971, the Corporation will be expected to purchase such new equipment as time permits and to integrate good-quality existing equipment, which it will take over from the railroads, into its own service plan. Not later than March 1, it will begin service throughout the Basic System. It is anticipated that the actual movement of trains—the locomotive and related auxiliary support—will be conducted for the Corporation under contract

by the railroads. Gradually as new, equipment is received from manufacturers, the Corporation will increase the frequency of its trains and the speed of its operations, so that in the reasonable near future, all parts of the country will have the benefit of rail passenger service equal to and perhaps better than that which is now offered by the Metroliner between New York and Washington.

#### FINANCING OF THE CORPORATION

Capital for the Corporation will come from three primary sources. As part of their contracts with the Corporation, the railroads will be obligated to make payments which, in the aggregate, will amount to approximately \$200 million. (This is equal to about one-half of their fully-distributed rail passenger deficit in 1969.) This amount is payable in cash or, at the option of the Corporation, by the transfer of rail passenger equipment or the provision of future service as requested by the Corporation. The railroads will receive, in return, common stock equivalent in par value to their payments.

Additional financial aid will come from the Federal Government. First, \$40 million is authorized in the form of grants to assist the Corporation in its initial organization and operation and in the acquisition of essential equipment and services. Second, the Secretary of Transportation is authorized to guarantee up to \$60 million in loans to the Corporation for the purchase or rehabilitation of rolling stock or for other corporate purposes. Third, in recognition of the fact that a few railroads might have financial difficulty in satisfying their immediate contractual commitments to the Corporation, an additional \$75 million is provided as short-term loans and loan guarantees to railroads wishing to enter into such agreements. These loans can be repaid out of the savings realized by the railroads through the assumption of their passenger obligations by the Corporation.

Public participation is also provided for through the prospective sale of a special issue of preferred stock. Bearing cumulative dividends at a rate not less than 6 percent, this class of stock is entitled to elect directors and to convert into common stock at the holders' option. The sale of these securities will give the public a meaningful opportunity to participate in the future of rail passenger service in the United States.

The substitute bill, in addition, establishes a special financial investment advisory panel to be composed of representatives of investment banking, commercial banking, rail transportation, as well as the Secretary of the Treasury. This Presidentially-appointed panel is to submit a report to Congress in 1971 evaluating the initial capitalization of the Corporation. The panel will also make recommendations to the directors of the Corporation on ways and means of increasing its capitalization.

#### GENERAL PROVISION

There are many other provisions in the substitute bill calculated to insure that the Corporation functions in complete harmony with the public interest. For example, States and regions of the country that wish to maintain or initiate rail passenger service may require the Corporation to provide such rail transportation if they are willing to assume not less than 50 percent of the net cost of such operations. Railway labor, which has such a great interest in the continuation and expansion of rail passenger operations, is amply protected in its rights. Finally, the Corporation is required to report annually on its operations, activities, and accomplishments, including a detailed financial statement. As well, the Secretary of Transportation and the Interstate Commerce Commission are obligated to submit reports on the state of rail passenger service and the effectiveness of the act in meeting the require-

ment for a balanced national transportation system.

#### THE CORPORATION AND THE FUTURE OF INTERCITY RAIL PASSENGER SERVICE

In offering this substitute measure, the sponsors are convinced that rail passenger service can once again become a major element in the nation's transportation system. It can offer the traveling public fast, safe, comfortable, and convenient transportation, both within densely-populated corridors and in selected long-haul markets. At a time when our highways and airways are becoming increasingly congested, despite large Federal expenditures for their expansion, rail passenger service can play a large role in helping us efficiently satisfy our growing demand for transportation.

The potential of rail passenger service, however, can only be realized if major improvements are made in the quality of this mode of transportation. This requires a fresh approach and a complete reexamination of our past approach to rail passenger transportation. After carefully examining many alternative proposals, the sponsors are convinced that the best approach calls for the creation of a public-private corporation, charged exclusively with the job of supplying improved rail passenger service throughout the United States and adequately supplied with the necessary capital. This is the approach the sponsors have taken in their substitute. It is their judgment that this substitute is well calculated to achieve the objective in a timely, efficient, and reasonable fashion.

#### NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

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

William J. Bauer, of Illinois, to be U.S. Attorney for the Northern District of Illinois for the term of 4 years, vice Thomas A. Foran, resigning.

Donald D. Hill, of California, to be U.S. Marshal for the Southern District of California for the term of 4 years, vice Wayne B. Colburn, resigned.

Lutrelle F. Parker, of Virginia, to be an Examiner in Chief, U.S. Patent Office, vice James L. Brewink, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Friday, May 8, 1970, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

#### ADDITIONAL STATEMENTS OF SENATORS

#### AMERICAN PRISONERS OF NORTH VIETNAM

Mr. SCOTT. Mr. President, regardless of how Americans individually feel about the war in Vietnam, there is one point on which they can and do all agree. I speak to that point today.

That issue was touched on last night by the President when he warned the Communists that America will not allow our prisoners to be treated as hostages.

Some 1,400 American prisoners are be-

ing held by the Vietcong and the North Vietnamese. We do not even know exactly how many there are because the Communists, in clear violation of every principle of the Geneva accords on treatment of prisoners of war, have not notified us as to who is a prisoner and who is not.

The Communists will not allow the prisoners to communicate with their families. They will not inform the families of these men whether their husbands and sons are still alive and whether, if alive, they are well, or sick, or wounded. It is quite possible that some—possibly many—have been wantonly and deliberately murdered.

The fate of these men is of excruciating importance to the families and their friends. But we who have not suffered such a loss first hand must do more than wring our hands in sympathy. We must make this problem one of the highest possible priorities in our every contact with the Communist world.

Mr. President, Americans must make every conceivable effort, at every possible level, as private citizens and as a Nation, to free these prisoners. Until we win their freedom we must make every possible effort to bring them into contact with their families.

Let me here repeat the President's warning. We will not tolerate these men being treated as hostages. We will hold the enemy totally and completely accountable for everyone of them. And we will insist on this accounting.

These men have served their country honorably and well. They are now prisoners, suffering ill-treatment and neglect, possibly physical torture, certainly mental and physical hardship, at the hands of an uncivilized enemy. Until the day they are free, we Americans cannot rest. Our national conscience will not permit us to.

#### THE FUTURE OF SPACE FLIGHT

Mr. ANDERSON. Mr. President, on Sunday, April 19, the Washington Star published an excellent editorial dealing with the Apollo 13 mission and the effect it should have on the future of our space program. I believe it is as thoughtful an analysis as I have seen.

The editorial argues strongly that we must not stop the manned exploration of space because of the difficulties experienced on the Apollo 13 mission. It points out that technological progress has always been accompanied by danger and sacrifice; that the real danger is not in the occasional tragedy but for man to decide that he has learned all that is worth knowing and has gone as far as he needs to go.

Today, there is great public concern for our planet Earth—a concern that for the first time caused a day last week to be set aside and designated as "Earth Day." Although many do not realize it, there is a unique relationship between the public's concern for its planet Earth and the space program. Let me read a paragraph revealing that relationship:

Space flight offers more than a potential for scientific knowledge. It offers humanity the incalculable dividend of pride in itself

and in this fragile planet. Already, the new view that man has been granted from space has basically altered humanity's appreciation of the earth. It is no accident that mankind's exploding awareness of the need to preserve this oasis of life coincided with the first voyages into nearby space. For the first time man could see his world and its surrounding atmosphere for what it really is: A delicately balanced and closed life-support system.

The worldwide reaction of concern during the difficulties of the Apollo 13 mission brought mankind together for a little while with offers of cooperation between nations that are not usually forthcoming. Fostering international cooperation is characteristic of the space program, and the editorial points this out in its final paragraph which says:

The success of these first halting steps into space has brought a new vision to a slightly weary world and given mankind a new pride in its humanity. It is a gift without price. It is an offering that must not be withdrawn because of a momentary setback and a dramatic demonstration of the dangers that have always been present.

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

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

#### A LOST MISSION, AND THE FUTURE IN SPACE

At 1:08 p.m. Friday, Washington time, the ordeal of Apollo 13 ended. But as the Command Module plunged into the waters of the South Pacific to end the agonizing odyssey of Lovell, Haise and Swigert, the trial began for the Apollo program and the future of man in space.

Indeed, even while the endangered astronauts and their NASA advisers struggled to improvise an antidote for deep-space disaster, a muted chorus of criticism and doubt could be heard around the world. Men in the street, newspaper commentators and a scattering of scientific and official spokesmen first expressed the hope that the astronauts would be brought safely home to earth. And then, not infrequently, expressions of admiration for the bravery and the ingenuity of the crew were coupled with scathing criticism of the decision that had, in effect, issued the invitation to disaster.

Of greater practical significance was the fact that among those who now question the wisdom of continuing man's exploration of space are some of those who will be directly responsible for deciding what the future of the United States space program will be. Members of both the House and Senate committees chiefly responsible for the direction and the funding of the space agency have echoed such doubts. America, they point out, has proved its capability of going to the moon and getting safely back. Why, then, continue to tempt fate with repeated trips to the lifeless desert that orbits our planet?

In addition to those who consider the lunar program as a race that has already been won, there are growing numbers who have become persuaded that the vast expenditures of the space program were mispent. And for nearly everyone, including the hard-core space enthusiasts, much of the excitement has worn off, and has been replaced with a relaxation born of repeated success that borders on boredom.

The shattering of that smug assurance—the awakening from a complacent dream to the reality of a nightmare—combined with the misunderstanding and the growing antipathy to produce the inevitable adverse reaction. It is still too early to judge the extent and the strength of that reaction. But it is not too early to answer it.

The Apollo program should not be aban-

doned. It must be adjusted because of the failure of the mission of Apollo 13. It must be delayed until all that can be done is done to prevent a recurrence of the near-disaster. And then it must be carried through as planned, to the completion of Apollo 19 and the test of the long-duration orbital workshop known as Operation Skylab.

The argument that the race is over, so why are we still running, has no validity. The race to the moon—if indeed there ever was a serious attempt by the Russians to make a manned lunar landing—is over. But if the national interest in the moon was limited to a demonstration of technical superiority and a boost to national prestige, the entire space program has been a vastly expensive waste of time and energy.

The answer is that the moon-walk mission of Apollo 11 was not an end but a beginning. The program is aimed not at lunar landing, but at lunar exploration. Billions of dollars have been poured into the technology required to put man's intelligence physically out into space. The study of our fossilized satellite, which has remained virtually unchanged from the dawn of earth's creation, has begun. It is a study that can answer the riddles of the ages about the origins of the universe and—perhaps—of life itself.

The argument that an expenditure of \$25 billion cannot be justified by the potential technological and scientific gains is more difficult to refute. Certainly, if President Kennedy or the Congress could have read clearly the turbulent decade that lay ahead, the total commitment to a lunar landing before 1970 probably would not have been made.

But neither the President nor the legislators could foresee the drain on the national economy and morale that the minor military problem of Vietnam would become. They could not guess the extent of the social turmoil that would be produced by the despair of the inner cities and the rising demands of the socially and economically disadvantaged. The commitment was made, and has, in large measure, been fulfilled. It would be tragic folly to decide now, with the wisdom of hindsight, to reject that commitment and cancel the remainder of the program after the vast bulk of the money has been spent and just as the scientific dividends have begun to accrue.

The failure of Apollo 13 was a setback, not a disaster. But even if the worst had happened, if three men had sacrificed their lives in the hostile void of deep space, it should not have created insurmountable doubts or forced a pullback from the infinite frontier that man has now reached.

Technological progress—indeed every elevation of life from the slime at the ocean's edge to the present reach for the stars—has been accompanied by danger and by sacrifice. But the real danger is not the occasional tragedy that has marked man's endless quest for knowledge. The danger to the human species and to life itself will come if man finally decides that he has learned all that is worth knowing and gone as far as he needs to go. When life stops hoping, wondering and reaching, the retreat to the safety of the primordial ooze will begin.

Space flight offers more than a potential for scientific knowledge. It offers humanity the incalculable dividend of pride in itself and in this fragile planet. Already, the new view that man has been granted from space has basically altered humanity's appreciation of the earth. It is no accident that mankind's exploding awareness of the need to preserve this oasis of life coincided with the first voyages into nearby space. For the first time man could see his world and its surrounding atmosphere for what it really is: A delicately balanced and closed life-support system.

The world-wide reaction of concern for the three endangered astronauts was, perhaps, the major indication of mankind's need for a new horizon. During the four days of Apollo

13's ordeal, thousands of men met sudden, violent and tragic deaths in automobiles, in airplanes, in war. But the world watched breathless as Aquarius pushed the stricken Odyssey around the moon and back again to earth.

No one human life can truly be said to be more valuable than any other. Each is infinitely precious. Yet the prayers of millions rode with Apollo 13.

The answer must be that men, the world over, instinctively recognize the metaphysical importance of the reach into space. Lovell, Haise and Swigert, were not just three Americans on a dangerous mission. They, and those who will follow, are ambassadors of life to new, unknown regions.

The success of these first halting steps into space has brought a new vision to a slightly weary world and given mankind a new pride in its humanity. It is a gift without price. It is an offering that must not be withdrawn because of a momentary setback and a dramatic demonstration of the dangers that have always been present.

#### NATIONAL INDUSTRIAL POLLUTION CONTROL COUNCIL

Mr. JAVITS. Mr. President, on April 9, 1970, President Nixon, pursuant to the purposes and policy of the National Environmental Policy Act of 1969—Public Law 91-190—established the National Industrial Pollution Control Council. The President appointed 55 members to this Council—all leaders in industrial fields—which will allow businessmen to communicate with the President, the Council on Environmental Quality, and other Government officials and private organizations working to improve the quality of the environment.

Mr. President, it has become painfully apparent that cooperative effort between the public and private sector is essential in our struggle to restore our polluted environment. If the Federal Government were forced to take up the battle against pollution alone, the other equally important environmental needs—the social need—could suffer crippling neglect. It is so critical that we should not overlook the problems of our social environment—the problems of poverty, hunger, education, housing, alienation, and the war in Vietnam—in our effort to recreate our physical environment.

The solution to this twofold problem appears to reside in mutual concern both by the public and private sector; and concerted action for the sake of our total environment. Dare we forget that the most sacred part of our environment is the people which it embraces? Dare we neglect their needs? I think not; not when it is within our power to win this war on both fronts, to restore our physical environment and at the same time relieve the social problems crying for our attention.

It is for this reason that I was pleased to note President Nixon's recent action in involving our industrial leaders in this effort. Far from being merely a "show-piece," I feel that this Council has real potential for involving industry in establishing a balanced national policy and fair national standards which are essential for pollution control. I look forward to the specific recommendations for further action which this Industrial Pollution Control Council will shortly present to the President.

Mr. President, I ask unanimous consent to have printed in the RECORD the President's April 9 Executive order establishing the National Industrial Pollution Control Council, and the April 9 White House press release listing the members of this Council.

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

**STATEMENT BY THE PRESIDENT ON ESTABLISHING THE NATIONAL INDUSTRIAL POLLUTION CONTROL COUNCIL**

It is widely acknowledged that our productive economy and our advancing technology have helped to create many of our environmental problems. Now the same energy and skills which have produced quantitative gains in our economy must be used to improve the environment and to enhance the quality of life.

I have today signed an executive order creating the National Industrial Pollution Control Council and have called on a number of industrial leaders to serve as its members. I am pleased that Mr. Bert S. Cross and Mr. Willard F. Rockwell, Jr., have agreed to serve, respectively, as its Chairman and Vice Chairman.

The effort to restore and renew our environment cannot be successful unless the public and the private sector are both intensively involved in this work—with their efforts closely coordinated. The new Industrial Council will provide an important mechanism for achieving this coordination. It will provide a means by which the business community can help chart the route which our cooperative ventures will follow.

The new Council will allow businessmen to communicate regularly with the President, the Council on Environmental Quality and other government officials and private organizations which are working to improve the quality of the environment. It will also provide a direct opportunity for business and industry to actively and visibly support the drive to abate pollution from industrial sources. Both government and industrial leaders can use this mechanism to stimulate efforts toward the achievement of our environmental goals.

As we give more and more attention to the causes of industrial pollution, we must also recognize that many American industries have begun to face this problem squarely and to undertake significant pollution abatement activities. It would be unrealistic, of course, to think that private enterprise can meet this problem alone. The problem of the environment is one area where private enterprise can do the job only if government plays its proper role. For unless there are fair standards which are vigorously enforced, the responsible firms which take on the extra expense of pollution control will be at a competitive disadvantage with those who are less responsible.

At an early date, the new Industrial Council will submit to me and to the Chairman of the Council on Environmental Quality, through the Secretary of Commerce, a series of specific recommendations for further action. As a part of its report, the Council will consider the role it can play in helping to implement the nation's environmental protection program.

The challenge which faces this new industrial Council and the entire business community is complex and demanding. But I have no doubt that it can and will be met.

**EXECUTIVE ORDER 11523, ESTABLISHING THE NATIONAL INDUSTRIAL POLLUTION CONTROL COUNCIL**

By virtue of the authority vested in me as President of the United States, and in fur-

therance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law 91-190, approved January 1, 1970), it is ordered as follows:

**SECTION 1. Establishment of the Council.**

(a) There is hereby established the National Industrial Pollution Control Council (hereinafter referred to as "the Industrial Council") which shall be composed of a Chairman, a Vice-chairman, and other representatives of business and industry appointed by the Secretary of Commerce (hereinafter referred to as "the Secretary").

(b) The Secretary, with the concurrence of the Chairman, shall appoint an Executive Director of the Industrial Council.

**SEC. 2. Functions of the Industrial Council.** The Industrial Council shall advise the President and the Chairman of the Council on Environmental Quality, through the Secretary, on programs of industry relating to the quality of the environment. In particular, the Industrial Council may—

(1) Survey and evaluate the plans and actions of industry in the field of environmental quality.

(2) Identify and examine problems of the effects on the environment of industrial practices and the needs of industry for improvements in the quality of the environment, and recommend solutions to those problems.

(3) Provide liaison among members of the business and industrial community on environmental quality matters.

(4) Encourage the business and industrial community to improve the quality of the environment.

(5) Advise on plans and actions of Federal, State, and local agencies involving environmental quality policies affecting industry which are referred to it by the Secretary, or by the Chairman of the Council on Environmental Quality through the Secretary.

**SEC. 3. Subordinate Committees.** The Industrial Council may establish, with the concurrence of the Secretary, such subordinate committees as it may deem appropriate to assist in the performance of its functions. Each subordinate committee shall be headed by a chairman appointed by the Chairman of the Industrial Council with the concurrence of the Secretary.

**SEC. 4. Assistance for the Industrial Council.** In compliance with applicable law, and as necessary to serve the purposes of this order, the Secretary shall provide or arrange for administrative and staff services, support, and facilities for the Industrial Council and any of its subordinate committees.

**SEC. 5. Expenses.** Members of the Industrial Council or any of its subordinate committees shall receive no compensation from the United States by reason of their services hereunder, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

**SEC. 6. Regulations.** The provisions of Executive Order No. 11007 of February 26, 1962 (3 CFR 573), prescribing regulation for the formation and use of advisory committees, are hereby made applicable to the Industrial Council and each of its subordinate committees. The Secretary may exercise the discretionary powers set forth in that order.

**SEC. 7. Construction.** Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency to the authority of any other Federal agency or of the Industrial Council or of any of its subordinate committees, or as abrogating or restricting any such function in any manner.

RICHARD NIXON.

THE WHITE HOUSE, April 9, 1970.

**MEMBERS OF THE NATIONAL INDUSTRIAL POLLUTION CONTROL COUNCIL**

The President today announced the appointment of Bert S. Cross of St. Paul, Minnesota, and Willard F. Rockwell, Jr. to be Chairman and Vice Chairman, respectively, of the National Industrial Pollution Control Council. He is also announcing the appointment of 53 members to that Council.

Cross, 64, has been Chairman of the Board and Chief Executive Officer of Minnesota Mining and Manufacturing Company since 1966. He has been with the Company since 1957.

Rockwell, 50, is Chairman of the Board and President of North American Rockwell Corporation. He has been with that company and its predecessor, the Rockwell Manufacturing Company, since 1947.

The other members of the Council will be: Birney Mason, Jr., of New York, New York, Chairman, Union Carbide Corporation.

Charles H. Sommer, of St. Louis, Missouri, Chairman, Monsanto Company.

Clifford D. Silverd, of Wayne, New Jersey, President and Chief Executive Officer of American Cyanamid Company.

Herbert Tomasek, of Kansas City, Missouri, President, Chemagro Corporation.

Howard J. Morgens, of Cincinnati, Ohio, President, Proctor and Gamble Company.

Milton Mumford, of New York, New York, Chairman of the Board, Lever Brothers.

C. W. Cook, of White Plains, New York, Chairman and Chief Executive Officer, General Foods Corporation.

Howard C. Harder, of New York, New York, Chairman, CPC International.

Robert W. Reneker, of Chicago, Illinois, President and Chief Executive Officer, Swift and Company.

Charles R. Orem, of Chicago, Illinois, President of Armour and Company.

James P. McFarland, of Minneapolis, Minnesota, President and Chief Executive Officer, General Mills, Inc.

Robert J. Keith, of Minneapolis, Minnesota, Chairman and Chief Executive Officer, Pillsbury Company.

Donald M. Kendall, of New York, New York, Chairman and Chief Executive Officer, PepsiCo, Inc.

William F. May, of New York, New York, Chairman and President, American Can Company.

Ellison L. Hazard, of New York, New York, Chairman and President, Continental Can Company, Inc.

Edwin D. Dodd, of Toledo, Ohio, President and Chief Executive Officer, Owens-Illinois, Inc.

John L. Gushman, of Lancaster, Ohio, President, Anchor Hocking Corporation.

Leo H. Schoenhofen, of Chicago, Illinois, Chairman and Chief Executive Officer, Container Corporation of America.

C. Raymond Dahl, of San Francisco, California, President and Chief Executive Officer, Crown-Zellerbach Corporation.

Edmund F. Martin, of Bethlehem, Pennsylvania, Chairman and Chief Executive Officer, Bethlehem Steel Corporation.

Thomas F. Patton, of Cleveland, Ohio, Chairman, Republic Steel Company.

J. K. Jamieson, of New York, New York, President, Standard Oil Company of New Jersey.

Robert O. Anderson, of New York, New York, Chairman and Chief Executive Officer, Atlantic-Richfield.

Frank R. Milliken, of New York, New York, Chairman, Kennecott Copper Corporation.

Gilbert W. Humphrey, of Cleveland, Ohio, Chairman, Hanna Mining Company.

George H. Love, of Pittsburgh, Pennsylvania, Chairman, Consolidation Coal Company.

Thomas C. Mullins, of St. Louis, Missouri, President, Peabody Coal Company.

Russell DeYoung, of Akron, Ohio, Chairman, Goodyear Tire and Rubber Company.

J. Ward Keener, of Akron, Ohio, Chairman, B. F. Goodrich Company.

Karl R. Bendtsen, of New York, New York, Chairman and Chief Executive Officer, U.S. Plywood-Champion Papers, Inc.

Norton Clapp, of Tacoma, Washington, Chairman, Weyerhaeuser Company.

Chris Dobbins, of Denver, Colorado, Chairman and President, Ideal Basic Industries, Inc.

Robinson F. Barker, of Pittsburgh, Pennsylvania, Chairman, PPG Industries, Inc.

Edward N. Cole, of Detroit, Michigan, President, General Motors Corporation.

Lido Anthony Iacocca, of Dearborn, Michigan, Senior Vice President, Ford Motor Company.

Benjamin F. Biaggini, of San Francisco, California, President, Southern Pacific Company.

John M. Budd, of St. Paul, Minnesota, President, Great Northern Railway.

George E. Keck, of Chicago, Illinois, President and Chief Executive Officer, United Airlines, Inc.

Charles C. Tillinghast, Jr., of New York, New York, Chairman, Trans-World Airlines.

Frank A. Nemec, of New Orleans, Louisiana, President and Chief Operating Officer, Lykes-Youngstown Corporation.

Sherman L. Sibley, of San Francisco, California, President and Chief Executive Officer, Pacific Gas and Electric Company.

Lelan F. Sillin, Jr., of Weathersfield, Connecticut, President, Northeast Utilities.

Fred J. Borch, of New York, New York, Chairman and Chief Executive Officer, General Electric Company.

Donald C. Burnham, of Pittsburgh, Pennsylvania, Chairman, Westinghouse Electric Corporation.

Paul L. Davies, of New York, New York, Senior Director, FMC Corporation.

Arthur J. Santry, Jr., of New York, New York, President, Combustion Engineering, Inc.

H. Chandler Turner, Jr., of New York, New York, Chairman, Turner Construction Company.

Stephen D. Bechtel, Jr., of San Francisco, California, President, Bechtel Corporation.

Ralph Evinrude, of Jensen Beach, Florida, Chairman, Outboard Marine.

Rodney C. Gott, of New York, New York, Chairman and President, American Machine and Foundry Company.

Arch Booth, of Washington, D.C., President, U.S. Chamber of Commerce.

William P. Gullander, of New York, New York, President, National Association of Manufacturers.

H. Bruce Palmer, of New York, New York, President, National Industrial Conference Board.

## PROFILE IN COURAGE

Mr. YOUNG of Ohio. Mr. President, history records that Senator Edmund Ross, of Kansas, who was born in Ohio, was a great patriot. Andrew Johnson, President of our Nation 102 years ago, was placed on trial for impeachment before the Senate. President Johnson, an honest man, was trying to heal the wounds of the war as his predecessor, President Lincoln, would have done had he lived.

A two-thirds majority of the Senate is required to remove the President. In 1868, 54 Senators represented the 27 States. When the clerk reached the name of Senator Ross in calling the roll, 35 Senators had cast their votes against President Johnson—one short of conviction. The clerk called "Senator Ross,

what say you? Is the defendant guilty or not guilty?" Senator Ross stood up. He cried out, "Not guilty." Immediately after voting, he said, "I'm dead." He returned to Kansas, denounced and unhonored. He was read out of the Republican Party. One hundred years later a plaque honoring Senator Ross was placed in the courthouse at Ashland, Ohio. It reads:

Edmund Ross, native of Ashland County, Senator from Kansas, who cast the deciding vote in the impeachment trial of Andrew Johnson, President of the United States.

John F. Kennedy in his book "Profiles in Courage" devoted a chapter to this native-born Senator from Ohio.

## BUILDING AN ENVIRONMENT FOR INTERNATIONAL PEACEKEEPING

Mr. AIKEN. Mr. President, on April 11, the distinguished senior Senator from Iowa (Mr. MILLER) was the principal speaker at the Annual Assembly of the Iowa Division of the United Nations Association in Des Moines. His remarks, "Building an Environment for International Peacekeeping," are particularly relevant to the problem of world peace and most timely to an understanding of the need for realism as the Strategic Arms Limitation Talks proceed in Vienna.

I ask unanimous consent that Senator MILLER's speech be printed in the RECORD.

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

### BUILDING AN ENVIRONMENT FOR INTERNATIONAL PEACEKEEPING

(Address by Senator JACK MILLER)

It is a genuine pleasure to be here to address this annual assembly of the Iowa Division of the United Nations Association.

Let me first commend all of you for your dedication to and interest in the United Nations, and for the inauguration of your newest project—the Congressional Information Exchange.

Never has the need been greater for a program to close the communications gap which exists between too many officials at all levels of government and their constituents in the area of international affairs. If the public has a clearer understanding of the problems involved in this terribly delicate and complex area, if the people are able to communicate their concerns to their government officials and, in turn, be communicated with by these officials, the cause of an orderly and peaceful world can only be better served.

This twenty-fifth anniversary of the founding of the United Nations is an appropriate occasion to reflect on not only its accomplishments—and there have been many—but also the shortcomings which have surfaced during these twenty-five years.

All of us look at the world through the prism of our own experiences, in which the present always is in context with the past. But, unfortunately, we too often consider only the successes. Our hopes and expectations seem to cause us to disregard our failures, although these must be faced up to if reforms needed to avoid their repetition are to be undertaken.

Some supporters of the United Nations appear to have developed a vested interest in keeping it just as it is. They have come to love the darkness and curse the candle. They see how right in their own terms are the purposes and principles of the U.N. and close their minds to the good will of those who

believe reform is in order. Of course, reformers are quite used to being resisted by the stand-patters and accept such resistance as a challenge—not a deterrent.

However, if the United Nations is to become what it was born to be twenty-five years ago, we must look at it realistically. We must consider it in the context of the world as it is—not just the world we wish it to be. We must judge the United Nations according to its limitations and not according to extravagant demands that it be the solution to all the world problems. To do otherwise would only lead to the frustration which ignores progress and, at the same time, inhibits reform.

To begin, there is nothing basically wrong with the Charter of the United Nations which I have always regarded as a great moral document. The real problem is the world environment—a maze of economic, political, cultural, philosophical, and legal systems—tolerated if not actually promoted by the age-old diplomatic principle of expediency. It is this world environment which stands in the path of world peace—not the organic structure of the U.N., not its procedures, and certainly not its Charter.

The United Nations is, indeed, a world organization, established primarily, according to former U.N. Ambassador George Ball, "as an institutional means through which the great powers could maintain the peace, guided by the principles enunciated in the Charter." But its failures here result from a lack of commonality of purpose among these great powers. Additionally, it can scarcely afford to pay for the peacekeeping force on Cyprus, for instance, let alone command observance of its resolutions, some of which, unfortunately, have been characterized more by emotionalism than by reasoned consideration. This has led to the suggestion by some apologists that the U.N. serves a useful purpose as an international forum for debate and letting off steam. I find this a most pessimistic and sterile evaluation, however.

In any discussion of peace and the peacekeeping capabilities of the United Nations, one must squarely face the realities of a world in which the politics of global peace is essentially the politics of individual nations. To the extent that the politics of these individual members of the family of nations cannot be reconciled with the concept of global peace, there will not be peace; or, to put it another way, there will only be, at best, a relative degree of peace.

We talk about "peace" so often that there is a tendency to think that all members of the family of nations share the same concept of what "peace" is. Regrettably, this is not the case—especially when the leaders and citizens of other nations possess different cultures, traditions, political systems, and philosophies.

Here in the United States, where we share a common philosophy embracing individual freedom, there is general agreement on the concept of "peace". It has been expressed in the statements of our national purpose by successive Presidents in recent years, namely: "a strong, free, and virtuous America in a world where there is a just and lasting peace, with freedom and respect for the integrity of the individual."

As American citizens we are concerned with the inalienable rights of man as an individual and, also, his correlative responsibilities as a member of a society established to attain the goals set forth in the Preamble of our Constitution. As the world has changed, these goals—especially those of providing for the common defense and promoting the general welfare—have compelled us to focus an increasing amount of attention and action upon the rights and responsibilities of our own society as a member of the family of nations.

However, the compulsion of world changes is not the only reason for the world-minded-

ness of our people. More important, perhaps, is a religious heritage which has moved thousands of our citizens to serve as missionaries in all parts of the globe, which has inspired thousands of our young people to serve overseas in the Peace Corps, and which has provided public support for our foreign aid activities—including more than \$130 billion in aid to other nations since World War II plus some \$4 billion to United Nations organizations and activities. This heritage found expression many centuries ago in John Donne's famous words: "No man is an Island, intire of itselfe . . . any man's death diminishes me, because I am involved in Mankinde."

Our national purpose expresses the ideology of freedom—as opposed to the ideology of non-freedom, which finds national expression behind the Iron and Bamboo Curtains and denies the existence of God, the human soul, and the integrity of the individual. The concept of "peace" in the Communist mind, therefore, is not the same as our concept of "peace". Nor can our objective of a world where there is freedom and respect for the integrity of the individual be reconciled with a philosophy of isolationism and "fortress America."

At the same time, our national purpose emphasizes a strong, free, and virtuous America. Thus, our identity as a nation is to be retained and secured, and this implies a degree of sovereignty. The practical question, then, is not whether sovereignty should be relinquished to achieve a more orderly and peaceful world; rather, the question is "how much?" and, especially "when?". The answers must be in specifics, and it is over those specifics that idealists and pragmatists wage their debates.

The "how much?" and "when?" are interrelated. For example, a treaty entails the relinquishment of a certain amount of a nation's sovereignty. In the case of the limited nuclear test ban treaty, we relinquished some of our sovereignty by agreeing not to perform nuclear testing in the atmosphere. We also saw to it that the treaty provides that we can withdraw from it—although, depending on the circumstances, this could cause us some embarrassment before other nations, and we would be reluctant to do so. The practical effect, I believe, was the relinquishment of only a slight amount of sovereignty; and since the other nations which joined in the treaty—especially major nuclear powers like the Soviet Union and Great Britain—also did this, the treaty satisfied the very important requirement of mutuality.

Is national security necessarily inconsistent with the concept of an orderly and peaceful world? This is more of a philosophical question—one that is important, but also easily lost in semantics. One cannot answer the question without defining "an orderly and peaceful world". If this includes our identity as a nation, then this identity must somehow be secure—national security to preserve our identity as a nation is required. What form this "security" takes can vary according to world conditions, especially military and economic power balances and the attitudes of those wielding the power. But if "an orderly and peaceful world" does not include our identity as a nation, there is no reason to talk about "national security". However, such a concept is inconsistent with our national purpose to which I earlier referred.

The Senate ratified the United Nations Charter, which is a treaty, and under this Charter—now the law of the land as all treaties are—we have surrendered a little of our sovereignty. It is only a little—not as much as some believe necessary to attain global peace, and we can always pull out of the U.N. Long before this would happen, however, we would exercise our veto in the Security Council. There has been a

great amount of criticism of the Soviet Union for its frequent use of the veto, but I doubt that any realists would suggest that permanent members of the Security Council give up the veto power altogether.

It may be said that we are getting what we pay for—that while we have retained so much of our sovereignty, along with the other members of the United Nations, we have done so at the sacrifice of an orderly and peaceful world. But this begs the question. Just because we deeply need and yearn for an orderly and peaceful world doesn't necessarily mean that mere relinquishment of more of our national sovereignty at this time, in the present state of world conditions, will achieve it.

In the October 1961 issue of *Foreign Affairs Quarterly*, Senator Fulbright, chairman of the Foreign Relations Committee, wrote: "The dilemma of any effort to create an organic unity among nations or even a loose comity is that there is no necessary correlation between human needs and human capacity." I frequently disagree with the Senator from Arkansas, but I believe he made a valid point.

This absence of a correlation between human need and human capacity is another way of stating the "when?" factor to which I have earlier referred. Were it not for the clash of ideologies between the nations of the free world and the nations of the non-free world, our capacity for an orderly and peaceful world would be immeasurably enhanced. More sovereignty could be relinquished by individual members of the United Nations in favor of a better chance of achieving world peace; and this could be done without jeopardizing their national security.

But the clash of ideologies is there—and this fact of the world as it is cannot permit one to be sanguine over the possibility of an early coalescence of human need and human capacity. Moreover, there are still those who are willing to use military power to destroy the freedom of members of the family of nations, and whether that power is exercised in the form of a Czechoslovakian invasion or a so-called "war of national liberation" is not particularly relevant. What is relevant is that military power is a fact of life, and the willingness to use it to force on other nations an environment of non-freedom (be it Communism or some other form of totalitarianism) is a fact of life. The considerations are necessary to really understand and appreciate the answer given by Arthur Goldberg shortly after he became Ambassador to the United Nations. The Question: Mr. Ambassador, what do you hope to accomplish as the American Ambassador to the U.N.? Answer: "I hope that, during my period of service, I will be able to help move the world one inch closer to peace."

Within the United Nations itself, the problem of the clash of ideologies has been compounded by what seems to be the proclivity of many member states to wink an eye at the Charter in favor of a position of expediency; and I should not have to emphasize to a group like this the imperative of preserving the integrity of the Charter. One example is the one-sided Security Council resolution condemning the attack by Israel on Beirut International Airport without, at the same time, condemning the attack by Arab guerrillas on an Israeli commercial airliner in Greece. Another example is the delinquency, in one form or another, of 92 of the 126 members, as of last January 1, in the payment of their dues and assessments. Of the arrearages totaling nearly \$191 million, more than \$130 million represents the cost of U.N. peacekeeping operations in the Congo and the Middle East. Most of this \$130 million is owned by the Communist bloc, incidentally, which is, nevertheless, permitted to continue to cast its votes notwithstanding the Charter's provisions covering loss of the

vote for delinquency in paying dues and assessments. Seventy-one nations to which the United States furnished foreign aid in the past year are among the ninety-two delinquents.

While in no way diminishing the gravity of this situation, I would point out that it would probably be even worse were it not for an amendment I finally, after several years' effort, managed to have adopted as part of the Foreign Assistance Act of 1967. Under this amendment, our government is required to take into account a nation's status with respect to its United Nations obligations before we extend our foreign aid—unless there are extraordinary circumstances which would prevent the nation from getting its payments current. Thus, the amendment brought our foreign aid policy into line with our foreign aid policy of supporting the United Nations. I believe the amendment is slowly but surely accomplishing its objective of convincing delinquent nations that we mean business when we say that we seek and support a viable United Nations to serve the cause of a more orderly and peaceful world.

Before the amendment was adopted, there were 108 delinquent member nations. As I have noted, this has now dropped to 92, of which only 15 (compared to 56 in 1967) are more than two years in arrears; and about half of those 15 are expected to become current in their payments by next July.

However, until all member nations face up to their responsibilities under the Charter—especially that of promptly fulfilling their ability-to-pay determined financial obligations—our search for peace through a strong and viable United Nations will continue to be impaired; and the financing of peace-keeping activities of the U.N. itself will likely be limited to smaller conflicts, such as Cyprus and the Congo—conflicts which, I regret to say, some have predicted as "inevitable" in this decade. In this connection, I quote from the recent Brewster Report: "No significant progress can be expected without some mutually satisfactory answer as to how future forces are to be financed and how past debts are to be met."

If it is recognized that the world environment is what stands in the path of world peace, it would seem only fair to say that the world environment is responsible for the shortcomings of the United Nations—especially in peacekeeping. Like any other family unit, an organization of the family of nations cannot achieve its purpose until there is the necessary unity of ideology among its members—unity of respect for the individual person, unity over the concept of social justice, unity over the rule of law, unity over freedom of self-determination of nations, unity over truth, unity over freedom of communications, unity over the meaning of "peace" itself.

Only out of such unity—or, if you will, ideological disarmament—can come the mutual trust and confidence among the members of a family which are so necessary to the family's durability, tranquility, and promise. Of one thing we can be sure, mere unity of desire or survival is not enough. And I must frankly state that programs for peacekeeping which, no matter how well-intentioned, are promoted despite a lack of mutual trust and confidence on the part of the nations affected are not well-calculated to result in genuine security to the family of nations.

The activities and accomplishments of the United Nations—in the areas of nuclear testing in the atmosphere and nuclear nonproliferation and through its various specialized agencies dealing with economic, technological, and social problems and grievances—demonstrate that world leaders and statesmen understand very well how necessary it is to change the world environment to achieve these ideological unities and thus bring about the human capacity needed to

match the human need for world peace. Hunger and malnutrition are being dealt with by the Food and Agriculture Organization, disease by the World Health Organization, illiteracy and deprivation of education by UNESCO, and economic underdevelopment by the U.N. Development Program and the World Food Program. In 1972 it will sponsor an international conference concerned with the problems of pollution and conservation. And I could list many others. I am most familiar with FAO, having attended each of the last five biennial conferences, and I can assure you that the problems of protein deficiency, population growth, food and fibre production, agricultural trade, and the like are receiving highly professional and dedicated attention. Also, as former U.N. Ambassador James Wiggins recently pointed out three-fourths of the staff and three-fourths of the budget of the United Nations itself are devoted to social and economic problems. Apart from the direct results themselves, all of us should be encouraged by the realization that a foundation is being patiently laid for greater ideological harmony among the member states.

All of this is not to say that the reformers have been sitting idly by. They haven't and they shouldn't, because the structure and mechanisms of the U.N. are far from perfect. A system of weighted voting to conform the voting power of a nation in the General Assembly more nearly to its relative population has long been advocated. As Dean Wilcox of Johns Hopkins University recently said: "It does seem a bit ridiculous that a state like the Maldives Islands, with a population of less than 100,000, should have the same voting power as India or the Soviet Union. It seems even more ridiculous when one realizes that states possessing only about one-tenth of the world's population and contributing only one-twentieth of the U.N. budget could command the two-thirds vote necessary for Assembly action on important questions." A week ago Thursday columnist William Frye noted that admission of more so-called "ministates" could raise the membership from 126 to 200 within the next ten years, with 65 of the smallest possessing two-tenths of one percent of the population while at the same time controlling one-third of the voting power.

