Above all, to put an end to hatred and violence. To end the hatred between blacks and whites, between rich and poor, between young and old. To stop shouting and showing, and to start talking to each other in voices of mutual respect and tolerance.

I am worried, but I am not pessimistic. I am not pessimistic because for all its faults—my faith and hopes for this country rest ultimately on my belief in the decency and good sense of the majority—the people, black and white, who know that the law is all that stands between them and tyranny.

In our impatience with this majority, we sometimes lose sight of its virtues. It takes a man who knows his history, a great historian like Will Durant, to know what forces have really written the story of civilization. He wrote: "Civilization is a stream with banks. The stream is sometimes filled with blood from people killing, stealing, shouting and doing the things historians usually record, while on the banks, unnoticed, people build homes, make love, raise children, sing songs, write poetry and even whittle statues. The story of civilization is the story of what happens on the banks. Historians are pessimists because they ignore the banks for the river."

Thank you.

SENATE—*Wednesday, June 10, 1970*

The Senate met at 10:30 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

Lord of our lives, Light of Lights, we need Thee every day and everywhere—at home, in the office, in public expression, and in this Chamber. Draw us and all men close to Thee that we may be closer to one another.

Spare us from mistaking a prejudice for a principle, or a superstition for a faith. Make Thy presence real and Thy guidance clear to us.

Give us courage to make brave choices, and wisdom to make the right ones; and grant us faith, having made our choices in the fear of God, to flee all doubts and regrets, and leave the consequences to Thy providence.

Through Jesus Christ, our Lord. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. RUSSELL).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 10, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

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

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 14306) to amend the tobacco marketing provisions of the Agricultural Adjustment Act of 1938, as amended, and it was signed by the Acting President pro tempore (Mr. ALLEN).

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, June 9, 1970, be dispensed with.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from Nebraska (Mr. HRUSKA), there be a period for the transaction of routine morning business, with statements therein limited to 3 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.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Nebraska.

A FAIR PRICE FOR CATTLE

Mr. HRUSKA. Mr. President, during the past year and particularly during the past few months, we have heard with increasing frequency the disturbing suggestion that it may be time for drastic action to increase the flow of foreign beef into this country.

The meat import quota system has come under attack by a congressional subcommittee having little visible jurisdiction over either farming or foreign trade, the mayor of a great eastern metropolis, and a number of others. Periodically rumors circulate that meat prices are about to go up unless some means is found to weaken the existing import regulation.

Confronted with this consistent and increasing agitation for a relaxing of beef import quotas, it seems appropriate to remind this body today of the reasons for the meat import law, the dangers of tampering with it, and the role of the cattle industry in this country.

Mr. President, my remarks will deal with the following four points:

First, the cattle industry is vital to a stable agricultural economy, an integral phase of our national economy.

Second, the near-disaster of 1963, in which our cattle markets were nearly destroyed, must never be repeated.

Third, the price of cattle today is no higher than it was 20 years ago.

Fourth, we face a serious problem today because of heavy imports during the early months of 1970.

TEN BASIC PROPOSITIONS

First, imported beef, if at a disproportionate volume, has a direct and depressing effect on cattle and agricultural prices in the United States. It also has an adverse effect on jobs in America.

Second. The import quota law on beef is reasonable and fair. It does not prohibit imports. It is based on a historical import volume, and is adjusted each year by the increase in U.S. production.

Third. The farmer and rancher does not sell beef. He sells cattle. A differentiation should be made.

Fourth. Cattle are selling today for about the same—or even a little less—number of current dollars as they sold for in 1950–51—20 years ago. In terms of constant dollars, they are selling for about 40 percent less than 20 years ago.

Fifth. Meat prices, including beef, have not increased disproportionately. In the past 10 years, retail prices of meat increased about 21 percent. In that same period, the following table shows other increases:

Increased costs 1970 over 1960

	Percent
Retail meat—average	20.7
Average—all food	29.6
Average cost of all consumer services other than rent	46.3
Average hourly wage for nonagriculture workers	50.7

Sixth. Average wages for nonagricultural workers rose 50.7 percent from 1960 to 1970. They were $1.44 per hour in 1950. In 1970, they were $3.32.