Better ways to solve the financial situation, especially the liquidation of delinquencies, need to be devised.

Economic aid and technical assistance programs can and should be increased, although this should not be undertaken until the financial problems are resolved. I might add that those of us who favor greater emphasis on multilateral aid have high hopes for expansion of the programs of the Food and Agriculture Organization. Dean Wilcox has well pointed out that "there is a direct relationship between social and economic progress and the great issues of war and peace, between hunger, poverty, disease and illiteracy on the one hand and world tensions on the other."

Finally, considerable attention is being given the development of regional agencies like the Organization of American States so that they could assume an important peacekeeping role. Ideological differences which exist in the U.N. are not so apt to be found in a particular region, and the mutual trust and confidence so necessary to peacekeeping may, in fact, already exist.

After twenty-five years' experience, reforms such as these should not be too much longer in coming; and they can happen long before the changes in the world environment to which I have referred come about, although such changes would undoubtedly help greatly the cause of reform.

I would like to conclude by quoting from a speech of former Ambassador Wiggins. He said:

"The United Nations was called into being 25 years ago by the realization of the

statesmen of the world that some new system was needed to safeguard mankind against the dangers of recurrent devastating world-wide war. Events since have multiplied those dangers. While we need to be clear-headed aware of the imperfections of the United Nations, it is its imperfections we should labor to eliminate and not the United Nations. We began with hopes too high. We moved on to expectations too low. It is time for more mature hopes and expectations consonant with the political realities of our dangerous times."

This is a challenge all of us can accept.

#### POULTRYLAND, U.S.A.

Mr. ERVIN. Mr. President, generally speaking, when most people think of North Carolina, they think of the many fine tobacco and textile products, excellent furniture, or as a delightful, variety vacationland. Today, I wish to call to the attention of my colleagues the rapid growth of the poultry industry in North Carolina and the fact that North Carolina can aptly be titled, "Poultryland, USA."

Some of the facts about the phenomenal growth of this industry will demonstrate why this new title is well deserved. North Carolina ranks, among the States, fourth in the production of commercial broilers; fourth in egg production; and third in the production of turkeys. There are 64 licensed chicken hatcheries and 14 turkey hatcheries in the State. In addition, 35 USDA-inspected poultry processing plants are located here, as well as eight shell egg plants and three egg product plants.

Gov. Robert W. Scott, in recognizing the value of the poultry industry to the citizens of North Carolina, has proclaimed April as Poultry Products Month. Likewise, Mayor Paul Cash, of my hometown of Morganton, has proclaimed April as Poultry Products Month.

In order to share additional facts and data on this subject, I ask unanimous consent that the following articles be printed here in the RECORD. "North Carolina, the Land of Poultry," a pamphlet; proclamation of Gov. Robert W. Scott; and an article, "Burke Poultry Industries Spotlights," from Morganton, N.C., News Herald, April 10, 1970.

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

#### NORTH CAROLINA, THE LAND OF POULTRY

##### A BRIEF GLANCE AT THE POULTRY INDUSTRY IN NORTH CAROLINA

Truly, North Carolina is "the land of poultry", and the following information and facts should convince you that we are, in fact, Poultryland, USA.

Just what the poultry industry means to North Carolina and its people cannot be put into words; for while you read this information brochure, things continue to happen. Eggs are being laid, broilers are being processed, the turkey industry is expanding, thousands of people are working in the industry, and the Tar Heel economy continues to advance, all because of this important, vital, and fantastic business known as the "Poultry Industry".

Where the Poultry Industry has been and where it is today is only a part of the story. As we look into the future this fantastic story about the Poultry Industry is really "where it is going". A glance back at the past may help us in some small way to see the future of this important Tar Heel industry.

#### LET'S LOOK AT THE FACTS

1. Commercial broiler production is second only to tobacco in North Carolina income by commodities.

2. North Carolina ranks fourth among the States in production of commercial broilers.

3. North Carolina produced an average of more than five million commercial broilers per week throughout 1968 (262,872,000 broilers for the entire year). 1969 broiler production was 280,637,000.

4. 1968 broiler production was 2½ times as great as 1957 (approximately 106,000,000) and was more than sixteen times as large as the 1947 production.

5. North Carolina ranks fourth among the States in egg production (3,034,000,000 eggs in 1968). Egg production in 1969 amounted to over 3,405,000,000, ranking fourth in the nation.

6. North Carolina ranks third among the States in production of turkeys. Production in 1969 totaled over nine and one-half million.

7. 1969 turkey production was approximately 5½ times as large as 1958, and approximately twenty-seven times as large as in 1948.

These are just a few of the highlights showing the great importance of the Poultry Industry in North Carolina.

Certainly, the farm figures tell only a part of the story, because the Poultry Industry is a vital part of the industrial and business community in the Tar Heel State. There are about six hundred feed mills registered with the North Carolina Department of Agriculture delivering feed within the state. Four hundred of these are North Carolina mills and two hundred are out-of-state mills.

There are 64 licensed chicken hatcheries and 14 turkey hatcheries in North Carolina.

There are 35 USDA-inspected poultry processing plants in North Carolina. About ten of these plants do not slaughter poultry but are involved in packing and processing.

There are 8 shell egg plants and 3 egg products processing plants in North Carolina.

The number of people producing eggs in North Carolina runs into the hundreds, even the thousands. In addition, there are other operations and numerous manufacturing and distributing firms in the allied fields employing over 150,000 people.

Dollars from this gigantic industry have had tremendous impact on the economy of North Carolina for many years. It has been estimated that the Poultry Industry generates additional income in North Carolina in excess of \$2,250,000,000 for other Tar Heel businesses.

North Carolina poultry meat certainly ranks at the top of the list in taste, value, economy, elegance, digestibility, and versatility. It is common knowledge that poultry meat is higher in protein and lower in calories and fat than any other leading meat. Chicken and turkey can be placed on any table in North Carolina very economically, and with great versatility.

The poultry industry operates entirely under the free enterprise system. There are no price supports or subsidies, yet the industry continues to grow and continues to boost income and retail sales throughout the Tar Heel State. The broiler industry is providing housewives throughout North Carolina and the country with quality broilers at less than half the cost of ten to twelve years ago. The poultry industry is producing 25% heavier chickens on 25% less feed in 25% less time, and passing the savings on to the consumer.

Retail prices for poultry and poultry products have declined over 15% since 1956, while competing meat products have increased in retail prices during that same period from 70 to 80%.

No wonder this fantastic industry may be described as "The miracle of modern agriculture."

This is only part of the story of North

Carolina, the "Land of Poultry." For while you were reading this brochure, this important industry has grown some more. Truly we can call North Carolina, "Poultryland, USA."

You might like more information about the poultry industry and if so, please feel free to contact.

RALEIGH, N.C., April 2, 1970.

PROCLAMATION BY GOV. ROBERT W. SCOTT

Whereas, the poultry industry is of great importance to the economy of North Carolina, with our state ranking third in the nation in turkey production, fourth in commercial broiler production, and fourth in egg production; and

Whereas, commercial broiler production brings producers the second highest commodity income in the state, surpassed only by tobacco; and

Whereas, the poultry industry not only provides employment for thousands of North Carolinians but supplies a basic human need, food;

Therefore, I proclaim April 1970 Poultry Products Month in North Carolina and commend this observance to our citizens.

By the Governor:

ROBERT W. SCOTT.

[From the Morganton (N.C.) News Herald, Apr. 10, 1970]

BURKE POULTRY INDUSTRY SPOTLIGHTED

The month of April has been proclaimed as Poultry Products Month in Morganton in a proclamation signed by Mayor Paul S. Cash.

The observance of Poultry Products Month is sponsored by the North Carolina Poultry Federation of which Bob Erwin of Morganton is president.

Poultry Products Month is designed to call attention to the poultry industry, which is important not only to the economy of North Carolina but to Burke County as well.

In Burke County the gross income from the poultry industry is over a million dollars, according to figures compiled by the Agricultural Extension Service.

Herbert M. Speas, Burke County extension chairman, said the gross income from all phases of the poultry industry in the county during 1969 amounted to \$1,020,300.

This included: commercial eggs, \$207,000; broilers, \$727,000; hatching eggs, \$67,100; and hens, \$21,200.

Approximately one-third of the gross agricultural income in Burke County comes from poultry, Speas said.

Erwin, the state poultry federation president, is also president of B and L Feed Co. which contracts with individual farmers to grow broilers which are sold to Breeden Poultry and Egg Inc. He said that over two million broilers were grown in the county last year.

Breeden's processes the poultry, getting it ready for cooking. This company processes approximately 400,000 broilers each week.

Western Carolina Hatcheries in Morganton is the largest independent hatchery in the state. Around 260,000 baby chicks are hatched each week, which are sold to Breeden's and to Holly Farms.

Table Rock Farms, which produces started pullets, has a capacity for 30,000, while Burke Egg Co., producer of commercial eggs, has a capacity of 36,000 laying hens.

In the state, the commercial broiler production brings producers the second highest commodity income, surpassed only by tobacco. This state also ranks third in the nation in turkey production, fourth in commercial broiler production, and fourth in egg production. North Carolina is rapidly becoming known as "Poultryland, USA."

Gov. Robert W. Scott also has proclaimed April as Poultry Products Month in North Carolina.

The proclamation by Mayor Cash follows:

Whereas, the poultry industry is an extremely worthwhile industry in the State of North Carolina; and

Wherein, eggs are being laid, broilers are being processed, the turkey industry is expanding, and thousands of people are employed in the poultry industry; and

Whereas, commercial broiler production is second only to tobacco in North Carolina income by commodities; and

Whereas, North Carolina ranks fourth among the states in production of commercial broilers; and

Whereas, North Carolina ranks fourth among the states in egg production, and egg production in 1968 amounted to over 3,032,000,000; and

Whereas, North Carolina ranks third among the states in production of turkeys as production in 1968 totaled over 8,276,000; and

Whereas, chickens, turkeys, and eggs are of great importance to the State's economy and its people; and

Whereas, the poultry industry in Morganton, and the surrounding community is of great importance to our economy and our people.

It is, now, therefore, proclaimed that the month of April 1970, be known as Poultry Products Month in Morganton, in honor of this important, vital, and fantastic business known as the "Poultry Industry."

AWARD OF HONOR TO DR. SOLOMON GELD

Mr. WILLIAMS of New Jersey. Mr. President, recently the American Association of Homes for the Aging presented its Award of Honor to Dr. Solomon Geld.

Dr. Geld established the first self-contained apartment project for the elderly in New Jersey. He is renowned in the field of gerontology for his learned papers and thoughtful professional publications.

A refugee from oppression, Dr. Geld has devoted the 30-odd years since his arrival in this country to nonprofit care of the aged. Social components of care and continuity of care are hallmarks of the professionalism so manifest in the work of this dedicated man.

At present, Dr. Geld is executive director of the Daughters of Miriam Home and Infirmary for the Aged in Clifton, N.J. He is past president of both the National Association of Jewish Homes for the Aged and the New Jersey Association of Homes for the Aged. His personal warmth and deep convictions have endeared him to all who have known him, particularly the aged, who see in him a true friend and trusted confidant.

It was fitting that Dr. Geld, the principal proponent of the unique philosophy of the nonprofit socio-medical service concept of the home for the aged, be chosen as the recipient of the award of honor.

I ask unanimous consent that his inspiring response to the presentation, with its beautiful paraphrase of the Passover Haggadah song, be printed in the RECORD.

REMARKS BY DR. SOLOMON GELD

Madame Chairman, President Eggers, President-elect Munnis, Presidents of State Associations—My Dear Friends:

In the Passover Haggadah, which is a collection of stories, songs and prayers, commemorating the exodus of the children of Israel from Egypt, there is one song which recounts the Lord's goodness to His people;

all the wonders which He wrought from the time of the liberation from slavery until the entry into the Promised Land. Each event ends with the Hebrew word "Dayenu", which means—"It would have been enough", and the passage, in somewhat abbreviated form, is as follows:

"If God had given us freedom only and not manna in the desert, it would have been enough. If God had given us food only and not the Sinai revelation, it would have been enough. If God had given us the Sinai revelation, but not the Sabbath, it would have been enough. If God had given us the Sabbath, but not the Promised Land, it would have been enough", and then the passage continues: "How much more grateful must we be because He did all this and gave us a promise of ultimate redemption from our sins. Therefore it behooves us to praise and to exalt Him, so let us burst forth with a song:—Hallelujah."

My own life evokes this memory. Paraphrasing the recited passage of the Haggadah I could say that had the good Lord given me life without liberation, it would have been enough. If He had given me liberty without the pursuit of happiness in this country, it would have been enough. If He had given me the pursuit of happiness without any achievement, it would have been enough. If He had given me the achievement without ever-widening recognition, it would have been enough. Now He saw fit to do all this and bless me with the love of my good wife, our three sons and a grandson and let me reach this appointed hour. So it behooves me to praise Him and to shout from the depths of my heart:—Hallelujah! with a melody that combines a Handel chorus, a Gregorian chant and a Chasidic niggun. Only in America can an event such as this happen. As a relative newcomer, I wish I could convey to you, who were fortunate to be born in the United States, the sense of privilege of being an American citizen—despite our justified and at times not so justified penchant for self-criticism.

Thirty years ago, when Providence willed that I should escape from slavery to freedom, from possible death in Auschwitz to life and purpose here, little did I know that an abundant measure of kindness and love would come in my direction and that my cup of bitterness and despair, after the losses which I had sustained, would be replaced by one of joy and gladness and hope, which year after blessed year becomes more rich and radiant. Today my cup runs over and I find it difficult to respond to you adequately, to tell you what is my heart and mind, except to thank you, all of you within this Association, including the National Association of Jewish Homes for the Aged, the New Jersey Association of Homes for the Aged, which nourished and sustained me, whose lives have touched mine, and who came to share this hour with me.

This award of honor is as demanding in prospect as it is rewarding in retrospect. To me, any recognition for past performance imposes an obligation to continue in the future. I wish to assure you that I am mindful of the noblesse oblige. I am aware that your declaration about the merits of my work with the aged in the past is co-extensive with my commitment to the aged in the future as long as God lets me live and people let me work. I pledge to you that commitment in solemnity and joy.

INVOLVEMENT OF AMERICAN FORCES IN CAMBODIA

Mr. GORE. Mr. President, I ask unanimous consent to have printed in the RECORD a speech delivered today in Boston by the Senator from Massachusetts (Mr. KENNEDY) to the Advertising Club of Greater Boston and the Broad-

casting Executives Club of Greater New England. The distinguished assistant majority leader speaks out forthrightly and candidly about the involvement of American forces in Cambodia, and in reply to the President's statement of last evening.

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

ADDRESS BY SENATOR EDWARD M. KENNEDY TO THE ADVERTISING CLUB OF GREATER BOSTON AND THE BROADCASTING EXECUTIVES CLUB OF GREATER NEW ENGLAND

I am pleased to have this opportunity to address this most distinguished audience. I came here today prepared to discuss with you the state of our nation's economy. I planned to draw the distinction between the economic achievements of the early and middle 1960's and the problems we have faced since inflation took hold in the later part of the decade. To look at the indicators, and note that those indices today that are on the rise are those that should not be—namely prices and unemployment, and those that are on the decline are those that should not be—namely the value of the dollar, the growth of the gross national product, and the Dow-Jones Industrial average. In my prepared remarks, I came to the conclusion that the state of the nation's economy was, perhaps, the most distressing and pressing challenge before the American people today.

But all that was prior to last night and the message of the President. And I no longer feel that the condition of our economy heads the agenda of crisis before our nation. Today, we have all been jolted back into more important things—life and death things—we are back to war and more war, and there does not seem to be an end to it. We cannot talk today about the value of goods and services or high interest rates—we must focus today on the value of American dreams and aspirations for a peaceful future and high casualty rates.

Last night we heard the same words and implications again, the same words that we have heard for the past five years of nightmare. Logistics, sanctuaries, combat support, "cleaning out" of areas, freedom-loving defenseless people, the one more chance to hit the enemy hard. They flow, these words, on the smooth surface of phrases about avoiding humiliation, no defeats, supporting our boys and the like. They flow, but they no longer can lull. For now, we know what they mean—they mean sorrow, they mean death, they mean increasing air strikes, Thursday's casualty figures, and perhaps some new Hamburger Hill, in some new country, for some new reason that we dare not question. I submit the words we heard mean nothing—nothing, that is, but an increasing level of violence and an expansion of war.

So, now we are in Cambodia. We are not invading that country with ground combat troops in violation of the National Commitments Resolution of the United States Senate we are told, for it is no invasion at all. We are simply going after the North Vietnamese who have used Cambodia as a sanctuary, flowing in and out of the Parrot's Beak to South Vietnam. Why then is Cambodia different now? Because, we are told, we are withdrawing men from South Vietnam and those left will be more vulnerable to the attacks of the enemy. But it was not much more than a week ago that the President told us that American casualties for the first quarter of this year were the lowest in five years; this when we had already withdrawn over 100,000 soldiers. Moreover, Vietnamization was so successful, we were informed, we could maintain our withdrawals up to 150,000 more in the coming year. And, in addition, the Southern part of South Vietnam, the delta that borders on Cambodia,

was pacified and firmly in control of the South Vietnamese army. Then why are we invading Cambodia?

Because, we are told, we will not be humiliated, we will not be a "pitiful, helpless giant" to be pushed about by an intractable enemy that moves into other countries to jeopardize us. But Cambodia has nothing to do with any United States humiliation, and who, by the way, has ever made the serious case that we have been humiliated in Vietnam. Surely that's a personal judgment made by the President—but I and millions of others do not share it. And, is it not true that the North Vietnamese and the Viet Cong invaded and infiltrated into Cambodia years ago while Prince Sihanouk was in control? How can it be an invasion by them now, when it was not then?

But enough of this. The rhetoric used to make the case for or against the President's action can go on and on, and it is not my purpose to bore you, but to speak to you seriously in a very dark hour.

Last night, to fortify his address, the President put politics aside, and claimed to take this disastrous step in Southeast Asia regardless of the political price he must pay. Today, in response, I can do no less. For if this is a time for more Americans to die, it is a time for all who feel strongly to speak.

The President of the United States has fallen prey to the illusions that drove another from office—the illusion of an American military victory in Southeast Asia. In a political war, against an indigenous enemy, with small sympathy from the surrounding population, in alliance with unrepresentative governments, we cannot, short of nuclear weapons and total annihilation, conquer the millions of battlefields on which we are forced to fight. This is a war that only can end in a political settlement, in that compromise that returns the enemy soldiers to their farms and huts. Their leaders to the struggles of the political arena, and our men to their families and homes.

The President has been advised by the same voices that have held out the promise of victory to others—those who in good faith promise that the next attack will be the last, the next plan will break the enemy's back; those who claim that if their hands were untied, the deed would be done. I stress that these advisors speak in good faith—but they only have faith in force—in planes, in guns, in battalions and in rifles. He has fallen prey to all that—and said yes.

The President spoke to us of his alternatives.

First, he said, we could opt to do nothing in the face of the use of Cambodian sanctuaries, but that would mean some form of defeat. Is it nothing to continue expending over 100 lives a week, \$20 billion dollars a year, training and equipping an entire nation's army, and supporting a government in its palace? That certainly is not nothing—that is our awful price of Vietnam, and surely the continuation of that price is thought by many, including myself, to be too much.

Second, he could supply Cambodia with the combat equipment requested. I must agree with his conclusion that this would do little good. Cambodia has an army of only 38,000 men, untrained in the use of the simplest weapons. Equipping them, training them, would take ages and ages—even if it were in our interest to do so.

Third, he could do what he is doing, namely, undertaking a surgical strike with American men to wipe out the bunkers of the North Vietnamese Headquarters. But we can do this for the rest of our generation, only to withdraw and see those bunkers fill with men again. What could we possibly have in mind relying on this alternative—to secure all of Indochina and preserve it in stone? How can we, the nation bent on withdrawal from Vietnam and the internal political and nationalistic morass of Southeast

Asia justify losing lives to take command bunkers in the jungle of another country for a day, or a week, or a month?

This is madness, and that must be said. And it is also demeaning to a great nation to attempt to justify it in the name of patriotism and honor and glory. Continued reliance upon chauvinistic phrases to appeal to someone's idea of the average American can only make a mockery of our true values of loyalty, courage and patriotism. It is a dangerous game, and one that would not have to be relied upon if the cause was sufficient, the action defensible on its own merits.

The bold fact is, however, that the internal situation in Cambodia is not a matter involving the national security interests of the United States. We have no treaty obligations to her, we did not cause her current instability, and the presence of our enemies in her borders did not come about just yesterday.

The bold fact is, continuation of the war in Vietnam, if it ever was in our interest, is clearly not in our national interest today. We have done much there, we have lost too many men there, and we are long overdue in removing ourselves through the tough political negotiations that are necessary.

The ultimate fact is, all of the states of Indo-China will find their own destiny, regardless of our attempts, however bloody, to force them into one mold or another. Recognition of that is no defeat, no humiliation, no loss before the world—it is the mark of a strong, but sensible giant, of a land mature in its foreign relations with others, and secure in its path.

So, I would conclude that today we are in error, today we have taken a step that will not easily be reversed. Men will pay for this step with their lives. We at home will see the harvest in disruption, dissent and turmoil. Our economy, our people, our institutions will suffer as much or more than Cambodia's—and hope in the future of this good land will remain in the dim light cast by ill-advised foreign adventure.

But maybe tomorrow, if men of substance speak out, if those in private life who have not yet stood will take their stand, if community leaders and eminent citizens will raise their voices or their pens, maybe tomorrow this folly of war for its own sake will end. And maybe then our national life, our national spirit will be renewed.

#### LAW DAY

Mr. THURMOND. Mr. President, today, for the 13th year, we pause to commemorate Law Day U.S.A. Never before in the history of the Nation have the American people, stimulated by the mass media of communication, been so concerned about the law.

Law Day should be a day for individual appraisal and appreciation of law as administered in a Republic.

Mr. President, I ask unanimous consent to have printed in the RECORD an article that I wrote concerning the need to have respect for the law.

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

#### LAW DAY ADDRESS

(By Senator STROM THURMOND)

The need to have respect for the law is more important today than ever before. This country cannot and will not continue to be the world's leader for peace unless we maintain order and tranquility within our own borders. During the past decade our country has experienced vast social changes and it has become imperative that we pause and reflect upon the principles on which this coun-

try was founded. Among these principles are obedience to law and order. We have found that you cannot particularly compel obedience to law. It must come from within each individual.

Whenever an individual adopts anti-social attitudes, whether passive or active, he alone must bear the guilt. The end purpose of moral training should be to make the future citizen understand his responsibility, not only to himself but to his fellowman and country. However, this concept of responsibility has been frustrated by the trend of recent Supreme Court decisions which unequally divided justice between society and the criminal. In effect, these decisions have trampled and degraded the valid and just rights of society, while magnifying and exalting the fictitious and alleged rights of the criminal. Consequently, criminals are increasingly defying the law successfully, and public confidence in the ability of our courts to administer justice is being undermined.

This does not mean that we are questioning basic individual constitutional rights, but we must not and will not tolerate those who attempt to use these rights as an excuse to flout our laws. Restoration of respect for our judicial system requires a combination of action by both our leaders and citizens.

I am particularly pleased that President Nixon is making a diligent effort to effect a meaningful change in the Supreme Court. He should be supported in this timely and commendable effort.

It is only by a reaffirmance of the principles which lie at the very foundation of our great country that we can assure its continuance as a nation, dedicated to the preservation of law and order.

#### POPULATION DISPERSAL DESPERATELY NEEDED

Mr. CHURCH. Mr. President, in ancient mythology, Jason, in his quest for the Golden Fleece, was required to sow the teeth of a dragon which, when nurtured by the earth, brought forth an army which it was his duty to destroy. Jason was aided in his battle by a secret charm provided him by the sorceress Medea which, when thrown in the midst of the warriors, caused them to turn upon themselves and slay one another.

Today our society is busily sowing dragon's teeth in rural America and the armies that spring up from the planting march upon our crowded cities, creating problems which are becoming insurmountable. Unfortunately, we do not have the magic of a sorceress to eradicate these problems—we must do it on our own.

Mr. Anthony Healy, in an excellent article entitled "Man's Destructive Greed," published in the Boise, Idaho, Intermountain Observer of January 17, 1970, notes that although we only stand 5 or 6 feet above the earth, we have found it almost impossible to relate to our environment. As a people we have ravaged the soil, despoiled the rivers, and filled our atmosphere with swirling effluents.

At the same time, the problems of our cities have become staggering. San Francisco, for example, is considering hauling its garbage in a 70-car train 300 miles to dispose of it. The proposed garbage train, I understand, has already been given a name by some residents. They call it the Smells Fargo.

In the Washington Post of February 8, 1970, in an article entitled "It's High

Time for Americans To Disperse," James L. Sundquist, of the Brookings Institution, examines in some depth the problem associated with the massive migration of our rural population to the cities.

Crowded into substandard housing, victimized by violent crime, lacking the skills for jobs in an urban environment, the migrant to the city has nearly everything against him. Nevertheless, he keeps coming, emptying the countryside of its young life. Urgently, we must now contrive to reverse this disastrous pattern of migration. Incentives are needed to effect a rational redistribution of our population. What is called for is a vigorous national program for the restoration of rural America, one that will salvage the sinking family farm, and revitalize our dwindling small towns. Tax incentives should be provided to encourage the dispersal of capital investment, so that new industries might be induced to locate in smaller communities. If good payrolls are made available, innumerable people would welcome the opportunity to exchange their unhealthy, often unhappy lives in our declining cities for a new start in more wholesome surroundings. It is the business of good government to help give them that chance.

As Mr. Healy states in his article:

Man can adapt to but cannot repeal, the laws of gravity. They govern, so powerfully that man himself may be struck from the record. We can already begin to count those who will go hungry in the cities tomorrow because man went berserk in the hills yesterday.

I ask unanimous consent that the two articles be printed in the RECORD.

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

#### MAN'S DESTRUCTIVE GREED

"There's too damned much wheat in the world." So says plain-spoken Harold West who has moved a lot of Idaho grain to far corners of the world.

Too much today and too little wheat or meat tomorrow is written all over today's farm policy. Five or six feet doesn't seem an unreasonable distance between the human mind and the soil, and yet we aren't reading what is going on right under our feet.

Black topsoil and loam are just a skin on millions of acres of this geologically new region. Yet over and over we break the skin and the land erodes and dies.

When spring comes, go almost anywhere along the benches above the Snake river plain. You will see the creeks running full of ruined life. It is mud, not water, that streams into the valleys.

What ASARCO proposes to do to the White Clouds is committed every year on the hills ranging south, east and northeast from Pocatello, a conservationist hotbed.

When beef is precious and grain is a glut, what is the economic sense of this rape even in terms of today without giving thought—as we are not giving thought—to tomorrow?

Why are mountain meadows put to the plow? Why are steep grasslands, five and six and seven thousand feet above sea level, bled for \$1.25 wheat?

When do we learn to eat off the land instead of eating the land itself? There is no important distance between our aesthetic sensibilities and our economic wellbeing. The ugly sight of land-rape is ugly for its economic madness as well.

Something else is washing away with no mulch to hold it. A special kind of people.

If the distance between the brain and the ground is too great, the gap between society and soil is perilous. It is efficient to plow thousands of acres with one owner. It is efficient to grow beef on feedlots. It is efficient to pull down fences and make the farms bigger and bigger. But it is destructive of people—another resource.

#### GERMANS KNOW EFFICIENCY

A few weeks ago a congressional committee asked the ambassador from West Germany to explain the republic's high tariff against American poultry. In the exchange, the ambassador heard how efficiently the U.S. poultryman now grows chickens, hundreds of thousands to a single chicken factory.

Efficiency is no stranger to Germany. The ambassador made that politely clear. But in the years immediately after World War II, West Germany discovered that agricultural efficiency for its own sake was driving farmers from the land and into the city. The social and economic consequences to the city and to the new republic weren't worth it. So the government chose to emphasize people over poultry, human stability over rural erosion.

They haven't been worth it here. The population shift from soil to city in the United States since World War II has been so massive as to dwarf the size of our great westward migration in the Nineteenth Century and the immigration during our industrial revolution. The cost in dollars is incalculable. The cost in human dislocation, suffering and frustration is visible.

How sweet a planet, bathed in water lifted in an eternal cycle from the seas to the heights. Man is nourished by the process, having to do nothing more than drink from the pump and eat whatever grows along that ordered course, disturbing nature only to imitate and enlarge upon the action. But a destroying greed lurks in and strikes down from disordered abstractions perched five or six feet above the action. Are human eyes too myopic to span that short distance? Our 70 vertical inches have proved to be a sheer drop more erosive than the reaches of the highest Himalayas.

Man can adapt to, but cannot repeal, the laws of gravity. They govern, so powerfully that man himself may be struck from the record. We can already begin to count those who will go hungry in the cities tomorrow because man went berserk in the hills yesterday.

And here in between there is too damned much wheat. So look, this spring, at the land moving from beneath your feet. Save the White Clouds? Well and good, but make a beginning down here where you live. Your heads seem closer to the clouds above you than to the clods of earth beneath.

#### IT'S HIGH TIME FOR AMERICANS TO DISPERSE (By James L. Sundquist)

Former Deputy Undersecretary of Agriculture, Sundquist is now a senior fellow at the Brookings Institution. His article is excerpted by permission from the winter issue of *The Public Interest*.

By the end of this century 100 million people will be added to the population of the United States. That is as many people as now live in Britain and France combined. Where shall they live?

If present trends continue—if they are allowed, that is, to continue—most of the 300 million Americans of the year 2000 will be concentrated on a very small proportion of the nation's land area. Projections of the Urban Land Institute place 60 per cent of the country's population—or 187 million persons—in just four huge urban agglomerations.

One continuous strip of cities, containing 68 million people, will extend 500 miles down

the Atlantic Seaboard from north of Boston to south of Washington. Another, with 61 million, will run from Utica, N.Y., along the base of the Great Lakes as far as Green Bay, Wis. Some 44 million persons will live on a Pacific strip between the San Francisco Bay area and the Mexican border. A fourth agglomeration, with 14 million, will extend along the Florida East Coast from Jacksonville to Miami and across the peninsula to Tampa and St. Petersburg.

Most of the remaining 40 per cent of Americans will live in urban concentrations, too—and big ones. In this decade, the larger concentrations have been growing fastest; metropolitan areas over 150,000 grew faster than the national average of 9.8 per cent between 1960 and 1965 while the smaller areas grew more slowly.

These trends, continued for the next three decades, would place 77 per cent of the coming 300 million Americans on 11 per cent of the land (excluding Alaska and Hawaii). Only 12 per cent of the population would be outside urban areas of 100,000 or more population. Is this the way we want to live?

Two questions are presented. The first pertains to regional balance. Is it desirable that population be massed in a few enormous "megapolises" along the seacoasts and lakeshores? The second relates to rural-urban balance (or, more accurately, the balance between metropolitan and nonmetropolitan areas). Is it in the best interest of the country, and its people, to continue indefinitely the depopulation of rural and small-town America and the building of ever bigger metropolitan complexes, in whatever region?

#### FORCED MIGRATION

In short, the 300 million can be highly concentrated in a few "megapolises," or they can be distributed more evenly as among regions and dispersed in a more nearly balanced way among large metropolitan areas, middle-sized cities and thriving small towns and villages. Which do we want?

How each family lives in profoundly influenced, even controlled, by the size of the population cluster in which it is embedded. The degree to which population is massed determines the amenity and congeniality of the whole environment in which adults and children live and grow and work. It affects their personal efficiency, their sense of community, their feelings about the relationship between man and nature, their individual and collective outlooks on the world.

The impact of size is most emphatic on the lives of the ghetto dwellers of the great cities, of course, but no one in a megapolis is immune. The resident of Scarsdale or Winnetka is not wholly spared the stresses of big city life; the larger the metropolitan area, the greater the strains and irritations of commuting and the more inevitable that the environmental pollution that arises from population concentration will affect the most idyllic suburbs, too.

In any case, the desirability of population concentration must be measured by its consequences for the majority of families who live at near-average or below-average levels, not upon the few who can insulate themselves in political and social enclaves.

So the question is, what kind of environment do we want to build? The nation, through its government, has established policies on matters of far less crucial import, yet the extent to which the country's population will be concentrated remains essentially *laissez-faire*.

That would be all right, perhaps, if by *laissez-faire* one meant free choice by the individuals and the families that make up the population. But it is far from that. The movement of people from smaller to larger places is, to a large extent though no one knows the exact proportions, involuntary, forced migration.

Young people going freely to the cities in

search of adventure and opportunity make up part of the migrant flow, but only part; among the rest are millions of uprooted, displaced families who have little desire, and less preparation, for life in large cities and whose destination is often inevitably the city slums. These displaced families are simply forced into the migration stream by economic forces they cannot control.

The spatial distribution of population is determined, of course, by the distribution of jobs. With the exception of the limited numbers of the self-employed and the retired, people are not in reality free to live just anywhere. The vast majority are employees who must live where there are jobs, and the location of jobs is not their choice. The concentration of the country's population is the result of employer-created job patterns that the people have had to follow.

For the most part, employers have not been free to create jobs just anywhere, either. They have been bound by considerations of economic efficiency—the location of raw materials and markets, the transportation cost differentials of alternative locations, etc. As a result, the basic pattern of population distribution has been designed by the play of economic forces, not by men acting rationally as environmental architects; events have been in the saddle once again.

Even in the absence of qualified evidence, it seems reasonably clear that our largest urban concentrations have grown well beyond the point at which diseconomies of scale begin to show. The costs of moving people and things within large metropolitan areas are demonstrably greater than the costs of moving them in smaller population centers. Commuting distances are obviously longer, the time loss greater, the costs higher. The flight of industry from central cities to the suburbs is a reflection, in part, of the cost of transportation to and within congested areas.

The cost of urban freeway construction varies directly with the population density of the areas affected, and subway systems are an enormous expense that only the larger metropolitan areas require. Such municipal functions as water supply and sewage and solid waste disposal are probably also subject to diseconomies of scale, for the simple reason that the water and the waste must be carried over longer distances. San Francisco, for example, had contemplated dispatching a 70-car train daily to carry its solid waste over 300 miles into the mountains on the Nevada-California border.

#### COSTLY CRUELITIES

The diseconomies are ultimately measurable, at least in theory, in dollars and cents. Other disadvantages of scale are less measurable but no less real. Air pollution, for example, is a function of the dense concentration of automobiles. Similarly, water pollution is more amenable to control in areas where population is dispersed; there, given the will, the way is at least available.

One other factor that must be considered in any calculation of costs and benefits of urbanization is the social and economic cost of migration itself. To decide which new plant location is really most efficient, it is not enough to measure only the building and operating costs of the plant, although that has been the sole criterion of our *laissez-faire* philosophy.

There are enormous costs, as well as appalling cruelties, in the forced displacement and migration of populations, whether it be Negroes from the South, mountaineers from Appalachia or small businessmen from the declining regions of the Great Plains and the Midwest. (In the 1950s, more than half of America's counties suffered a net loss of population.)

Families lose their homes and savings and equities and property values along with their

most deeply cherished associations; communities lose their tax base for public services; community institutions wither. Some of the migrants are too ill-prepared, too sick or too poor to adjust to city life successfully; many of them wind up on welfare, and they burden every kind of institution.

Yet these costs and losses are not borne by the industry locating the plant, but by people and communities, thereby entering no one's cost-benefit equation, no one's computations of efficiency. If they did so enter, then calculations of simply efficiency would no doubt show that, as a general rule, it is far more economical from the standpoint of the whole society to create new economic opportunities where the people are rather than allow existing communities to die while building other whole communities from the ground up in the name of "economic efficiency."

Moving from the physical to the social environment, hard data on disadvantages of scale are even more difficult to come by. Yet we know that as population in general is concentrated, so is poverty (large ghettos exist only in large urban concentrations) and crime, drug addiction, family break-down and every other form of social pathology. It may be specious to argue that rural poverty is better than urban poverty when both are bad enough, yet the fact remains that the social evils associated with poverty tend to be mutually reinforcing when the poor are herded together in concentrated masses—as studies of public housing populations, for example, have clearly shown.

Racial tension and rioting are not limited to big cities, to be sure, but in their most terrifying aspects they seem to be. Perhaps most important of all, the problem of unemployment and underemployment of the urban poor appears all but insoluble in the largest urban complexes because transportation systems just cannot economically link the inner cities where the poor live with the scattered suburban sites where the new jobs are being created. In smaller places, by contrast, people can even walk to work.

For all these reasons, it is not hard to accept as a hypothesis, at least, that our largest metropolitan agglomerations are less governable, less livable and economically less sound than smaller urban centers. Moreover, what little evidence is available suggests that people do not like to live in unlivable places; they are there, in substantial proportion, against their will. A Gallup poll in 1968 showed that 56 per cent of Americans would choose a rural life, if they were free to choose, only 18 per cent a city and 25 per cent a suburb.

#### FRUSTRATED FREEMAN

Over the last decade, only one leading figure in public life has made it his mission to sound the alarm on the question of population distribution policy. That was the recent Secretary of Agriculture, Orville L. Freeman. For the whole of his eight years in office, he led a personal crusade for what he initially called "rural areas development" and later came to call "rural-urban balance."

Before a House subcommittee in 1967, he said, "I say it is folly to stack up three-quarters of our people in the suffocating steel and concrete storage bins of the city while a figurative handful of our fellow citizens rattle tapped resources and empty dreams." And then he got carried away: "The whiplash of economic necessity which today relentlessly drives desperate people into our huge cities must be lifted from the bleeding back of rural America."

Freeman's metaphors could be excused; no one listened to all his years of sober pleas and reasoned argument. True, President Johnson gave him moral support and himself made a speech or two on rural development and sent Congress some minor measures, but the subject remained low on the President's priority list.

As for the congressional committees on agriculture, which might have been expected to take some leadership, Freeman could not even get them to set up active subcommittees to consider rural development.

The nation's intellectual community, insofar as it was aware of the Freeman thesis, treated it with a disdain that blended into outright hostility. A composite view of the urban intelligentsia toward rural America can be portrayed, with a touch of caricature, something like this:

Culturally, the cities have a monopoly, and have had since the Age of Pericles. Urban means urbane; rural means rustic. The theater, the concert hall, the museum are exclusively urban institutions; the countryside cannot produce the higher culture, and those who insist on living there are, by definition, both culturally unrefined and, what is worse, content to remain so.

Economically, rural America is destined for decay; the economic forces that built the cities are too powerful to be reversed, even if it were desirable to do so. Freeman's "back to the farm" movement (which, for the record, is not what it was) is romantic nonsense that flies in the face of every economic reality.

Sociologically, rural America is a backwater populated by misshapen characters out of Faulkner, given to choosing as their leaders men like George Wallace and Lester Maddox and to hunting down civil rights workers and interring them on the banks of the Tallahoga River. Politically, it is time that rural America got its come-uppance; the farmers have been exploiting the cities far too long through outrageous programs that pay them enormous subsidies to cut production while the urban poor—and the rural poor as well—go hungry.

Let the land-grant colleges—the "cow colleges," that is—worry about the Podunks and the hicks and hayseeds who live there; we are an urban nation now.

#### INTELLECTUALS RECONSIDERING

This picture of the rural areas is not, unfortunately, wholly unrelated to reality. The fact is that the rural areas of the country are disadvantaged in many ways: they are culturally isolated (although their isolation has been drastically reduced by television and good roads); they have declined economically; their governmental and social institutions are often primitive and backward; racial exploitation is rife.

But the cities are not all that superior. There is truth, too, in Freeman's counter-portrait of big cities as places of "congestion and confusion, crime and chaos, polluted air and dirty water, overcrowded schools and jobless ghettos, racial unrest . . . and riots in the streets."

But there are signs now that the intellectual world may at last be rediscovering rural and small town America and looking with fresh eyes upon the problem of rural-urban balance. Like so many other trends of current history, this one was set in motion in August, 1965—in Watts.

The analysts of that explosion, and those which followed, suddenly discovered that the problems they called urban had rural roots. "We're being overwhelmed!" cried the urbanists. "Stop the migration. Get these people off our backs!"

So the rural and the urban interest may have converged, finally, and it is out of such convergence that effective political coalitions are born and problems attain their place on the national agenda. The prospects for such a coalition are expressed most sharply in, of all places, the 1968 Republican platform.

"Success with urban problems requires acceleration of rural development in order to stem the flow of people from the countryside to the city," reads the GOP's plank. The language is not without irony for the party of small town America and the party that en-

acted the Homestead Act. The subject is treated under the heading "Crisis in the Cities"; rural development should be accelerated because the problems of the big cities, where the Democrats live, must be solved.

The leadership for a rural development coalition, also ironically, will have to come from those very cities. Groups with names like the Urban Coalition, the Urban Institute and the Urban League will have to assume the burden of worrying about rural America because there is no rural coalition, no rural institute, no rural league.

Nobody has ever organized to speak for rural and small town people in the nation's councils as the United States Conference of Mayors, say, and the Urban Coalition speak for city people. Farm groups exist, to be sure, but their interest is the economic interest of farmers as producers, and most rural Americans—whatever the definition of the word "rural"—are not farmers but small town and small city dwellers. And they are not organized at all.

When rural America is saved, it is clear, it will be for the wrong reasons and under the wrong leadership. But that is better than not being saved at all.

We can begin by defining one objective—to bring to a halt, as nearly as possible, all involuntary migration. The purpose of governmental policy, then, would be to permit people to live and work where they want to live and work; if they prefer to move to the big city, well and good, but if they want to remain where they are, the objective should be to bring the jobs to them.

This proposal will be confronted at once by the objection that some rural areas are too remote, too backward to be salvageable in any circumstances—that no matter how much they are subsidized, they are beyond the reach of economic opportunity. I hide behind the qualifying phrase; forced migration should be brought "as nearly as possible" to a halt, and where a rural community lies beyond the possibility of redevelopment (the Appalachian "head of the hollow" communities come to mind) then it is by definition impossible to help.

However, the number of people living in such communities is far smaller than is usually believed, if one understands that the jobs to be provided need only be near, not at, the community concerned. Commutation is a fact of life in this automobile age in rural areas as well as on Long Island, and within a radius of 25 to 50 miles. Circles with rural people commonly travel daily to jobs within a radius of 25 to 50 miles. Circles with a 25-mile radii drawn around small cities that have a proven economic potential—proven by the fact that they are growing now—cover the vast majority of the country's rural population east of the high plains, and if the circles are extended to 50-mile radii, they blanket almost the whole country but for a few sparsely settled sections of the western mountains and the plains.

A population distribution policy, then, would seek to encourage an accelerated rate of growth in the smaller natural economic centers of the country's less densely populated regions. To effectuate such a policy, the present approaches would have to be extended in both breadth and depth.

First, they would need to be expanded beyond Appalachia and the other presently recognized redevelopment areas to cover all areas that are sources of out-migration. Second, they would need to be greatly improved in potency so that they have a decisive impact upon the migration stream.

Present federal programs are limited to public investment—roads, hospitals, vocational training schools and so on—to strengthen the "infrastructure" of the non-metropolitan areas, and loans and loan guarantees to encourage private investment. To

these would have to be added the policy instrument of tax incentives that has proved so effective in stimulating and channeling investment both for war production and for peacetime economic growth. If an extra investment tax credit were available for defined types of new industry located in the places where the national population distribution policy called for it to be located, then jobs would be created where the people are rather than in places to which they have to migrate.

#### WRITING THE LANGUAGE

The rub will come, of course, when Congress begins to write the language defining exactly the places eligible for benefits. Growth centers that serve areas of out-migration would have to be included among the beneficiaries even though the centers themselves were areas of in-migration. But only up to a certain point. A cutoff population figure would have to be established at the point where a growth center is considered to have grown large enough, or at least to be able to attain its further growth under its own power.

But given the old-fashioned booster psychology that still conditions the thinking of the leadership of even the largest cities, Congress will find it difficult to designate any area, even the New York City area, as one that is destined—if national policy can bring it about—to stop growing. To most community influentials, bigger and bigger still mean greater and greater and richer and richer. A population distribution policy may therefore ultimately have to await a major shift in the national psychology.

#### PROFESSIONAL RESPONSIBILITY

Mr. HANSEN. Mr. President, at the annual spring recognition banquet of the Iowa Society of Certified Public Accountants in Des Moines on March 7, the senior Senator from Iowa (Mr. MILLER) delivered the main address.

Senator MILLER spoke on the timely subject of "Professional Responsibility" and covered not only the accounting profession, but other professions, as well. To the average person, I believe his discussion of the ethics of the profession of journalism will be most revealing.

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

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

#### PROFESSIONAL RESPONSIBILITY

(By JACK MILLER, U.S. Senator)

George Bernard Shaw once remarked that every profession is a conspiracy against the public.

I take it that he meant that the members of every profession are so deeply involved in the institutional rigidities of their particular field that they overlook their responsibilities to society.

Although the great playwright overstated his case, as he quite frequently did, he did have a point.

I believe it is necessary for all professions—and this includes those who are in politics—to take the time and make the effort to periodically reexamine their contribution to society and their own professional standards of conduct by which the public will measure its trust and confidence in them—and to make this reexamination with unsparring frankness.

They should ask themselves whether they are living up to the code of ethics which governs their profession; and whether, in fact, that code is all it should be.

They should ask whether they are, per-

haps, spending a little too much time in self-commendation.

They should ask what difference to society it would make if their profession went out of existence or were taken over by another profession.

They should ask whether they are temporizing with a problem that really calls for quick, decisive action.

And, every once in a while, I think the professions should invite outside critics to work with them in a no-holds-barred appraisal of how well they are doing.

I can assure you that those of us in the political profession do not have to invite criticism. That is a built-in feature of our profession, and, when it is knowledgeable and constructive, it helps to keep us on our toes—to do a better job.

But no profession should be exempt from constructive criticism—nor think that it should be exempt. And I emphasize this, because a common characteristic among all the professions is their responsibility to be helpful to the society which both needs and supports them.

The Code of Professional Ethics which governs your profession is not greatly different from that which an elected public official must live up to—or, for that matter, that of any federal government employee.

Yours is a splendid code. As amended last December 30, the preamble reads:

"The reliance of the public and the business community on sound financial reporting and advice on business affairs imposes on the accounting profession an obligation to maintain high standards of technical competence, morality and integrity. To this end, a member or associate of the American Institute of Certified Public Accountants shall at all times maintain independence of thought and action, hold the affairs of his clients in strict confidence, strive continuously to improve his professional skills, observe generally accepted auditing standards, promote sound and informative financial reporting, uphold the dignity and honor of the accounting profession and maintain high standards of personal conduct."

Now compare this with the resolution adopted by the Senate on March 22, 1968:

"Resolved, it is declared to be the policy of the Senate that—

"(a) The ideal concept of public office, expressed by the words, 'A public office is a public trust', signifies that the officer has been entrusted with public power by the people; that the officer holds this power in trust to be used only for their benefit and never for the benefit of himself or a few; and that the officer must never conduct his own affairs so as to infringe on the public interest. All official conduct of Members of the Senate shall be guided by this paramount concept of public office.

"(b) These rules, as the written expression of certain standards of conduct, complement the body of unwritten but generally accepted standards that continue to apply to the Senate."

One of the unwritten standards has always been that no member of the Senate shall engage in activities which impair the dignity and the good reputation of the Senate. Resolutions of Censure contain language referring to this standard as having been violated.

Both codes of conduct—yours and mine—clearly place the public interest and the obligation to the profession above the personal interest of an individual member.

Both exist for the purpose of insuring the highest standards of conduct and, at the same time, to reassure the public—occasionally a cynical public—of our good intentions.

The most influential judges of a Member of Congress are his constituents, who have an opportunity to render their judgment when election time comes around. But there are occasions when a Member is called to

judgment by his peers—the McCarthy and Dodd cases being the most recent examples.

Similarly, a CPA is judged by his constituents—his clients, and, on occasion, by members of his own profession.

Few may be aware of it, but there is also a Code of Ethics for those in federal government service. It is a part of the federal statutes, with the force of law as of July 11, 1958. It provides:

"Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration, or not; and never accept, for himself, or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

5. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

6. Never use any information coming to him confidentially in the performance of governmental duties as a means of making private profit.

7. Expose corruption wherever discovered.

8. Uphold these principles, ever conscious that a public office is a public trust."

Are those much different from some of those set out in your Code of Professional Ethics? Let's see.

"Neither a member or associate, nor a firm of which he is a partner, shall express an opinion on financial statements of any enterprise unless he and his firm are in fact independent with respect to such enterprise.

"A member or associate shall not commit an act discreditable to the profession.

"In expressing an opinion on representations in financial statements which he has examined, a member or associate may be held guilty of an act discreditable to the profession if:

(a) he fails to disclose a material fact known to him which is not disclosed in the financial statement but disclosure of which is necessary to make the financial statements not misleading; or

(b) he fails to report any material misstatement known to him to appear in the financial statement; or

(c) he is materially negligent in the conduct of his examination or in making his report; or

(d) he fails to acquire sufficient information to warrant expression of an opinion, or his exceptions are sufficiently material to negative the expression of an opinion; or

(e) he fails to direct attention to any material departure from generally accepted accounting principles or to disclose any material omission of generally accepted auditing procedure applicable in the circumstances."

The words may not be the same, but the meaning and spirit certainly are.

What the late President Kennedy said in 1961 to federal employees is worth recalling.

"No responsibility of Government," he said, "is more fundamental than that the responsibility of maintaining the highest standards of ethical behavior by those who conduct the public business. There can be no dissent from the principal that all officials must act with unwavering integrity, absolute impartiality, and complete devotion to the public interest. This principal must be followed not only in reality but in appearance. For the basis of effective Government is public confidence, and that confi-

dence is endangered when ethical standards falter or appear to falter.

"Ultimately, high ethical standards can be maintained only if the leaders of Government provide a personal example of dedication to the public service—and exercise their leadership to develop in all Government employees an increasing sensitivity to the ethical and moral conditions imposed by public service. Their own conduct must be above reproach. And they must go beyond the imposition of general regulations to deal with individual problems as they arise—offering informal advice and personal consideration. It will often be difficult to assess the propriety of particular actions. In such subtle cases honest disclosure will often be the surest solution, for the public will understand good faith efforts to avoid improper use of public office when they are kept informed."

Note his emphasis on the need to avoid the "appearance" of impropriety—this as a means of assuring public trust and confidence. The canons of judicial ethics and, indeed, the U.S. Supreme Court itself place great emphasis on "appearances" for the same reason. Of course, the President was not talking about public trust and confidence which has been shaken by untruths and innuendoes; he was referring to activities of a public official himself which have the appearance of impropriety before the general public.

The late President also emphasized the importance of "disclosure" as a matter of keeping the public informed. It is, of course, a most difficult problem to draw a line between the public's right to know and the right of privacy of an individual public official. We spent a great amount of time in the Senate in trying to work out a solution during consideration of the 1968 Resolution. The inevitable compromise requires an annual filing with the Secretary of the Senate of a report setting forth all contributions received by a Member of \$50 or more and the amount and source of any honorarium of \$300 or more. Other annual financial disclosures are not made public, but are filed with the Comptroller General, and they include: a copy of the income tax return, the amount and source of any fee or compensation of \$1,000 or more, the name and address of each business or professional corporation, firm, or enterprise in which the Member was an officer, director, partner, proprietor, or employee who received compensation and the amount of the compensation, a list of his interests in real or personal property having a value of \$10,000 or more, the identity of each liability of \$5,000 or more owed by him or him and his spouse, the identity of each trust or other fiduciary relation in which he held a beneficial interest having a value of \$10,000 or more, and the source and value of all gifts of \$50 or more.

Although I, personally, favored more public disclosure, there is a point beyond which one should not have to go in this respect. Public disclosure of financial interests could be used by kidnappers and extortionists as a basis for selecting their victims. As it is now, these disclosures filed with the Comptroller General are available to the Senate Ethics Committee in the event it decides to investigate a Member. Most of us are satisfied that the deterrent effect of these required annual filings will prevent any repetition of the Dodd case.

Although the Profession of Journalism has been much in the news of late, concern over ethical standards for publishers, writers, reporters, columnists, and commentators has long existed. The American Society of Newspaper Editors at its annual convention in 1925 adopted several canons of ethics; and Sigma Delta Chi, the professional journalistic society which includes members of all the press media, adopted these the following year. Some of these are worth noting.

"I. The right of a newspaper to attract and hold readers is restricted by nothing but consideration of public welfare. . . . A journalist who uses his power for any selfish or otherwise unworthy purpose is faithless to a high trust.

III. Freedom from all obligations except that of fidelity to the public interest is vital.

1. Promotion of any private interest contrary to the general welfare, for whatever reason, is not compatible with honest journalism.

2. Partisanship, in editorial comment, which knowingly departs from the truth, does violence to the best spirit of American journalism; in the news columns, it is subversive of a fundamental principle of the profession.

IV. Good faith with the reader is the foundation of all journalism worthy of the name. . . . It is not to be excused for lack of thoroughness or accuracy within its control. . . . Headlines should be fully warranted by the contents of the articles which they surmount.

V. News reports should be free from opinion or bias of any kind."

I doubt that any of us could find fault with these canons of ethics. The trouble seems to be with the failure of some members of some of the press media to live up to them. A recent Gallup Poll discloses that over half the people feel that presentation of the news by TV networks and newspapers favors one side.

In the face of this lack of trust and confidence on the part of the public, it does little good for the offending journalists to say that the danger from press abuse or freedom of the press is nothing compared to the danger of government censorship and control.

The people want and expect neither. All they wish is that those journalists live up to their canons of ethics. In short, they don't want unethical journalists any more than they want unethical politicians, unethical lawyers, unethical accountants, unethical doctors, unethical ministers, or unethical members of any other profession which proclaims its responsibilities to the public.

One apologist recently wrote that Jefferson's diary gleefully exults at the choleric reaction of President Washington to personal attacks made by a newspaper over which Jefferson, then Secretary of State, exercised editorial control. He would have done well to also call attention to Jefferson's concern that the success of the great American experiment in self-government depends on the will of the enlightened majority.

How, one may ask, is the public to be enlightened if the news policy of a newspaper or TV station gives coverage to one side and little or no coverage to the other side? And it isn't a satisfactory answer that time and space do not permit all sides to be covered. If there are differing views, it won't take much effort to find views that are sufficiently opposite to those covered to let the readers and viewers know there is at least one other side.

It is not often that one hears about downright falsehoods being printed or telecast. Those who would violate their canons of ethics find subtler ways: the half-truth, printing only the favorable news and not the unfavorable news, or vice versa; or printing more of the favorable news than the unfavorable news, or vice versa; and the so-called "silent treatment"—just not printing any news at all.

As long as these practices continue—contrary to the canons of ethics of journalism, lack of public trust and confidence will remain.

Clark Mollenhoff, in his 1965 book "Despoilers of Democracy", raised the question of "Who are the Washington despoilers?" He concluded there are many, including, to quote him: "the partisan journalists whose

judgment wobbles with the wind. They are caustic in their criticism of political influences on the Federal Communications Commission when the Eisenhower Administration is in power. But they can find little even to question when a Democratic President's wife holds a multi-million dollar interest in a government-regulated radio and television business."

English editor C. P. Scott said several years ago, in discussing the role of a newspaper in gathering the news, "At the peril of its soul it must see that the supply is not tainted. Neither in what it gives, nor in what it does not give, nor in the mode of presentation, must the unclouded face of truth suffer wrong. Comment is free but facts are sacred."

I haven't seen any recent Gallup polls covering the percentage of public trust and confidence in your profession, but I am sure that it is extremely high. Those of you who received the good news about your November examinations have a proud tradition to uphold. You must not only uphold it, you should enhance it—not only by your own technical proficiency, hard work, and inventiveness, but through your individual efforts to improve our society. Never let your understandable devotion to your personal clients isolate you from your other clients—the people of your community and your state who can benefit greatly from your unselfishly giving of yourself.

And so, as I salute you at this recognition dinner being given for you, I add my best wishes for well-kept books to audit, friendly and sympathetic internal revenue agents with which to confer, understanding wives to welcome you home from late hours at the office, clients who never question your statement of charges, and easily understood tax laws from the Halls of Congress.

#### LETTER OPENING AND THE BILL OF RIGHTS: PETTY MONARCHISTS IN EXECUTIVE BRANCH

Mr. ERVIN. Mr. President, those who adopted the words of the fourth and fifth amendments to our Constitution held in their memories a long history of royal tyranny by means of illegal searches and seizures of the persons, homes, and effects of citizens.

The political use of such methods became a byword throughout the world wherever oppressive monarchy took its toll of men's freedom. Thanks to these lessons of history, wherever democratic constitutional government has been sought men have also sought to secure those keystones of human liberty, the guarantee against unreasonable invasion of personal privacy and the prohibition against self-incrimination.

In the United States, we have cherished these principles through many critical years. Indeed, the right to transmit his written thoughts and to receive those of others, free of unwarranted governmental intrusion, has been a crucial element of every law-abiding citizen's privacy and of his political freedom.

Mindful of these truths, many citizens were shocked and bewildered recently to learn of a proposed regulation by the Post Office Department which, in the interest of controlling obscenity, lottery tickets, and drugs, would allow the opening of sealed-letter class mail from abroad without notice to the writer or the addressee.

Mr. President, I urged the Postmaster General to revoke this regulation, which

was adopted at the insistence of the Bureau of Customs. There is, in my opinion, no justification in a free society for a regulation of this nature. It smacks too much of a police state.

I also asked the Postmaster General to assist me in answering the many letters I have received by describing the purpose of the program and the precise statutory authority on which it is based. In addition, I asked him to explain the conditions which he believed prompted such a regulation at this time and the details of the program as it would affect the citizen who receives mail from abroad.

In reply, General Counsel of the Post Office Department David Nelson has informed me:

No final decision has been made within the Post Office Department as to whether the proposed change should be implemented.

And he does not "anticipate that any action will be taken by the Department on this matter until they have had an opportunity to evaluate the recommendations of the interested congressional committees."

Parenthetically, Mr. President, this is not the first time that Congress, has, before it was too late, fortunately discovered a program which raised serious constitutional rights threats while doing nothing practical for the solution of the problem. Nor is it the first time that, being discovered, executive officials have claimed their directives were only "drafts" or were "proposed" changes. In these days when drastic proposals for substantive administrative and legislative changes are being hurled in rapid-fire succession from the executive branch, interested citizens would be well advised to read the small print of the routine notices of proposed changes which are filed by the agencies in the Federal Register. In this instance, Mr. Nelson states, notices of proposed rule-making to effect this change were published simultaneously by the Post Office and Treasury Departments in the Federal Register on February 3. These notices invited all interested persons to submit written data, views, and arguments concerning the proposed amendments within 15 days. Despite the serious policy issues involved, Mr. Nelson reports that no such comments were received by the Department within the designated period. Yet when the public finally became aware of the proposed change, the outcry was immediate and vocal, as the letters received by Congress demonstrate.

This incident, involving two of the oldest Departments of the Federal Government, demonstrates once again that the protection of individual rights cannot depend upon the motives and instincts of the political managers of our federal system. Their rules and directives must be monitored especially well not only by Congress but by the press and the public.

Some people think we are moving rapidly toward "1984" and the era of "Big Brother." It is my belief that more and more frequently, the executive branch surveillance techniques reflect attitudes more appropriate to a petty monarchy of the 18th century than to a free constitutional government of the 20th century. For example, the General Coun-

sel of the Post Office Department states that less than 1 percent of all incoming mail is regarded as "suspect." The very idea of monitoring the overseas mail of over 200 million citizens in order to catch less than 1 percent of the letters which might possibly contain a pornographic picture or a lottery ticket or a narcotic is patently self-defeating, but to monitor such letters for the purpose of opening them without notice to the addressee raises serious constitutional questions.

Beyond the sheer bad policy this represents constitutionally, such a program only serves to tie up manpower better used to improve both the mail and customs service.

Postal officials attempt to pass the buck and to invoke the "clean hands" doctrine by claiming that they will neither open the mail nor read it, but will merely pass it along to customs officials and stand by while those officials open it. They will no longer take the time or bother to notify the addressee that his mail is suspect. By looking to the already established power of the Customs Bureau to stop illegal foreign goods, the administration thus seeks to extend this power to include the opening of mail without notice. They would attempt to avoid the limits which the Constitution, Congress, the courts and usage impose in the interest of due process of law.

The Post Office Department admits that there are no statutory provisions dealing specifically with the customs treatment of any type of incoming foreign mail. In fact, it is admitted that the two Departments rely on no authority for this program beyond the broad grant of power to prescribe regulations for the management and handling of the mails, and the inherent power of one Government agency to cooperate with another.

The time is long past when such substantive changes may be effected without specific congressional authority based on demonstrated need.

Mr. President, we live in a computer era with an ever-growing population and an increasingly more complex society. The value of individual privacy, therefore, and the rights which we possess under the first, fourth, and fifth amendments, are even more vital to our spiritual and our political well-being than when our Constitution was drafted. With the vast apparatus of government at all levels encompassing practically every aspect of his life, I believe the law-abiding citizen values ever more highly the peace of mind and the security which comes from the knowledge that his Government respects his personal privacy.

This reply from the Post Office Department does not answer the basic question. Why such a change is necessary at this time. I, for one, will be interested in the statistics which demonstrate the need for this program. Just how many pornographic pictures and just how many lottery tickets are being sent by sealed letter mail?

Certainly the analysis of the case law cited alone is not sufficient to justify these regulations. In the *Kalker* decision, for instance, the district court judge merely found that, subject to certain provisions for prohibited matter found in the mail—

The addressee is otherwise entitled under the First Amendment to receive, as provided in 262.2(a), all of the contents found to be mailable matter—notwithstanding his failure or refusal to authorize the opening of such mail.

The judge went on to say:

It will be noted that even under Section 1305, the basic statute dealing with prohibition against importing certain matter, it is provided that upon adjudication that any seized matter is not prohibited, it shall not be excluded from entry.

We hold therefore, that the portion of the regulation i.e., 262.2(c), providing that "if the addressee fails to authorize the opening of the letter" the postal authorities shall "endorse the cover 'unclaimed' and return, unopened, to its origin" is an unreasonable and oppressive limitation on plaintiff's right to receive such, if any, mailable, i.e., non-prohibited matter as may be contained in the letter.

The chairman of the Committee on Post Office and Civil Service has indicated that his committee will be investigating this matter, and I look forward to their findings. I do not mean to imply that this is a simple problem, but rather that a simplistic solution may have been invoked for an extremely complex problem.

I ask unanimous consent that my letter to the Postmaster General, the reply by the General Counsel of the Post Office Department, and the pertinent decision, statutes, and regulations be printed in the RECORD.

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

SUBCOMMITTEE ON  
CONSTITUTIONAL RIGHTS,  
March 26, 1970.

HON. WINTON MALCOLM BLOUNT,  
Postmaster General,  
Washington, D.C.

DEAR MR. POSTMASTER GENERAL: In connection with its study of the right to privacy, the Subcommittee has received numerous complaints from citizens concerning a new regulation issued by the Post Office Department which allows opening of mail from overseas.

From the information I have received about this new program, its constitutionality is so doubtful that, in my view, there should be no question about its destiny.

To assist the Subcommittee in responding to the complaints received, would you please describe the purpose of this program, and the precise statutory authority on which it is based. It would be helpful to have copies of any authority cited in your response together with the new regulations, and any implementing memoranda.

I hope your report will also contain a description of: (1) the conditions which you believe prompt such a regulation at this time; and (2) the specific way the program will operate for the citizen who receives mail from abroad.

With appreciation for your assistance in our study, and with all kind wishes, I am

Sincerely yours,

SAM J. ERVIN, Jr.,  
Chairman.

APRIL 3, 1970.

HON. WINTON M. BLOUNT,  
The Postmaster General,  
Washington, D.C.

DEAR MR. POSTMASTER GENERAL: In continuance of my letter of March 26, 1970, I wish to urge with all the emphasis at my command that the Post Office Department revoke its recent regulation authorizing the opening of private mail without the consent of the writer or the addressee.

I am aware of the fact that this regulation was adopted at the insistence of the Bureau of Customs. In my opinion, there is no justification in a free society for a regulation of this nature. It smacks too much of a police state.

With best wishes, I am,  
Sincerely yours,

SAM J. ERVIN, Jr.

THE GENERAL COUNSEL,  
POST OFFICE DEPARTMENT,  
Washington, D.C., April 9, 1970.

HON. SAM J. ERVIN, Jr.,  
Chairman, Subcommittee on Constitutional Rights, Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: I am happy to reply to your letters of March 26, 1970 and April 3, 1970, to the Postmaster General concerning the proposed change in postal regulations relating to the customs treatment of foreign mail.

Let me assure you at the outset that the proposed change is not intended as a dramatic break with prior practice. It is, instead, a modification of existing procedures to provide the same type of customs inspection for sealed letter mail as is now provided for other sealed mail of foreign origin, for the purpose of preventing the easy evasion of the customs laws for articles, such as narcotics, pornography, and lottery tickets, whose size and value would permit their convenient transmission by letter mail.

While the Treasury Department has the primary responsibility for enforcing the customs laws of the United States, the Post Office Department has always sought to cooperate with and assist Customs officials. For some years, postal regulations contained in 39 C.F.R., Part 362, have provided that, if a sealed foreign letter is believed to contain prohibited matter, it is endorsed to this effect at the postal exchange office first receiving it in the United States. It is then forwarded to the post office in the locality to which it is addressed. When the letter arrives at the latter post office, the addressee is sent a printed form which tells him that the letter has arrived and requests him to authorize its opening. If the addressee authorizes opening and the contents are found to be prohibited, that material is treated as undeliverable. If the contents are not prohibited, they are immediately delivered to the addressee. If the addressee fails to authorize opening, under present procedures, the mail piece is returned to its foreign mailers. This procedure has been less than entirely satisfactory. It permits, for example, a prospective recipient of narcotics to have a suspected envelope returned unopened to the sender who is then able to place it once again in the mails in the hope that on the second, or tenth, attempt it will be delivered without detection. There is, moreover, no provision for any judicial review whatever or for any formal administrative procedures designed to secure an impartial determination that specific material is prohibited.

In 1968, the Bureau of Customs asked the Post Office Department to consider amending its regulations to permit incoming foreign mail to be handled by the Bureau of Customs in accordance with the same procedures that govern customs inspection generally. No action was taken on the Bureau of Customs' proposal at that time, but discussions on such a change were resumed in the summer of 1969.

In September 1969, in the case of *Kalker v. Lee*, the United States District Court for the Northern District of California held that the application of a portion of the present procedure, that requiring affirmative consent for the opening of suspected mail and providing for return to the sender if consent should not be given interfered unconstitutionally with an addressee's right to receive any matter which is not prohibited. The District Court took care to point out that "the

right of customs border search is absolute and does not depend on probable cause" and that there is no reason why this principle should not apply to incoming mail.

The Government decided not to appeal this decision. Instead, after consultation with the Treasury Department, it was proposed that the Post Office Department would no longer follow the existing procedures with respect to foreign letter mail suspected of containing prohibited or dutiable matter, but would turn such suspected mail (which amounts to less than 1% of all incoming mail) directly over to the Bureau of Customs, as foreign non-letter mail is now handled under similar circumstances. That Bureau would, in turn, inspect the envelopes for contraband. If the customs inspection should reveal dutiable or prohibited matter, the Bureau would take steps to collect the required duties or, in the case of prohibited matter, ask the Department of Justice to initiate judicial forfeiture proceedings in Federal court or, for certain classes of merchandise, itself initiate administrative forfeiture proceedings. It was not proposed that any postal official be authorized to open sealed letter mail. Correspondence contained in opened letters would not in any event be read.

Notices of proposed rulemaking to effect this change were published simultaneously by the Post Office and Treasury Departments in the Federal Register on February 3, 1970. The Departments' notices invited all interested persons to submit written data, views, and arguments concerning the proposed amendments within fifteen days.

While no such comments were received by this Department within this period, the regulations have not yet been amended. No final decision has been made within the Post Office Department as to whether the proposed change should be implemented, and I do not anticipate that any action will be taken by the Department on this matter until we have had an opportunity to evaluate the recommendations of the interested Congressional committees. In the meantime, of course, existing regulations remain in full force and effect. Copies of the two Departments' notices of proposed rulemaking as they appeared in the Federal Register and the relevant sections of existing regulations are enclosed.

There are not statutory provisions dealing specifically with the customs treatment of any type of incoming foreign mail. The proposed change, like the existing postal regulation, is based on section 301 of Title 5 and section 501 of Title 39, which give the Postmaster General broad authority to prescribe regulations for the management and handling of the mails, and on the inherent power of one Government agency to cooperate with another in the enforcement of Federal law.

Against this background I would like to emphasize several points. First, there seems to be little doubt that the Government may, without violating the Constitution, open sealed mail of foreign origin to search for contraband. Although the Supreme Court has not ruled on the issue, the lower Federal Courts have held that sealed foreign mail may be subjected to the same border searches as individual travelers entering the country. See, e.g., *United States v. Beckley*, 335 F. 2d 86 (6 Cir. 1964), cert. denied sub nom. *Stone v. United States*, 380 U.S. 922 (1965). As recently as 1965, in the case of *Lamont v. The Postmaster General*, 381 U.S. 301, 307, the Supreme Court, although striking down a statute which the Justices regarded as imposing improper restrictions on the right to receive foreign Communist propaganda mail, was careful to state that its decision had no bearing on "the right of Customs to inspect material from abroad for contraband."

The second point is that the proposed change would not under any circumstances authorize the reading of any correspondence contained in mail which might be opened. This, of course, would be a matter within

the responsibility of the Bureau of Customs, since no postal officer or employee would be empowered to open any sealed letter mail. I am advised by officials of the Bureau of Customs that any instructions implementing the proposed changes would specifically prohibit the reading of correspondence. No one seeks through this proposed change the authority to pry into private correspondence. Our purpose is solely to ensure that sealed envelopes contain correspondence or other legitimate matter and are not being used to smuggle into the United States matter which Congress has determined should be excluded.

The third point is that only a small fraction of the millions of letters entering the United States annually would be affected by the change. It is not proposed as a device for conducting a general or even a random examination of incoming mail. Only those sealed items of letter class mail which because of their weight, shape, appearance, origin or some other feature were suspected of containing tangible matter not freely admitted to the United States would be referred to Customs. Under the provisions of 39 C.F.R., Part 262, less than one percent of all incoming mail is regarded as suspect. There is no reason to think that experience under the proposed procedures would be significantly different. And, of course, envelopes containing nothing but correspondence would be most unlikely to arouse suspicion.

The final point that I would like to suggest is that to allow sealed mail of foreign origin to enter the country without the possibility of effective customs inspection could seriously weaken the enforcement of the customs laws. No one regrets more than the Post Office Department the necessity for opening mail matter under any circumstances. It has seemed essential to propose this change, however, to prevent the mails from becoming a safe and convenient means for smuggling contraband into this country.

Sincerely yours,

DAVID A. NELSON,  
General Counsel.

[From the Federal Register, Feb. 3, 1970]  
PROPOSED RULEMAKING

POST OFFICE DEPARTMENT—39 CFR PARTS 261,  
262—IMPORTATIONS

*Letters and letter packages believed to contain dutiable or prohibited matter*

Notice is hereby given that the Department proposes to amend its regulations relating to the handling of letters and letter packages originating outside the Customs territory of the United States which are believed to contain dutiable or prohibited matter. These regulations are codified in title 39, Code of Federal Regulations. The proposed regulations provide that, in lieu of the existing procedure, the Department will submit to the Bureau of Customs for customs examination all incoming mail believed to contain prohibited or dutiable matter.

The proposed changes in title 39 CFR are as follows: Sections 261.1-261.3(b) and 261.4 would be amended to read as follows and part 262 would be revoked.

§ 261.1 What is subject to examination.

All mail originating outside the customs territory of the United States is subject to customs examination, except mail addressed to Ambassadors and Ministers of foreign countries and articles known or believed to contain only official documents addressed to officials of the United States Government.

§ 261.2 Separation points.

(a) *Exchange offices.* Mail believed to contain matter liable to customs duty or believed to contain prohibited matter is submitted immediately to local customs officers, except when exchange offices are authorized to redispach such mail to designated distribution offices for customs treatment thereat. Exchange offices which redispach matter to be submitted to customs officers will attach Label 81, a reusable pink slotted tag, bear-

ing the words *This sack contains mail "Suspected Liable to Customs Duty"*, to the label holders or hasps of sacks or pouches.

(b) *Distribution offices.* Distribution offices will submit such mail to customs officers as soon as possible after receipt. The reusable tags, Label 81, removed from sacks containing this mail will be returned periodically to the postmasters at New York, New Orleans, San Francisco, Seattle, or Miami, as may be appropriate from a geographical standpoint.

(c) *Priority treatment of airmail.* Airmail articles receive preferential customs treatment and are submitted to customs separately from surface mail. Upon return from customs, dispatch will be by air if it will expedite delivery.

§ 261.3 Examination.

(a) *Registered mail.* The postmaster or other designated postal employee must be present when registered articles and registered parcels are opened by customs officers for examination. After customs treatment, the customs officers will repack and reseal the articles and parcels.

(b) *Extraction of samples for advisory information.* Should a customs officer wish to obtain advisory information from a local trade expert or the Customs Information Exchange, 201 Varick Street, New York, N.Y. 10014, permit him to extract a sample of the contents. The customs officer will furnish the postal official with two copies of Customs Form 6423, one for enclosure in the importation and the other for the post office files. If the sample is to be forwarded to New York, dispatch it under official registration to the New York Postmaster for delivery to the Customs Information Exchange.

§ 261.4 Repacking.

(a) *Responsibility of customs and postal employees.* Customs employees have responsibility for resealing or repacking mail of foreign origin following customs examinations. Postal employees accepting mail which has been in customs custody for examination, must determine from external inspection whether it can safely bear further handling and transportation. Customs employees are responsible for restoring mail that is not in satisfactory condition. Employees may be held responsible when damage occurs as a result of negligence or improper handling.

(b) *Customs shipments in bad order.* Shipments found to be in bad order in transit or at the delivery office must be reconditioned by postal employees. Note bad order and evidence of rifling or damage on the address side of the wrapper over the signature of the employee.

Interested persons may submit written data, views, and arguments concerning the proposed amendments to the Director, Office of Mail Classification, Bureau of Finance and Administration, Post Office Department, Washington, D.C. 20260, at any time prior to the 15th day following the date of publication of this notice in the Federal Register. Note: The Bureau of Customs, Treasury Department, is also proposing amendments to the Customs Regulations at this time. (R.S. 3061, 5 U.S.C. 301, 19 U.S.C. 482, 39 U.S.C. 501 and 505)

DAVID A. NELSON,  
General Counsel.

[F.R. Doc. 70-1280; Filed, Feb. 2, 1970;  
8:46 a.m.]

DEPARTMENT OF THE TREASURY—BUREAU OF  
CUSTOMS—19 CFR PART 9

*Sealed letters of foreign origin suspected of containing merchandise*

Notice of Proposed Rulemaking

The Post Office Department has proposed to amend 39 CFR Parts 261 and 262 concerning customs examination of mail originating outside the customs territory of the United States to permit the opening of such mail without requesting permission of the

addressee. The long recognized authority of the Bureau of Customs to open sealed letters arriving in the international mail has been inhibited by the presence of these regulations which generally provide that a sealed letter of foreign origin believed to contain prohibited or dutiable matter shall be returned unopened to its origin unless the addressee authorizes the opening of the letter. In order to conform relevant provisions of the Customs Regulations, notice is given under the authority of 5 U.S.C. 301 and section 3061 of the Revised Statutes (19 U.S.C. 482) that the Treasury Department proposes to amend Part 9 of the Customs Regulations.

The amendments in tentative form are set forth below:

#### Part 9—Importations by mail

In part 9, a new section 9.0 is added to read as follows:

##### § 9.0 Definition.

As used in this part, "package," "parcel post shipment," "mail parcel," "parcel post," "parcel," "mail shipment," and "mail" shall include envelopes, sealed or unsealed, arriving in the international mail.

##### § 9.2 [Amended]

In section 9.2(b) the last sentence is amended to read as follows: "Upon receipt at the distributing post offices, the dispatches shall be opened and the mail given customs treatment."

Section 9.5 is amended to read as follows:

§ 9.5 Dutiable merchandise, prohibited merchandise, merchandise imported contrary to law arriving in international mail.

When, upon customs examination, a parcel or envelope from abroad is found to contain merchandise subject to duty or internal-revenue tax, and the parcel or envelope is not accompanied by an appropriate customs declaration and commercial invoice or statement of value required by § 9.1, or is found to contain material prohibited importation or imported contrary to law, the merchandise is subject to seizure and forfeiture.

Under the authority contained in section 618, Tariff Act of 1930, any forfeiture of merchandise subject to duty or internal-revenue tax (other than material prohibited importation) so incurred is hereby mitigated to an amount equal to 10 percent of the loss of revenue which was or might have been sustained, provided there is no evidence indicating to the district director of customs that failure to properly declare the merchandise was due to willful negligence or an intent to defraud the revenue. If there is any such evidence, or if for any other reason the district director believes that it would not be in the interest of the United States to grant this relief, the matter shall be reported to the Bureau of Customs for instructions. When the shipment does not exceed \$250 in value, customs Form 3419 or 5119 shall be used for the entry of the merchandise and the duty, any internal-revenue tax, and the amount of the mitigated forfeiture shall be entered as separate items thereon. If a parcel or envelope for which a mail fine entry has been issued in accordance with the foregoing provision is undeliverable, it will be returned to the district director of customs at the port where the mail entry was issued, for disposition in accordance with § 9.12(d) relating to articles subject to seizure. The addressee or sender may file a petition with the district director at the port where the mail fine entry was issued for relief from the forfeiture incurred and for release of the seized merchandise to the addressee or sender.

##### § 9.12 [Amended]

In section 9.12(d), the first sentence is amended to read as follows: "Except for lottery matter, all mail shipments containing

articles which are prohibited importation, and all mail shipments containing articles subject to seizure as being imported contrary to law, shall be immediately taken and held by customs officers for appropriate treatment under the customs laws. \* \* \*

In section 9.12(e), the last two sentences are deleted.

Prior to the issuance of the proposed amendment, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Bureau of Customs, Washington, D.C. 20226, and received not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

MYLES J. AMBROSE,  
Commissioner of Customs.

Approved: December 24, 1969.

EUGENE T. ROSSIDES,  
Assistant Secretary of the Treasury.

[F.R. Doc. 70-1279; Filed, Feb. 2, 1970;  
8:46 a.m.]

#### REGULATIONS

##### CODE OF FEDERAL REGULATIONS—TITLE 19, CHAPTER 1

#### Part 9—Importations by mail

- Sec. 9.1 Customs declarations and invoices.
- 9.2 Treatment of mail importations at offices of first receipt and at offices of examination.
- 9.3 Mail entries.
- 9.4 Formal entry of mail importations.
- 9.5 Sealed mail parcels to bear label or endorsement.
- 9.6 Importations not over \$1 in value; gifts.
- 9.7 Parcels for the United States Government; merchandise in diplomatic pouches; parcels marked for copyright; books, engravings, etc., for the United States.
- 9.8 Cigars, cigarettes, etc.
- 9.9 Merchandise conditionally free.
- 9.10 Dissatisfied addressees; delivery under a resident's \$100 or \$200 exemption; undelivered dutiable parcels.
- 9.11 Exportation by mail; plant material.
- 9.12 Prohibited and restricted mail importations; seizure under the customs laws.

**AUTHORITY:** The provisions of this Part 9 issued under R.S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 1624, Gen. Hdnote 11, Tariff Schedules of the United States, except as otherwise noted.

**SOURCE:** The provisions of this Part 9 appear at 28 F.R. 14659, Dec. 31, 1963, unless otherwise noted.

##### § 9.1 Customs declarations and invoices.

(a) A customs declaration on the form provided by the foreign mailing office, giving an accurate description and the value of the contents, shall be securely attached to at least one package of each parcel-post shipment. Each commercial shipment by parcel post shall also be accompanied by a commercial invoice. In case the shipment consists of more than one package, the invoice shall be placed in the package to which the postal form of customs declaration is attached, and such package shall be marked "Invoice enclosed." There shall be enclosed with the contents of every mail parcel containing merchandise dispatched otherwise than by parcel post an invoice in the case of commercial shipments, or a statement of value in the case of merchandise not purchased nor consigned for sale, giving an accurate description and the value of the merchandise. If it is impracticable to enclose the invoice or statement, it shall be securely attached to the outside of the parcel.

(b) When the aggregate value of a mail shipment exceeds \$500, the accompanying invoice is subject to the same requirements as invoices covering similar shipments imported otherwise than in the mails. When a special

customs invoice accompanies a mail shipment, no other invoice or statement of value is required.

(Secs. 481, 482, 485, 498, 46 Stat. 719, 720, as amended; 724, as amended; 728, as amended; 19 U.S.C. 1481, 1482, 1485, 1498)

**CROSS REFERENCE:** For exception to the requirements of this section with regard to customs invoices in the shipment of bona fide gifts under Public Law No. 790 (50 U.S.C. App. 846, 847), see § 54.3 (e) of this chapter.