Seventh. For these wage increases, we rejoice. But compare this with choice steers in Chicago: In 1950 at $29.68 per 100 pounds; in 1970 at $30.52, as of June 4. About the same, notwithstanding the passage of 20 years' time.

Eighth. U.S. cattle producers have the capacity to meet any increased demand which the rise in population and increased beef consumption will place upon them. They have historically and consistently done this in the past. In

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

1950, per capita beef consumption in the United States was 63 pounds. In 1969, it was 111 pounds. In 1950, U.S. production was only 11 billion pounds. In 1969, it was 21 billion pounds.

Ninth. The present beef import quota as prescribed by law should not be increased.

Tenth. Some improvements should be made in the law. For example, it should provide quarterly quotas instead of annual quotas. This would stabilize the market.

The act should also be made to include canned and other prepared and preserved meats. There are other changes in the bill, which the Senator from Nebraska introduced in June of last year, to amend Public Law 88–482.

CATTLE INDUSTRY VITAL

The beef cattle industry occupies a unique position in this country. It is by far the largest farm industry. In 1969 total cash income by farmers from the sale of cattle and calves was $12,644 million. Total cash farm income from all products—both crops and livestock products—was $47,431 million. Cattle and calves therefore contributed almost 27 percent of the total.

In several of the States beef cattle production accounts for as much as 60 or 70 percent of the farm sales. In eight States it accounts for more than 50 percent—more than all the other farm receipts from cash marketings put together. In 34 out of the 50 States it accounts for at least 10 percent. In 35 of the States there are more than 1 million head of cattle.

In Congress we speak often of the farm problem, and of the programs being devised to help the farmer. It should be mentioned that those programs are not for the cattleman. The beef industry receives no Government subsidies; it has no programs to control output and the like.

I think it is not too much to say that the cattle industry is the bellwether of farm prosperity. At least it is clear from past experience that when the beef cattle industry is in financial distress, agriculture as a whole is not healthy.

A healthy agricultural economy is an essential ingredient to a healthy national economy. While it is true that agriculture provides a relatively smaller share of our gross national product than once was the case, it is nevertheless the industry which must feed our mushrooming population, as well as much of the rest of the world. Such a gigantic and critical undertaking cannot be successfully accomplished by an unhealthy industry.

QUOTA AVERTED DISASTER

The present law permitting the imposition of quotas on imports of meat was the result of such an experience of financial distress. As recently as 1957 the total quantity of beef and veal imported of all kinds—including canned beef—was trivial in amount. It was less than 400 million pounds compared with domestic beef and veal production amounting to 16 billion pounds.

During the next few years, however, we permitted the volume of beef imports, chiefly from Australia and New Zealand, to increase gradually. By 1962 it had increased to 1,440 million pounds and in 1963 it was 1,678 million pounds. In our cattle markets prices plunged as much as $10 a hundred pounds, under the impact of these tremendous surpluses piled on top of a domestic market which was already perhaps heavily loaded. It was out of that painful experience that the existing meat import quota statute—Public Law 88–482—was born.

At that time Secretary of Agriculture Orville Freeman was bitterly opposed to any import quota legislation on meat. However, we had a measure of bipartisan support of the legislation in Congress. It is worth noting that later Secretary Freeman came to the point of speaking well of the law he had tried so hard to strangle at birth, because of its moderation. In subsequent speeches he pointed to it as a model statute in the field of import controls, because it allows the foreign producers to hold the same share of our market as they did before the law was passed; and, of course, that included an annual adjustment for increased U.S. domestic production.

In other words, it is a very moderate form of control over farm imports, not a rigid, exclusionary measure such as the European Common Market and other European countries have been increasingly employing in their restrictions against farm imports from the United States.

It must be explained that to date quotas on imports have not actually been imposed under the law. The statute provides that quotas must automatically be imposed if imports threaten to go above a certain level determined by formula in the act itself. However, the volume of shipments since late in 1968 has actually been controlled through a network of agreements with the countries supplying us. The volume of meat coming in under these agreements is of course linked to the formula in the law, since if there were no international agreements to hold down the volume the statutory quota would automatically be triggered into effect.