##### § 9.2 Treatment of mail importations at offices of first receipt and at offices of examination.

(a) Parcels of all classes of mail believed to contain articles liable to customs duty received at post offices other than New York, Chicago, San Francisco, or Seattle<sup>1</sup> and such parcels received at exchange post offices at the four ports mentioned for delivery within their respective distribution districts as shown in the special distribution scheme,<sup>2</sup> shall be given customs treatment at the ports where received.

(b) All parcels, including those subject to formal entry, for delivery at points outside the distribution districts of the four exchange post offices named in paragraph (a) of this section, and received at such offices, shall be left in the custody of the postmaster, without customs examination, for redispach to other distributing post offices in accordance with the special distribution scheme. Upon receipt at the distributing post offices, the dispatches shall be opened in the presence of customs officers and the mail given customs treatment.

##### § 9.3 Mail entries.

(a) In the case of importation in the mails not exceeding \$250 in value, customs officers shall prepare and attach the proper entry form and return the shipment to the postal authorities for delivery and collection of duty.<sup>3</sup>

(b) No mail or other entry shall be issued for any shipment in the mails which is unconditionally free of duty and does not exceed \$250 in value. In the case of articles which are unquestionably the growth, product, or manufacture of the United States, and which have not been advanced in value or improved in condition, if the collector is satisfied from the character thereof or otherwise that they are free of duty under item 800.00, Tariff Schedules of the United States, and if the total value of the articles of American origin contained in the shipment does not exceed \$250, no mail or other entry shall be issued and no declaration of the owner, importer, or agent on customs Form 3311 shall be required.

(c) Books and other articles classifiable under items 270.25, 273.10, 273.35, 765.03, 850.10, or 851.10, Tariff Schedules of the United States, imported in the mails by a library or other institution described in items 850.10 and 851.10, Tariff Schedules of the United States, may be cleared through customs under an informal mail entry, regardless of value.

(d) The rate or rates of duty applicable to any article released under an informal mail entry (customs Form 3419, or 5119) shall be the rate or rates in effect when the preparation of such entry is completed by a customs employee for transmittal with the article to the addressee.<sup>4</sup>

(Secs. 315, 498(a), 46 Stat. 695, as amended; 728, as amended; 19 U.S.C. 1315, 1498(a)) [28 F.R. 14659, Dec. 31, 1963, as amended by T.D. 56481, 30 F.R. 11851, Sept. 16, 1965; T.D. 68-209, 33 F.R. 12089, Aug. 27, 1968]

##### § 9.4 Formal entry of mail importations.

Formal entry at the customhouse shall be required for every importation in the mails which exceeds \$250 in value, except as provided for in § 9.3 (c) or § 10.20(b) (4) of

<sup>1</sup>Footnotes at end of article.

this chapter. When a mail shipment is examined and found to be subject to formal entry, the addressee or consignee shall be notified of customs Form 3509 of the arrival of the shipment and of the port at which entry is to be made. When a shipment is addressed to a point which is not a customs port or station, the port of entry specified in the notice shall be the port nearest the office of destination of the shipment. Single shipments not exceeding \$250 in value, if mailed abroad at different times (as shown by the declaration or other mailing indicia), shall not be combined for the purpose of requiring formal customs entry, even though they reach customs at the same or approximately the same time, unless there was a splitting of shipments in order to avoid the payment of the lawful customs duty. The collector may require formal entry of mail shipments regardless of value, if in his opinion such entry is necessary to protect the revenue.

(Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484)

**§ 9.5 Sealed mail parcels to bear label or endorsement.**

(a) The importation of merchandise in sealed parcels (other than parcel post) shall be permitted if the sealed letter or other sealed parcel bears on the address side thereof the label, Form C 1, provided for by the Universal Postal Convention or the endorsement "May be opened for customs purposes before delivery to the addressee," or words of similar purport definitely waiving the privacy of the seal and indicating that the parcel may be opened by customs officers without recourse to the addressee.<sup>5</sup>

(b) When a sealed envelope or other parcel (other than parcel post) believed to contain merchandise is not endorsed or labeled as required, the postmaster will detain it in his custody and request the addressee to furnish written authority for a customs officer to open the parcel in the presence of a representative of the postmaster. If the addressee does not furnish such written authority within 30 days after the date of notice by the postmaster or within such further time as may be allowed, the parcel will be treated as undeliverable mail matter. If the parcel, upon being opened under proper written authority, is found to contain merchandise free of internal-revenue tax and free of duty either because unconditionally free or because the aggregate value of the shipment is not more than \$1 and the expense and inconvenience of collecting the duty accruing thereon would be disproportionate to the amount of such duty, the parcel may be delivered to the addressee without the collection of any fine on account of the article not having been endorsed or labeled in accordance with paragraph (a) of this section.

(c) Except as provided for in paragraph (b) of this section, if a sealed letter or other parcel not endorsed or labeled as required by paragraph (a) of this section is found to contain merchandise subject to duty (including conditionally free merchandise) or subject to internal-revenue tax, the merchandise is subject to seizure and forfeiture as having been imported contrary to law. Under the authority contained in section 618, Tariff Act of 1930, any forfeiture so incurred is hereby mitigated to an amount equal to 10 percent of the loss of revenue which was or might have been sustained, provided there is no evidence indicating to the collector that failure to label or endorse the parcel was due to willful negligence or to an intent to defraud the revenue. If there is any such evidence, or if for any other reason the collector believes that it would not be in the interest of the United States to grant this relief, the matter shall be reported to the Bureau of Customs for instructions. When the shipment does not exceed \$250 in value, customs Form 3419 or 5119 shall be used for the entry of the merchandise and

the duty, any internal-revenue tax, and the amount of the mitigated forfeiture shall be entered as separate items thereon. If a parcel for which a mail fine entry has been issued in accordance with the foregoing provision is undeliverable, it will be returned to the collector of customs at the port where the mail entry was issued, for disposition in accordance with § 9.12(d) relating to articles subject to seizure. The addressee or sender may file a petition with the collector of customs at the port where the mail fine entry was issued for relief from the forfeiture incurred and for the release of the seized merchandise to the addressee or sender.

(Sec. 1, 62 Stat. 716, sec. 618, 46 Stat. 757; 18 U.S.C. 545, 19 U.S.C. 1618).

**§ 9.6 Importations not over \$1 in value; gifts.**

(a) Customs officers shall pass free of duty and internal-revenue tax, without issuing a mail entry therefor, any parcel containing articles the aggregate fair retail value in the country of shipment of which is not over \$1, unless they have reason to believe that the parcel is one of several lots covered by a single order or contract and that it was sent separately for the express purpose of securing free entry therefor or of avoiding compliance with a provision of law or regulation.<sup>6</sup>

(b) Customs officers shall pass free of duty and internal-revenue tax, without issuing a mail entry therefor, parcels containing bona fide gifts from persons in foreign countries to persons in the United States, provided the aggregate fair retail value in the country of shipment of such articles received by one person on one day does not exceed \$10.

(c) The provisions of § 8.3(d) of the regulations of this part, except those permitting consolidation of shipments in cargo vans and similar commercial containers, are also applicable to this section.

(Sec. 7, 52 Stat. 1081, as amended; 19 U.S.C. 1321) [28 F.R. 14659, Dec. 31, 1965, as amended by T.D. 56481, 30 F.R. 11851, Sept. 16, 1965]

**§ 9.7 Parcels for the United States Government; merchandise in diplomatic pouches; parcels marked for copyright; books, engravings, etc., for the United States.**

(a) Parcels addressed to offices or officials of the United States Government, believed to contain only official documents, shall be forwarded immediately to the addressee. Such parcels, when known or believed to contain merchandise, shall be treated in the same manner as similar parcels for other addressees.

(b) Books, engravings, and other articles enumerated in item 830.00, Tariff Schedules of the United States which are imported by mail and addressed to the Library of Congress or any department or agency of the Government, shall be forwarded for delivery without the assessment of duty, if the collector is satisfied they are entitled to free entry under item 830.00, Tariff Schedules of the United States.

(c) Parcels marked for copyright, addressed to the Library of Congress, to the Copyright Office, or to the office of the Register of Copyrights, Washington 25, D.C., may be passed free of duty and promptly forwarded to destination.

(d) No merchandise of any character may be forwarded in diplomatic or other official pouches.<sup>7</sup>

**§ 9.8 Cigars, cigarettes, etc.**

(a) In the case of mail entries for imported articles subject to tax and to which internal revenue stamps must be affixed before release to the importer (see Internal Revenue Regulations, Part 45 (26 CFR Part 45)), customs officers shall sign and attach to the entries an order for stamps, and customs Form 3473. When the parcel is addressed for delivery at the post office where it is examined and customs Form 3473 is not re-

quired to insure the taking of the action described thereon, Form 3473 need not be prepared. The postmaster will furnish the addressee with the order for stamps. The addressee will be required to secure from the office of the district director of internal revenue the necessary stamps and affix them to the immediate packages of the merchandise before the parcels will be delivered to him. The internal-revenue tax on cigars, cigarettes, and cigarette papers and tubes valued not in excess of \$250 in a shipment imported by mail shall be paid on the basis of a return made on the mail entry. An additional legible copy of the entry form, marked or stamped "For Internal Revenue Purposes," shall be prepared for each entry covering such articles subject to Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275) if tax is payable upon release under such entry. The separate statement required for tax purposes by 26 CFR 275.81 shall be made on the entry form in such case. The duty and any applicable tax will be collected by the postal service for the Customs Service at the time of delivery of the shipment. A copy of the entry (return) will be given to the importer as a receipt for payment. Mail shipments of such articles released for consumption are subject to compliance with the package and notice requirements under 26 CFR Part 275 unless specifically exempted therefrom as indicated in § 11.3 of this chapter. Such articles may not be released under the mail entry procedure on the basis of a claim for release without payment of tax by a manufacturer specified in 26 CFR Part 275. If a claim is made at the time of delivery for release without payment of tax based on any of the provisions in 26 CFR Part 275 for a manufacturer of tobacco products or a manufacturer of cigarette papers and tubes to obtain release of any such articles without payment of tax, the shipment shall be returned by the postal service to the port of entry or sent to the nearest customs office at which appropriate release as claimed may be arranged by the addressee.

(b) When appropriate, the immediate packages of the merchandise shall be stamped by customs officers before the shipment is released for delivery.

(c) United States customs duty and internal-revenue tax on mail shipments of cigars for informal entry, dispatched to the United States under the provisions of the parcel-post convention with Cuba, effective September 1, 1930, may, at the option of the sender, be prepaid at Miami or Tampa, Fla., upon condition:

(1) That all such mail shipments of cigars from Cuba be sent in mail sacks addressed to the postmaster at Miami or Tampa for customs examination at either of those ports;

(2) That the Cuban sender will authorize, in writing, his representative at Miami or Tampa to prepay the customs duty and internal-revenue tax on each mail parcel before it is returned to the postmaster for delivery or dispatch to destination; and

(3) That each parcel, before dispatch to the United States, be plainly stamped "Customs duty and internal-revenue tax on this parcel to be paid at Miami (or Tampa) Fla."

(d) For each prepaid shipment the customs officer shall prepare customs Form 5119 in quadruplicate. When tax is applicable, an additional legible copy marked or stamped "For Internal Revenue Purposes," shall be prepared. All copies shall have separately shown thereon in such case the statement for tax purposes required by 26 CFR 275.81 of the regulations of the Internal Revenue Service. Two copies shall be signed by the collector or the deputy collector and the sender's representative. One of these copies shall be given to the representative as a receipt for the duty and tax paid.

(e) Each prepaid parcel shall be legibly stamped on the addressed side "U.S. cus-

toms duty and internal-revenue tax prepaid at Miami (or Tampa), Fla." followed by the mail entry number and the initials of two customs employees certifying to the appraisal of the merchandise and the collection of the duty and internal-revenue tax.

[28 F.R. 14659, Dec. 31, 1963, as amended by T.D. 67-193, 32 F.R. 11764, Aug. 16, 1967] § 9.9 Merchandise conditionally free.

(a) When the contents of a parcel may be conditionally free under the Tariff Schedules of the United States, the attached blank form of declaration for free entry shall be properly executed and returned to the postal authorities by the addressee in order to obtain free entry.

(b) When an institution files evidence to show that it is entitled to import drawings, engravings, and other merchandise free of duty under item 850.10 or item 851.10, Tariff Schedules of the United States, the name of such institution, shall be placed on a free list, to be kept by the collector for that purpose, if the institution agrees in writing to notify the collector in the event goods not for the sole use of the institution arrive addressed to the institution. A mail importation of such merchandise, regardless of value, addressed directly to such an institution shall be passed free of duty without requiring compliance with paragraph (a) of this section and without issuing a mail entry.

(c) A conditionally free shipment from any United States insular possession, except Puerto Rico, valued over \$25 but not over \$250, when accompanied by the documentary evidence required by § 7.8 of this chapter, and any such shipment valued at \$25 or less, may be passed without issuance of a mail entry if the collector is satisfied that the merchandise is entitled to free entry. In the case of each such shipment valued over \$250, formal entry shall be required and the provisions of Parts 7 and 8 of this chapter shall be followed.

[28 F.R. 14659, Dec. 31, 1963, as amended by T.D. 68-209, 33 F.R. 12089, Aug. 27, 1968]

§ 9.10 Dissatisfied addressees; delivery under a resident's \$100 or \$200 exemption; undelivered dutiable parcels.

(a) Except as provided in paragraph (c) of this section, if the addressee of a shipment covered by a mail entry is dissatisfied with the amount assessed, he may (1) elect to pay the amount, take delivery of the shipment and petition the collector of customs to reliquidate the entry; or (2) refuse to accept the shipment and provide the postmaster with a written statement of his objections. In the latter case, the postmaster shall forward the addressee's protest to the customs office that issued the entry, accompanied by such invoices or other evidence submitted by the addressee, and retain custody of the shipment until advice is received from the issuing customs office as to the disposition to be made.

(b) If the collector of customs is satisfied that the protest of an addressee of a mail shipment against the amounts assessed is valid, the collector may reclassify the merchandise or amend the value, even though the merchandise has been delivered to the addressee. A mail entry may be reliquidated to allow a claim of the addressee after the expiration of 60 days after liquidation only if a protest has been filed in the form and manner prescribed in section 514, Tariff Act of 1930, or if the claim is allowable under section 520(c)(2), Tariff Act of 1930, as amended.<sup>5</sup>

(c) [Reserved]

(d) If for any reason an undelivered parcel known or supposed to be dutiable is not returned to the country of origin, it will be delivered to the proper customs officer for

disposition under the customs laws and regulations governing seized or unclaimed merchandise. (77A Stat. 14, Sec. 514, 46 Stat. 734; 19 U.S.C. 1202, 1514) [28 F.R. 14659, Dec. 31, 1963, as amended by T.D. 56481, 30 F.R. 11851, Sept. 16, 1965]

§ 9.11 Exportation by mail; plant material.

(a) Articles imported into the United States from foreign countries may be exported in the registered or ordinary mails, or in registered, insured, or ordinary parcel post, without the payment of duties that may have accrued thereon if the articles have remained continuously in the custody of the Government (customs or postal authorities), and the packages containing such articles are inspected and mailed under customs supervision. Waiver of the right to withdraw the package from the mails shall be endorsed on each package to be so exported and signed by the exporter. Export entries or withdrawals for exportation, as the case may be, shall be filed for such articles except those imported by mail (1) which are unclaimed or refused and are returned by the Post Office Department to the country or origin as undeliverable mail or (2) for which a formal entry has not been filed and which are remailed from continuous customs or postal custody to Canada. See §§ 8.45 and 22.27 of this chapter; and as to articles released from continuous Government custody for which return to customs custody is appropriate prior to exportation, see §§ 10.8, 10.17, 10.38, and 22.33 of this chapter.

(b) Shipments of plant material may be imported by mail free of duty for immediate exportation by mail subject to the following regulations, which have been approved by the Department of Agriculture and the Post Office Department:

(1) Each shipment shall be dispatched in the mails from abroad, accompanied by a yellow and green special mail tag bearing the serial number of the permit for entry for immediate exportation or immediate transportation and exportation, issued by the United States Department of Agriculture, and also the postal form of customs declaration.

(2) Upon arrival, the shipment shall be detained by or redispached to the postmaster at Washington, D.C., Brownsville, Texas, Hoboken, New Jersey, Honolulu, Hawaii, Laredo, Texas, Miami, Florida, San Francisco, California, San Juan Puerto Rico, San Pedro, California, or Seattle, Washington, as may be appropriate, according to the address on the green and yellow tag, and there submitted to the customs officer and the Federal quarantine inspector. The merchandise shall under no circumstances be permitted to enter the commerce of the United States.

(3) After inspection by the customs and quarantine officers, and with their approval, the addressee or his authorizer agent shall repack and readdress the mail parcel under customs supervision; affix to the parcel the necessary postage; and comply with other mailing requirements, after which the parcel shall be delivered to the postmaster for exportation by mail pursuant to paragraph (a) of this section. The contents of the original parcel may be subdivided and exported in separate parcels in like manner.

(4) It will not be necessary to issue a customs mail entry nor to require formal entry of the shipments.

(5) The mail shipments referred to shall be accorded special handling only at the points specified in subparagraph (2) of this paragraph.

(6) The foregoing procedure shall not affect the movement of plant material in the international mails in transit through the United States.

§ 9.12 Prohibited and restricted mail importations; seizure under the customs laws.

(a) Each mail shipment of admissible

arms, implements of war, or other nonexplosive munitions of war designated in the United States Munitions List (22 CFR, Parts 121-128), issued pursuant to section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), shall be detained by customs until an import license from the Secretary of State has been submitted for such shipment. Likewise, a shipment of firearms, as that term is defined in the National Firearms Act, as amended (26 U.S.C. 5348), shall be detained by customs until an import permit from the Commissioner of Internal Revenue has been submitted by the addressee. If the import license or the import permit is found to be in proper form, the mail parcel shall be endorsed by customs to show that it is entitled to entry and released to the postmaster for delivery or dispatch to destination in the mails, subject to any duties that may accrue and to other customs requirements applicable thereto.

Pistols, revolvers, and other firearms capable of being concealed on the person are nonmailable, with certain exceptions (18 U.S.C. 1715), and when received in the mails such nonmailable articles are subject to seizure and forfeiture under the customs laws.

(b) Plants and plant products, including seeds and bulbs of all kinds, may be imported into the United States only under the conditions set forth in the Plant Quarantine Act, amendments thereto, and regulations thereunder. All such articles shall be submitted through customs officials to plant quarantine inspectors of the United States Department of Agriculture for fulfillment of the requirements of the law.

(c) Certain viruses, serums, toxins, and other biological products as well as organisms and vectors are subject to import restrictions (see §§ 12.17-12.23 of this chapter). In all cases mail shipments of such products shall be submitted to customs representatives who shall communicate with the addressees and determine whether such importations are in compliance with the law and regulations.

(d) All mail shipments containing articles, except lottery matter and contraceptive literature which are prohibited importation and all mail shipments containing articles subject to seizure as being imported or brought into the United States in any manner contrary to law shall be immediately taken and held by customs officers for appropriate treatment under the customs laws. All mail parcels which are known or believed to contain merchandise and of which the addressee refuses to take delivery, or for which the addressee declines to make formal entry when requested by the customs officer in cases where the appraised value exceeds the value shown in the declaration or invoice, will be delivered to customs officers for treatment under the customs laws upon production to the postmaster concerned of satisfactory evidence of fraudulent intent on the part of any of the persons mentioned in this paragraph. In all cases where articles are seized by customs officers, notice shall be given by customs officers to the addressee of that fact and the reason therefor.

(e) Mail parcels of all classes, sealed or unsealed, which upon inspection or examination are found to contain or are supposed to contain lottery matter prohibited importation under section 305, Tariff Act of 1930, or enclosures pertaining thereto, will be retained by the postal service, or shall be delivered to that service by the Customs Service, for disposition under the Postal Laws and Regulations. If such a parcel is found to contain other merchandise, the parcel shall be held by, or delivered to, the Customs Service for appropriate treatment under the customs laws and regulations. Mail parcels which upon inspection or examination are found to contain contraceptive literature will be retained by the postal serv-

Footnotes at end of article.

ice, or shall be delivered to that service by the customs service, for disposition under the Postal Laws and Regulations. If the postal service shall determine in any case that it is proper to release contraceptive literature to an addressee, such literature before delivery to the addressee will be turned over to the nearest customs officer located at a post office for treatment by customs in the same manner as other articles imported in the mails.

(Sec. 305, 46 Stat. 698, as amended; 19 U.S.C. 1305)

# CODE OF FEDERAL REGULATIONS—TITLE 39

## Part 261—Customs

Sec.

261.1 What is subject to examination.

261.2 Separation points.

261.3 Examination.

261.4 Repacking.

261.5 Treatment at delivery office.

**AUTHORITY:** The provisions of this Part 261 issued under 5 U.S.C. 301, 39 U.S.C. 501, 505.

**SOURCE:** The provisions of this Part 261 appear at 32 F.R. 12278, Aug. 24, 1967, unless otherwise noted.

§ 261.1 What is subject to examination.

All mail believed to contain merchandise, including returned articles of United States origin, and printed matter are subject to customs examination, except mail addressed to Ambassadors and Ministers of foreign countries and articles known or believed to contain only official documents addressed to officials of the U.S. Government.

§ 261.2 Separation points.

(a) *Exchange offices.* Articles believed liable to customs duty are submitted immediately to local customs officers or redispached for customs treatment to designated distribution offices. In the latter case, exchange offices will attach Label 81, a reusable pink slotted tag, bearing the words "This sack contains mail supposed liable to customs duty," to the label holders or haps of sacks or pouches containing matter to be submitted to customs officers.

(b) *Distribution offices.* Distribution offices will submit articles supposed liable to customs duty to customs officers as soon as possible after receipt. The reusable tags, Label 81, removed from sacks containing this mail will be returned periodically to the postmasters at New York, New Orleans, San Francisco, Seattle, or Miami, as may be appropriate from a geographical standpoint.

(c) *Priority treatment of airmail.* Airmail articles receive preferential customs treatment and are submitted to customs separately from surface mail. Upon return from customs, dispatch will be by air if it will expedite delivery.

§ 261.3 Examination.

(a) *Authority to open sealed articles.* Sealed letters and letter packages containing merchandise should bear a green label (Form C 1) or an endorsement permitting the customs officer to open the article for examination. In the absence of a label or endorsement, the post office will obtain the addressee's signed authority for opening on Form 2921, "Held Notice—International Mail." If such authority is not granted within 15 days after the first notice, send a second notice. If no response is received from the second notice after an additional 15-day period, endorse the article "Unclaimed" and return it to origin. Sealed parcel post is opened without any formality.

(b) *Registered and sealed articles.* The postmaster or other designated postal employee must be present when registered articles and parcels or sealed letter mail is opened by customs officers for examination. After customs treatment, the postal employee will repack and reseal letter packages in the presence of the customs officer who participated in the opening. Repack the article in

the same or better condition than when it was opened. If the article was received in a special penalty envelope which can be reused, forward the article in that envelope; otherwise reseal the article and apply the official adhesive seal of the Post Office Department. Sign or initial the envelope or wrapper of each article.

(c) *Extraction of samples for advisory information.* Should a customs officer wish to obtain advisory information from a local trade expert or the Customs Information Exchange, 201 Varick Street, New York, N.Y. 10014, permit him to extract a sample of the contents. The customs officer will furnish the postal official with two copies of Customs Form 6423, one for enclosure in the importation and the other for the post office files. If the sample is to be forwarded to New York, dispatch it under official registration to the New York Postmaster for delivery to the Customs Information Exchange.

(d) *Failure to receive customs examination.* Should an article known or supposed to be dutiable be observed at or en route to the office of address without having received customs treatment, forward it, labeled "For Customs Inspection," under seal to the postmaster at the appropriate office listed in paragraph (e) of this section. Packages that have received customs treatment will bear endorsements such as "Examined by U.S. Customs at \_\_\_\_\_ Duty to be Collected, Duty Paid, or Passed Free of U.S. Customs at \_\_\_\_\_"

(e) *Customs ports.* Customs officers are stationed at the following places:

Alabama: Birmingham, Mobile.  
Alaska: Anchorage, Fairbanks, Juneau, Ketchikan.  
Arizona: Nogales.  
California: Calexico, Eureka, Los Angeles, San Diego, San Francisco.  
Colorado: Denver.  
Connecticut: Bridgeport, Hartford, New Haven, New London.  
Delaware: Wilmington.  
District of Columbia: Washington.  
Florida: Jacksonville, Key West, Miami, Pensacola, Port Everglades, Tampa, West Palm Beach.  
Georgia: Atlanta, Savannah.  
Hawaii: Honolulu.  
Illinois: Chicago, Peoria.  
Indiana: Evansville, Indianapolis, Lawrenceburg.  
Kentucky: Louisville.  
Louisiana: Baton Rouge, Lake Charles, Morgan City, New Orleans.  
Maine: Bangor, Portland.  
Maryland: Baltimore.  
Massachusetts: Boston, Lawrence, Springfield, Worcester.  
Michigan: Detroit, Port Huron, Sault Ste. Marie.  
Minnesota: Duluth, International Falls, Minneapolis, Noyes, St. Paul.  
Mississippi: Gulfport.  
Missouri: Kansas City, St. Louis.  
Montana: Great Falls.  
Nebraska: Omaha.  
New Mexico: Columbus.  
New York: Albany, Buffalo, New York, Niagara Falls, Ogdensburg, Rochester, Rouses Point, Syracuse.  
North Carolina: Charlotte, Wilmington, Winston-Salem.  
North Dakota: Pembina.  
Ohio: Akron, Ashtabula, Cincinnati, Cleveland, Columbus, Dayton, Sandusky, Toledo.  
Oregon: Portland.  
Pennsylvania: Philadelphia, Pittsburgh.  
Puerto Rico: Mayaguez, Ponce, San Juan.  
Rhode Island: Providence.  
South Carolina: Charleston.  
Tennessee: Chattanooga, Memphis, Nashville.  
Texas: Beaumont, Brownsville, Corpus Christi, Dallas, Del Rio, Eagle Pass, El Paso,

Galveston, Houston, Laredo, Port Arthur, San Antonio.

Vermont: Burlington, Island Pond, Newport, St. Albans.

Virginia: Alexandria, Norfolk, Petersburg, Richmond.

Virgin Islands: Charlotte Amalie, Christianssted, Frederiksted.

Washington: Oroville, Seattle, Spokane, Tacoma.

Wisconsin: Green Bay, Milwaukee, Superior.

(f) *No examination before payment of duty.* Addressees are not permitted to examine the contents of dutiable articles until the duty is paid.

§ 261.4 Repacking

(a) *Responsibility of customs and postal employees.* Customs and postal employees shall carefully examine and repack contents of importations, particularly those that contain delicate instruments, glass, china, or other fragile items, liquids, and easily liquefiable substances. Shipments must be restored to their original or better condition. Postal employees accepting articles which have been in customs custody for examination, must determine from external inspection whether the shipment can safely bear further handling and transportation. Postal and customs employees jointly will restore parcels that are not in satisfactory condition. Employees may be held responsible when damage occurs as a result of negligence or improper handling.

(b) *Customs shipments in bad order.* Shipments found to be in bad order in transit or at the delivery office must be reconditioned by postal employees. Note bad order and evidence of rifling or damage on the address side of the wrapper over the signature of the employee.

[32 F.R. 20643, Dec. 21, 1967].

§ 261.5 Treatment at delivery office.

(a) *Detecting dutiable importations.* Postal employees will promptly examine all incoming mail to detect dutiable importations. These packages will bear the following endorsement, placed near the address and completed by the customs office where the duty was assessed:

Examined by U.S. Customs  
Port of \_\_\_\_\_  
Collect Duty and Postal Fees  
Mail Entry No. \_\_\_\_\_

The package will also be accompanied by an Original and Addressee Receipt copy of Customs Form 3419, Mail Entry, enclosed in a Treasury Department envelope securely attached to the package.

(b) *Missing mail entries.* (1) Withhold delivery of dutiable packages from which Customs Forms 3419 have become detached. If the mail entry forms are not found, complete Form 2937, Importer's Objection and/or Lost Mail Entries in duplicate, requesting issuance of a duplicate set of entry forms. Send the original Form 2937 to Bureau of Customs, Data Center, 7981 Eastern Avenue, Silver Spring, Md. 20910. Retain copy of Form 2937 with the package until duplicate set of entries is received, then process parcel as prescribed in paragraph (d) of this section using duplicate set of entry forms.

(2) If the missing original set of entry forms is located before receiving the requested duplicate set, use the original set, and when the duplicate set is received mark it "Original set located and used" and return the duplicate to the Customs Data Center in Silver Spring. If the original set is located after delivery or other disposal has been made of the package following receipt of the duplicate set, destroy the original set.

(c) *Dispatch to delivery units.* Promptly forward dutiable articles to delivery units.

(d) *Delivery of dutiable mail.* (1) Dutiable mail will be delivered by city, village, and rural carriers, and by window delivery

units. Form 2921, Held Notice—International Mail, is used to notify addressees of the arrival of dutiable parcels.

(2) Charge packages and both copies of the customs mail entry to delivery employee on Form 2944, Receipt for Customs Duty Mail, prepared in duplicate. For control and accounting purposes, enter on Form 2944 the mail entry numbers as shown on the entry forms. Retain both copies of Form 2944 at post office as record of employee's accountability.

(3) When customs charges are collected and delivery is made, delivering employee will obtain addressee's signature and date of delivery on the "Original" Customs Form 3419, as well as on the receipt for registered and insured mail if required. The delivering employee will sign and date the Addressee Receipt copy of Customs Form 3419 and give it to the addressee as a receipt for the duty. The delivery employee will turn in amounts collected with the signed originals of Customs Form 3419 and any undelivered packages with both copies of the related Customs Forms 3419.

(4) At first-class offices carrier's accountability will be cleared by completing the two copies of Form 2944 prepared pursuant to subparagraph (2) of this paragraph. Hand both copies of completed Form 2944 to carrier who will deposit the original in the slotted and locked receptacle provided for that purpose and file the duplicate which he will retain for 3 months after the last day of the month of issue. The Forms 2944 shall be removed from the locked receptacle by an employee or supervisor, other than the clearing clerk, and forwarded daily to the chief accountant or other designated employee. Clearing clerk will send signed originals of Form 3419 to the chief accountant or other designated employee. Employees at delivery windows who have been charged with dutiable packages will be similarly clear, but will be required to execute a new set of Form 2944 covering all dutiable packages remaining in their custody at the close of business.

(5) At other than first-class offices the delivery employees' accountability will be cleared in the same manner as for COD transactions.

(6) The Customs Service in certain instances will attach a Customs Form 3433, Authorization to Postmaster to Deliver Mail Importation Conditionally Free of Duty, and a Customs Form 3342, Declaration for Free Entry of Gifts, to the mail entries, Customs Form 3419, of incoming dutiable packages. Deliver these packages without collection of the duty under the conditions stated on Form 3433. After delivery, endorse the original Customs Form 3419 Form 3342 executed by addressee, and report the transaction as an uncollected customs duty item in accordance with § 261.5(f) (2) of this chapter. Return of the executed customs form will be authority for the clearing clerk to allow credit for unreturned postage due stamps delivered with the package pursuant to § 224.1(a) (5) (ii) of this chapter. The clearing clerk will keep a daily record of such voided stamp credits in the manner prescribed in section 335.36 of the Postal Manual.

(7) When an addressee objects to the assessed value, rate, or amount of duty charged, the following alternatives are available:

(i) Addressee may take delivery, pay the duty and postal fees and protest (within 60 days from date of entry) directly to the issuing customs port.

(ii) Addressee may conditionally refuse the package pending review of the entry by the customs service. In this case, the procedure is as follows:

(a) Delivery employee will advise addressee to state his objections in writing to the postmaster and submit any evidence he may have substantiating his claim (invoice, declaration of value, etc.). Addressee may be

allowed to copy customs mail entry number and other particulars that will assist in associating his protest with the package at the post office.

(b) Delivery employee will mark package "Addressee protests duty," date and initial, and return the package and related Customs Forms 3419 to the post office to be held awaiting a receipt of addressee's written protest. On receipt of addressee's statement, promptly prepare report, in duplicate, on Form 2937, Importers Objections and/or Lost Mail Entries. Forward original Form 2937, with supporting statements and both copies of mail entry, to customs mail division where entry was prepared—unless addressee is located in vicinity of one of the customs ports listed in § 261.3(e) of this chapter, in which case package and other documents may be delivered to the local customs office for consideration of the protest. Retain duplicate Form 2937 as office file and record copy.

(c) If the addressee's written protest is not received within 5 days after package is returned to post office, notify him that package is on hand and will be held for a further 5 days only. Mark package "Notified," and date, and if patron does not furnish the required statement within another week, endorse package "Unclaimed," show date, and treat as prescribed in paragraph (f) of this section.

(d) If an adjustment is made by the customs officer he will endorse the adjustment on the mail entries and return them with the original Form 2937 to the postmaster. When delivery of the package is effected, collect and report the corrected amount of duty and handle as prescribed in paragraph (e) of this section. If the adjusting customs officer waives the duty, report the entry as an uncollected item, as prescribed in paragraph (f) (2) of this section.

(e) If no decision on a protest is received from the customs office within 30 days request that matter be expedited. Continue to hold package until a decision is received.

(iii) Addressee may definitely refuse the package if he does not wish to pay the duty or to protest the assessment. In this case the delivery employee shall make it clear to addressee that package will be disposed of immediately as undeliverable. Employee will mark package "Refused," date and initial, and return package and entry forms to post office for disposal. (See paragraph (f) of this section.)

(e) *Recording and reporting collections.* Post offices making delivery-collection of dutiable articles will deposit the customs collections with postal funds. See section 437.2 of the Postal Manual for accounting and control functions, and the preparation of Form 2932, Customs Collections Summary.

(f) *Uncollected items—(1) Disposal.* When it is definitely established that a dutiable package is undeliverable, detach the customs mail entry forms and treat package as prescribed in § 224.4 of this chapter (for postal union articles) or in § 232.5(b) of this chapter (for parcel post). Mark the entry forms to show the reason for nondelivery and report as prescribed in subparagraph (2) of this paragraph.

(2) *Reporting.* Complete Form 2933, Register of uncollected customs charges, in duplicate, listing uncollected items in numerical order according to the 7-digit serial numbers on the mail entries. Forward the original Form 2933, accompanied with both copies of the mail entries and the supporting Customs Form 3342 or other statements, if any, to the Regional Commissioner of Customs, Attention: Cashier, New York, N.Y. 10004. File duplicate of Form 2933 for reference purposes. Prepare reports as needed, but not less frequently than weekly.

(3) *Past-due entries.* When the customs service fails to receive a remittance of duty

or report of disposition made of a dutiable package, a postmaster will receive a set of reproduced copies of the mail entry. Search shall be made at the post office of address and a report of the findings made to the Regional Commissioner of Customs, Attention: Cashier, New York, N.Y. 10004.

(g) *Refund of duty—(1) Duty not refundable by postmasters.* Amounts collected on customs mail entry forms are not refundable by postmasters. An addressee who requests a refund of duty shall be advised to make application therefor to the customs office which issued the mail entry within 60 days from the date of entry. It is suggested, if refund is claimed for damage, the article be forwarded with the application. If the addressee wishes to abandon the article to the Government, he should so state in his application. In case the addressee also intends to file a claim for indemnity with the Post Office Department, he shall, before taking the above action, present the contents, container, and complete wrapping to the postmaster for the inspection prescribed by Form 2855, Claims for Indemnity—International Insured Mail.

(2) *By Customs Service.* Refund of duties paid will be considered by the Customs Service if merchandise, covered by a mail entry, representing 5 percent or more of the total value of all of the merchandise of the same class or kind entered in the invoice in which the item appears, is abandoned and delivered to the customs office where the entry was made within 60 days after the date of entry.

(3) *On returned merchandise.* Refund of duties paid less 1 percent will also be considered by the Customs Service if merchandise covered by a mail entry and found not to conform to sample or specification or shipped without the consent of the consignee is, within 90 days from the date of delivery, returned to customs custody for exportation, unless the Secretary of the Treasury authorizes in writing a longer time. The postal charges incident to returning the merchandise to the sender must be paid by the addressee.

(4) *As drawback on exported merchandise.* See Part 257 of this chapter.

(5) *No duty refund in certain cases.* When an addressee requests delivery of parcel post packages to be made at his residence or place of business after the customs duty thereon has been paid at the post office, the Treasury Department has declined to refund the duty in such cases when the goods become lost between the post office and the addressee's residence or place of business, and if there is no appropriation available from which the Post Office Department could make reimbursement for the amount of duty paid.

(h) *Duty—(1) Rates.* Patrons desiring information concerning rates of duty on articles imported into the United States, or other customs procedure, should communicate with the appropriate customs office, located at various points throughout the country (see § 261.31(e) of this chapter), or with the Commissioner of Customs, Treasury Department, Washington, D.C. 20226.

(2) *Prepayment.* No provision is made for the prepayment abroad of customs duty on mail shipments addressed for delivery in the United States.

(3) *On articles repaired abroad.* Before sending an article abroad for repair, the patron should submit it to a customs officer for issuance of a certificate of registration. Otherwise, the entire article may be subjected to customs duty when it is returned to the United States.

(4) *In other countries.* See § 231.2(d) of this chapter.

(i) *Forwarding or returning dutiable mail—(1) Forwarding within the United States.* Dispatch page as prescribed in § 224.3 (a) of this chapter (for postal union articles) or § 232.4(a) of this chapter (for parcel post). Allow the Customs Forms 3419 to

remain attached to the redirected package in its original envelope, which is also redirected to the new address. Prepare Form 3814, Record of C.O.D. Parcels Held for Delivery, in duplicate, showing name and address of addressee, forwarding address, and name of port where the duty was assessed. In Bin No. block on Form 3814, enter the 7-digit serial number from related Customs Form 3419. Mail original Form 3814 to the Regional Commissioner of Customs, Attention: Cashier, New York, N.Y. 10004. File duplicate of Form 3814 for reference in case of later inquiry.

(2) *Forwarding to another country.* See § 224.3(b) of this chapter concerning forwarding of postal union articles and § 232.4 (b) and (c) of this chapter concerning forwarding of parcel post. When a dutiable package is entitled to be forwarded to another country, detach the Customs Forms 3419, endorse both copies Addressee moved outside jurisdiction of the United States, and report as an uncollected item (see paragraph (b) (2) of this section).

(3) *Return to sender.* When a dutiable package is to be returned to the sender, detach the Customs Forms 3419, endorse them "Refused", unclaimed, etc., and report as an uncollected item (see paragraph (b) (2) of this section).

(4) *By stations and branches.* Postmasters may authorize stations and branches to forward or return packages directly from those units, without sending the packages to the main office.

[32 F.R. 20643, Dec. 21, 1967, as amended at 33 F.R. 3281, Feb. 22, 1968]

Part 262—Sealed letters believed to contain prohibited matter

Sec.

262.1 Examination—authorization to open.

262.2 Disposal.

**AUTHORITY:** The provisions of this Part 262 issued under 5 U.S.C. 301, 39 U.S.C. 501, 505.

**SOURCE:** The provisions of this Part 262 appear at 32 F.R. 12281, Aug. 24, 1967, unless otherwise noted.

§ 262.1 Examination—authorization to open.

Mail of foreign origin is scrutinized at the exchange office of first receipt for the presence of prohibited matter. If there is reason to believe that prohibited matter is contained in a sealed letter, the exchange office will endorse the cover "Supposed to contain matter prohibited importation" and forward it to the post office of destination. Letters received bearing such endorsement, or any foreign letter not so endorsed but suspected of containing prohibited matter, shall be held and treated as follows:

(a) Complete and mail Form 2921, "Held Mail Notice—International," to the addressee requesting authorization to open the letter and examine its contents. The form may be endorsed "Lottery Matter" when it is believed the letter contains such matter. If the volume of such mail or other considerations warrant, an explanatory letter may be sent in lieu of Form 2921.

(b) When authorization to open is given by the addressee, the letter shall be opened and examined in his presence, if he has appeared in person, or, if he does not appear, in the presence of two designated postal employees.

(c) If the addressee fails to authorize the opening of the letter, endorse the cover "unclaimed" and return, unopened, to its origin.

§ 262.2 Disposal.

(a) *Mailable matter.* If the contents of a letter opened pursuant to § 262.1 are found to be mailable and the examination has taken place in the presence of the addressee, immediately deliver the letter to him. If the addressee is not present, mail the letter to him under official cover.

(b) *Prohibited matter.* If the contents of a letter opened pursuant to § 262.1 are found to be prohibited they shall be disposed of as follows:

(1) Transmit lottery matter to the local postal inspector in charge.

(2) Report other prohibited matter to the Mailability Division, Office of the General Counsel, with a sample of the contents, and await instructions as to disposition.

#### FOOTNOTES

<sup>1</sup> Dutiable packages addressed to persons on commercial vessels in harbor bound for a foreign port are subject to duty unless remailed to a foreign destination or otherwise exported under customs supervision. (T. D. 38287 (3))

<sup>2</sup> Copies of the special distribution scheme will be furnished to collectors of customs and will be available for inspection by the public at the collectors' offices.

" \* \* \* The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of—

"(1) Merchandise, imported in the mails or otherwise, when the aggregate value of the shipment does not exceed such amount, not greater than \$250, as the Secretary of the Treasury shall specify in the regulations, and the specified amount may vary for different classes or kinds of merchandise or different classes of transactions;

"(11) Merchandise within the provisions of paragraph 1631 of this Act." (Tariff Act of 1930, sec. 498(a), as amended; 19 U.S.C. 1498(a))

"(a) \* \* \* (1) any article released under an informal mail entry shall be subject to duty at the rate or rates in effect when the preparation of the entry is completed; \* \* \* (Tariff Act of 1930, sec. 315 (a) (1), as amended; 19 U.S.C. 1315(a) (1))

<sup>5</sup> Parcels imported under the provisions of the parcel-post conventions between the United States and foreign countries need not be labeled or endorsed since under the terms of these conventions such parcels, if sealed, may be opened by customs officers, immediately upon receipt and resealed with official seals after examination.

"(a) The Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, is hereby authorized, under such regulations as he shall prescribe, to—

"(2) Admit articles free of duty and of any tax imposed on or by reason importation, but the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from the payment of duty shall not exceed—

"(A) \$10 in the case of articles sent as bona fide gifts from persons in foreign countries to persons in the United States, or

"(C) \$1 in any other case.

The privilege of this subdivision (2) shall not be granted in any case in which merchandise covered by a single order or contract is forwarded in separate lots to secure the benefits of this subdivision (2)." (Tariff Act of 1930, sec. 321 (a), as amended; 19 U.S.C. 1321 (a).)

<sup>7</sup> The regulations contained in § 10.30 of this chapter, which govern the free entry of articles for diplomatic and consular officers and other representatives of foreign countries, are applicable in the case of mail articles.

<sup>8</sup> Liquidation of mail entries are subject to protest as in the case of formal entries. Importations in the mails are not subject to appeal for reappraisal unless formal entry has been made.

#### STATUTES

##### Title 5, United States Code

##### Chapter 3—Powers

##### § 301. Departmental regulations

The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public. Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379.

##### Chapter 5—General provisions

##### § 501. General duties of the Postmaster General

In addition to his other duties the Postmaster General shall—

(1) prescribe rules and regulations that he deems necessary to accomplish the objectives of this title;

(2) instruct all persons in the Department with reference to their duties;

(3) decide on the forms of all official papers of the Department, except as otherwise provided by law;

(4) investigate postal offenses and civil matters relating to the Department;

(5) superintend generally the business of the Department and execute all laws relating to the Department.

Pub. L. 86-682, Sept. 2, 1960, 74 Stat. 580.

##### Title 19 United States Code

##### § 1305. Immoral articles; importation prohibited.

(a) Prohibition of importation. All persons are prohibited from importing into the United States from any foreign country any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States, or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article which is obscene or immoral, or any drug or medicine or any article whatever for the prevention of conception or for causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry; and all such articles and, unless it appears to the satisfaction of the collector that the obscene or other prohibited articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the package in which such articles are contained, shall be subject to seizure and forfeiture as hereinafter provided: *Provided*, That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subdivision: *Provided further*, That the Secretary of the Treasury may, in his discretion, admit the so-called classics or books of recognized and established literary or scientific merit, but may, in his discretion, admit such classics or books only when imported for noncommercial purposes.

Upon the appearance of any such book or matter at any customs office, the same shall be seized and held by the collector to await the judgment of the district court as hereinafter provided; and no protest shall

be taken to the United States Customs Court from the decision of the collector. Upon the seizure of such book or matter the collector shall transmit information thereof to the district attorney of the district in which is situated the office at which such seizure has taken place, who shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized. Upon the adjudication that such book or matter thus seized is of the character the entry of which is by this section prohibited, it shall be ordered destroyed and shall be destroyed. Upon adjudication that such book or matter thus seized is not of the character the entry of which is by this section prohibited, it shall not be excluded from entry under the provisions of this section.

In any such proceeding any party in interest may upon demand have the facts at issue determined by a jury and any party may have an appeal or the right of review as in the case of ordinary actions or suits.

#### MAY 1—LAW DAY AND LOYALTY DAY

Mr. WILLIAMS of New Jersey. Mr. President, on May 1, all Americans join in acknowledging the importance of both Law Day and Loyalty Day, which will be celebrated in honor of our Nation's ideals in jurisprudence and the American way of life.

Although only Loyalty Day has been proclaimed officially by the White House this year, a joint congressional resolution in 1958 provided for the proclamation of Law Day in succeeding years. My own State of New Jersey will observe Law Day, as the Governor officially announced on April 27.

In the late 1920's, members of the Veterans of Foreign Wars in New Jersey and New York set in motion the basic steps for honoring Loyalty Day. But it was not until 1950 that this movement became national in scope. Every year members of each VFW, along with students and local organizations, demonstrate their pride in the United States through parades and celebrations. The enthusiasm instilled in this national observance has been increasing each succeeding year. Following the joint congressional resolution in 1958, our country has also honored Law Day. Instead of parades, however, thousands of Americans have expressed their enthusiasm through lectures, speeches, and individual events.

Law Day, originally initiated by the American Bar Association, is designed to stimulate greater respect for our system of laws. The support of law enforcement and increased observance of the laws are the basic goals of this national observance. By emphasizing the singular advantages and values of living within our present system, the ABA has demonstrated pointedly the privileges of a democratic society compared to that of any other system thus far devised by man.

However, it is imperative that along with our rights and privileges granted through the Constitution and system of laws, there be definite responsibilities for which an individual is obligated to society as a whole.

Mr. President, the importance of May 1 is twofold. In honoring and acknowledging Law Day as a day to rededicate

our national values, ideals, and goals, we also pay tribute to Loyalty Day. For in pausing to observe and reflect on our Nation's strongest fundamental principles of justice, we demonstrate our appreciation of the American way of life.

#### AFFLUENT SOCIETY PAVES WAY FOR PERMISSIVE SOCIETY

Mr. JORDAN of Idaho. Mr. President, on April 21, the senior Senator from Iowa (Mr. MILLER) addressed the Pepperdine College forum XII seminar on civic and public responsibilities in Los Angeles.

His observations on the "underlying fundamental national imperatives" facing America today are very pertinent to the crises we are undergoing today: The campus unrest, the seeming breakdown in moral integrity, and the continued dangerous pursuit of materialistic abundance, the emphasis on quantity, not the quality of life.

Our affluent society, Senator MILLER warns, "seems to have paved the way for the 'permissive society,' with its emphasis on 'rights' and little or no regard for the responsibilities correlative to those rights."

His remarks merit the attention of Senators. I ask unanimous consent that they be printed in the RECORD.

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

#### A HARD LOOK AT UNDERLYING FUNDAMENTAL NATIONAL IMPERATIVES

(By Senator JACK MILLER)

One of the fringe benefits of a member of the Senate is the opportunity to appear before an audience such as this and to have the feeling that—unlike the usual Senate atmosphere—there are minds that are not already made up.

At the same time, I would not wish to give the impression that Senate minds are always directed at the specifics of a particular bill or amendment so that there is no opportunity for indulging in discourse on philosophy. Indeed, the Congressional Record contains a great amount of timely comment relating to fundamental national imperatives underlying the work we do and, too often, the things we fail to do. After all, most legislators are idealists, more or less. But we have to be pragmatists, too; because ideals are not very helpful unless they are reduced to specifics—and that is what bills and amendments are all about.

These are troubled times, and when there are troubled times, one should try to find out what the trouble is—if he wishes to do something about it. If his efforts are to be both meaningful and lasting, he had better get to the root of the trouble instead of tip-toeing around on the periphery—granted that palliative solutions are much simpler than the hard look and hard decisions on root problems. My purpose on this program is to take that hard look. However, people like you will have to help influence public opinion so that the hard decisions needed will be made.

In this nuclear age, there has been a great amount of talk about the problem of survival. To me, this is an unduly pessimistic and terribly sterile approach—one that can easily lead to a "better red than dead" outlook. Short of that, it can inspire anxiety to reach an agreement with the Soviet Union in negotiations relating to nuclear weapons—an agreement which may not, because of that anxiety, contain the safeguards needed to assure our security. Retired General

Matthew Ridgway recently wrote: "I believe today's overriding imperative is to explore every avenue, to exhaust every conceivable means and method to bring the governments of the U.S.S.R. and the U.S. into solemn and irrevocable agreement to ensure that a nuclear confrontation does not take place." I am troubled by such a statement, because it expresses the "anxiety" to which I have referred. I am concerned over his emphasis on a "solemn and irrevocable" agreement, with nothing said whatsoever about enforcement and safeguards, including inspection. And I wonder what concessions might be implied in exhausting "every conceivable means and method" to reach such an agreement. Finally, in our negotiating posture with the Soviets, it seems to me that we need be no more anxious than they, and I would feel more comfortable if one of the retired Red generals had made a comment similar to General Ridgway's. I haven't seen one, however.

Instead of talking about survival, it seems to me that the relevant overriding imperative is peace with freedom. We talk about "peace" so often that there is a tendency to take for granted that all members of the family of nations share the same concept of what "peace" is. Regrettably, this is not the case—simply because the leaders and citizens of other nations possess different cultures, traditions, political systems, and philosophies.

Here in the United States, where we share a common philosophy embracing individual freedom, there is general agreement on the concept of "peace". It has been expressed in the statements of our national purpose by successive Presidents in recent years, namely: "a strong, free, and virtuous America in a world where there is a just and lasting peace, with freedom and respect for the integrity of the individual." As American citizens, therefore, we are concerned with the unalienable rights of man as an individual and, also, his correlative responsibilities as a member of a society established to attain the goals set forth in the Preamble of the Constitution.

Our national purpose expresses the ideology of freedom—as opposed to the ideology of non-freedom, which finds national expression behind the Iron and Bamboo Curtains and denies the existence of God, the human soul, and the integrity of the individual. We would do well to remember that the concept of "peace" in the Communist mind, therefore, is not the same as our concept of "peace." Nor is our concept of "peaceful co-existence" the same as that of the Soviets. And if there is any doubt on this point, let the doubt be resolved by reading the book published by the American Bar Association in 1964, entitled: "Peaceful Coexistence—A Communist Blueprint for Victory."

In our quest for peace with freedom, we should also understand that there is no necessary correlation between the human need for peace and the human capacity to achieve it. There has always been the need, but the capacity still seems to elude us. The reason isn't a deficiency in the charter or structure of the United Nations. Nor is it the lack of a United Nations peace-keeping force. The reason is the clash of ideologies. There are those who are willing to use military power to destroy the freedom of members of the family of nations, and whether that power is exercised in the form of a Czechoslovakian invasion or a so-called "war of national liberation" is not particularly relevant. What is relevant is that military power is a fact of life, and the willingness to use it to force on other nations an environment of non-freedom (be it Communism or some other form of totalitarianism) is a fact of life. The human capacity that is needed is a unity of ideology among nations and their peoples—and certainly among the major powers: unity of

respect for the individual person, unity over the concept of social justice, unity over the rule of law, unity over freedom of self-determination of nations, unity over truth, unity over freedom of communications, and unity over the meaning of "peace" itself. The theme of Expo '70 in Osaka—"Progress and Harmony for Mankind"—is right on the target.

Only out of such unity—or, if you will, ideological disarmament—can come the mutual trust and confidence among the members of the family of nations which will underwrite the human need for peace with freedom. We can and should work for these ideological unities, attacking problems of hunger and malnutrition, disease, illiteracy and lack of opportunity for education, economic underdevelopment, pollution of the environment, and overpopulation. These problems can lead to, or exacerbate, ideological disunity. Their solution can help prepare a foundation for ideological unity. We can pray for short-term success, but realism compels me to suggest that we should not expect it. I well recall the answer to a question given by Arthur Goldberg shortly after he became Ambassador to the United Nations. The question: "Mr. Ambassador, what do you hope to accomplish as the American Ambassador to the U.N.?" The answer: "I hope that, during my period of service, I can help move the world one inch closer to peace."

As I have said, the reason we do not yet have the capacity for peace will not be found in a deficiency in the United Nations Charter, which I happen to regard as a great moral document. As in the case of our own Constitution, its integrity should be preserved. Its violations or misinterpretation, for the sake of expediency, should be avoided. When it recites that admission of new members should be limited to peace-loving nations, the United States shouldn't have to worry about making the question of admission of Red China (in her present posture) an "important" question requiring a two-thirds favorable vote. There ought to be a resounding "no" vote by all 126 members. Indeed, the question shouldn't even be put. Still there are those who say that the principle of universality should prevail over the plain language of the Charter. The same logic would lead to our creating a fifty-first state, even though that state would deny freedom of religion to its people. What these advocates should do is offer an amendment to the Charter which would delete the words "peace-loving". Of course I would hope that such an amendment would be overwhelmingly defeated, but, at least, it would be an honest approach.

When the Charter provides that a member state, which is more than two years delinquent in the payment of its dues and assessments, shall lose its vote in the General Assembly, one doesn't have to be a "strict constructionist" to find that there is no exception for the Soviet Union. Still the Soviet Union continues to vote, with the timid acquiescence of the United States. Small wonder, then, that as of last January 1, 92 of the 126 members were delinquent, in one form or another, in the payment of their dues and assessments. Undercutting the integrity of the Charter for the sake of "expediency" does not well serve the cause of world peace; but the fact that it happens points up the need to view the world as it is, and not as we wish it would be, in our international relations.

It has been said many times that the United States is the leader of the free world, whether we like it that way or not. This responsibility of leadership follows from the abundance of both material and spiritual resources which are ours. However, leadership is a fragile status—one which the enemies of freedom, both from within and without,

have long sought to undermine. I am reminded of a recent editorial which observed that in May of 1919 at Dusseldorf, Germany, the Allied Forces obtained a copy of some of the Communist rules for revolution. Let me read a few of them:

"Corrupt the young, get them away from religion. Get them interested in sex. Make them superficial; destroy their ruggedness."

"Get control of all means of publicity and thereby: get people's minds off their government by focusing their attention on sexy books, plays and trivialities; divide the people into hostile groups by constantly harping on controversial matters; destroy the people's faith in their natural leaders by holding the latter up to contempt and ridicule; by encouraging government extravagance, destroy its credit, produce fear of inflation with rising prices and general discontent; foment unnecessary strikes in vital industries, encourage civil disorders and foster a lenient and soft attitude on the part of government toward such disorders."

"Cause the registration of all firearms on some pretext, with a view to confiscating them and leaving the population helpless."

These rules were well carried out in Germany, and while she didn't become a Communist state, the people got something just as bad.

I find the parallel between these rules and developments in our own country more than a mere coincidence. This is not to imply, of course, that everyone who believes in registration of firearms, for example, is knowingly following Communist rules. It is to warn, however, that experts on Communism have repeatedly observed that Communist subversives are most effective when good, decent people and organizations can unwittingly be persuaded to do their dirty work for them.

This dirty work is directed at three areas: the American "system"; our values; and our character as a people.

As far as the "system" is concerned, there are really several. One is our system of justice, the heart of which is our court system. The recent trial of the "Chicago 7" and the current comments by their defense counsel vividly expose the nature of the attack. When in their own little minds they decide that "justice", according to their own definition, is not being done—that "civil rights", according to their own definition, are being violated, then the court system is supposed to be overthrown to suit their convenience. No matter how this strategy is sugar-coated, no matter how eloquent and articulate their position is stated, there is only one word for it: anarchy. When contempt citations are meted out, of course, they call it "repression". But since when is repression of anarchy supposed to be bad?

A distinguished former law school dean and the present Solicitor General of the United States has said: "The utter indefensibility of violent opposition to law is that it proceeds on the foolhardy and immoral principle that might makes right. Rousseau rejected this approach as a viable political alternative. To permit factions the resort to force when they feel—however correctly—that a particular law or policy is wrong would be to renounce our own experience and that of the Founders . . . No mob ever protected any liberty, even its own . . . Civil government cannot let any group ride roughshod over others simply because their 'consciences' tell them to do so."

The bombings and riots which followed conviction of the "Chicago 7" and contempt citations for their lawyers merely represented the violent activities usually associated with anarchy; but, even without them, this was intellectual anarchy at its worst.

Nor is the situation helped when a member of the Supreme Court of the United States writes:

"The use of violence as an instrument of persuasion is therefore inviting and seems to the discontented to be the only effective protest . . . where grievances pile high and most elected spokesmen represent the Establishment, violence may be the only effective response . . . We must realize that today's Establishment is the new George III. Whether it will continue to adhere to his tactics, we do not know. If it does, the *redress*, honored in tradition, is also *revolution*."

This brings me to the so-called "Establishment". A few years ago, one of my colleagues wrote a book about the Senate Establishment. On a joint TV appearance, he complained about some of his virtuous amendments which have been defeated by the "Senate Establishment". I recalled that some of them had been defeated by margins of 95-5, 90-10, 85-12, and the like. Still he insisted that the Senate Establishment was at fault. Not until then did I begin to realize that the so-called "Establishment" really is the majority. Unlike George III's day, we have majority rule in this country, with minority rights protected by the Constitution and the courts. If that majority—the "Establishment"—is not responsive to the needs of the people, it won't be a majority very long. Meanwhile, those who don't like majority rule are welcome to try to sell their ideas to the majority—but never to force their ideas on the majority.

All of this is not to argue that our American system is perfect, or that our system of justice is perfect. It certainly is as good as any in the world and far better than most. And the genius of the American system is that it offers the opportunity for improvement—for reform. There is nothing wrong with the system. What is wrong are the abuses of the system by some of the people in the system. The solution is to get rid of the abuses and cast out those officials who abuse the system.

Another system under attack, although the attack is somewhat more subtle, is our system of higher education. Most educators will agree that the college or university should serve as a center for the search for truth; that this is where knowledge is to be imparted, wisdom is to be nurtured, and horizons are to be broadened. The college or university is not, and should not be, primarily a political force, but rather a wellspring from which politicians and reformers can obtain ideas and inspiration. As long as our colleges and universities so serve, the taxpayers will support them or, in the case of private institutions, the contributors will contribute. And the excellence of our higher education will be maintained.

But when control and responsibility for administration of these institutions is taken over by those who do not have the experience and judgment needed for administration—by the students and/or the typical faculty member—academic discipline and academic excellence disappear. Nowhere is the truth of this observation more evident than in the case of many of the universities in South America, where, for example, professors cannot be hired, courses cannot be taught, deans and heads of departments cannot be appointed—without approval of the student organization.

There are things happening on some of our campuses in the name of academic freedom which appear to overlook the fact that there is no absolute right of academic freedom, anymore than there is an absolute right of free speech. There are responsibilities inseparably connected with these rights, and one of the responsibilities of academic freedom is to further the search for truth—not to impede it. I question that the search for truth is aided by the campus appearance of individuals who preach anarchy, treason, and revolution. I also wonder how informative an expert in one field—a baby doctor, for example—really is when he makes a cam-

pus appearance to pontificate in another field, such as international law, in which he has no expertise whatsoever. Students can read what these people have to say in books, newspapers, and periodicals without having the good reputation of their college or university demeaned by their presence—usually for a fee and always, it seems, with attendant publicity far in excess of the importance they hold in our society.

It is difficult for an adult, even a parent, to fully appreciate the mental turmoil of many of our young people. However, I believe that adults have to share some of the blame for what is going on—especially some of our political, religious, academic, civic, and professional leaders. There is a sort of "pseudo-intellectualism" pervading too many of the speeches and writings of these groups, and it is rubbing off on the young, searching, trusting, and, often, gullible mind. It deals in glittering generalities and clichés without any real meaning, because they are seldom if ever translated into specifics. It raises false hopes of instant change—instant educational excellence, instant prosperity, instant peace, instant social justice. Because it lacks realism and inevitably results in disappointment and frustration, it appears to be motivated by a synthetic idealism which, perhaps, slightly distinguishes it from demagoguery.

"We can't afford not to afford" to do something. "We have the resources" to do something. Well, maybe we can; maybe we can't. Perhaps there are resources; perhaps not. Only by dealing in specifics can a real judgment be made.

The "pseudo-intellectuals" are very adept at begging the question by making use of labels, such as: "liberal," "conservative," "moderate," "McCarthyism," "stone age thinking," "leftist," "radical," "martyr," "militarism," "the establishment," and "civil rights leader."

Probably no "pseudo-intellectual" poses a greater threat to the young mind than one who is a member of a faculty, because such a teacher actually hinders the search for truth. Doctor Grayson Kirk, former President of Columbia, had this to say during a discussion on academic freedom:

"Academic freedom for a professor means that his career may not be jeopardized by the expression of his views to his students or to the public. But however much a professor may assert his rights as a citizen to speak out on any topic, he ought to think twice before he makes a ringing public declaration on a controversial subject, particularly if it is far removed from his own field of scholarly competence. He should hesitate before doing so simply because no matter how loud or sincere his disclaimers, he can never entirely shed his scholar's gown. It may well be that when he seeks to take off his academic gown he will have beneath it only the Emperor's clothes, but he cannot escape a certain popular presumption of intellectual authority—and he has the responsibility not to abuse it. A scholar has an implied professional commitment to approach all issues more in the spirit of a judge than in that of an advocate. He has an obligation, in Sir Walter Moberly's words, to be 'doubly watchful and critical of the unconscious operation on his mind of his own pet prejudices and sympathies . . . an obligation more easily acknowledged than observed.' When a scholar fails to keep this admonition in mind, in the long run he puts in danger the public acceptance of the essential integrity of the university."

Just as the pornographers always seek to hide behind the First Amendment to the Constitution, those who abuse our campuses and classrooms always try to fall back on "academic freedom." If violence occurs, it is justified as a perfectly natural reaction to repression and grievances. The former Ambassador to the United States from India put

the matter in perspective when asked by a group of students what he thought of their taking over a college president's office as a means of bringing about a change in the rules covering student discipline. He responded by saying he thought they were a "bunch of cowards."

In the May 5 issues of Look Magazine, columnist and Pulitzer Prize winner Richard Wilson observes that every poll shows that our President's support comes from every element—rich and poor, ignorant and learned, tolerant and intolerant—the so-called "silent majority" of forgotten Americans—Middle Americans. "If they are united on one point," he writes, "it must certainly be this: An America typified by the youth culture, the hippie culture, the drug culture, black or white racism, rampant sex, permissiveness, crime, absurd styles of dress and conduct, far-out art and music, and condoned racial and political violence simply does not exist in the everyday lives of the vast majority of Americans. . . . They are not a part of it. They resent the exploitation by the mass media of this conduct on the fringes of society because they do not think it represents the heart and soul of this country. . . . They are in rebellion against the commentators, reporters, editors and politicians who spend their days and nights weaving eccentric incidents into a shoddy and spurious fabric of what American life is supposed to be but is not."

I might add that they are also very unimpressed when a certain politician journeys to California to say that efforts to curb the abuses by the fringe elements represent "the most significant threat to freedom from our government in a generation."

Their resentment is closely related to the results of a recent Gallup Poll which disclosed that over half the people feel that presentation of the news by TV networks and newspapers favors one side. And there is good reason when the distinguished ABC commentator Howard K. Smith says he agrees that "we" made the mistakes the Vice President criticized in his Des Moines speech last November, and explains that networks are almost exclusively staffed by liberals. "It evolved," he says, "from the time when liberalism was a good thing, and most intellectuals became highly liberal. Most reporters are in an intellectual occupation . . . liberals, virtually by definition, have a strong leftward bias. . . . Our tradition, since FDR, has been leftward. . . . Our liberal friends, today, have become dogmatic. They have a set of automatic reactions. Oversimply. Be sure you please your fellows, because that's what's 'good.' They're conventional, they're conformists. They're pleasing the Washington Post, they're pleasing the New York Times, and they're pleasing one another. . . . It is this new left power over many of the nation's liberal reporters that underlies an anti-American and pro-radical bias in network coverage—and that underlies public anger."

Actually, concern over ethical standards for publishers, writers, reporters, columnists and commentators is not new. The American Society of Newspaper Editors at its annual convention in 1925 adopted several canons of ethics; and Sigma Delta Chi, the professional journalistic society which includes members of all the press media, adopted these the following year. Some of them are worth noting:

"I. The right of a newspaper to attract and hold readers is restricted by nothing but consideration of public welfare. . . . A journalist who uses his power for any selfish or otherwise unworthy purpose is faithless to a high trust.

"II. Freedom from all obligations except that of fidelity to the public interest is vital.

"3. Promotion of any private interest contrary to the general welfare, for whatever

reason, is not compatible with honest journalism.

"2. Partisanship, in editorial comment, which knowingly departs from the truth, does violence to the best spirit of American journalism; in the news columns, it is subversive of a fundamental principle of the profession.

"IV. Good faith with the reader is the foundation of all journalism worthy of the name. . . . It is not to be excused for lack of thoroughness or accuracy within its control. . . . Headlines should be fully warranted by the contents of the articles which they surmount.

"And finally, V. News reports should be free from opinion or bias of any kind."

I doubt that any of us could find fault with these canons of ethics. The trouble seems to be with the failure of some members of some of the press media to live up to them.

In the face of lack of trust and confidence on the part of the public, it does no good for offending journalists to overreact by saying that the dangers from press abuses are nothing compared to the danger of government censorship and control. The people want neither. All they ask is that those journalists live up to their canons of ethics. They don't want unethical journalists any more than they want unethical politicians, unethical lawyers, unethical doctors, unethical ministers, or unethical members of any other profession which proclaims its responsibilities to the public. And they have a right to expect that the profession will put its own house in order. Why, for example, should not Sigma Delta Chi publicly censure journalists who violate their canons of ethics? After all, we do it in the Senate!

One apologist recently wrote that Jefferson's diary gleefully exults at the choleric reaction of President Washington to personal attacks made by a newspaper over which Jefferson, then Secretary of State, exercised editorial control. He would have done better if he had also quoted Jefferson's admonition: "Whenever the people are well-informed, they can be trusted with their own government."

How, one may ask, is there to be informed public opinion if the news policy of a newspaper or TV station gives coverage to one side and little or no coverage to the other side? It isn't a sufficient answer to claim that time and space do not permit all sides to be covered. If there are differing views, it won't take much effort to find views that are sufficiently opposite to those covered to let the readers and viewers know there is at least one other side.

It is not often that one hears about downright falsehoods being printed or telecast. Those who would violate their canons of journalistic ethics find subtler ways: the half-truth—printing only the favorable news and not the unfavorable news (to their viewpoint), or vice versa; the near half-truth—printing more of the favorable news than the unfavorable news, or vice versa; the so-called "silent treatment"—just not printing certain news at all if it might not fit with their point of view; or the "burial treatment"—page one for news they like or individuals they are promoting, and page 25 otherwise.

I remarked earlier that our values and character as a people are under attack. The attack has had a measure of success, but is it not possible that public apathy and selfishness are just as much responsible for that success as the resolve and cunning of the enemies of freedom? The affluent society seems to have paved the way for the "permissive society", with its emphasis on "rights" and little or no regard for the responsibilities correlative to those rights.

A great many things are being said and done in the name of "social justice" which aren't social justice at all. Since when does the American concept of "social justice" de-

mand that society has a duty to provide free medical care to those of its members who can afford to pay for their own? To tax the low wage-earner, trying to maintain his family, in order to pay free benefits to those with high incomes? Since when does the American concept of "social justice" require that welfare payments or a guaranteed annual income go to those who are able but refuse to work, or refuse to take job training so they can work?

For too long, I fear, we have been worshipping at the altar of materialism. It is true that we have made magnificent progress in science and technology. Our people have the highest standard of living of any country in the world. We have more automobiles and more TV sets than all the rest of the world put together. But our emphasis has been misplaced. For four years most Americans thought they could have a "great" society simply by calling it "great", but something went wrong. They forgot that we must have a "good" society first. And who is there among us who would say that our morality as a people has kept pace with our material advances?

Indeed, if we lose the struggle between freedom and non-freedom, it won't be because the Russians are ten feet tall. If we win, it will only be because we have become a better people.

This, I believe, is what the great majority of our young people are trying to tell us. They are seeking quality—not quantity—in our society. They know that we are not really as well off as some of the older generation may think we are. Their disenchantment and impatience are not to be measured by degrees of affluence. They want humanistic reforms—not the overthrow of the American system. And reforms are needed.

No nation can expect to survive, much less provide leadership, unless the character of its people is strong; and strength of character requires adherence to moral values—the same ones that inspired the Founding Fathers: courage, integrity, resoluteness, love of country and its people, and, above all, faith in God.

The safe return of the crew of Apollo 13 was a remarkable scientific accomplishment. But, for the future of this land of ours, where we sing "God Bless America", the greatest achievement was that a near catastrophe in outer space brought a proud nation to its knees—to pray. With that, America took a great leap forward to goodness!

#### RITA HAUSER'S TESTIMONY ON THE GENOCIDE CONVENTION: REQUIRED READING ON THIS VITAL UNITED NATIONS TREATY

Mr. PROXMIER. Mr. President, 1 week ago today, hearings opened on the Genocide Convention before a special subcommittee of the Committee on Foreign Relations.

Although the Genocide Convention is now 20 years old, its importance to the world community must not be underestimated. So far, 75 countries have acceded to or ratified this convention. The inactivity of the United States in this area may have led some observers to believe that this country has little interest in protecting all the people of the world from the type of crime committed by the Nazis during World War II. This conclusion is, of course, incorrect, and the reopening of hearings on the Genocide Convention bears witness to that fact.

One of the many outstanding witnesses to appear before the special subcommittee was Mrs. Rita Hauser, the U.S. representative to the United Na-

tions Commission on Human Rights. Mrs. Hauser is deeply involved in the international efforts to protect human rights, and her expert testimony was certainly a high point of the hearings.

Mrs. Hauser presented many strong arguments in favor of Senate ratification of this vital U.N. treaty. She thoroughly covered the important point that ratification is within the treaty power granted to the Senate by the Constitution. In addition, Mrs. Hauser stressed that ratification alone would not subject U.S. citizens to the provisions of the treaty. The Genocide Convention will not apply to American citizens until special enacting legislation is passed by the Congress and signed by the President. Thus, as she points out, this treaty is certainly not self-enacting.

Finally, Mrs. Hauser carefully refutes the constitutional objections to U.S. accession to the Genocide Convention.

Mrs. Hauser's vast experience in the field of human rights, both as a lawyer and as the U.S. representative to the Human Rights Commission, make her excellent testimony "required reading" for all those concerned with the U.S. role in international efforts to protect human rights.

Mr. President, I ask unanimous consent that portions of Mrs. Hauser's testimony before the special subcommittee of the Foreign Relations Committee be printed in the RECORD.

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

#### EXCERPTS OF STATEMENT BY THE HONORABLE RITA E. HAUSER

The Genocide Convention was a direct result of World War II, and in particular of the realization emerging piece by piece in the mid-1940's that Hitler's vow to exterminate the Jews was not mere propaganda, but was the expression of a systematic policy in large part carried out. The International Military Tribunal at Nuremberg described the mass murders of the Jews of Europe, but considered that they were beyond the jurisdiction of the Tribunal, insofar as they were not directly related to planning and waging aggressive war.

"The Tribunal is of the opinion that revolting and horrible as many of these crimes were, it has not been satisfactorily proved that they were done in execution of, or in connection with any such crime (of aggressive war). The Tribunal therefore cannot make a general declaration that the acts before 1939 were crimes against humanity within the meaning of the Charter (establishing the Tribunal). . . ."

The international community, as represented in the United Nations, responded promptly by a General Assembly resolution declaring genocide an international crime.

Thereafter, the Secretary-General of the United Nations, various committees of the Economic and Social Council, and the General Assembly itself, undertook the job of translating the resolution into a formal treaty. By 1948 the drafting was completed and the text of the Convention was adopted by the General Assembly by 55-0. According to Article XIII of the Convention, it was to enter into force ninety days after the twentieth instrument of ratification or accession was received. This took place on January 12, 1951.

As of this date, a total of 75 states have ratified or acceded to the Convention.

I wish to demonstrate that the Genocide Convention is in all respects consistent with the Constitution, the laws and the ideals of the United States.

#### I. RATIFICATION OF THE GENOCIDE CONVENTION IS A PROPER EXERCISE OF THE TREATY POWER

The Genocide Convention flows directly from those many provisions of the United Nations Charter under which all Members agree to join together to promote and encourage respect for human rights and fundamental freedoms for all. While the Charter itself is obviously the legal document by which an international organization was established, it also comprises a code of conduct binding on all its Members. Since 1945, multinational treaties have become the prime legal mechanism by which States have entered into mutual commitments for common purposes, many of which are codes of conduct. Treaties now range far beyond the narrow scope of commercial arrangements or boundary settlements which characterized international treaties of the last centuries. Multinational treaties today deal with diverse matters of concern to the international community; these include matters of common defense, economic development, cultural programs, to name but a few. Under them, States agree to act in concert in accordance with the rules so established. There can be no doubt that in dealing with the crime of genocide on a multinational basis, the world community, through the United Nations, appreciated that genocide is a matter of concern to all States and one requiring common treatment. This seems obvious in that massive horror anywhere on earth affects all the world in one way or another, and is usually associated at some point with threats to or breaches of international peace and security.

It is therefore clear that the crime of genocide is a proper subject for the exercise of the treaty power of the United States. The fact that 75 States have entered into a treaty dealing with genocide, in and of itself, makes the subject a matter of international concern, even if it were not evident by the very nature of the crime. And if a subject is one of "international concern", then the United States has the power under the Constitution to enter into an international agreement on that subject. This principle of law has been cited on many occasions by our Supreme Court, and is beyond any doubt. A full review of this point may be found in the exhaustive study of Professor Louis Henkin in his article entitled "The Constitution, Treaties, and International Human Rights", 116 University of Pennsylvania Law Review 1012 (1968).

The crime of genocide may be regulated through the exercise of the treaty power of this country because genocide is a matter of "international concern". For this reason, the arguments raised some fifteen years ago in the Senate during the debate on the proposed Bricker Amendment have no relevance to the Genocide Convention. Indeed, quite apart from the treaty power, the Constitution expressly grants to Congress in Article I, Section 8, the power "to define and punish Piracies and Felonies committed on the high seas and Offenses against the Law of Nations". The world community, by its widespread ratification of the Genocide Convention, has now defined genocide as such a crime against the law of nations. Congress can proscribe the crime of genocide by virtue of this express power.

Accordingly, there is no validity to any "states rights" argument as to the crime of genocide inasmuch as Congress may treat of it by exercise of an express power or by exercise of the treaty-making power of the Federal Government.

#### II. RATIFICATION OF THE CONVENTION DOES NOT, PER SE, MAKE GENOCIDE A PUNISHABLE CRIME UNDER DOMESTIC LAW

It is clear from the Convention itself that the Convention is not self-executing. Ratification would obligate the United States to enact implementing legislation, making the crimes specified punishable under United

States law. Failure by the Congress to enact the implementing legislation would leave the United States in breach of an international obligation, but in such eventuality no one could be tried in the United States for a crime not specified in the Criminal Code. It is certain that no one can be accused of or tried for the crime of genocide in the United States until legislation making genocide a crime has been adopted in accordance with our domestic procedure for passage of a law.

### III. CERTAIN SPECIFIC OBJECTIONS RAISED TO THE GENOCIDE CONVENTION ARE NOT MERITORIOUS

In addition to the general objections to the Genocide Convention discussed above, a number of particular criticisms relating to the text of the Convention were made by opponents in 1949-50. These are not of a dimension sufficient, singly or together, to warrant non-ratification.

Why, it was asked, did Article II refer to the destruction of a national, ethnical, racial, or religious group *as such*? Does this not create an ambiguity? The answer is perhaps it does, but so would the phrase without these words. Conceivably, for example, an edict to kill all restaurant owners might be a subterfuge to kill all persons of a particular national group within a country. In such an event, the words "as such" would give a possible technical defense to the authors of the deed. But that possibility seems very remote. In the past, genocide has not usually been disguised. It has been part of a deliberate, public, and political or religious campaign.

What did the addition of the words "in whole or in part" signify for the crime of genocide? The answer, again, is quite simple, and indeed, appears in the drafting history of the Convention itself. The object of adding the words "in part" was to preclude an argument that international destruction, say, of half or two-thirds of the Jews of Romania was not comprehended in the crime of genocide.

One criticism of the Convention arose out of the possibility that, under Article VI, a person accused of genocide could be tried by an international penal tribunal, possibly without trial by jury and other safeguards to which a United States citizen is entitled under the Constitution. Again, the answer is simple. No such tribunal has been established. If one were established, parties to the Genocide Convention would have the option whether to accept its jurisdiction or not. For the United States, that option would have to be independently exercised through the Treaty Power, that is, only with the advice and consent of the Senate by a two-thirds vote.

### POLISH CONSTITUTION DAY

Mr. WILLIAMS of New Jersey. Mr. President, 179 years ago the first constitutional government in Poland was instituted following many years of distress and turmoil. Polish patriots believed that the old form of monarchy no longer was representative of the needs and rights of the people; and headed by King Stanislas, himself, a secret organization started to prepare for an overthrow that would hopefully be nonviolent. With great success, the "Bloodless Revolution" of May 3, 1791, brought an end to the dictatorial monarchy, and within the Polish Diet, the new constitution was read and accepted by the people of Poland.

Immediately following the proclamation of new Poland, a modern "constitutional monarchy" began, working closely

with a parliament similar to our own present bicameral legislative body.

Through the constitution, many sweeping changes were made. A new respect for law was developed, as well as a respect for and protection of personal property. The constitutional government was also directly responsible for several national reforms. Besides reforms of a political nature, Poland progressed socially and economically within its brief period of liberation.

However, the fate of that country was similar to that of many other small European nations. The life of the constitutional government ended shortly after it began, as Catherine the Great of Russia refused to accept it and declared the new constitution to be an "enemy to Poland." On April 8, 1792, the Russian army invaded Poland; and although the Poles bravely withstood the onslaught of Russian forces for 3 months, they eventually succumbed and were once again subjected to dictatorial rule. Following the establishment of Catherine's "Confederation" in Poland, the country was divided in 1793 between Russia and Prussia.

This Sunday, 2,779,000 Polish-Americans will pay tribute to their ancestors' brief span of democratic rule in a celebration of "Polish Constitution Day." I join my 238,000 fellow New Jersey residents of Polish descent in honoring the courage and determination of those patriots who 179 years ago risked everything in an attempt to bring justice and freedom to their beleaguered countrymen.

I ask unanimous consent that a resolution adopted by the Bergen Ampols, of Wallington, N.J., be printed in the RECORD. This organization has eloquently and succinctly expressed the conviction deeply shared by all Americans that Poland might some day regain her freedom and once again light the candle of liberty behind the Iron Curtain.

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

#### RESOLUTION

Whereas we, the Bergen Ampols, an organization of Americans of Polish descent, shall on May 3rd mark the 179th anniversary of the constitution which at that time indicated Poland as an independent state, and

Whereas since that time the country of Poland has been subjugated by an aggressive and overpowering neighbor, and

Whereas we wish to let it be known that Red Russia has been defeated in battle only one time, and that in the battle of Warsaw in 1920 when the Polish forces drove the Russian invaders out of the countryside, and also recaptured lands correctly parts of their territory, the only defeat communist Russia has suffered, and

Whereas some world dictators, in World War 2 positively decided to apportion Poland and satisfy the greed of one of its neighbors, thus opening the door for the subjugation of eastern Europe in general, and now therefore

Be it resolved that we of the Bergen Ampols together with upwards of ten million Ampols in this country shall continue to fully pray for and fight for the freedom of a betrayed Poland, now under the red heel of Russia,

Be it further resolved that May 3, 1970, be marked in this country not only as Polish Constitution Day, but also that it be designated as the fiftieth anniversary of the defeat

of the Communist forces by the gallant Poles in the battle of Warsaw, 1920, and

Be it further resolved that copies of this resolution be sent to President Nixon, Governor Cahill, and our representatives on the State and National level.

Approved March 15, 1970.