CATTLE PRICES NO HIGHER

Now it is said by some critics that the effect of this regulation on imports is to put the price of beef too high. Is this charge justified?

First, let it be noted that the farmer or rancher does not sell meat, he sells cattle. There is a wide gulf from the price of cattle at the farm, to the retail price at the meat counter. Sometimes the ways in which prices move are mysterious, and it would take too long to untangle the relationship between retail and wholesale meat and farm cattle prices now. Unfortunately, when something goes wrong with the price relationship, the burden for some mysterious reason is passed back to the farmer.

Essentially, the campaign to abolish import quotas is directed at the American beef-producing industry, the cattle producers and cattle feeders. If the import quota system is destroyed or weakened, it is the cattlemen who will suffer, not the meatpackers or the wholesalers. Is the price of cattle too high?

Mr. President, I have prepared a group of statistical tables which show conclusively that by any standard of comparison, the cattlemen are not receiving excessive prices.

First, let me point out that the price of cattle today is actually no higher in current dollars than it was 20 years ago. According to the latest price quotation from the Department of Agriculture, during the week ending June 4, 1970, the average price of choice steers at the Chicago market was $30.52. In 1950, 20 years earlier, the average price for the same grade of cattle was $29.68, which is almost a dollar less in current dollars; and in 1951, only briefly, the price of cattle per hundred pounds was $35.96.

What other product on the market today costs almost identically the same price as it did 20 years ago? What other industry has had to accept no increase in price over two decades, while its costs steadily advanced?

This comparison is in terms of actual quoted prices. But the 1970 dollar is not equal to the 1950 dollar in purchasing power. It will buy only a bit more than half as much. We all know that.

We have had a comparison made, showing the price of cattle year by year, but expressed in dollars of constant value, rather than in current prices.

The comparison is shocking. As just stated, the current quotation for cattle is $30.52 a hundred—that is, in the dollars of today. But the dollar of today will buy only about 60 cents worth, compared with the dollar of 1950. Expressed in the dollars of 1950, the price now being received is equivalent to only $18.47 for a hundred pounds on the hoof.

This price is down almost to the worst depression prices ever received by the industry. At the depths of the price collapse of 1964, when hundreds of bankruptcies were recorded and distress was felt throughout the cattle producing industry, the average price was a little worse—$17.04 per hundred—but not much.

Another tabulation that has been prepared showing the price of cattle compared with the steady upward trend of wage rates illustrates the same point. In 1950 the average hourly wage in manufacturing industries, according to the Department of Labor, was $1.44. According to the latest figure we have, the comparable average wage today is $3.32 per hour. In those 20 years, average factory wages have more than doubled in current dollars—while cattle prices have remained the same. I do not complain of the better wages achieved by factory labor. I think we all rejoice in it, and it is fine. It is good that gains are being made, and the urban standard of living is rising. But those who benefit from rising salary and wage scales should not be surprised if the farmer and the rancher also desire to share in the gains.

Last summer, for a brief 3-month pe-

riod, there was an upward price flurry of cattle prices. The price of cattle did not rise quite as high as on previous upward flurries, but it rose substantially. That rise was met with cries of alarm on the part of some of the industry's critics, but they need not have worried. The higher prices did not last long. The average price of choice slaughter steers at Chicago peaked in June with a monthly average price of $34.22, but thereafter it went down almost as rapidly as it had previously risen.

Since February it has been quite stable at a level a trifle above $30 a hundred pounds. At that level it is barely above the price that prevailed before the rise in prices of last summer.

Mr. President, it is desirable that those interested in the welfare of the consumer not be under any illusion as to how far down cattle prices can be pushed. Under present conditions of costs and wages, it is simply not possible or reasonable for the beef cattle industry to subsist on a price scale below $30 per hundred pounds. The industry cannot stand it. It is not possible to operate any business below cost for any length of time.

If the floodgates are opened to unlimited foreign meat, it might mean a temporary reduction in the market price and a temporary saving to the consumer, at the expense of the domestic producer. But if the productive capacity of the industry should be seriously impaired by such a shortsighted policy, the American consumer would soon suffer, also. He is dependent on the U.S. producer for well over 90 percent of his beef supply. If that supply should be jeopardized by any unwise Government action, the consumer would suffer along with the producer.

Of course, that fact should be self-evident, because the beef industry is not the same as factory production. Mother Nature takes care of that in the period of gestation and the period of growth, which is limited. We try to improve the growth and the speed of growth and the acquisition of weight through our research facilities, and great progress has been made. But a minimum of 2 years is required in which we get into the production of meat from the cattle industry, from the time the calf is dropped.

THE PROBLEM TODAY

In 1968, it was found necessary, for the first time since enactment of the quota law, for our Government to impose restraint on the quantity of meat shipped here from foreign supplying countries. At that time an arrangement was worked out whereby the supplying countries voluntarily agreed to check the volume of shipments, in order to avoid having the United States impose binding legal quotas on entries of meat to the customhouse.

In 1969 the same policy was followed with a measure of success. Agreements were made with supplying countries for a quantity of meat to be imported finally aggregating 1,037.5 million pounds. The quantity of meat finally imported was actually somewhat greater, but still below the trigger point set in the law which would have mandated the imposition of legal quotas by our Government.

This year we are faced with a difficult and somewhat unusual problem. Voluntary agreements have been reached with each of the principal supplying countries. On the basis of these agreements, the Secretary thus far has estimated that imports for 1970 will be 1,061.5 million pounds. That figure is still less than the trigger point established by law—1,098.7 million pounds—which would automatically mean imposition of the quotas.

However, a serious problem arises as a result of the rapid rate of which some of the supplying countries have been filling up their annual quotas. Figures are now available covering imports during the first 4 months of 1970. In those 4 months, imports have amounted to 425.9 million pounds. That is 40.1 percent of the annual total which is supposed to be shipped here during the full year. That is a rate faster than can be sustained for a full year within the terms of the agreements made with each of the supplying countries.

Stated another way, if meat continues to come here at the same monthly rate as it has thus far this year, a full year's supply of meat will have been received here in the first 10 months of the year.

In my opinion this speeding up of shipments in the early months of the year is not in accordance with the spirit of the agreements by these supplying countries. Apparently some of them are eager to fill up their full annual quotas early in the year, in the hope perhaps that the United States will agree to a relaxation of the terms of the various agreements, and accept more meat imports.

In my judgment no foreign country has a right to expect any such preferred treatment from this country. I hope that we will enforce these agreements and insist that the supplying countries comply fully with their terms. It is to be recalled that last year one of the supplying countries, Honduras, greatly overshipped its fair share of the total quota. As a result, this country had to take the step of imposing a rigid limitation on further shipments of meat in 1969 from that source. I would hope that other countries would draw a lesson from that experience.

Some of the countries are greater offenders than others in this matter of speeding up their shipments. Honduras has already filled 80 percent of its annual quota in the first 4 months of this year. Panama, Costa Rica, Guatemala, and Mexico, in the first 4 months have shipped in more than 50 percent of the annual level permitted. Among the major suppliers Australia and New Zealand have come closest to pacing their shipments at a level which can be sustained uniformly throughout the year.

In my judgment the foreign supplying countries must accept responsibility for an unworkable situation, if they should fill their quotas too early in the year. They can exercise control over their producers to space their shipments out at an even pace through the year. They ought to do so, and we should expect them to do so.

Mr. President, the quota law and the network of agreements with meat supplying countries which is related to the quota system have proved their value in stabilizing the volume of imports and the domestic market for cattle. Restraints on imports during the past 2 years by our agreements have not been unduly burdensome on the foreign supplying countries, yet they have been helpful in giving domestic producers assurance that our market would not be disrupted by imports. Consumers have not been penalized by unduly high prices, as the domestic industry has expanded production greatly to fill the demand.

No case has been made for opening up the gates to increased imports. The domestic livestock industry is entitled to protection against the kind of catastrophe that has been experienced in the past. Maintenance of a firm system of controls over imports is essential to the continued health of the domestic cattle industry.

Mr. President, President Nixon, during the campaign of 1968, issued a position statement on the matter of fair play for the cattle industry.