PAUL BORUTA,  
President, Bergen Ampols.  
WANDA MAKOWSKI,  
Corresponding Secretary.

### APPEAL FOR INTERNATIONAL JUSTICE ON POW'S

Mr. GOODELL. Mr. President, throughout the last 6 years the people of the United States have been bitterly divided over the war in Vietnam. Yet in spite of their division over the war, Americans are unanimous in their demand for justice for American prisoners of war.

We demand that American POW's and their families be provided the treatment North Vietnam agreed to provide as a signatory to the Geneva conventions of 1949. The signatories agreed that POW's are entitled to fair and humanitarian treatment by their captors.

We appeal to the consciences of the leaders of North Vietnam to provide that fair treatment to the POW's. We make this appeal not only because international law demands such treatment; but because it is the moral thing to do.

In a statement which the Senator from California (Mr. CRANSTON) and I made on August 13, 1969, we pledged "our full support to the administration and its efforts on behalf of American servicemen held captive in North Vietnam." The same is true now.

Again, on October 30, 1969, I spoke out on this issue, suggesting to the American people what they can do toward "helping prisoners of war."

Last year, I noted that among the many sad chapters to the history of the war in Vietnam, the most obnoxious chapter of all deals with the mistreatment of the POW's. This was true then. Sadly, the same is true today.

I fully endorse the resolution submitted by the Senator from Kansas (Mr. DOLE) setting aside May 1 and May 3, 1970, as days when we in America shall direct our attention, actions, and prayers in appealing for international justice for American prisoners of war.

### SERIOUS COMMITMENT NEEDED TO HELP PRISONERS OF WAR—RALLY AT CONSTITUTION HALL

Mr. PROXMIRE. Mr. President, it has been simply stated that war is hell. No words can underestimate the ugliness of war nor exaggerate the painful agonies inflicted on human beings. This is especially true of the Vietnam war with its peculiar frustrations and agonies. This tragic war has made its impact felt on our country as a whole and desperately afflicted the personal lives of our people. In a moral sense, this war has made widows and orphans of us all.

This week, more than 500 family members of men missing in action or prisoners of war in Southeast Asia have been in Washington to take part in various

activities culminating in the rally tonight at Constitution Hall.

The rally has been organized as a show of support for these men and their families and to call attention to North Vietnam's persistent violation of the 1949 Geneva convention with regard to the treatment.

Like so many Americans, I am deeply, deeply concerned over the welfare of over 1,500 American prisoners of war being held captive by the North Vietnamese. Although the North Vietnamese endorsed the Geneva convention relative to the treatment of prisoners of war in 1957, they have consistently refused to abide by those simple rules. It is fitting—and imperative—that the United Nations exert its power and influence to bring about compliance by the government of North Vietnam with its obligations under the convention.

The Vietcong and North Vietnamese have refused to identify all of these prisoners of war or servicemen missing in action or provide information as to their health and condition. They have denied these prisoners of war the right to regularly communicate by mail with their families. They have refused to permit the inspection of the facilities at which these prisoners of war are confined. They have refused to exchange or permit medical treatment of sick or wounded prisoners of war.

For these reasons, I have cosponsored a resolution urging the President to request the United Nations to take appropriate steps to bring about compliance by the government of North Vietnam. In addition, I have joined with several of my Senate colleagues in cosponsoring a resolution to commemorate May 1, 1970, as a day for an appeal for international justice for all the American prisoners of war and servicemen missing in action in Southeast Asia. This resolution would also designate May 3, 1970, as a national day of prayer for humane treatment and the safe return of these brave Americans.

A determined commitment on the part of the administration, the Congress, and the American people is required now to bring about the safe and speedy return of our prisoners of war. But commitment cannot live on rhetoric alone. It is time to reaffirm that commitment by action: action in serious negotiations through the Red Cross, the United Nations, and other international organizations; action to get other nations to intervene in our behalf for the prisoners of war; and action by individual citizens working through local groups.

For the sake of our prisoners of war, we should reaffirm our dedication to the Paris peace talks. We should send a distinguished replacement for Henry Cabot Lodge as our chief negotiator. As long as we fail to send a high level negotiator, we downgrade the possibility of achieving a political settlement on the war and the release of the prisoners of war.

#### LAW DAY

Mr. TOWER. Mr. President, Law Day is an appropriate time for us to pause and examine our democratic system of government by law and by peaceful, or-

derly change. Today we see militant individuals and groups advocating violence as an alternative method of social change, rather than the orderly procedures of a government of laws developed and refined over the whole history of civilized man. It is difficult for anyone with a sense of history who appreciates the disruption and despair caused by civil violence since the beginning of civilization to see the value of social change by such radical means. Our own system of government is flexible and can adapt to changing values and social concepts without necessitating damage to property and loss of life.

Admittedly, this process of change is somewhat slow and careful, but such is the wisdom of the system. It does not capriciously follow fads in social ideas that are unsound or subject to rapid change which would result in instability and disorder. Only those social concepts and principles which prove their viability after thorough legal examination and practical experience become established in the legislative-administrative system as the rules we live by. This provides greater stability in our economy, our social system, and our individual psychological orientation to the world around us. The increasing incidence of neurotic and psychotic behavior in the recent decades of rapid urbanization and technological change in this country strongly suggests that we need to maintain as much order within constitutional limits as we can in our society to offset these tendencies.

Respect for our Government of laws is imperative if we are to successfully meet the challenges of mastering our environment and of maintaining meaningful and productive relations among our people. Anarchical methods of altering the status quo are inimical to the very goals for which most contemporary anarchists strive. They want, among other things, increased social justice, improved living conditions, and more public services in relation to our productive capacity. I also want to see an improved quality of life in our country. I am pleased that progress has been occurring over the past several years. Living standards are rising yearly and these improvements are spread throughout the economic levels of our society. With increasing educational and job-training programs available, this trend should become stronger over the next few years. I am pleased to note that the business community is contributing to this overall effort and has become involved in social problems. Additionally, many industries are involved in combating pollution of our environment.

These trends are possible because we live in what is still essentially an orderly society. If we permit anarchical activities to expand and disrupt our society, our ability to cure poverty, reclaim the environment, and seek new and better ways to enrich the mind and soul of man will be lost. Disorder, extreme poverty, strife, and despair would characterize the state of our country if run by the militant nihilists that we see now attempting to cause disruption in our schools and communities. They must be made to understand that their goals

cannot be achieved without using and preserving the system of government that mankind has worked so long to develop. Our system can and will accommodate the views and philosophy of younger Americans as they grow into substantial voting blocks. This is the wisdom of the system. It will always respond to the changing politics of each new generation. It will govern wisely, although perhaps more slowly than the impatient would want. The government of laws will continue to survive because it is flexible and can provide the type of government that its citizens desire at any given time.

I feel that anarchical elements in our society would do well to ponder the catastrophic results that their philosophies of violent change, if successful, would have on the concept of a government of laws for a free and viable people.

#### POLISH CONSTITUTION DAY

Mr. CASE. Mr. President, May 3 marks one of the great days in Polish history. On that date in 1791, nearly 180 years ago, Poland adopted a constitution.

This was a remarkable document in many ways. It indicated Poland's independence. It was politically progressive and is recognized as such even today. And it exemplified the fight for liberty.

This was a period of great outpouring of the libertarian spirit. The French Revolution had recently taken place. Our own American Constitution had come into force only 2 years previously. And Vermont joined the Union in 1791, the first State, after the original 13, to do so.

If we are not always aware of the details of Poland's history, we are all aware of her long struggle for freedom. And we all are aware of, and have profited from, Poland's political and cultural heritage.

In New Jersey we have a large group of Americans of Polish background. They have had and continue to have an important role in the life of our State.

On their behalf, I draw the anniversary of this great day in Polish history to the attention of the Senate.

#### BUILDUP IN CAMBODIA

Mr. HRUSKA. Mr. President, the President's action is consistent with every statement he has made on the Vietnam situation. He is clearly committed to a continued policy of deescalation. He reiterated this policy only recently when he announced the planned withdrawal of an additional 150,000 troops in the coming year.

But he has said all along that if enemy buildups were encountered, we would be forced to make an appropriate response. To do anything less would be a betrayal of our forces in Vietnam.

He obviously sees the present buildup in Cambodia as a threat to his deescalation program and a threat to the men who will still remain.

There is no question that his action raises grave political implications, but he obviously is motivated by his deep conviction that this step will bring the war

to an end sooner, and that is what he has promised to do. His promise is one he has been working diligently to keep and his determination to do so was clearly reiterated to the American people last night.

Admittedly, strategic risks are also involved in his actions. But we are dealing here with grave questions of national security. We know that the President has all of the best information it is possible to have on the situation. We know that his judgments have been carefully made. If our forces can accomplish his objectives as outlined last night, then we will indeed have won an important strategic victory and brought the end of the war much closer.

I will await further developments before passing final judgment on the President's action. In the meantime, the President and our fighting men in Vietnam deserve our support.

Mr. President, among the organizations which have affirmed their support for the President's action is the American Legion. I have been asked by J. Milton Patrick, national commander of that organization, to apprise the Senate of his telegram today to the President, and I am pleased so to do. I ask unanimous consent that it be printed in the RECORD.

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

THE PRESIDENT OF THE UNITED STATES,  
The White House,  
Washington, D.C.:

The American Legion is cognizant of the terrible burden that rests on your shoulders in these agonizing hours for America, for the world and for the cause of world peace. We have committed our organization to support of the cause of peace with honor in Southeast Asia. We recognize the necessity for the stand you have had to take in this matter and salute your courage in taking those steps necessary in the defense of freedom. Your fellow American Legionnaires hereby reaffirm our support of our Government in its efforts to achieve an honorable peace in Southeast Asia and throughout the world.

J. MILTON PATRICK,  
National Commander,  
The American Legion.

#### STRATEGIC WEAPONS BALANCE

Mr. TOWER. Mr. President, on April 28, Crosby S. Noyes wrote an excellent column for the Washington Star concerning world strategic weapons balance. The column called attention to recent statements by Secretary Laird and Dr. John S. Foster, Jr. These statements pointed out that, although the Soviet Union has increased its nuclear capability dramatically in recent years, this country has done virtually nothing in response.

Mr. President, I suggest that we have, in recent years, unilaterally attempted to slow the so-called arms race. I urge those who constantly recommend that the United States make a disarmament "gesture" to the Soviets—so that they will know our intentions are peaceful—to accept and admit the fact that we have been doing precisely that for some time. In addition, I respectfully suggest that we realize that it has not worked.

Now, as Secretary Laird and Dr. Foster have noted, we are at a juncture in time when further unilateral arms limitations by the United States will place this country and all of the free world in an extremely vulnerable position. We cannot allow this to occur.

As Mr. Noyes observes in the final paragraph of his column:

The United States can hardly afford to stand still. The modest program urged by the Administration for the development of new offensive and defensive weapons is, as Laird says, the least that can be done consistent with the nation's security.

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

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

#### U.S. CAN'T AFFORD TO STAND PAT ON NUCLEAR ARMS

(By Crosby S. Noyes)

Just how big a stake we have in the developing Strategic Arms Limitation Talks at Vienna is being vividly underscored by a rash of not entirely coincidental news stories in recent days.

Defense Secretary Laird, as is his wont, has been drawing our reluctant attention to some unpleasant facts about the present state of the arms race between the United States and the Soviet Union. And although there will be some who will accuse the secretary of conjuring up hobgoblins in order to swallow the bitter pill, there is a ring of ominous authenticity to his argument.

What Laird is telling us, in brief, is that the Soviet Union in the last five years "has virtually quadrupled" the size of its offensive nuclear strike force. In this same period of time, the American defense establishment, under strong pressure from Congress, has reduced its total strategic megatonnage by something more than 40 percent.

The point of Laird's message was simple: If the arms negotiations fail and it turns out that the Russians are not willing to reorder their national priorities as we hope they will, the United States will have to take "major offsetting actions" in the strategic weapons field. Or, to make it plainer, we will have to pull up our socks and spend a lot more money in the development and deployment of offensive and defensive nuclear weapons than we have been willing to spend in the past.

The defense secretary's views, as might have been expected, were backed up by the Pentagon's top scientist. Speaking to an audience of newspaper publishers, Dr. John S. Foster Jr. described an immense new radar system which is being deployed by the Russians, presumably as a part of their developing anti-ballistic missile defenses. Warned Foster:

"I must report to you today that the Soviet Union is now about to seize world technological leadership from the United States. If we lose this leadership, we will lose the protection we now have against Soviet secrecy and Soviet surprise."

These are sobering words for men who have come to take American technology and American military superiority for granted, and who assume that because we are infinitely richer than the Russians, we also are infinitely stronger.

They should be sobering also for those who have comforted themselves by a complete misunderstanding of what President Nixon and others mean when they talk about nuclear "sufficiency" in the arms race. Those who envision sufficiency as an absolute limit—capacity, as we keep hearing, "to kill every Russian eight times"—betray a to-

tal ignorance of what the arms race is all about.

The race is not centered on questions of how many people we or the Russians may be able to kill. That is almost entirely irrelevant. The critical question is how much of the other side's retaliatory strength can be knocked out in an opening nuclear strike. The country that first achieves a capacity of destroying the other's arsenal will, for all practical purposes, have won the ball game.

And so there is no such thing as "sufficiency" in nuclear armaments except as it relates to the strength of the potential enemy. The Russians have declared on various occasions that they are not trying to achieve a first-strike capability against the United States. But the scope and momentum of their effort arouse the deepest misgivings among responsible American officials.

And so once again our stake in the arms talks is reemphasized.

The effort in Vienna to agree on numerical limitations for all categories of offensive and defensive nuclear weapons is a formidably complicated undertaking. Any chance of success depends on a presumption that the Russians mean it when they say they are anxious to put an end to the arms race and are willing to settle for approximate equality in strategic power. If indeed they do, the problem will then be one of defining what constitutes equality between two weapons arsenals with widely differing characteristics and capabilities.

It will certainly take time. And while the talks go on—and the Russian buildup goes on—the United States can hardly afford to stand still. The modest program urged by the administration for the development of new offensive and defensive nuclear weapons is, as Laird says, the least that can be done consistent with the nation's security.

#### THE ATOM: ITS DANGEROUS AFTERMATH—PART IV: WASTE DISPOSAL PRACTICES OF THE AEC ABOVE THE SNAKE PLAIN AQUIFER PRESENT AN UNACCEPTABLE THREAT TO IDAHO'S WATER SUPPLY

Mr. CHURCH. Mr. President, on April 29 I received from the Federal Water Quality Administration—formerly Federal Water Pollution Control Administration—the results of a study conducted by them in conjunction with the Idaho Department of Health relative to waste disposal practices at the National Reactor Testing Station. The report was given to me as a result of inquiries I raised with the Water Quality Administration on September 12, 1969.

In essence, this report—entitled, "A Report on the Examination of the Waste Treatment and Disposal Operations at the National Reactor Testing Station Idaho Falls, Idaho"—calls for discontinuance of current practices at NRTS and removal of the burial site to a new location remote from this area. Commissioner David D. Dominick, in a letter to me accompanying the report, states that the Atomic Energy Commission should:

Initiate a positive comprehensive program for the abandonment of the practice of burial of radioactively-contaminated solid wastes, including removal of such wastes presently buried at the site to a new burial site, remote to the National Reactor Testing Station, and more hydrologically isolated from any important ground-water or surface-water resource; and the AEC study alternate disposal methods to lead to the termination of tritium discharges to the Snake Plain Aquifer and

to surface ponds in order to eliminate the introduction of tritium to man's environment.

Tritium is a radioactive isotope of the element hydrogen whose biological effects upon man are not fully understood.

The report itself concludes "that present disposal practices are a potential threat to the water resources of the State of Idaho," and goes on to say, at page 23:

The Snake River Plain is not a desirable location for any burial ground for radioactive (or toxic) wastes because of the importance of the underlying ground-water supply. Even though the burial of radioactive waste may not be causing pollution at this time, climatic changes in the future could substantially alter this situation (Plutonium 239 that is being buried at the NRTS has a half-life of 24,000 years).

If the facts as reported by the Federal Water Quality Administration are true—and I have no reason to doubt them—it is incumbent upon the AEC to immediately embark upon a program to remove this potential threat to the safety of my State. In addition, it is the duty of the AEC to cease any shipment of waste materials from outside of the State of Idaho to the NRTS burial ground as is currently being done with plutonium waste from Rocky Flats, Colo. The public health and safety demands that the proposals made by the Federal Water Quality Administration be effectively implemented.

I have, today, called upon the AEC to implement these plans. So that the substance of these recommendations, the letter from Commissioner Dominick to me, and my request to the AEC will be clearly open and spread upon the public record, I ask unanimous consent that they be printed in the Record.

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

U.S. DEPARTMENT OF THE INTERIOR,  
Washington, D.C., April 28, 1970.

HON. FRANK CHURCH,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR CHURCH: You will recall that on September 12, 1969, you wrote me and requested that a study be made of the long-range implications of radioactive waste storage above the Snake River Plain Aquifer. On October 2, I replied that we had made an examination of the waste treatment and disposal practices at the National Reactor Testing Station in conjunction with the Idaho Department of Health and that we would provide you with a copy of the final report on this investigation as soon as it was available.

It is my pleasure to enclose a copy of A Report on the Examination of the Waste Treatment and Disposal Operations at the National Reactor Testing Station, Idaho Falls, Idaho, prepared by the Federal Water Quality Administration under date of April 1970.

Your attention is directed to the Report's recommendations for water pollution control to be found on pages 12 through 17. Recommendations 1 and 2 state, in part, that: The Atomic Energy Commission initiate a positive comprehensive program for abandonment of the practice of burial of radioactively contaminated solid wastes, including removal of such wastes presently buried at the site, to a new burial site, remote to the National Reactor Testing Station, and more hydrologically isolated from any important ground-water or surface-water resources;

and, the AEC study alternate disposal methods to lead to the termination of tritium discharges to the Snake Plain Aquifer and to surface ponds in order to eliminate the introduction of tritium to man's environment.

Thank you for your continued support of our program to abate water pollution and to enhance the quality of this Nation's waters.

Sincerely yours,

DAVID D. DOMINICK,  
Commissioner.

## II. SUMMARY OF REPORT

1. This report reviews and evaluates the existing waste management operations at the NRTS to determine whether any additional pollution control systems or procedures are necessary or desirable to improve or protect water quality.

2. The report is based on an examination made during October 1968 and on reports and information provided by the Atomic Energy Commission and the U.S. Geological Survey.

3. The NRTS was established in 1949 for the purpose of testing nuclear reactors. More than 40 reactors have been constructed and operated since that time. The NRTS also contains a chemical processing plant for reclaiming fuel from used fuel elements and a calcining plant for converting highly radioactive liquid waste to a solid for long time storage.

4. The NRTS is located near the eastern end of the Snake River Plain in southeastern Idaho. This plain extends over 8000 square miles and was formed by a thick series of lava flows that partially filled the ancestral Snake River Valley.

5. The Snake River Plain is underlain by the Snake River Aquifer, one of the worlds most productive ground-water reservoirs. This aquifer discharges some 6,000 cubic feet per second in the Snake River Canyon at the western end of the Plain.

6. Recharge comes chiefly from rivers flowing out of the mountains bordering the Plain on the North. These streams sink into the porous lavas.

7. An estimated 2000 cfs of ground water moves beneath the Station in a generally southwesterly direction. Part of this is recharged on the Station and part is moving through from farther up the Plain.

8. The travel time of ground water to move from the NRTS to the discharge area in the Snake River Canyon is not known but is estimated to exceed 100 years.

9. Ground water between the NRTS and the discharge area is being developed. Travel time from the NRTS to areas of potential development may be only a few years.

10. The depth to the water table generally increases in a southwesterly direction across the Station, and ranges from about 250 feet in the Test Area North to approximately 600 feet below land surface at the burial ground near the southwestern corner of the Station.

11. The various reactor areas are widely dispersed over the 894 square mile Station. Each facility has its own water supply and waste disposal system with the exception that all high level liquid radioactive waste is processed at the calcining plant and all solid radioactive waste is buried in the burial ground or stored underground in metallic containers.

12. Liquid wastes generated at the NRTS include radioactive wastes, chemical wastes and sanitary wastes. The low level radioactive wastes are discharged to seepage pits, lagoons and disposal wells. The chemical wastes are discharged to pits, lagoons and disposal wells and the sanitary wastes from sewage treatment plants are discharged to drainfields, sumps, lagoons and disposal wells.

13. The Geological Survey has been carrying on investigations at the NRTS since its inception. They have supervised the drilling of many thousands of feet of test wells

and have prepared numerous reports describing the geology and hydrologic conditions at the Station. They have also performed a valuable service in monitoring the effects of waste disposal.

14. The National policy for water pollution control by Federal activities calls for the best possible treatment methods so as to demonstrate what can be done to enhance or improve water quality.

15. The Idaho Operations Office of the Atomic Energy Commission operates on the policy that water quality can be degraded to the upper limits of the Public Health Standards for drinking water at the point of first use below their operations.

16. The burial ground for solid radioactive waste disposal is located near the southwest corner of the Station. The waste is deposited in trenches excavated to the top of the lava surface and covered with silt and clay on a weekly schedule. There are no observation wells to monitor the effects of the burial ground on water quality.

17. Low level liquid radioactive waste is discharged to an excavated pit in the lava at the Experimental Breeder Reactor Area, into ponds and a shallow well at the Special Power Excursion Reactor Test Area, directly into the ground water supply by a deep well at the Chemical Processing Plant Area, into ponds at the Test Reactor Area, and the Naval Reactors Facility, and into the ground water supply by drilled wells at the Test Area North.

18. Chemical waste is discharged to a pond and shallow well at the Experimental Breeder Reactor Area, into ponds and a shallow well at the Special Power Excursion Reactor Test Area, into a sump and directly into the ground-water supply by a deep well at the Test Reactor Area, into ponds at the Naval Reactors Facility and into ground water supply by wells at the Test Area North.

19. Sanitary wastes are discharged to a tile drain system at the Central Facilities Area, to a sewage treatment lagoon at the Experimental Breeder Reactor Area, to seepage pits and drain fields at the Special Power Excursion Reactor Test Area, into seepage pits at the Chemical Processing Plant Area, into a seepage pit at the Test Reactor Area, to a lagoon at the Naval Reactors Facility and into the ground water supply by disposal wells at the Test Area North.

20. Chemical and radioactive wastes have degraded the ground water beneath the NRTS. The tritium is believed to be entirely contained beneath the Station in that it is decaying at a rate approximately equal to the rate of addition to the water supply. The ground-water supply beneath the NRTS has been degraded by hexavalent chromium and chlorides and an increase in total dissolved solids.

21. There is no information available to show whether the waste disposal operations at the NRTS have yet migrated beyond the boundary of the Station.

22. The primary recommendations call for the abandonment of the practice of burial of radioactive wastes above the Snake Plain Aquifer, the removal of the existing buried wastes and studies and programs by the AEC that will lead to the elimination of the discharge of tritium to the Snake Plain Aquifer.

23. Recommendations for additional water pollution control practices are made to improve and protect the water quality in the Snake Plain Aquifer. They include elimination of disposal wells that discharge waste directly into the ground water supply, the elimination of the use of seepage ponds for the disposal of chemical wastes, and the improvement of some sanitary waste treatment systems.

24. It is also recommended that the Idaho Operations Office of the AEC adopt a broader definition of pollution so as to include any avoidable deterioration in water quality.

U.S. SENATE,

Washington, D.C., April 30, 1970.

Mr. GLEN SEABORG,  
Chairman, Atomic Energy Commission,  
Washington, D.C.

DEAR MR. CHAIRMAN: The Federal Water Quality Administration (formerly the Federal Water Pollution Control Administration) has recently completed a report concerning waste disposal practices at the National Reactor Testing Station in Idaho Falls, Idaho.

The comments and recommendations contained in this report are of vital importance to the people of my state. I request the immediate implementation of the reports of the people of the state of Idaho.

Three separate reports have now openly criticized the activities of the AEC at Idaho Falls, Idaho. Two of those reports have called for the ultimate removal of the burial site to a more suitable location. In light of these facts, I feel that the AEC should proceed with all due speed to implement these recommendations.

Please keep me fully and currently informed of the actions of the agency in this regard.

With best wishes,  
Sincerely,

FRANK CHURCH.

#### PHILOSOPHICAL CONSIDERATIONS IN POLITICAL ACTIONS

Mr. HRUSKA. Mr. President, last March 1, at the Washington League of Laymen's Retreat, the senior Senator from Iowa (Mr. MILLER) delivered the breakfast address on the subject "Philosophical Considerations in Political Actions."

Senator MILLER has related some of the problems confronting our Nation—and their solutions—to basic concepts of morality. I believe that his address merits the attention of the Senate.

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

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

#### PHILOSOPHICAL CONSIDERATIONS IN POLITICAL ACTIONS

(By JACK MILLER, U.S. Senator, Iowa)

For my remarks this morning, I wish to draw on two important documents, both of them just as relevant today as on the day they were published. These documents—the late Pope John's "Pacem in Terris" and Pope Paul's 1964 Easter Message—will serve as the basis for discussing the subject of philosophical considerations in political action.

Perhaps I should assure you that any partisan political overtones which may appear from my remarks will be purely coincidental. All I wish to say on the subject of partisan politics is that it has been my observation that there are too many people today who claim to be affiliated with a political party without really knowing why. Perhaps one or both of their parents were members of that party—a party which bears the same name today but with policies and principles so altered that were the parents living, they would long ago have changed to the other party. "I am not leaving my Party," I often hear it said, "my Party has left me."

Of course, it is usually said that there is plenty of room in both political parties for people of all shades of economic and political philosophy. While it is true that people of differing philosophies will be found in both parties, it is clearly provable that there is a substantial difference in emphasis between the parties; and that far more people who believe in certain economic and political

principles will be found in one party than in the other. Sufficient to say that philosophical considerations should play a decisive role in the selection of a political party with which to affiliate. They should compel a really conscientious citizen to affiliate instead of pretending that his principles are "neutral" so that he must withdraw into the ineffective world of an "independent," with no opportunity to have a voice in the nomination of candidates or the formulation of policy.

I consider Pope John's encyclical "Pacem in Terris" or "Peace on Earth" to be one of the most profound statements of our time. It ranges over the complex relationships which should govern between man and state, between states, and among states. It came at a time when scientific breakthroughs seemed to offer mankind almost unlimited opportunities for material well-being on the one hand—or almost unlimited threats of extinction of the human race on the other, depending on how scientific developments are directed.

Pope Paul's 1964 Easter Message emphasized that a religious crisis has developed from modern man's "delusion that of his own power he can be his own master and savior, that he needs no one else to solve the fundamental and ever more mysterious problems of his own life, and finally that, unaided, he can satisfy the insatiable thirst for knowledge, for existence, for happiness and for love born with him."

The timeliness of "Pacem in Terris" was pointed up by the contemporaneous feat of the astronauts and the thousands of technical personnel who cooperated in their achievements. At the very time the astronauts were circling the earth and, subsequently, as they were landing on the moon, Twentieth Century Man on earth was still enslaved in many areas by situations which indicated little moral progress beyond the cave man era. These situations include tyranny, execution, racial prejudice, war, suspicion, insecurity, selfishness, immorality, and godlessness. And they exist not alone in areas dominated by the Communist World, but in those nations which consider themselves members of the Free World—including our own country.

By its very nature the encyclical is replete with statements of policy or principles rather than with specific applications of those principles. This leaves room for interpretation—or misinterpretation.

What the encyclical has to say about rights and duties of individuals is, in my judgment, of particular application to some of our domestic problems and the political action being taken or proposed to surmount them. The right to life and a worthy standard of living is highlighted early in its pages: "the right to life, to bodily integrity and to the means which are necessary and suitable for the proper development of life" is the way it is put. "These are primarily food, clothing, shelter, rest, medical care and, finally, the necessary social services. . . . Therefore, a human being also has the right to security in cases of sickness, inability to work, widowhood, old age, unemployment, or in any other case in which he is deprived of the means of subsistence through no fault of his own."

This is a statement of what often is referred to as "social justice." I am afraid that a good many laws have been passed and a good many things have been done or proposed in the name of "social justice," but which actually violate the principles of social justice set forth in the encyclical. Note, for example, that the Pope details the various kinds of security to which an individual is entitled—provided his deprivation of such security is through no fault of his own.

I would suggest that we scrutinize most carefully those proposals calling for a guaranteed income for every American as a matter of right, whether he works or not. I grant

that automation will, in some instances, be accompanied by hardship to displaced workers; that governmental activity to relieve this hardship is proper. But are there no responsibilities as far as the individual is concerned? "Pacem in Terris" says: "If a man becomes conscious of his rights, he must become equally aware of his duties. . . . The natural rights with which we have been dealing are inseparably connected, in the very person who is their subject, with just as many respective duties. For example, the right of every man to life is correlative with the duty to preserve it. [There is such a thing as a duty of self-help. I might point out.] For every fundamental human right draws its indestructible moral force from the natural law which, in granting it, imposes a corresponding obligation. Those, therefore, who claim their own right, yet altogether forget or neglect to carry out their respective duties, are people who build with one hand and destroy with the other."

It would seem to me that those who are leading the militant packs on our campuses and who are attempting to rip apart the fabric of our judicial system could well take a lesson from the lines I have just quoted. Tearing down our society in the name of selfish rights, without bothering to consider what might replace it, is a most dangerous course, one that ignores one's duty to seek to improve his society.

It is most foolish to look only at the "rights" side of the ledger and completely ignore the "duties" side. Perhaps it is smart politics to take this position, because people generally like to hear more about their rights than about their duties. But I don't believe it is moral politics, and the emphasis on reciprocal duties in the encyclical is sufficient authority for such a conclusion.

What Pope John said about government merits attention.

"Individual citizens and intermediate groups are obligated to make their specific contributions to the common welfare." And what of the "common welfare"? The encyclical states: "All members of the political community should be entitled to share in it, although in different ways according to each one's tasks, merits and circumstances—without preference to any single citizen or group." Discrimination by reason of race, color, or creed obviously violates this principle—as does discrimination in reverse. "Merit" is the test.

And note this statement: "State activity in the economic field, no matter what its breadth or depth may be, ought not to be exercised in such a way as to curtail an individual's freedom of personal initiative." This is understandable because if such personal initiative is suppressed, man cannot realize his fullest potential. But there are many of us who have been concerned over what seems to be an increasing amount of centralized governmental control over individuals, supposedly for the "general welfare" and in the name of "social justice," control which inevitably retards individual initiative. In the early 60's, for example, farm programs were being devised under the soothing label of "supply management" which literally would have compelled farmers to comply with rigid controls instead of making the fullest use of their efficiency and ingenuity on a competitive basis. Fortunately, we managed to stop that.

Because unemployment was a serious problem during several years of the last decade, vast federal spending programs were undertaken "to stimulate the economy"; and if those ran our country billions of dollars deeper into debt, with the inflation which inevitably accompanies such deficits, we were told that the principles of so-called "sophisticated economies" had to be followed to meet the problems of today; that we could not adhere to the "myths" of the puritan ethic, such as a balanced budget, stable purchasing

power of the dollar, and competitive interest rates.

The folly of that line of thinking became all too evident as the 1960's closed out. In that decade, as our federal government went some 60 billion dollars deeper into debt, we had cost of living inflation amounting to \$184.6 billion, an average of more than \$20 billion a year. It doesn't make any difference how you take purchasing power away from the people—whether by taxes or by shrinking the purchasing power of their money. But inflation hits people regardless of their relative ability to take it. It is just as regressive as a sales tax, and politicians who are responsible for it often get away with their failure to keep faith with the people's hard-earned money by telling the voters how much they are doing for them—rather than what they are doing to them.

There are some educators who are and have been advocating federal programs of higher education guaranteeing every one a college education. "Every boy and girl has a right to a college education," they say. But Pope John's encyclical says: "Every effort should be made to insure that persons be enabled, on the basis of merit, to go on to higher studies, so that, as far as possible, they may occupy posts and take on responsibilities in human society in accordance with their natural gifts and the skills they have acquired."

The right to private property, even of productive goods, is stated by *Pacem in Terris* to derive from the very nature of man, as being "a suitable means for safeguarding the dignity of the human person and for the exercise of responsibility in all fields, strengthening the serenity to family and thereby increasing the peace and prosperity of the state." Clearly, then, political action should be directed at preserving and enhancing our capitalistic economic system rather than destroying it. We have socialists and distributive justice advocates in our country and in our Church who would do well to do a little homework by reading this encyclical.

Turning to the foreign field, arms control and disarmament occupy an increasing share of our concern and effort—and they should. On this subject, Pope John said: "Justice, then right reason and humanity urgently demand that the arms race should cease. That the stockpiles which exist in various countries should be reduced equally and simultaneously by the parties concerned. That nuclear weapons should be banned. And that a general agreement should eventually be reached about progressive disarmament and an effective method of control."

At the time, this statement was criticized for ignoring the realities of the Communist ideology which pursues a policy of aggression while, at the same time, adhering to the principle that the end justifies the means (including lying, cheating, and war itself). But one should note that the Pope called for "an effective method of control," and he also had this to say:

"All must realize that there is no hope of putting an end to the building up of armaments nor of reducing the present stocks, nor, still less, of abolishing them altogether, unless the process is complete and thorough and unless it proceeds from *inner convictions*; unless, that is, everyone sincerely co-operates to banish the fear and anxious expectation of war with which men are oppressed. If this is to come about, the fundamental principle on which the present peace depends (deterrence) must be replaced by another, which declares that the true and solid peace of nations consists not in equality of arms, but in mutual trust alone. We believe that this can be brought to pass . . . In the highest and most authoritative assemblies, let men give serious thought to the problem of a peaceful adjustment of relations between political communities on a

world level: an adjustment founded on *mutual trust, on sincerity in negotiations, on faithful fulfillment of obligations assumed.*"

Note the emphasis on "inner convictions," "sincerity," "mutual trust." Pope John was entirely familiar with the "end justifies the means" principle of Communism, and he could hardly be accused of suggesting that there can be mutual trust when one of the parties adheres to such a principle. Indeed, he believed that mutual trust can be brought to pass, but I submit that he also believed that Communism—as an ideology—must first be removed, at least from the beliefs of those who rule nations. Although he did not refer specifically to Communism, the following words leave little doubt about his views on the subject:

"Any human society that is established on relations of force must be regarded as inhuman, inasmuch as the personality of its members is repressed or restricted, when in fact they should be provided with appropriate incentives and means for developing themselves. Human society is realized in freedom. Many think that the relationships between men and states can be governed by the same laws as the forces and irrational elements of the universe, whereas the laws governing them are of quite a different kind and are to be sought elsewhere, namely, where the Father of all things wrote them, that is, in the nature of man . . . Authority is a necessary requirement of the moral order in human society. It may not therefore be used against that order. And the very instant such an attempt were made, it would cease to be authority as the Lord has warned: 'A word, then, for the kings ears to hear, kings hearts to heed: a message for you, rulers, wherever you be! Listen well, all you that have multitudes at your command, foreign hordes to do your bidding. Power is none but comes to you from the Lord, nor any royalty but from one who is above all. He it is that will call you to account for your doings with a scrutiny that reads you inmost thoughts.'"

Of course, what would constitute "an effective method of control" in a disarmament program or in an arms limitation program is currently a most controversial subject. However, it could hardly be suggested that the Pope would use the word "effective" superficially. And it could well be concluded that the method of achieving effectiveness can vary according to the philosophy of the parties to an agreement. Where mutual trust exists, because both parties reject the principle that the end justifies the means, the method—number, type, and quality of inspections could be much different from that which would be required where one or both parties subscribes to such a principle, as is now the case. It is to be hoped that the leaders of the Soviet Union are just as concerned over the arms buildup as we are so that they will reach an agreement with the United States in the SALT negotiations.

In 1964 Easter Message, Pope Paul took the first step in constructing a bridge over which the Communist World may someday move to what he called "moral order in human society." He called for increased emphasis on keeping alive the very question of religion and appealed both to the agnostic and the atheist to turn to religion for a purpose in life and a solution to its problems. He said:

"We beg those who have no religion or who are against religion to judge for themselves that they are laboring under the weight of irrational dogmas, of contradicting doubts that leave no peace, of absurdities without escape, of maledictions caused by despair and nothingness. Perhaps some of you have inexact or repugnant concepts of religion; perhaps your idea of faith is erroneous; that it offends against intelligence, it shackles progress, humiliates man, brings sadness to his life.

"Perhaps some of you are more eager, and

therefore, without knowing it, more prepared to catch the gleam of the light . . . one ray of the light of Easter, for all who desire to catch it, as a greeting, a gift, or at least a sign of our great love . . ."

The meaning is unmistakable. Pope Paul holds out religious belief as the one instrument which can bring together the peoples of the World, which can provide the basis for mutual trust which he believes can be brought to pass. And, I might add, with religious belief the ideology of Communism will disappear.

Today, as in the year when Pope Paul gave the world that message, a deep and bitter argument rages over how to deal with Communist aggression. As you know, there are two principal schools of thought—one advocating a policy of "accommodation" and the other a policy of "firmness." Those who advocate "peace at any price", unilateral disarmament, or preventive war represent quite small—though noisy—schools of thought.

The "accommodation policy" has, on occasion, been enunciated by the Chairman of the Senate Foreign Relations Committee. "It is not communism as a doctrine, or communism as it is practiced within the Soviet Union or within any other country that threatens us," he once said. "How the Soviet Union organizes its internal life, the gods and doctrines that it worships, are matters for the Soviet Union to determine. It is not Communist dogma as espoused within Russia but Communist imperialism that threatens us and other peoples of the non-Communist World." I do not deny the sincerity of the adherents to the accommodation policy. I am concerned, however, that they fail to see that it is the absence of religion from Communist ideology which lays the foundation for the imperialism which they say provides a threat.

It is ironic that the distinguished Chairman quoted from "*Pacem in Terris*" in the course of this statement, but he did not quote from the passages I have read when he concluded—as do those who follow the accommodation policy—that "there is little in history to justify the expectation that we can either win the cold war or end it immediately and completely."

I am quite certain that the present Administration believes in a policy of "firmness," not "accommodation," and its desire for "negotiation" is perfectly in accord with a policy of firmness. Many times the President has said we must negotiate from a position of strength. Also, I would hope that we do not fall for the point of view that militant Communists will be nice if we are nice to them; or that we should not have a "win" policy for freedom over Communism, that freedom is only for us—and what happens behind the Iron Curtain has no relevancy to the rest of the world.

In conclusion, I call attention to what the Rev. John F. Cronin wrote of *Pacem in Terris*. He said: The Church must reject Communism. But individual Communist leaders can change, as reason and common sense forces them to a more correct view of human nature and society. The warning of Pope Pius XI that Communism is intrinsically wrong, and no one who would have Christian civilization may collaborate with it is still timely and sound. "Pope John," he continued, "has modified it, but in a cautious and limited manner . . . He believes that truth and goodness will prevail. His optimism is based on a firm faith in God's love and providence. Consequently every believer in this world of ours must be a spark of light, a center of love, a vivifying leaven amidst his fellow men, and he will be this all the more perfectly, the more closely he lives in communion with God in the intimacy of his own soul."

This is the ultimate philosophical consideration in political action.

## LAW DAY, 1970

Mr. MATHIAS. Mr. President, in this new decade we face again a timeless problem: The historic conflict between the desire for liberty and the demand for order. America was born out of just such a conflict, and our history has been one of continual exploration of the wide terrain of freedom which lies between the poles of tyranny and anarchy.

We have been over this ground many times in the past, virtually every generation of Americans has struggled through what we struggle with now: A trying time of national anxiety, a period when the momentum of national growth has slackened, when institutions have fallen behind events, when the tensions of social change have produced confrontations between the insistent and the entrenched.

The American Revolution was the child of such a confrontation. The grievances which sparked the Revolution are familiar ones: Unfair and punitive taxation; obstruction of the administration of justice and interference with the independence of judges; the maintenance of large standing armies in peacetime and in the midst of towns; arbitrary arrests, searches, seizures and trials; and suppression of the press. Having failed to win redress by strength of argument, the American colonists resorted—many with reluctance and regret—to force of arms.

Yet this was far more than the successful rebellion of restive colonies against a distant, arbitrary king. It was a triumph of the idea of liberty, asserted in the eloquence of the Declaration of Independence and secured—after false starts and long debates—by the genius of the Constitution and the Bill of Rights.

The Revolution was a product of the breakdown of English institutions which had grown so arrogant and intemperate that they offended the fundamental rights of Englishmen and insulted the concept of representative government. Having shed these institutions, the Founding Fathers set out to build a new system of government, strong enough to insure the survival of the Republic, but circumscribed enough to guarantee the endurance of freedom.