I wish to read the concluding paragraphs of that statement:

> Loopholes in the present law must be closed so that domestic cattle producers can participate on a fair basis in the growth of the domestic market. Unfortunately, during the past Congress, the Administration, of which Mr. Humphrey is a part, continued to oppose legislation in this field, notwithstanding the pious pronouncements of the Vice President's colleague, Secretary Freeman, regarding the need for protection against subsidized foreign imports.
>
> The Nixon administration will not turn its back on the needs of the cattlemen. The Nixon administration will be dedicated to seeing to it that cattlemen enjoy their full fair share of our increasing national prosperity and that Federal policies encourage the health and growth of this vital industry.

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

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

FAIR PLAY FOR THE CATTLE INDUSTRY

The cattle industry, our largest farm industry in terms of dollar sales, has consistently met the rapidly growing demand of the American consumer for high quality beef. It has done so independently, without any special government support program.

In the past 20 years per capita consumption of beef in our country has risen from under 70 to more than 104 pounds per person. In the same period, the average portion of family income expended on food has actually declined by more than 7 percent.

The cattle industry, however, has not kept pace with an increasing national prosperity because of a severe cost-price squeeze, and adverse governmental policies. The result has been that many small family cattle operations, which represent the bedrock of the industry, have been forced out of business. Those that have survived have been saddled with crippling debts.

In 1948 choice-fed steers in Chicago sold for an average price of $30.96 per 100 pounds; during the first 8 months of this year the selling price averaged $27.40 and it has fluctuated below that figure during most of the

past 20 years. During 1964 following record imports, prices fell to a low of $20.52.

The official government index of prices paid by cattlemen, on the other hand, has increased 30 percent since 1948.

One cause of this severe cost-price squeeze has been the impact of imported meat. Because of the meat export subsidy practices of competing meat nations and the tariff restrictions of other nations, the American market has at times been flooded with cheap foreign beef.

In 1962 and 1963 meat imports precipitated a collapse in American cattle prices of as much as 30 percent in the course of a few months.

During the following year Republicans in Congress proposed legislation to fairly equate the flow of imports with the growth of the American market. The Administration stubbornly opposed it and the Senate defeated the first bill 46–44, with then Senator Humphrey and Senator Muskie both voting against the legislation. The Congress later in 1964 enacted Public Law 88–482.

Because of Administration pressure, the meat import legislation ultimately enacted was riddled with loopholes.

As a result, and in spite of the law, the volume of imports this year threatens to be greater than in any past year, except the record year 1963. Yet Secretary Freeman has consistently failed to invoke even those provisions of the law which could be effective.

Loopholes in the present law must be closed so that domestic cattle producers can participate on a fair basis in the growth of the domestic market. Unfortunately, during the past Congress the Administration, of which Mr. Humphrey is a part, continued to oppose legislation in this field, notwithstanding the pious pronouncements of the Vice President's colleague, Secretary Freeman, regarding the need for protection against subsidized foreign imports.

The Nixon administration will not turn its back on the needs of the cattlemen. The Nixon administration will be dedicated to seeing to it that cattlemen enjoy their full fair share of our increasing national prosperity and that Federal policies encourage the health and growth of this vital industry.

Mr. HRUSKA. Mr. President, that is an explicit statement. It is very specific. I trust it will be followed through, as has been done so far under the administration of President Nixon.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled, "Comeback for Protectionism," published in Time magazine on May 11, 1970 and also a number of tables dealing with points covered in my remarks.

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

COMEBACK FOR PROTECTIONISM

Ever since the modern era of internationalism began in the days of the New Deal, the U.S. has been committed to freer trade, and Americans have enjoyed many benefits from that policy. Consumers have been able to buy rising quantities of relatively inexpensive Italian shoes, British clothes, German autos, French food and Japanese cameras. Producers have profited from sales abroad of U.S. aircraft and computers, heavy machinery and soft drinks. The domestic economy gained as well, because international competition helped check inflation. The boons were so apparent that protectionism has been in steady retreat. Now in 1970, a year of economic distress, protectionism is making a comeback.

Caught between falling profits and rising costs, and unable to boost their prices because of the competition of imports, businessmen are looking more and more to the Republican Administration for help. Unions, alarmed at growing unemployment, are similarly demanding that Washington halt the loss of jobs to low-wage countries. For example, U.S. companies have set up more than 200 electronics plants in Mexico, while Midwestern electronics workers have been discharged. Westinghouse buys TV sets from Japan; and Singer, the last company to make household sewing machines in the U.S. has reduced its domestic work force from 10,000 to 2,000. The complaints of business and labor are being echoed in Congress, which is considering no fewer than 200 bills to restrict imports.

Touchstone Issue. Next week the House Ways and Means Committee will begin hearings on a trade act that President Nixon sent to Congress late last year. In that document Nixon affirmed the principle of freer trade but suggested tighter restrictions on some imports and more accessible tariff shelters for U.S. industries injured by foreign competition.

Much of the testimony will center on an issue that has become a touchstone of the new protectionism: whether or not the U.S. should impose quotas on imports of Japanese textiles. The question has become charged with emotion on both sides of the Pacific, and ranks with the tug of war over the return of Okinawa to Japan as the worst diplomatic impasse between the two countries in recent years. Last month Ways and Means Chairman Wilbur Mills, who is hardly known as a protectionist, introduced a bill designed to write import quotas into law. It would roll back imports of textiles to average 1967–68 levels, a reduction of 30% from last year, unless exporting nations "voluntarily" agree to limit their shipments to the U.S. The same restriction would be imposed on shoe imports.

Since 1960, textile imports have increased from $866 million to $2.1 billion, largely from Japan (though South Korea, Taiwan and Hong Kong are increasingly important contributors). Last year the U.S. trade deficit with Japan amounted to $1.5 billion, and textiles alone accounted for $504 million. The Nixon Administration has insisted that Japan agree to quotas on all exports of wool and synthetic textiles to this country, and charges that the Japanese refuse to cooperate. The Japanese say that they have offered to restrain shipments of any particular exports that have demonstrably injured U.S. industry.

Damage, however, is difficult to prove. J. P. Stevens & Co. Inc., which makes a broad range of textile products, closed three of its mills for a week last month. Deering Milliken cut several of its plants back to a four-day week. But much of that can be attributed to the overall slowdown in the economy. Actually, the U.S. textile industry has increased its sales from $13.8 billion in 1960 to $21.3 billion last year, and employment has edged upward from 924,400 to 988,250.

Behind the textile industry's demands for protection is the fact that domestic producers' sales have not grown as fast as the textile market has, and their profit margin on sales has remained below 3%. U.S. textile men cannot raise their prices without losing more territory to imports. In effect, quotas on imports would allow manufacturers to increase their profits at the expense of the consumer.

PAYMENT ON A PLEDGE

For their part, the Japanese argue that they are being pressed for quotas because of a Nixon campaign pledge to the big, old and politically powerful textile industry. During the 1968 campaign, both Nixon and Hubert Humphrey promised protection that would hold back imports of wool and man-made fibers by international agreement, much as cotton textiles have been restricted since 1962. Textiles today are less important to Japan's trade balance than they once were; that country has been switching its export emphasis to costlier and more complex products, like television sets and turbines. But the Japanese fear that if they yield on textiles, they will face similar demands for quotas on other goods. The U.S. electronics industry has already asked Washington's tariff commission to investigate alleged Japanese dumping of TV sets. Japanese electronics manufacturers, dismayed by the tough U.S. stand on textiles, are informally discussing among themselves whether to limit their shipments.

There is considerable dissembling on both sides. The Japanese case could probably command greater support among U.S. free-traders if Japan were not itself more protectionist than any other developed nation. It has grown rapidly to economic maturity behind a barricade of restrictions, which once were justifiable as a shield for so-called infant industries. Japanese attitudes have not caught up with the country's important new trading role.