Their efforts were guided by an almost mystical but very pragmatic faith in law. They respected the law as a guardian of basic principles. They regarded the law as an arbiter among the passions of men, and they relied upon the law to mediate between citizens and the state, civilizing the instincts of the governed and restraining the impulses of the governors.

Within this framework of law, we have evolved great institutions—our Federal system, our courts, our educational system, our free press. Over almost two centuries these institutions have been challenged many times, and often sorely tried. They have proved totally inadequate just once, when the struggle between the Union and the States exploded into civil war.

Now these institutions are challenged again. As we approach the bicentennial of our national birth, many are viewing our prospects with unease and some with

despair. We see the longest war in our history, undeclared and unresolved. We see our cities declining, our economy strained, our environment being degraded by our own carelessness and waste. We see massive failures of law enforcement and major breakdowns in the administration of justice. It is tempting to wonder whether the long American experiment in self-government is drawing to a close, to end not in the conflagration of nuclear war, but in the long, gray twilight of abandoned principles and lost resolve.

Last week I was a guest of Admiral Richardson, Commander of the 6th Fleet, at his home in Formia on the Italian coast. Formia might well be called the spot where the Roman republic expired, for that was the place where Cicero died after his long and losing fight for a government of laws. With Cicero's death all effective opposition to imperial rule vanished. The old constitutional forms were upheld, but the republic was dead. The assassins sent by Augustus symbolically ended the rule of law and began the rule of men.

Last night the President of the United States announced a portentous decision. It is a decision that will have an immediate impact in the military theater in Asia. It will reverberate in the councils of nations around the world. It will have far-reaching significance at home.

There is no Caesar Augustus in Washington and we pray God that there never will be. But there are others in the Senate of this Republic and elsewhere throughout the Nation who will feel compelled by the depth of their concern, by the strength of their convictions, and by the fiber of their loyalty to the principles of the Constitution to rise, and to speak out with respect to this decision. They will speak from the anguish of their hearts and with all the force of their intellect and ability.

These men and women must not be silenced as Augustus silenced Cicero, for if they are, the Republic may perish with them. They must not be branded as criminals nor pursued by assassins who seek to destroy their reputations.

For all of us together are the trustees of the Republic, and each of us has a duty to speak when his conscience commands. Under the rule of law, no man can order silence, and no man ought to be silent when such an order is attempted.

Why and how Cicero died gives a particular value to our observance of law day today. It impels us to be more candid, more careful and perhaps more courageous than we might otherwise be.

Two years ago, in a masterful speech at Cornell, John Gardner offered an ominous prediction.

Future historians might conclude—

He said—

That 20th century institutions were caught in a savage crossfire between uncritical lovers and unloving critics. On the one side, those who loved their institutions tended to smother them in an embrace of death, loving their rigidities more than their promise, shielding them from life-giving criticism. On the other side, there arose a breed of critics without love, skilled in demolition but untutored in the arts by which human

institutions are nurtured and strengthened and made to flourish.

We have hardly approached this point. But there are ominous signs that a period of national distemper has begun. In public statements and private conversations we can hear disturbing tones of agitation and at least rhetorical assault. There is a growing desire for quick answers and easy targets. There is a tendency to urge the laws when they are useful and to scorn the law when it is inconvenient. There is a spreading urge to march, to demonstrate, to express one's emotions—and a growing compulsion to marshal forces, form committees or communities and scorn anyone who is not in step.

Our national unease is being romanced daily in the blunt shorthand of agitation. Our fears and frustrations are being courted by many who are, or are becoming, highly skilled in the arts of persuasion and provocation.

Americans have always been noisy, competitive, and somewhat quarrelsome. But now the anger of a few has spawned suspicion among the many. Now the violence of some has bred hostility everywhere, until our citizens are glaring at each other across racial lines, across income brackets, across the generations and across the Alleghenies.

There is an alarming unwillingness to see honesty, decency, or rationality in those who may differ with oneself about the war, about a nomination, about law enforcement, about the future of the cities or about the proper limits of dissent itself.

There is a disturbing tendency to choose sides on any given issue, and to see one's side as wholly sincere and the opposition as darkly sinister.

It is becoming tragically difficult for anyone to speak his mind or vote his conscience without being accused of losing his head or selling his soul.

This is of course not the first case of national frustration in our history. This is not the first time that we have been deeply divided, with some enfolding themselves in the first amendment and others wrapping themselves in the flag. It is not the first time that arrogance has squared off against impudence. It is not the first time that some have found privilege or conspiracy in the newsrooms, in the classrooms, in the State Department, in the Senate or in the streets.

Such a climate is the adolescent child of change—historic change which is re-ordering the relations among nations, which is altering our social patterns and economic structures, which has eroded the stoicism of the poor and challenged the security of the rich. It is the offspring of an era of uncertainty in which anything seems possible and many things are feared.

We have endured such troubled times before. In this century alone they have recurred at almost 20-year intervals; during and after World War I, in the depression years, and in the early 1950's. In each case political passions ran high, and loyalty was defined in narrow, partisan terms. Protest bred denunciation, crusades degenerated into witchhunts, and an embattled and confused society flailed out at the gremlins of dissent.

We have not reached this point this time. Our current woes have not produced anything comparable to the Palmer raids and repressions of 1919, the variety of demagogues of the 1930's, or the persecutions which led Senator MARGARET CHASE SMITH in 1950 to denounce "the four horsemen of calumny—fear, ignorance, bigotry, and smear."

But the raw ingredients of spiritual disaster are among us. We must recognize the danger and respond with new purpose, reason, and tolerance.

Consider the symptoms of unrest: Taxes high and unfair. Mobs in the streets and troops called out to maintain order. Warehouses looted and merchandise destroyed. Public monuments defaced. Private homes searched and citizens seized. Justice delayed. What decade is this—the 1770's or the 1970's? If the symptoms echo each other, is there a difference?

The difference is, of course, the American political system, which did not exist in 1770 but is established now. It encourages peaceful change. It invites all to work, to argue and compete within its boundaries. By encouraging evolution, it makes revolution unnecessary.

But the custodians of the system must preserve its flexibility and its essential liberality. We must respond both to legitimate bills of grievances and to the Bill of Rights.

Our institutions are beginning to respond to the Nation's needs. The full weight of the Presidency has been placed behind the reform of conscription, which has been such a shadow over our youth, and behind basic reforms of the welfare system which has mired so many in poverty and despair. The Congress is reasserting its rightful influence and authority in resolving the basic questions of war and peace. Our schools are reexamining their purposes and adapting their forms to educate a new generation. Our system of justice is gradually catching up with the needs of the times.

If we follow not only a lawful course but the highest path of the law, we can meet such issues and master our times. But we must remember that it is dangerous for citizens to prance on the borders of anarchy—and equally dangerous for high officials to play brinkmanship on the edge of repression. We must avoid making martyrs out of our nuisances. We must remember that the true task and challenge of leadership is not to invoke transient majorities but to shape durable unities.

We should remind ourselves that civility is not a veneer painted over our passions, but an essential mortar holding together a nation of great diversity. We should remind ourselves that generosity is not a seasonal indulgence but a vital element in national stability. We should remind ourselves that self-restraint is not a choice but an obligation of free men.

Regardless of party, region, age, or class, Americans are a profoundly conservative people. We know that we are the trustees of an unrivalled heritage, the heirs to the only revolution in history which has not completed the tragic cycle from despotism to democracy to tyranny. Our revolution is perpetually

unfinished, but has never been undone by anger or by apathy. Though we may be troubled or tired, we can still respond to the call of Tom Paine, who wrote:

Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it.

#### ASSISTANCE TO SCHOOLS IN FEDERALLY AFFECTED AREAS

Mr. EAGLETON. Mr. President, the Education Subcommittee of the Committee on Labor and Public Welfare held hearings this week, presided over by the Senator from Rhode Island (Mr. PELL), on S. 3581, the administration's proposal to revise the program of school assistance to federally affected areas—commonly known as impact aid.

A thoughtful and provocative analysis of the present impact aid program and of the proposed revision was presented by Mr. August Steinhilber, director of Federal and Congressional Relations of the National School Boards Association. Mr. President, so that other Members of Congress and the public may have an opportunity to read Mr. Steinhilber's statement on this important subject, I ask unanimous consent that it be printed in the RECORD.

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

#### THE IMPACT AID REFORM ACT OF 1970 (By August W. Steinhilber)

Mr. Chairman, members of the Subcommittee, my name is August W. Steinhilber and I am Director of Federal and Congressional Relations of the National School Boards Association.

The National School Boards Association is the only major education organization representing school board members. Approximately 84,000 of the nation's school trustees are members. These people, in turn, are responsible for the education of more than 95 percent of all the nation's public school children.

Currently marking its twenty-ninth year of service, NSBA is a federation of state school boards associations constituted to strengthen local lay control of education and to work for improvement of education. Most school board members, like yourselves, are elected public officials.

Association policy is determined at the NSBA annual convention by a Delegate Assembly made up of official representatives of the membership. A twenty-member board of directors and seven-member executive committee representing every geographic region of the nation translate policies and resolutions into ongoing programs.

First, Mr. Chairman, on behalf of my organization, I would like to congratulate and thank you and the members of this Subcommittee for the great effort they made in Committee, on the floor of the Senate, and in Conference to secure the passage of the ESEA Amendments (P.L. 91-230). We appreciate the many long hours of hard work that were spent in developing a package which could be broadly supported in both Houses.

As you know, Mr. Chairman, the National School Boards Association has, by the very nature of its membership, been vitally interested in the impact area program.

We have studied the report issued by the Battelle Institute with great interest and care. We have reproduced that document and sent a copy to each of our state and big city representatives. Congress is to be commended for authorizing an in-depth em-

pirical review of this complicated subject area before taking action to revise the existing program. However, our review of the Report has raised some questions which are currently being researched within our organization. Since the Battelle Report was issued only recently, NSBA will have to defer from making comments in the form of constructive changes in the existing program until such time when our study is completed. Therefore, my testimony today will be limited to just a few preliminary observations of the program itself, the Battelle Report and the bill which provides for the amendment of the program, namely, S. 3581.

Members of this Subcommittee will agree that many of the facets of the current law are extremely intricate and complicated. A major revision must be done after careful consideration and a thorough review. While we all agree a revision of the law is necessary, I suggest any hasty action could be disastrous to many school systems.

#### PHILOSOPHY OF IMPACTED AID

A review of the basic philosophy of impact aid is appropriate at this time because there seems to be a cleavage in approach to the program among the members of this Subcommittee, as well as among others who are either involved or interested in this legislation. Until this cleavage is resolved, I dare say that it would be difficult to develop a formula distribution which is responsive to the need to be served.

The stated purpose of the impact aid program is simply "to provide financial assistance for those local educational agencies upon which the United States has placed financial burdens." These burdens arise when the Federal government brings its business, typically military, into the school district. Generally, the Federal presence has a double edged effect on the district in that it brings more school children into the area and at the same time results in a shrinkage of the local tax base since the Federal property involved—be it residential or business—is tax exempt. Since local property taxes provide more than one-half of the revenues for education, this double edged effect, in the absence of Federal assistance, would result in higher taxes and/or a reduction of per pupil expenditures.

One approach to providing financial assistance is to regard payments as "in lieu of taxes" which would have been collected had the Federal property not been tax exempt. Accordingly, proponents of this approach would tailor the distribution formula to place a heavy emphasis on such items as the amount of Federal property within the district and local property valuations. In essence, the thrust of this approach is one of intergovernmental accounting for the use of land—with the school district (and the tax base) as incidental beneficiary. In other words, the basis for the Federal payment is similar to that of any other business which may have settled in the community.

A second approach by-passes the economics and looks directly at the burden placed on the school system by the Federal presence. The primary purpose is to restore per pupil costs to the level where it was before the government arrived. This approach is not novel. Indeed, an exhaustive report on Impact Aid prepared in 1965 pursuant to P.L. 88-665, generally known as the Stanford Report, states that the formula, in fact, adopts this view and further states that it is the better view. If I may briefly quote the summary and conclusions found on page 23 of the Senate Subcommittee on Education's print of this document:

"The nature of the obligation has been confused by the emphasis placed on tax exemption of federal property as the cause of the burden. P.L. 874 is often regarded as providing payment in lieu of taxes; yet clearly does not, since the payments are made at rates determined by the costs of education in

the communities and not by the worth of the federal properties. In addition, entitlements go to the school districts educating the federally connected pupils and not necessarily to the districts containing the federal properties.

"Our conclusion is that eligibility under these laws must rest upon the burden principle and not upon the in-lieu-of-taxes principle. In the first place, it is administratively almost impossible to implement a consistent in-lieu-of-tax program, because of the unmanageable task of determining the true market values of most federal properties (e.g., what is the value of an air base in Kansas?). Second, large inequities would arise in the distribution of funds, as a few fortunate districts that encompass key properties would receive huge payments, while neighboring districts educating many of the federally connected pupils would receive none; (e.g., 104 school districts educate pupils and receive P.L. 874 entitlement based upon the Tinker Air Force Base, located in one district, Midwest City, Oklahoma). Third, the case studies indicate that total payment in lieu of taxes would not necessarily be lower than they are under the burden principle."

Although it is beyond the stated purpose of the impact program, the formula reflects a third view that considers the level of education which the local resources can offer to federally connected children. Proponents of this approach argue that the Federal government owes it to children of government employees—particularly children of military personnel who have no choice as to place of assignment—to fund the district sufficiently to raise the level of education therein to at least the national average. The conclusion of this argument is that impact aid is really a mechanism for providing a general grants-in-aid program.

So, in review, we have three approaches—one compensates the district for the use of land, thereby incidentally affecting need; the second pays the cost of educating federally connected children to the extent of the going rate in the district; and the third makes payments based on the quality of education within the district. Although they are not totally inconsistent with one another, these approaches are far from being identical. For example, under the first, a district with a large number of "B-out" pupils would receive no assistance because there is no Federal property therein. However, under the second, payments would be made to the extent necessary to pay the cost of educating children in that district. Under the third, payments would be made—but only, and to the extent necessary, for the district to reach some standard level of education.

Therefore, it appears that it is one thing to say that a Federal presence exists and quite another to say that within the conceptual basis of the program, the district is entitled to a certain level of payments. Accordingly, it seems necessary to reach some decision as to the conceptual basis for making payments, before we start weighting and measuring the components of a distribution formula. And, it is my conclusion that until this kind of decision is made, the current formula, and any proposed formula, will continue to be criticized as unworkable and unfair.

Now I would like to comment on specific provisions of S. 3581 or items deleted from the bill. As indicated earlier, NSBA hopes to make specific suggestions as to ways of revising impact legislation, but until then, we must register grave reservations on a number of counts.

#### THE BASIC FORMULA

S. 3581 would make certain changes in the P.L. 874 formula which generally increases category "A" participation but at the same time decreases payments to category "B" children. No argument is being made that

"A's" should not receive broader funding. In fact, that is not in issue here. When S. 3581 is taken together with the Administration's \$425 million request for impact aid, which is far below the \$965 million authorized level, it becomes clear that the effect—if not the object—of the bill is not to markedly increase the funding of the "A's" but to greatly reduce—even eliminate any financing for the "B's."

I would just like to highlight the major features of the bill in this regard to give you an idea of the total effect which would be wrought on category "B."

Under the current law a school district receives for "A" category children an amount equal to the local contribution rate or  $\frac{1}{2}$  the national average per pupil cost or  $\frac{1}{2}$  the average per pupil cost. Although "B" category payments are made on the same basis, only  $\frac{1}{2}$  of the children are counted. Accordingly, the rate for category "B" is 50 percent of 50 percent or 25 percent of the average per pupil cost.

Under the proposed law, after a three percent absorption is taken from a school district's entitlement, that district receives sixty percent of the national average per pupil expenditure for each "A" child. Although this represents an increase for "A," "B" payments would be decreased because only 40 percent of the "B-in" children and 20 percent of the "B-out" children would be counted. As a result, payments would drop to 24 percent and 12 percent of per pupil costs, respectively.

This change in the method of counting children is even more devastating to category "B" children because of its effect on the absorption factor. The bill provides that a district is only eligible for assistance to the extent that its "adjusted number of impact pupils exceeds, by more than five, the lesser of (A) one thousand or (B) a number equal to three per centum of (i) the total number of pupils in average daily attendance at the schools of such agency during such year minus (ii) such adjusted number of Federal impact pupils."

Although it is a little complicated, Mr. Chairman, I beg your indulgence for a moment so I may apply this formula to a hypothetical case of a school district which has a 30 percent impact of "B-out" children—say 6,000 out of 20,000 students. Following the formula we subtract from 20,000 the adjusted number of "B-outs", which is 20 percent of 6,000, or 1,200. Three percent of the 18,800 balance amounts to 564. An additional five gives us an absorption of 569 of 1,200 pupils. That is, only 631, or 53 percent of the adjusted number of pupils will be counted for payment purposes. Since 12 percent of the per pupil expenditure is paid only for the number of students in excess of the absorption factor, the net payment for all impact students in this case is slightly over six percent of the national average per pupil expenditure. This percentage will vary depending on the proportionate size of the impact within the district. For example, a school district in which 15 percent of the pupils are "B-out" is just at the break-even point to be eligible for payments, whereas a district in which there is a 100 percent impact would receive per pupil payments equivalent to 10.5 percent of the national average. We have included a chart which more fully demonstrates the scale of payments.

Percentage of "B-out" children in district	Net payment as a percentage of national average per pupil expenditure	Entitlement under S. 3581 as a percentage of current entitlements
15.....	0	0
17.....	1.7	6.8
20.....	3.36	13.44
30.....	6.0	24.0
50.....	8.9	35.6
100.....	10.5	42.0

Under the existing legislation, a district is eligible for payment if its adjusted number of federally connected children consists of at least three percent of its school population. However, unlike S. 3581, the students counted within the three percent for purposes of eligibility are also counted in making payments. In other words, regardless of the proportionate size of the impact, any eligible district will receive a net per pupil payment which is 25 percent of the national average. Therefore, as to "B-outs", the net effect of the bill is to raise eligibility from an adjusted six percent impact (under present counting three percent is really six percent of the "B's"), to 15 percent, and to cut payments to more heavily impacted districts on a sliding scale. A district with a 100 percent impact would receive the largest payment which is about 42 percent of current entitlements. Again, I would refer you to our chart for a more thorough breakdown.

In passing, it should be noted that the larger school districts would use the 1,000 pupil absorption factor rather than the aforementioned three percent rule. However, since the bill applies the same method of counting, the first 5,005 "B-out" students would be counted for eligibility, but not for payment. Under the existing legislation, these pupils are counted for payment as well. Accordingly, these school districts will experience cuts upward of \$2 million right off the top plus a 50 percent cut for the balance of the students (that is, a reduction from 25 percent of the national average to 12 percent).

S. 3581 would also reduce payments for "B-in" children. Although the cuts are not quite as dramatic as the case of "B-outs", the effect may be equally severe on the school system since there is not only a burden of educating more children, but a smaller tax base as well. Per pupil payments would be reduced from the current level of 25 percent of the national average to between 7.5 percent at a 10 percent impact and 22.8 percent at a 100 percent impact. We have included another chart which reflects the entitlement scale for "B-ins" under the proposed bill and compares it to present entitlements.

Percentage of "B-in" children in district	Net payment as a percentage of national average per pupil expenditure	Entitlement under S. 3581 as a percentage of current entitlements
10.....	6.6	26.4
20.....	15.0	60.0
30.....	18.7	74.8
50.....	21.0	84.0
100.....	22.8	91.2

In a like manner, the bill would severely affect larger districts by excluding the first 2,505 students and reducing per pupil payments for the balance from 25 percent of the national average to 24 percent.

Finally, the basic formula also makes payments for category "A" children on a sliding scale. The range as a percentage of national average varies from 43.8 percent at a 10 percent impact to 60.2 percent at a 50 percent impact (any district with over a 50 percent impact is treated under a different section). As noted earlier, payments are currently at a 50 percent flat level. That level is reached at a 20 percent impact under S. 3581.

At this juncture, I would like to say that the sharp cuts in "B" category entitlements assume that the program is fully funded. As we all know, full funding is improbable—if not impossible. Indeed, last year the program was only funded to the extent of 76 percent of entitlements at the \$505 million level. This year, the Administration is talking in terms of \$425 million while per pupil expenditures are soaring. To our knowledge, the Administration has not released any figures either under the existing law or under S. 3581, but I am sure that to say \$425 mil-

lion would cover 50 percent of entitlement is generous. Under the existing law, all categories would suffer the cutback proportionately. This is not true under S. 3581. The bill establishes an order of priority whereby districts with very high concentrations of category "A" children are fully satisfied, then in turn, all other "A" payments, "B-ins", and "B-outs", respectively.

Therefore, in reality, the bill proposes a two step approach to dry up payments for "B" children. Quite clearly, the trickle of funds made available for "B-out" payments under the new method of counting would be completely dried up by the application of the priority provision. We anticipate that "B-ins" will be sharply reduced, although we cannot estimate how much as there is no district-by-district breakdown of projected payments under the proposed bill.

Although we admit there is room for change in the existing legislation, we believe that the wholesale elimination of category "B" payments only complicates the conceptual basis of the program and ignores the jolting affect it would have on the operation of many school districts.

For example, as the Battelle Report points out, military families residing off base are of an age where they have more school children than the average and at the same time have property with lower assessed values. Therefore, the Report states that payments can be justified in both the "B-in" and the "B-out" situations. On its face, the bill apparently deals with this problem by saying that since Battelle recommends 40 percent of the children to be counted when the base is within the district, that it is reasonable to count one-half of that amount when the base is outside the district. But, a comparison of our two charts reveals that the operation of the formula would cut off substantially more than half the funds, depending on the size of the impact. The result is that payments are really being made on a strictly "in lieu of property tax" basis—regardless of burden or educational quality in the district. However, the formula distributes funds according to contribution rates and average expenditures—this sounds more like burden. And, as we shall see, districts in which there are very high concentrations of "A" children are paid on the basis of state or national standards—this sound more like quality. We have a great deal of difficulty in understanding why children whose parents live on bases should be assured of a better education than children whose parents live off. Or, why should the school district be uplifted in one case and go completely uncompensated in the other?

It should be noted that some school districts would be particularly affected by this bill. Under current legislation, districts in which there are very high concentrations of "B" students can receive payments to the extent necessary to place them on a par with similar localities. Under S. 3581, districts are only eligible if more than one-half of their children, on an adjusted basis, are federally connected. Accordingly, "B" districts cannot qualify. Indeed, many districts which previously qualified because of a combination of category "A" and category "B" children could not qualify. For example, a district which has 30 percent "A," 40 percent "B-in", and 15 percent "B-out" could not qualify for special treatment as a district with a very high concentration of federally connected pupils.

#### DISCRETION

Of course, one way to avoid the provisions of a bad bill is to give its administrator broad discretion to disregard them. And this bill does give the Commissioner discretionary authority to adjust formula expenditures.

Preliminarily, I would like to say that we are generally opposed to such discretionary language—and we are particularly disturbed

with its appearance in the bill currently being considered.

This Subcommittee will have the opportunity to hear the testimony of private and Federal witnesses whose experience represents all aspects of the impact program. From the unique experience of working with this testimony, this Subcommittee is in a position to develop an efficient and equitable program. While we can appreciate that there may be an occasional need to make loose provisions for situations which a formula cannot anticipate, we feel that broad discretionary powers, particularly without guidelines, permits the administrators of the law to substitute their own singular view point for the work of this Subcommittee. It is our belief that program philosophy and priorities belong with the Congress of the United States—not the Federal bureaucracy. In addition, we believe that the program should be insulated from efforts at political chicanery—particularly since the education of million of children lies in the balance.

Having said this, I would like to address myself to the objectionable language in the bill.

Section 16 states that the Commissioner may waive the absorption factor "when exceptional circumstances exist which would make the application of such (factor) inequitable and would defeat the purposes of this part."

In light of my earlier comments, it is quite likely that every "B" category district would apply under this section, since for them the application of the absorption factor is the key to impact aid. Aside from the administrative confusion and political pressure which the waiver would cause in the Office of Education and in the Congress, it seems rather self-defeating when read in connection with the priority section. Since category "B" would be underfunded in general, we can envision a situation wherein all members of that class will be fighting for a limited amount of funds. While we have no figures, it could very well become a case of comparative suffering in which one district's salvation is another's hardship.

Secondly, the provision sets no standard for waiver. An application which is "equitable" or "defeats the purpose of this part" is meaningless because the conceptual basis of impact aid is not clearly defined. In addition, is the waiver whole or in part, and when applied what is the basis of payment?

Thirdly, school districts prefer formulas because it enables them to plan their budgets from year to year.

We also object to the degree of discretion given to the Commissioner in section 13 which provides assistance to areas with very high impacts. The only guideline is that the Commissioner shall "consider" similar school systems within the state or in other states which the pupils in the district "have attended or may attend." But then, further down, section 13 provides that "notwithstanding any other provision of this section" payments are not less than 85 percent of the greater of the national or state average per pupil expenditure but not more than 125 percent of the greater figure.

In the existing legislation payments could not exceed an amount necessary to raise the district on a par with other districts. This provision gives discretion to the Commissioner to go above or below as long as the amount involved is between the broad latitude of 85-125 percent of the state or national average.

Moreover, once the Commissioner determines the aforementioned amount he deducts an amount which he determines is available to the district from all sources as well as an amount which could be available on the basis of equalized assessed evaluation. This latter aspect of the provision is speculative to say the least. It seems rather wasteful and burdensome—if not impossible—to gather the raw data involved.

#### PUBLIC HOUSING

Mr. Chairman, the bill does not include a provision for public housing. We in the field of education would be sadly disappointed if this new addition to the Federal education program was terminated before it got off the ground. There is no need to review the merits of the public housing provision for the members of the Subcommittee, as that program was born in this Chamber. We only ask for your continued support of public housing payments when you reach your final consideration of impact reform.

#### MISCELLANEOUS

In addition to those aspects of the bill I have discussed at length today, there are a few additional points which I suggest, in passing, merit further consideration.

One such item is the method for determining the number of federal impact students under section II. Subsection (3) thereof provides that in counting "B-out" children, the important element is whether the parent works in Federal property in another county. Under existing law, the test is whether the parent works in another school district. This proposed change does not make sense to us since school district lines and county lines are not coterminous. And I might add that the Battelle Report discussed "B-out" at length and did not recommend this change.

Secondly, the effort factor as used in making payments under section 12 is not equitable. As proposed, states with an effort less than 1.00 are treated as if their effort were 1.00. Since all states must divide a limited source of funds, this works a penalty on states with an effort over 1.00. In this connection, we question the wisdom of even using state effort in this and other sections as a factor in determining the amount of impact aid if the aim of the program is to cure a local problem which is related to a Federal presence—rather than to establish a general grants-in-aid formula.

We also question the section 8 hardship clause in that 2 percent of all current educational expenditures is such a large sum by comparison to the impact aid normally available to the school district, that it will not be responsive to shoring up the needs of a district which suffers massive cuts, in dollar amounts, of impact money.

#### CONCLUSION

Mr. Chairman, my testimony today was long and quite technical. I wish to thank the members of this Subcommittee for their interest and patience. In preparing my statement I felt that it was necessary to ask some very basic questions as to the purpose of impact aid. I also felt that it was necessary to go through some of the major provisions of the bill that you are considering, in order to emphasize the need to develop a basic philosophy.

As to the merits of the bill, there is no question that it is complicated. Somehow I feel that I only touched upon the tip of an iceberg. The bill's weakness stems from the fact that it overreacts to the need for an adjustment. It then attempts to save itself by including broad discretionary language. This only makes the bill weaker.

Although I realize there is pressure to enact a reform bill, I would urge careful consideration of any proposal to assure the some 4,000 recipient school districts equitable treatment.

I would be very cautious of this heavy-handed bill, particularly since its projected effect, if enacted, has yet to be substantiated.

#### RAIL PASSENGER SERVICE ACT OF 1970

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which will be stated by title.

The LEGISLATIVE CLERK. S. 3706, to pro-

vide financial assistance for and establishment of a national rail passenger system, to provide for the modernization of railroad passenger equipment, to authorize the prescribing of minimum standards for railroad passenger service, to amend section 13(a) of the Interstate Commerce Act, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside. We will not take it up until Tuesday next.

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

#### ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, it was thought that it might be possible to bring up on Monday the Mathias resolution which was reported from the Foreign Relations Committee today. However, because the statement made by the majority leader indicated that we would go over from today until Tuesday, it is now anticipated that the Mathias resolution will follow the consideration of the unfinished business, Calendar No. 769, S. 3706, on Tuesday, or, at the latest, on Wednesday.

#### ORDER FOR ADJOURNMENT TO TUESDAY, MAY 5, 1970, AT 11 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 11 o'clock Tuesday morning next.

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

#### ORDER FOR RECOGNITION OF SENATOR STENNIS ON TUESDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the prayer, the distinguished Senator from Mississippi (Mr. STENNIS) be recognized for not to exceed 45 minutes, following which the Senator from Wisconsin (Mr. PROXMIER) will be recognized for 15 minutes.

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

#### AUTHORITY FOR ALL COMMITTEES TO FILE REPORTS, FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES, AND FOR THE VICE PRESIDENT, PRESIDENT PRO TEMPORE, OR ACTING PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING THE ADJOURNMENT OF THE SENATE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that during the adjournment of the Senate following the completion of business today until 11 a.m. on Tuesday next, all the committees of the Senate be permitted to file their reports, together with any minority, individual, and supplemental views; that the Secretary of the Senate be permitted to receive messages from the President

of the United States and from the House of Representatives; and that the Vice President, the President pro tempore, or the Acting President pro tempore may be permitted to sign duly enrolled bills and joint resolutions.

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

#### CAMBODIA

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, last night was a sad and bloody night. Today is a sad and bloody day.

I fear that there may be many more such days and nights.

I rise to speak, in moderate terms. I shall surely attempt to speak with restraint. Indeed, in the meetings of the Foreign Relations Committee both yesterday and today my voice was raised repeatedly on the side of restraint, caution, and probity in our statements and our actions.

This, I think, is particularly important on the part of the Senate and on the part of Senators because a constitutional crisis may impend.

What do the elected representatives of the people do? What action can the legislative branch of our Government take in such a situation?

I ask this question because tragic events pose it.

Every time the American people have had an opportunity to express themselves at the ballot box, they have unmistakably chosen the candidate for President who offered the best hope for peace.

I recall in 1964 that it was our distinguished colleague, the Senator from Arizona (Mr. GOLDWATER), then a candidate for President, who spoke of defoliating the forest, who spoke of the use of airpower. I will not undertake to describe his position in any detail.

It was Lyndon Johnson who was the peace candidate. It was Lyndon Baines Johnson who promised the American people not to send American boys into a land war in Asia to do what the Asians should do for themselves.

Who won that race? For whom did the people vote in a majority unprecedented in all of our history? Lyndon Baines Johnson was elected President by the people.

In 1968, it was Richard Milhous Nixon who had a plan for peace. Vice President Humphrey was unable to escape the legacy of the war. Who was elected? Richard M. Nixon was chosen as President of the United States.

How do the American people remain masters of their fate? Perhaps they can now rely only upon their chosen representatives in the legislative branch of Government. The legislative branch has a coequal responsibility and burden with the executive with respect to the waging of war. This constitutional responsibility is great, and it is fixed and it is powerful.

It is in this sense that the Committee on Foreign Relations has today addressed a letter to the President, unanimously approved in the committee by Democrats and Republicans, requesting a conference with the President. I joined

in that request. Indeed, I urged and recommended to my colleagues such a course of action rather than action upon any motion on any pending matter.

The democratic process, Mr. President, is a difficult one. There are many among us who say that the system does not work. There are those among us who have lost confidence; and I am sorry to say there are those among us who wish to resort to violence. I regret and resist this. I believe our great system, our system of government by the people, for the people, and of the people, as the immortal Lincoln described it, can and will work. But it requires a recognition of the coequal responsibilities of the three coordinate branches of our Government; and it requires a degree of cooperation and teamwork.

This is what the Senate committee, the agent of the U.S. Senate, seeks in its conference with the President. I think we need to promote mutual understanding. I think we must seek to find a way to avoid a constitutional crisis. This is a two-way street. I am confident the President will welcome such a conference and I surely hope so. It is in this spirit that I speak today: Sad? Yes; partisan? No.

I listened last night to the President who spoke earnestly—and I know sincerely and I know patriotically. I propose briefly, and I hope rationally and moderately, to express some views with respect to the position the President announced. He announced, as we know, that American combat forces were engaged in ground combat operations within Cambodia. This action constitutes a significant geographic expansion of the Vietnam war and, in my opinion, it constitutes a widening of the war, politically and in terms of the U.S. commitment in Southeast Asia.

In his address to the Nation last evening the President announced not one decision but two. In addition to announcing that American combat troops were engaged in combat in Cambodia he also announced a decision to extend military aid to the Lon Nol government which came to power in Cambodia a few weeks ago.

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

Mr. GORE. I yield to the Senator from Idaho.

Mr. CHURCH. In connection with the fact that the President made the disclosure last night that he was initiating a military assistance program for the new regime in Phnom Penh, I would ask the Senator if this does not constitute a new commitment on the part of the United States to a foreign government, and, as such, falls within the scope of the national commitments resolution passed overwhelmingly by the Senate last year.

Mr. GORE. It is in direct contravention of the commitments resolution.

Mr. CHURCH. I would ask the Senator further if it does not, therefore, raise a serious challenge to the Senate that goes to the very root of our own constitutional authority. If the President of the United States can make decisions of this character unilaterally with neither consultation with nor consent from the Senate, the Constitution has been scrapped and the

Presidency has become a kind of Caesarism.

In this situation I feel so strongly that it is incumbent on us as Senators to insist that our authority be respected and to insist that the Constitution be upheld. This was our purpose when we passed the commitment resolution. It should be our purpose today.

Mr. GORE. And when the Senate insists that the authority of the legislative branch be respected it is, in fact, insisting that the power of the people be respected, that the processes of popular government be honored, and that the Constitution, in fact, be observed. This is one reason why I said a few moments ago that a constitutional crisis impends, and not only in this respect, but also because without authority from Congress, without appropriated funds, without a declaration of war, an invasion—our enemies will call it aggression—has been undertaken, albeit against a very small nation.

It is sad, and I do not wish to talk except in sadness and in the hope of restoring an equation between the elected representatives of the people and the Chief Executive of this country. I think it is necessary if popular confidence in our democratic system is to be sustained.

There was no reference in the President's address to any request or invitation from the Government of Cambodia for the dispatch of combat troops into that country nor was there any indication that this action is being taken pursuant to any constitutional or legal commitment of the United States pursuant to treaty or otherwise.

It was a Presidential decision, the decision of a Commander in Chief. Is this a one-man Government? No; it is not. It must not so become.

Thus it would appear that from the standpoint of international law the action constitutes an invasion of a sovereign nation which has proclaimed its neutrality, which has beseeched other nations, including the United States, to respect its neutrality, a neutrality which is theoretically protected by international agreement to which the United States is party.

This action raises basic constitutional questions which cannot easily be avoided. The essential question is whether the President of the United States has the authority to commit U.S. military forces to combat in a nation with which this country is not at war, particularly when such action is taken, so far as is known, without any request or invitation from the government of the nation concerned and in the absence of any legal commitment or treaty obligation so to do.

In his address the President cited no specific legal basis in support of his authority to commit ground combat troops to Cambodia. Rather, he stated that the action was being taken in order to protect the lives of American soldiers in South Vietnam and the lives of those later to be sent there. Thus, presumably, the President is basing his action on the inherent authority of a Commander in Chief to take action to protect the lives of U.S. soldiers. Such authority, as the Senate knows, is not spelled out in the Constitution. Although it is generally

recognized that the President has authority to take appropriate action when necessary to protect U.S. lives and U.S. property, this authority has never been defined and its limits have never been spelled out. So far as I know, it has never been construed to encompass an invasion of a country with which the United States is not at war.

I think it likely that the action which has now been taken will generate the additional debate on this question that is needed to bring to a head the question of the limitations of such Presidential authority.

In his statement the President implied that the operations he had ordered were limited both as to time and geography. He said:

Attacks are being launched this week to clean out major enemy sanctuaries on the Cambodian-Vietnam border.

He added:

Our purpose is not to occupy the areas. Once enemy forces are driven out of these sanctuaries and once their military supplies are destroyed we will withdraw.

White House sources were reported to have indicated in press briefings that it was anticipated that the operations would be completed in a period of 6 to 8 weeks.

How many American boys will pay with their lives during this period, and for what purpose will their lives be sacrificed? Is the national security of the United States involved in what happens in Cambodia? For what lesser purpose do we have a right to require the lives of our young men?

Mr. President, while we are thus becoming more and more bogged down in a land war in Asia, there are signs that the Soviets are moving into the Middle East. Could this not be foreseen? At least, the senior Senator from Tennessee so forewarned, and has done so repeatedly during the past year.

There is no question but that North Vietnamese and Vietcong forces have been operating from "sanctuaries" within Cambodia adjacent to its border with South Vietnam. The same is true with respect to Laos. The same is true, as I said earlier in the colloquy, with respect to Vietnam north of the demilitarized zone.

This situation is indeed one of the inherent difficulties under which we have been fighting the war in Vietnam. The Vietnam war is not a conventional war. There are no battle lines in the normal sense of that term. The enemy strikes and then fades away only to reappear again and again. The kind of war that is being fought forms a basis, in part, for the admonitions of many of our greatest military leaders down through the years who have warned against U.S. participation in a land war in Asia.

Now, if the action as outlined by the President is successful—if in fact our forces and those of South Vietnam do succeed in cleaning out the sanctuaries which were depicted on the map displayed by the President and extending some 20 to 25 miles into Cambodian territory—similar sanctuaries can and undoubtedly will be reestablished farther to the west or farther to the north.

Early reports indicate in fact that the Communist forces in these areas, or some of them, may have already retreated to a new area. The question arises: Do we then pursue them into their new "sanctuaries," and, if so, how far does the President expect to expand the war in pursuit of sanctuaries?

It seems to me that a basic change in U.S. policy is implicit in the President's statement. The clear implication from what he said is that this action is being taken for the purpose of destroying military forces of the Vietcong and of North Vietnam and the communication and logistic facilities supporting them—in other words, the achievement of a military victory in Vietnam and Indochina. Such a military victory has heretofore been ruled out in Presidential statements of both President Nixon and President Johnson—implied by former President Johnson, and specifically on May 14 of last year by President Nixon. Both have asserted not once but several times that we seek no military victory in the normal sense in which that term is used, that is, that we do not seek the destruction of the military capability of North Vietnam to the point that that country no longer has the means or will to fight effectively and is therefore compelled to surrender.

If this is, in fact, the purpose of the operation that is being conducted, in my opinion, it cannot succeed merely by cleaning out small areas along the border of Cambodia and North Vietnam. The military base for both Vietcong and North Vietnamese forces is North Vietnam itself, and the only way this military base can be destroyed is by invading North Vietnam. We tried bombing North Vietnam, unloading bombs on North Vietnam in tonnages of greater intensity than anything known in World War II. It did not succeed. Although great destruction was rained upon that country it seemed only to strengthen the will of its people to fight.

The administrations of President Johnson and of President Nixon have both stated repeatedly that this country had no intention of invading North Vietnam. I do not mean to imply that President Nixon has such an intention now. I surely do not advocate it. I say only that the arguments he advanced last evening in support of the decision he announced might more logically be made in support of an invasion of North Vietnam than in support of an invasion of Cambodia.

For these reasons I am somewhat puzzled by the rationale for his decision as expressed by the President. I doubt that the war in Vietnam can be won, or even that we will achieve any lasting significant military advantage merely by cleaning out the sanctuaries described by the President on the map and then withdrawing as the President indicated we would do. If we withdraw, the Vietcong and the North Vietnamese can, and surely would, inevitably return. Even if we do not withdraw, the Communist forces could establish similar sanctuaries along the "new" border. In either event we would then be right back where we are, or nearly so—though perhaps farther from a negotiated settlement, and after untold numbers of American boys have given their lives or portions of their

bodies. If we should not withdraw there would, of course, be a difference in that we would then be engaged in an expanded geographic area, with our forces necessarily spread more thinly and with a steadily decreasing number of troops to commit if the withdrawal program under Vietnamization continues.

I surely do not claim to be an authority on military strategy. I have had no more experience in that regard than Secretary Laird or Secretary McNamara. We all have to do the best we can in this field, in which none of us can claim expertise. But officials of the U.S. Government, chosen by the people, must conscientiously and earnestly perform their duties. If the operations which we propose to take, or the President proposes to take, are to be limited as the President's statement indicated, I simply do not think the strategy makes sense.