Today Japan maintains 108 import quotas, most of them illegal under the terms of the General Agreement on Tariffs and Trade—though Tokyo plans to abolish restrictions on 55 items by 1971. The government justifies its barriers on the grounds that some Western European nations have similar illegal restrictions against Japanese goods, although on a much smaller scale than Japan. Moreover, Japan has been excessively reluctant to accept foreign investment. Many of its industries are closed entirely to outside capital. A four-step program of liberalization, which began in 1967, opens some industries to foreign ownership. While the list includes fabricated iron and steel, most of the other fields that it unlocks—including sake manufacturing, beauty parlors and driving schools—are of scant interest to a foreign investor. The total impact is slight because the list offers little new opportunity in such key sectors as auto manufacturing and electronic computers until the final stage of liberalization in 1971. Even then, the Japanese promise only up to 50% participation in the most important area—automaking. Detroit's manufacturers would like a chance for a larger share.

MERRY CHRISTMAS

The U.S. campaign to persuade Japan and other countries to lower the barriers will be set back if Congress passes protectionist quotas on textiles. The Japanese are privately resigned to passage of the Mills bill, which could well prove costlier to the U.S. than to them. It would not only place the responsibility on Washington for reversing a worldwide trend toward freer trade, but would also add to inflation in the U.S. The danger always exists that Congress, in an election year, will turn Mills' proposal into a Christmas tree bill, loading it down with amendments setting quotas on other goods. Manufacturers of electronic and chemical products, flat glass and baseball gloves, to name a few, have called for quotas to protect their own markets.

If the impasse is to be broken, it will probably require some fresh initiative from President Nixon, who appointed Commerce Secretary Maurice Stans to negotiate the quotas in the first place. Nixon could take a useful step by naming a new negotiator. Stans has given every appearance of making the textile industry's cause his own and has apparently given up trying to reach a compromise. A new negotiator, charged by the White House to bargain for a compromise, might find the Japanese less adamant. Even so, the chances of reaching any agreement before the Mills bill passes Congress are discouragingly slim. Both Tokyo and Washington now insist that the other side must make the first concession.

TABLE 7.—RANK OF STATES IN NUMBER OF CATTLE AND CALVES ON FARMS, JAN. 1, 1970

[Number in thousands of head]

Rank	All cattle and calves: State	Number	Beef cattle and calves (cattle not for milk): Total: State	Number	Beef cows 2 years and over: State	Number
1	Texas	12,212	Texas	11,636	Texas	5,737
2	Iowa	7,478	Iowa	6,573	Oklahoma	2,174
3	Nebraska	6,330	Nebraska	6,023	Missouri	1,929
4	Kansas	6,016	Kansas	5,694	Nebraska	1,888
5	Oklahoma	4,985	Oklahoma	4,727	Kansas	1,839
6	Missouri	4,940	Missouri	4,307	South Dakota	1,719
7	California	4,861	South Dakota	4,116	Montana	1,589
8	South Dakota	4,410	California	3,562	Iowa	1,443
9	Wisconsin	4,076	Colorado	3,102	Mississippi	1,273
10	Minnesota	3,958	Montana	2,943	Kentucky	1,087
11	Colorado	3,299	Illinois	2,721	Colorado	1,082
12	Illinois	3,278	Minnesota	2,254	North Dakota	964
13	Montana	3,014	Kentucky	2,227	Tennessee	954
14	Kentucky	2,803	Mississippi	2,131	California	946
15	Mississippi	2,487	North Dakota	1,835	Arkansas	939
16	Tennessee	2,308	Tennessee	1,796	Alabama	929
17	Ohio	2,136	Alabama	1,722	Florida	909
18	North Dakota	2,066	Georgia	1,655	Louisiana	903
19	Alabama	1,953	Arkansas	1,648	Georgia	830
20	Indiana	1,918	Florida	1,577	Illinois	744
21	Georgia	1,889	Indiana	1,506	Wyoming	737
22	New York	1,867	Wyoming	1,448	New Mexico	708
23	Florida	1,827	Louisiana	1,419	Oregon	685
24	Arkansas	1,805	Idaho	1,415	Idaho	588
25	Pennsylvania	1,781	Ohio	1,399	Minnesota	545
26	Louisiana	1,705	Oregon	1,393	Virginia	499
27	Idaho	1,701	New Mexico	1,331	Indiana	439
28	Oregon	1,593	Arizona	1,224	Arizona	376
29	Wyoming	1,476	Virginia	1,054	Washington	373
30	Michigan	1,468	Washington	962	North Carolina	371
31	Virginia	1,432	Wisconsin	902	Ohio	360
32	New Mexico	1,386	North Carolina	763	Utah	351
33	Arizona	1,302	Utah	689	Nevada	336
34	Washington	1,260	Michigan	673	South Carolina	266
35	North Carolina	1,081	Nevada	600	Wisconsin	239
36	Utah	824	South Carolina	537	West Virginia	207
37	South Carolina	642	Pennsylvania	512	Michigan	123
38	Nevada	626	West Virginia	382	Pennsylvania	100
39	West Virginia	475	Hawaii	223	Hawaii	92
40	Maryland	426	New York	178	New York	62
41	Vermont	348	Maryland	163	Maryland	58
42	Hawaii	246	Maine	23	Maine	9
43	Maine	147	New Jersey	22	New Jersey	8
44	New Jersey	132	Vermont	17	Vermont	5
45	Connecticut	122	Massachusetts	13	Delaware	5
46	Massachusetts	114	Connecticut	12	Massachusetts	4
47	New Hampshire	73	Delaware	11	Connecticut	4
48	Delaware	32	New Hampshire	7	Alaska	2
49	Rhode Island	13	Alaska	6	New Hampshire	2
50	Alaska	9	Rhode Island	2	Rhode Island	1
	United States	112,330	United States	91,135	United States	37,433