Accordingly, I am persuaded that the action that has been taken has implications other than those described by the President. Inevitably this action will constitute an extension of the U.S. commitment to include the entire area of Cambodia and the support of the government recently established there.

The military forces of Cambodia are weak, to put it mildly. Most observers who have reported from Cambodia indicate—and reports of military operations going on there also indicate—that the Cambodian capital of Phnompenh was within the grasp of Communist forces. Already large areas of the country have been wrested from control of the Cambodian Government.

In his statement the President conceded that the Cambodian military forces were incapable of absorbing and using effectively large quantities of sophisticated military equipment. I would agree with the President's assessment. On the basis of reports thus far there is, in fact, doubt that they can use efficiently the equipment they already have.

Thus, in some respects the decision to extend military aid to Cambodia may be more revealing as to the purpose of the entire action than is the decision to commit combat troops in the restricted sanctuary areas. The rationale of the President's statement in support of the commitment of combat troops is wholly inapplicable to his decision to provide military aid in small amounts to the Government of Cambodia. There is no way by which the provision of rifles to the small and weak army of Cambodia could make a significant contribution to the protection of the lives of American soldiers in South Vietnam. Indeed the President did not state that this was the purpose of that decision. He said:

But the aid we will provide will be limited for the purpose of enabling Cambodia to defend its neutrality, and not for the purpose of making it an active belligerent on one side or the other.

Clearly the military equipment and supplies being given to the Cambodian Government are for the purpose of supporting that government. The President specifically stated that this aid was not being given for the purpose of bringing Cambodia into the war on the side of the United States and South Vietnam.

The passage in the President's statement which I have just quoted is sadly reminiscent of previous Presidential statements about South Vietnam that have been made over the years. Our actions in South Vietnam have all been taken in the name of assisting the people of South Vietnam to decide their own destiny. Each such statement and each action up the escalation ladder has in turn been used as a basis for a deeper and deeper commitment. In this way we found ourselves little by little ensnared in a quagmire from which we have been unable to extricate ourselves, and into which we now plunge more deeply.

I return to the question of ground combat operations in Cambodia. If this action as described by the President will not achieve military victory in Vietnam—and I do not believe it will—what purpose might it achieve? If pursued along its logical course, ground operations in eastern Cambodia might well relieve the pressure now being applied by Vietcong and North Vietnamese forces in that country. If we should cut the supply lines from North Vietnam running through Laos, the Communist forces now on the outskirts of Phnompenh would surely find their situation more difficult. At least, if our operations in eastern Cambodia are actually being taken for some such purpose, then from a military point of view they would make more sense than for the purposes for which they were described.

In the limited time available for an analysis of the President's statement, I can conclude only that the action he announced constitutes a significant expansion of the U.S. commitment in Southeast Asia. By this action the President, even though he did not so state, and even though he may not so intend, has involved the United States in the defense of Cambodia.

This has been done, so far as the public record reveals without request from Cambodia, except with respect to the supply of military equipment. So far as the Senate has been advised, Cambodia has not asked to be defended. Cambodia has not requested an invasion, and has not requested U.S. military forces. This action has been taken without the sanction of Congress. It has been taken without legal commitment by treaty. Is this not, then, the Vietnam pattern all over again?

Perhaps an expansion of the war is an inevitable consequence of continuing the war in Vietnam. Presidents have said we seek "no wider war." But today we have a wider war, the war has been widened through the years. And day by day and night by night, the number of American young men whose lives and whose bodies have been sacrificed has mounted. We now have engaged in the longest war in our history—undeclared—and at every opportunity the people have had, it has been disapproved by the American people.

Militarily it is difficult, if not impossible, to separate the war in Cambodia from the war in Vietnam. The same is true of Laos. It is in a sense all the same war—all within a long, narrow peninsula in which the little countries of Laos,

Cambodia, and Vietnam rest. It is not the usual war. It is unique. This, however, argues not for a widening of our involvement in a land war in Asia but, rather, for a negotiated peaceful settlement.

The present Government of Cambodia lacks the popular support of the masses in Cambodia, just as the Thieu-Ky regime lacks popular support in Vietnam. If we pursue the course upon which we have apparently embarked, Premier Lon Nol will be a second millstone around our neck. Perhaps not as heavy as President Thieu—God forbid—but equally difficult to dislodge.

I am concerned about the constitutional questions concerning this action that has been taken unilaterally by President Nixon. I am also deeply concerned about the implication of this action involving us even more deeply than we were already involved in Southeast Asia. I do not believe, and I have never believed, that this involvement served the genuine interest of our country.

If I interpret correctly the President's statement and his action, we are today further away from the possibility of a negotiated settlement than we were yesterday. Pursuit of "victory" in Vietnam now, which the President specifically "ruled out" in his speech of last May 14, means that this country will be bogged down and that her sons will die in Asia for years to come.

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. GRIFFIN. 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. GURNEY. Mr. President, I support President Nixon wholeheartedly in the decision he announced yesterday, to hit and destroy the enemy sanctuaries in Cambodia.

That is where the enemy gathers his troops and supplies. From there, he strikes and kills our troops and then retires to safety before our forces can engage him. To permit such enemy havens to go scot free is to violate every rule of warfare. It is to force our soldiers to fight the enemy with one arm tied behind their backs.

President Nixon, in ordering this action against these Communist havens, is protecting the lives of our troops. He is doing what any sensible and prudent commander would do. He is doing now what should have been done years ago.

The charge of the antiwar doves that this is broadening of the war is pure bosh. There is no broadening in this action. We are hitting the same enemy, operating from the same places of sanctuary, and using the same supply sources—the same state of affairs that has existed for years.

This blow against the Communist enemy will hurt him grievously; it will seriously weaken him. It will lower his morale and his will to fight.

It will give our allies, the South Vietnamese, needed additional and valuable time to strengthen their troops.

It will materially help the program of

President Nixon to accomplish the Vietnamization of this war.

It will save American lives in the months ahead.

It will enable our President to get along faster with his promise to withdraw American troops.

This is a necessary, wise, and courageous decision by a President who is gaining more and more respect of Americans everywhere, as he tackles and meets responsibly, the tough decisions facing the Nation.

It is a great source of satisfaction and reassurance to me to know we have a President who is indeed leading this Nation, instead of being led by minority opinion, whose main strength is the frequency and loudness of their protests, rather than the soundness of their reasoning and conclusions.

All of us want to get out of Vietnam and all of us want the war ended. Most will agree that it was a mistake to be there in the first place.

But let us not forget that we are getting out. Withdrawal of 150,000 more U.S. troops is now in progress. The war is now far more a Vietnamese war than an American war. There is a new and completely different policy than in the Kennedy-Johnson years.

But this does not mean that fighting will stop at once, even though it has cooled off very considerably.

Nor does it mean that sound and necessary tactical moves against the enemy should cease simply because the United States is withdrawing troops.

As I said, the President is clearly right in this move against Communist sanctuaries. He has my complete support in this bold stroke to protect American lives and shorten this war.

I hope millions of other Americans, who have fervently hoped and prayed for strong leadership in the White House on Vietnam, will back up President Nixon now.

Also, I hope they will give this great President the support he needs to end this war, and preserve U.S. leadership of free peoples, in a world increasingly threatened with the dark mantle of Communist destruction of freedoms.

Mr. LONG. Mr. President, I would like to add my voice to those who have applauded the President's courage and his patriotism in making the speech he delivered and taking the position he took yesterday with regard to sending American troops into Cambodia.

It is very clear that the President of the United States is not acting as a matter of partisanship, and he is not acting in any way seeking to benefit himself, personally, or his party. The President did his duty as he saw it. In my judgment, he is right, and he deserves the support of every Member of the Senate and every Member of the House of Representatives. We must respect the fact that as the Chief Executive, and the Commander in Chief of our Armed Forces, he is doing the best he can to make the best use of our troops in South Vietnam to the end that, at such time as these American troops are withdrawn or their number greatly reduced, the Government of South Vietnam will have a chance to defend itself and to defend

freedom as we respect it in that part of the world.

I am aware of the fact that many others on my side of the aisle think, as I do, that the President did what was right. We upheld President Johnson when he made difficult decisions which he thought the Nation's interests required. I think it will be found that there will be many on my side of the aisle who will uphold the President in the days to come in meeting the fateful decisions which an American President, true to his own convictions and his oath of office, undertakes to carry out as Chief Executive.

Mr. GRIFFIN. Mr. President, obviously the action announced by President Nixon in his television address to the Nation last night represented a very difficult and courageous decision.

It was one that only the Commander in Chief could make—the kind of a decision that spells the difference between an ordinary President and a great President.

I support the President in his decision. He deserves, and I fervently hope he will have, the support of the American people and of their elected Representatives and Senators in Congress.

Mr. President, I ask unanimous consent that the text of President Nixon's address be printed in the RECORD.

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

RADIO AND TELEVISION ADDRESS BY THE PRESIDENT ON THE SITUATION IN SOUTHEAST ASIA

Good evening my fellow Americans.

Ten days ago, in my report to the Nation on Vietnam, I announced a decision to withdraw an additional 150,000 Americans from Vietnam over the next year. I said then I was making that decision despite our concern over increased enemy activity in Laos, in Cambodia, and in South Vietnam.

At that time, I warned that if I concluded that increased enemy activity in any of these areas endangered the lives of Americans remaining in Vietnam, I would not hesitate to take strong and effective measures to deal with that situation.

Despite that warning, North Vietnam has increased its military aggression in all these areas, and particularly in Cambodia.

After full consultation with the National Security Council, Ambassador Bunker, General Abrams and my other advisers, I have concluded that the actions of the enemy in the last ten days clearly endanger the lives of Americans who are in Vietnam now and would constitute an unacceptable risk to those who will be there after withdrawal of another 150,000.

To protect our men who are in Vietnam and to guarantee the continued success of our withdrawal and Vietnamization programs, I have concluded that the time has come for action.

Tonight, I shall describe the actions of the enemy, the actions I have ordered to deal with that situation, and the reasons for my decision.

Cambodia, a small country of seven million people, has been a neutral nation since the Geneva Agreement of 1954—an agreement, incidentally, which was signed by the government of North Vietnam.

American policy since then has been to scrupulously respect the neutrality of the Cambodian people. We have maintained a skeleton diplomatic mission of fewer than fifteen in Cambodia's capital, and that only since last August. For the previous four years, from 1965 to 1969, we did not have any diplomatic mission whatever in Cam-

bodia. And for the past five years, we have provided no military assistance whatever and no economic assistance to Cambodia.

North Vietnam, however, has not respected that neutrality.

For the past five years—as indicated on this map that you see here—North Vietnam has occupied military sanctuaries all along the Cambodian frontier with South Vietnam. Some of these extend up to 20 miles into Cambodia. The sanctuaries are in red, and as you note, they are on both sides of the border. They are used for hit and run attacks on American and South Vietnamese forces in South Vietnam.

These Communist occupied territories contain major base camps, training sites, logistics facilities, weapons and ammunition factories, air strips and prisoner of war compounds.

For five years, neither the United States nor South Vietnam has moved against those enemy sanctuaries because we did not wish to violate the territory of a neutral nation. Even after the Vietnamese Communists began to expand these sanctuaries four weeks ago, we counselled patience to our South Vietnamese allies and imposed restraints on our own commanders.

In contrast to our policy, the enemy in the past two weeks has stepped up his guerrilla actions and he is concentrating his main forces in these sanctuaries that you see on this map where they are building up to launch massive attacks on our forces and those of South Vietnam.

North Vietnam in the last two weeks has stripped away all pretense of respecting the sovereignty or neutrality of Cambodia. Thousands of their soldiers are invading the country from the sanctuaries; they are encircling the Capital of Phnom Penh, coming from these sanctuaries, as you see here. They have moved into Cambodia and are encircling the Capital.

Cambodia, as a result of this, sent out a call to the United States, to a number of other nations, for assistance. Because if this enemy effort succeeds, Cambodia would become a vast enemy staging area and a springboard for attacks on South Vietnam along 600 miles of frontier—a refuge where enemy troops could return from combat without fear of retaliation.

North Vietnamese men and supplies could then be poured into that country, jeopardizing not only the lives of our own men, but the people of South Vietnam as well.

Now confronted with this situation, we have three options.

First, we can do nothing. Well, the ultimate result of that course of action is clear. Unless we indulge in wishful thinking, the lives of Americans remaining in Vietnam after our next withdrawal of 150,000 would be gravely threatened.

Let us go to the map again. Here is South Vietnam. Here is North Vietnam. North Vietnam already occupies this part of Laos. If North Vietnam also occupied this whole band in Cambodia, or the entire country, it would mean that South Vietnam was completely out-flanked and the forces of Americans in this area, as well as the South Vietnamese, would be in an untenable military position.

Our second choice is to provide massive military assistance to Cambodia itself. Now unfortunately, while we deeply sympathize with the plight of seven million Cambodians whose country is being invaded, massive amounts of military assistance could not be rapidly and effectively utilized by the small Cambodian army against the immediate threat.

With other nations, we shall do our best to provide the small arms and other equipment which the Cambodian army of 40,000 needs and can use for its defense. But the aid we will provide will be limited for the purpose of enabling Cambodia to defend its neutrality and not for the purpose of making it an active belligerent on one side or the other.

Our third choice is to go to the heart of the trouble. That means cleaning out major North Vietnamese and Viet Cong occupied territories, these sanctuaries which serve as bases for attacks on both Cambodia and American and South Vietnamese forces in South Vietnam. Some of these, incidentally, are as close to Saigon as Baltimore is to Washington.

This one, for example, is called the Parrot's Beak. It is only 33 miles from Saigon.

Now faced with these three options, this is the decision I have made.

In cooperation with the armed forces of South Vietnam, attacks are being launched this week to clean out major enemy sanctuaries on the Cambodian-Vietnam border.

A major responsibility for the ground operations is being assumed by South Vietnamese forces. For example, the attacks in several areas, including the Parrot's Beak that I referred to a moment ago, are exclusively South Vietnamese ground operations under South Vietnamese command, with the United States providing air and logistical support.

There is one area, however, immediately above Parrot's Beak, where I have concluded that a combined American and South Vietnamese operation is necessary.

Tonight, American and South Vietnamese units will attack the headquarters for the entire Communist military operation in South Vietnam. This key control center has been occupied by the North Vietnamese and Viet Cong for five years in blatant violation of Cambodia's neutrality.

This is not an invasion of Cambodia. The areas in which these attacks will be launched are completely occupied and controlled by North Vietnamese forces. Our purpose is not to occupy the areas. Once enemy forces are driven out of these sanctuaries and once their military supplies are destroyed, we will withdraw.

These actions are in no way directed to the security interests of any nation. Any government that chooses to use these actions as a pretext for harming relations with the United States will be doing so on its own responsibility, and on its own initiative, and we will draw the appropriate conclusions.

Now let me give you the reasons for my decision.

A majority of the American people, a majority of you listening to me, are for the withdrawal of our forces from Vietnam.

The action I have taken tonight is indispensable for the continuing success of that withdrawal program.

A majority of the American people want to end this war rather than to have it drag on interminably. The action I have taken tonight will serve that purpose.

A majority of the American people want to keep the casualties of our brave men in Vietnam at an absolute minimum. The action I take tonight is essential if we are to accomplish that goal.

We take this action not for the purpose of expanding the war into Cambodia, but for the purpose of ending the war in Vietnam and winning the just peace we all desire. We have made and we will continue to make any possible effort to end this war through negotiations at the conference table rather than through more fighting on the battlefield.

Let us look again at the record. We have stopped the bombing of North Vietnam. We have cut air operations by over 20 percent. We have announced withdrawal of over 250,000 of our men. We have offered to withdraw all of our men if they will withdraw theirs. We have offered to negotiate all issues with only one condition—and that is that the future of South Vietnam be determined not by North Vietnam, not by the United States, but by the people of South Vietnam themselves.

The answer of the enemy has been intransigence at the conference table, bel-

ligerence in Hanoi, massive military aggression in Laos and Cambodia and stepped-up acts in South Vietnam, designed to increase American casualties.

This attitude has become intolerable. We will not react to this threat to American lives merely by plaintive diplomatic protests. If we did, the credibility of the United States would be destroyed in every area of the world where only the power of the United States deters aggression.

Tonight I again warn the North Vietnamese that if they continue to escalate the fighting when the United States is withdrawing its forces I shall meet my responsibility as Commander-in-Chief of our Armed Forces to take the action I consider necessary to defend the security of our American men.

This action that I have announced tonight puts the leaders of North Vietnam on notice that we will be patient in working for peace, we will be conciliatory at the conference table, but we will not be humiliated. We will not be defeated. We will not allow American men by the thousands to be killed by an enemy from privileged sanctuaries.

The time came long ago to end this war through peaceful negotiations. We stand ready for those negotiations. We have made major efforts, many of which must remain secret. I say tonight that all the offers and approaches made previously remain on the conference table whenever Hanoi is ready to negotiate seriously.

But if the enemy response to our most conciliatory offers for peaceful negotiation continues to be to increase its attacks and humiliate and defeat us, we shall react accordingly.

My fellow Americans, we live in an age of anarchy, both abroad and at home. We see mindless attacks on all the great institutions which have been created by free civilizations in the last 500 years. Even here in the United States great universities are being systematically destroyed. Small nations all over the world find themselves under attack from within and without.

If, when the chips are down, the world's most powerful nation, the United States of America, acts like a pitiful, helpless giant, the forces of totalitarianism and anarchy will threaten free nations and free institutions throughout the world.

It is not our power, but our will and character that is being tested tonight. The question all Americans must ask and answer tonight is this: Does the richest and strongest nation in the history of the world have the character to meet a direct challenge by a group which rejects every effort to win a just peace, ignores our warning, tramples on solemn agreements, violates the neutrality of an unarmed people, and uses our prisoners as hostages?

If we failed to meet this challenge, all other nations will be on notice that despite its overwhelming power the United States, when a real crisis comes, will be found wanting.

During my campaign for the Presidency, I pledged to bring Americans home from Vietnam. They are coming home.

I promised to end this war. I shall keep that promise.

I promised to win a just peace. I shall keep that promise.

We shall avoid a wider war. But we are also determined to put an end to this war.

In this room, Woodrow Wilson made the great decisions which led to victory in World War I. Franklin Roosevelt made the decisions which led to our victory in World War II. Dwight D. Eisenhower made decisions which ended the war in Korea and avoided war in the Middle East. John F. Kennedy, in his finest hour, made the great decision which removed Soviet nuclear missiles from Cuba and the Western Hemisphere.

I have noted that there has been a great deal of discussion with regard to this de-

cision that I have made and I should point out that I do not contend that it is in the same magnitude of these decisions that I have just mentioned. But between those decisions and this decision there is a difference that is very fundamental. In those decisions the American people were not assailed by counsels of doubt and defeat from some of the most widely known opinion leaders of the nation.

I have noted, for example, that a Republican Senator has said that this action I have taken means that my party has lost all chance of winning the November elections. And others are saying today that this move against the enemy sanctuaries will make me a one-term President.

No one is more aware than I am of the political consequences of the action I have taken. It is tempting to take the easy political path: To blame this war on previous Administrations and to bring all of our men home immediately, regardless of the consequences; even though that would mean defeat for the United States; To desert 18 million South Vietnamese people, who have put their trust in us and to expose them to the same slaughter and savagery which the leaders of North Vietnam inflicted on hundreds of thousands of North Vietnamese who chose freedom when the Communists took over North Vietnam in 1954; To get peace at any price now, even though I know that a peace of humiliation for the United States would lead to a bigger war or surrender later.

I have rejected all political consideration in making this decision.

Whether my party gains in November is nothing compared to the lives of 400,000 brave Americans fighting for our country and for the cause of peace and freedom in Vietnam. Whether I may be a one-term President is insignificant compared to whether by our failure to act in this crisis the United States proves itself to be unworthy to lead the forces of freedom in this critical period in world history. I would rather be a one-term President and do what I believe is right than to be a two-term President at the cost of seeing America become a second-rate power and to see this nation accept the first defeat in its proud 190-year history.

I realize that in this war there are honest and deep differences in this country about whether we should have ever become involved. There are differences as to how the war should have been conducted. But the decision announced tonight transcends those differences.

For the lives of American men are involved. The opportunity for 150,000 Americans to come home in the next 12 months is involved. The future of 18 million people in South Vietnam and 7 million people in Cambodia is involved. The possibility of winning a just peace in Vietnam and in the Pacific is at stake.

It is customary to conclude a speech from the White House by asking support for the President of the United States. Tonight, I depart from that precedent. What I ask is far more important. I ask for your support for our brave men fighting tonight halfway around the world—not for territory—not for glory—but so that their younger brothers and their sons and your sons can have a chance to grow up in a world of peace and freedom and justice.

Thank you and good night.

#### U.S. INVOLVEMENT IN CAMBODIA

Mr. THURMOND. Mr. President (Mr. BENNETT), the bold and courageous action taken by President Nixon in ordering the destruction of North Vietnamese sanctuaries in Cambodia deserves the support of the Congress and the American people.

This move by the President was made

in consideration of lives and safety of the 400,000 American troops in Vietnam. It will bring the war to an earlier end and allow continued withdrawals of American troops.

President Nixon is taking action which the doves have refused to allow for several years. The fact that no decisive action has been taken heretofore has prolonged the war and has cost us seriously in increased casualties and valuable military supplies.

Mr. President, there is too much sentiment against President Nixon's action in the press and other news media. These comments undercut our Commander in Chief and sow seeds of doubt among the American people. They are based on a lack of information, but they are nevertheless serving to influence a great many people who are not better informed.

One of the points taken by his critics is that President Nixon has violated the neutrality of Cambodia. In the strict sense of international law, this is not true. Cambodia was not neutral. If it were, the Government of Cambodia would have expelled the North Vietnamese forces years ago, and would not have permitted Communist troops and supplies to enter their country through mountain trails and the port of Sihanoukville. Actually, the North Vietnamese violated the neutrality of Cambodia first and they have continued to violate it by maintaining these very sanctuaries that are under attack. The military operations now underway by the American and South Vietnamese forces will serve to restore the neutrality of Cambodia.

This daring move will strike a mortal blow to the North Vietnamese and Vietcong forces who have enjoyed a privileged sanctuary for almost 4 years. It has caught them completely by surprise because they were accustomed to thinking that the United States would not undertake such a strong move, even though it was obviously necessary.

Another popular criticism of the President's action is to call this the "Indochina war" instead of the war in Vietnam. Mr. President, I would like to point out that in the area called Indochina, there are 20 million North Vietnamese, 18 million South Vietnamese, 33 million Thais, 3 million Laotians, and 7 million Cambodians. All but the North Vietnamese are anti-Communist and want to be free. Their resistance to communism is directly related to the position of the United States. There is little doubt that the anti-Communist forces in Indochina, particularly the well-armed and well-trained armies of South Vietnam and Thailand, can defeat the North Vietnamese forces. But they must be allowed to take decisive action such as that now going on at the Cambodian border.

Their will to do this is directly proportional to the backing that they receive from the United States. We must take a firm stand in order to bring this war to a close. In my judgment, Communist China will not make any overt moves if the United States makes it clear that such action would bring immediate retaliation. We know from the history of the Korean war that Red China intervened in Korea only after the United

States had assured them of a sanctuary north of the Yalu River. Events have proven that this was a tragic mistake, and the President is to be commended for eliminating sanctuaries from the Vietnamese conflict. During the long history of this war in Vietnam, no American President before has had the courage to take decisive action such as this and assist in bringing the war to an end.

Mr. President, in my judgment, this war could have been ended years ago with much fewer American casualties if Presidents Kennedy and Johnson had favored decisive military operations. Also, it is shocking to hear that a responsible Member of the Congress welcomes North Vietnamese preeminence in all of Indochina because Hanoi is strong enough to resist Chinese domination. This attitude is bound to encourage the North Vietnamese and the Vietcong to continue fighting and to kill more Americans and their Allies. He and others of similar opinion bear a heavy responsibility for the continuance of hostilities in Vietnam, for the mounting casualties of our forces, and for the prolongation of the war.

Mr. President, I think that President Nixon, as Commander in Chief of our Armed Forces, who is responsible for the lives of our 400,000 men in South Vietnam, has information that is not generally available. He has taken decisive and bold action after a careful examination of this information, and he deserves the confidence and support of the American people and this Congress. He is doing what is necessary to shorten the war, to stabilize the area, and to continue with his proposed withdrawal of American troops. These present military operations are intended to save lives and shorten the war. Those who criticize and oppose the President in a vacuum of information are doing a disservice not only to this country, but to our brave men, living and dead, who have fought to preserve our freedom.

Mr. President, I have received a telegram from Mr. E. Roy Stone, Jr., of Greenville, S.C., reading as follows:

Urge support of President's action to remove sanctuaries in Cambodia necessary to protect our troops. Political motives must now be laid aside. Action taken is in line with Legion foreign policy statement at national convention 1969.

The telegram refers to the convention of the American Legion, one of the great, patriotic organizations in this country that stands for those principles that have made America the greatest nation in the world.

Mr. President, I have received another telegram from Nell and Walter Chastian, Charleston, S.C., reading as follows:

We support Nixon's decision tonight—Hope you will.

Mr. President, I have received another telegram from Kirk R. Craig, of Greenville, S.C., reading as follows: Support Nixon.

Mr. President, these constitute just a sample of the many telegrams and messages that I have received supporting our great President in his bold and

courageous action to try to protect American troops and bring this war to an early close.

#### THE PROPOSED CONSTITUTIONAL AMENDMENT TO PROVIDE FOR THE DIRECT ELECTION OF THE PRESIDENT AND VICE PRESIDENT

Mr. SPONG. Mr. President, the Senate shortly will be considering a proposed constitutional amendment to provide for the direct election of Presidents.

On the surface, it is an appealing proposition. Certainly, nothing would seem to be more consistent with the democratic ideal of one man, one vote.

However, in evaluating such a fundamental change in our electoral system, one must look beyond abstract principles to consider the practical consequences. And these, I am convinced, would be profound for the stability of our present two-party system.

Under the proposed amendment, the electoral college system would be replaced by a simple, nationwide popular vote with a plurality of 40 percent or more required to win. In the event no one reached that figure, the proposal calls for a second, runoff contest between the two leading candidates.

It is important to note that this system would not assure the election of a majority President. In fact, it is far less likely to do that without a runoff than the present method of selection.

But it would eliminate the possibility that a candidate with fewer popular votes than his opponent could nevertheless win an electoral majority and hence the election. That is a possibility, albeit a remote one.

In all of our history, it has happened only once—in the election of 1888 when the popular vote spread was less than 100,000. For the most part, however, the electoral vote has faithfully followed the decision at the polls even in such close contests as 1960 and 1968.

Against this marginal improvement, must be weighed the probable splintering effect on our party system of opening the field to any candidate who has the slightest popular appeal, no matter how narrow the issues on which he stands.

A system of direct election would almost certainly encourage this kind of proliferation. Whether with serious thoughts of winning or merely as an effort to gain bargaining power in a runoff election, every candidate with some popular following and the means to finance a campaign would be tempted to make the race.

Even more, there would be a premium on distinguishing oneself from all other candidates in the field by taking more extreme positions or emphasizing one or two issues to the exclusion of all others.

The great virtue of our present winner-take-all electoral system is that it discourages such single-issue or ideological candidates by requiring a base of support broad enough to carry a majority in at least a few States. Historically, it has been this requirement that has prevented the factionalization of politics in this country and which has made our

parties the broad-based, accommodating groups that alone can assure stability in a democratic government.

That this is more than a theoretical possibility is witnessed by the extreme factionalism and instability of some European democracies—namely Italy and pre-De Gaulle France. While it was not the intended purpose of the electoral college system, it nevertheless has served us well by supporting a party system which tends to unite rather than divide our people.

Contrary to the intentions and expectations of the proponents of this amendment, a direct election system is more likely to frustrate than to facilitate the expression of popular will if, as I believe is inevitable, the election is forced to a runoff. The candidates in such a runoff would be the two leading votegetters in the first election but there is no assurance that either or both together will have a substantial plurality of all the votes. Nor can it be determined that these two candidates are even the preferred second choices of most of the voters.

What will emerge from this process, I believe, is a form of coalition government with the presidency going to the runoff candidate who is most successful in negotiating support from other minor candidates. But it will be difficult in the end to say that the winner has any kind of popular mandate or broad support in the country.

There are other drawbacks to the direct election proposal. For example, it would certainly increase the cost of campaigns and with runoffs taken into account, it could make our highest political office a rich man's prize.

Moreover, without the protective buffer of the electoral college system, every vote would take on increased importance and become the object of intense and divisive postelection challenges. It could also enhance the profitability of corrupt voting practices.

To point out these weaknesses in the direct election proposal is not to argue that our present method of electing presidents is the best of all possible systems. Rather, it is to counsel the utmost caution in tampering with a system that is basically sound and which has served us well for more than 180 years.

There are shortcomings in this system, particularly with the problem of the so-called faithless elector and with the provision for choosing a President in the event the electoral college does not produce a majority.

These proposals can be solved much more simply than is proposed in the direct election amendment. I think two reforms in particular are needed. First, I believe electors as such should be eliminated and the division of electoral votes made an automatic thing. Second, I believe we can improve our method for naming a president outside the electoral vote system by making it a matter for the entire Congress to decide—Senate and House—with each Member having one vote.

This more modest approach to improving our electoral system is embodied in a resolution introduced by the distinguished Senator from North Carolina,

Senator ERVIN. I believe it will meet the problems that we have experienced without endangering the foundations of our political processes in the bargain. For that reason, I will support the Ervin amendment or any similar proposal that comes to a vote in the Senate.

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. MILLER. 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 PRESIDENT'S DECISION WITH RESPECT TO CAMBODIAN SANCTUARIES

Mr. MILLER. Mr. President, the President's courageous address to the Nation last night announced a decision which will be applauded by those who really care about the Americans who bear the burden of the war—our brave men who are fighting there.

When I visited South Vietnam for the first time 4 years ago last January it was well known by our leaders that the North Vietnamese troops were using privileged sanctuaries in Cambodia along the border of South Vietnam—sanctuaries where these troops were being rested, regrouped, and resupplied for further attacks in South Vietnam against American and allied troops.

The action taken by our President, as the Commander in Chief, to have our troops join with South Vietnamese in clearing out these sanctuaries should have been taken over 4 years ago. It is merely another form of the principle of hot pursuit which provides that invading troops will not be free just because they withdraw over a borderline, but that they will be followed and destroyed if they remain within striking distance of the border.

I understand the diplomatic reasons why, for all of these years, our troops have had one hand tied behind their backs through the refusal to permit them to destroy these privileged sanctuaries.

The Sihanouk government would not even admit the presence of the invading North Vietnamese troops, much less permit action against them. With Sihanouk's recent ouster, the diplomatic situation has changed.

The President has made it clear that our only objective is to clean out the privileged sanctuaries in Cambodia, and that then our forces will return to South Vietnam. It will be well for our people to take him at his word. Of course, there will be some who will not do so, and who will try to read other motives into this decision. If they do, they will only be giving aid and comfort to the Communist leaders in Hanoi, Peiping, and Moscow.

Already there is a chorus of negativism being voiced, skepticism over the truthfulness of the President's statement, criticism over what is called an uncon-

stitutional exercise of his powers as Commander in Chief, and the like.

There has never been any question over the constitutionality of the hot pursuit principle, so I am confident the President is on sound ground.

But why are the critics so silent about North Vietnam, which has caused the war itself? Why is there no criticism of North Vietnam for its invasion of South Vietnam? Why is there no criticism of North Vietnam for its invasion of Cambodia? Why is there no criticism of North Vietnam for its use of privileged sanctuaries in Cambodia? Why is there no criticism of North Vietnam for its violation of the Geneva agreement regarding the humane treatment of prisoners of war? Why is there no criticism of North Vietnam for its refusal to enter into meaningful negotiations? Silence, insofar as this criticism is concerned, is deafening. We should unite behind our President. If we do the war will be shortened and the number of casualties will be lessened.

Mr. GRIFFIN. Mr. President, I congratulate the distinguished Senator from Iowa for a very excellent statement, and I associate myself with his remarks.

I ask unanimous consent to have printed in the RECORD an editorial which was published in today's Washington Star and an editorial which was published in today's Washington Daily News.

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

[From the Evening Star, May 1, 1970]

#### THE GAMBLE

The President's address to the nation was not, as had been generally anticipated, an answer to his critics. It was, rather, the unexpected announcement that a major military, diplomatic and political gamble is under way.

The implications of the thrust into enemy sanctuaries along the Cambodian border are vast. The military considerations and the diplomatic and world political repercussions that may result from the present offensive will be dealt with at greater length in an editorial Sunday. But the first reaction to the President's gamble will be reflected in the Congress, in the minds of the electorate and, finally, in the polling places of America.

The President's speech was startling not only because it unveiled a joint South Vietnamese-American military offensive of major scope, but because it revealed a new and unexpected Nixon. Yesterday the President was the picture of restraint, carefully balancing the arguments of those who yearned for peace above all and those who pressed for military victory, seemingly guided by a desire to avoid offending anyone too much, slowly and cautiously defusing the inherited war. Today he has gambled virtually his entire political stake, so painstakingly accumulated, on a single throw of the military dice.

The loud, adverse reaction has already erupted in Congress. It will inevitably follow, as the President must know, on the campuses and in the streets.

It is a reaction that is, in part at least, justified. The war, which was winding down, has suddenly enlarged in scope. Casualty lists will rise in the coming weeks. The possibility of military defeat, or of major escalation and a widening involvement in the war on the Indochinese mainland, does exist.

But the reaction is premature. It is too easy simply to say that we have been this way before, in the bombing in North Vietnam and in other major offensives that have failed in their objective of convincing the

enemy to negotiate. The situation has never been exactly what it is today. The enemy has never tried to fight major simultaneous actions in Vietnam, Laos and Cambodia. He has never faced the problem of supply that now exists, with the port of Sihanoukville closed to him and the long overland routes from the North under heavy bombardment. He has never been as tired as he is today.

The enemy's extraordinary resourcefulness, stamina and recuperative powers are well established. But they are not limitless. The President's military advisers have convinced him that the limit has been reached, that the enemy is vulnerable and that his ability to continue a major war in South Vietnam can be crippled.

If this advice is wrong, the effect on domestic morale—and on Mr. Nixon's political future—will be devastating. If it is right, the timetable for orderly withdrawal will be measurably shortened.

Those who have been quick to condemn the offensive as a foregone failure should hold their fire. They might better spend the next six to eight weeks joining in the prayerful hope that, this time, they are wrong.

[From the Washington Daily News,  
May 1, 1970]

#### NIXON WARNS THE COMMUNIST WORLD

President Nixon has made an impressive defense of his decision to send U.S. troops into Cambodia to destroy Communist bases and headquarters for their attack on South Vietnam.

Altho the decision seems to be militarily sound, it is also clearly loaded with danger. It runs the risk of unexpected and unpleasant reactions by North Vietnam, China and Russia.

Nevertheless, the President—and this may be the most important part of his address last night—served notice on the Communist world that America is not "a pitiful helpless

giant" that will tolerate "humiliation and defeat" or will fail to "meet a direct challenge."

In this way Mr. Nixon was looking past Vietnam to other areas of danger, like the tinderbox Middle East and Berlin, and warning the Kremlin not to test us. He has concluded that a policy of firmness is better than appeasement in warding off collision between the two superpowers.

Historically, such a policy is often the best one, and we hope the Soviet Union gets the President's message, avoids miscalculation, and does not press on toward confrontation.

In Vietnam itself, the situation during the past weeks has grown even more perilous than the President said. White House officials disclosed that the North Vietnamese have been pushing out from their separate border sanctuaries in Cambodia, trying to link them up into an area of free movement, and attempting to connect this zone with the South China Sea.

If this strategic move had succeeded, the enemy could move unlimited supplies by sea from North Vietnam and China and, as Mr. Nixon said, "launch massive attacks on our forces and those of South Vietnam."

Mr. Nixon declared, and most people in this country will agree: "We will not allow American men by the thousands to be killed by an enemy from privileged sanctuaries."

The President's plans are that our soldiers will withdraw from Cambodia in six weeks to two months after destroying so much of the enemy's supplies that he will be set back for several months. During that time, Mr. Nixon hopes Hanoi will realize it cannot win militarily and that it will start serious peace negotiations.

The North Vietnamese, however, are a tenacious foe and withstood fearsome bombing. We fear that Hanoi will find some way out of its military predicament. One way would be to ignore the sanctuaries, march on Cam-

bodia's capital of Phnom Penh, rout the weak government of Lon Nol, reinstall the leftist Prince Norodom Sihanouk in "power" and have him demand that we cease our "invasion" of "his" country.

We cite this bleak scenario only to point out that our military action in Cambodia may not, as the President said, shorten the war and get U.S. troops home quicker. We hope it does, but there are so many complications in sight that the public should not expect an easy or decisive victory.

Mr. Nixon is already coming under attack for "invading" Cambodia and "widening the war." These are specious charges. He sent troops into areas in Cambodia invaded by the North Vietnamese five years ago and occupied by them since then.

By using those areas as a staging ground for attack, it was Hanoi—not us—who made Cambodia part of the Vietnam War. And Cambodia is being attacked today only because its government had the outrageous nerve to ask the North Vietnamese to go home.

We don't know whether Mr. Nixon will succeed in eliminating Hanoi's invasion bases and saving the Cambodian government. But he is not wrong to try.

#### ADJOURNMENT TO TUESDAY, MAY 5, 1970, AT 11 A.M.

Mr. SPONG. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until Tuesday, May 5, 1970, at 11 a.m.

The motion was agreed to; and (at 3 o'clock and 29 minutes p.m.) the Senate adjourned until Tuesday, May 5, 1970, at 11 a.m.

## EXTENSIONS OF REMARKS

### THE REAL MEANING OF E-DAY

#### HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1970

Mr. OBEY. Mr. Speaker, throughout our land last week, literally millions of Americans paused to learn more about the fragile web of ecology upon which our lives depend and many demonstrated their concern over the plight of the world whose continued existence is threatened by environmental pollution. The full ramifications of the event of Earth Day can probably never be measured accurately, but at least this much is certain: A large number of Americans seem determined to begin the long hard fight of changing our accustomed style of life because they are more concerned now about life than the suicidal path that our present consumer-oriented, throw-away economic structure is leading us down.

I am sure that many of those who participated in Earth-Day activities, and indeed many of those who did not participate but who watch sympathetically, did not get the full impact of the message. I am sure that many think that cleaning up the environment is a simple matter

of picking up litter, but most realize that the fight is a much more fundamental one. Senator GAYLORD NELSON, the founder and organizer of Earth Day, has rightfully said:

Putting a halt to the destruction of our environment is going to be as tough a challenge as this country has ever faced.

This same point is made eloquently by recent editorial in the Green Bay Press-Gazette. In order that it may be read by my colleagues in the Congress, I insert the editorial at this point in the RECORD:

[From the Green Bay Press-Gazette,  
Apr. 19, 1970]

#### THE REAL MEANING OF E-DAY

The challenge of Earth Day next Wednesday, growing from the sponsorship of Wisconsin's Sen. Gaylord Nelson and Rep. Paul McCloskey of California is not merely to attend teach-ins and find out about the vast problems of pollution, over-population and the deteriorating quality of life throughout most of the world. It is to do something about the problems in the years ahead when the issue may not be especially popular or in the headlines. Dedication to finding solutions must weather the dull times.

The threats to the quality of life are many and varied. They also sometimes involve a paradox.

The automobile makes it simpler to get to employment and recreational areas but, at the same time, it spoils the atmosphere with air pollution that is a serious threat to

health. Better nutrition, maternity care and improved health care in general make for better living. But they also mean that more children are conceived and more survive infancy and make demands upon our resources. Vast industries pay ample wages to millions but they pollute our air and streams. In seeking more sources of protein food in the oceans, we may be eventually destroying the source itself. The convenience of throw-away bottles and cans and the packaging of foods build up the trash heaps. The interstate highway system may reduce the dangers of driving—although this is doubtful—but it also leads to more cars, the possibilities of more accidents, and the ruination of land. These contradictory situations are not going to be easy to merge.

What we do have to come to accept is that more and more and bigger and bigger are no longer valid measurements of the nation's health or of the people that live here. A new car every year, another snowmobile or boat, a second color television set, are not in the long run the answers to the increased leisure time so many Americans are experiencing.

But decisions along these lines are bound to affect our economy. If we ever revert to the old New England standard of "make it do, do without," the Cross National Product will falter. We must re-evaluate our priorities. It won't be easy.

Ideologically, Americans differ emphatically with Communist societies. But our nation's values have come to be essentially material, which is what the Communists have