STEERS SOLD OUT OF FIRST HERDS FOR SLAUGHTER, CHICAGO, CHOICE, PRICE EXPRESSED IN CONSTANT 1950 DOLLARS

[Dollars per 100 pounds]

	Current prices	Implicit price deflator (1950=100)	Constant 1950 prices
1950	$29.68	100.0	$29.68
1951	35.96	106.7	33.70
1952	33.18	109.1	30.41
1953	24.14	110.1	21.93
1954	24.66	111.7	22.08
1955	23.16	113.4	20.42
1956	22.30	117.2	19.03
1957	23.83	121.6	19.60
1958	27.42	124.7	21.99
1959	27.83	126.7	21.97
1960	26.24	128.8	20.37
1961	24.65	130.4	18.90
1962	27.67	131.9	20.98
1963	23.96	133.7	17.92
1964	23.12	135.7	17.04
1965	26.19	138.3	18.94
1966	26.29	142.0	18.51
1967	26.04	146.6	17.76
1968	27.74	152.5	18.19
1969	30.42	159.8	19.04
1970:			
January	29.31	[1] 165.2	17.74
February	30.26	[1] 165.2	18.23
March	31.93	[1] 165.2	19.33
April	31.56	[1] 165.2	19.10
May	30.39	----------	18.40
Week of June 4	30.52	----------	18.47

[1] Implicit price deflator for 1st quarter 1970 (latest available) used for 1970.

Source: Current prices, U.S. Department of Agriculture. Implicit price deflator, U.S. Department of Commerce. Constant price calculated, using 1950 as a base.

AVERAGE PRICE OF CHOICE SLAUGHTER STEERS, CHICAGO, COMPARED WITH AVERAGE HOURLY EARNINGS IN MANUFACTURING INDUSTRIES, 1950–70

	Average hourly earnings—manufacturing industries [1]	Steers sold out of 1st hands for slaughter—Chicago, choice (Dollars per 100 pounds) [2]
1950	$1.44	29.68
1951	1.56	35.96
1952	1.65	33.18
1953	1.74	24.14
1954	$1.78	24.66
1955	1.86	23.16
1956	1.95	22.30
1957	2.05	23.83
1958	2.11	27.42
1959	2.19	27.83
1960	2.26	26.24
1961	2.32	24.65
1962	2.39	27.67
1963	2.46	23.96
1964	2.53	23.12
1965	2.61	26.19
1966	2.71	26.29
1967	2.83	26.04
1968	3.01	27.74
1969	3.19	30.42
1970:		
January	3.29	29.31
February	3.29	30.26
March	3.31	31.93
April	3.32	31.56
May	----------	30.39

[1] Source: Department of Labor, quoted in Economic Indicators.
[2] Source: Department of Agriculture, quoted in Livestock-Meat-Wool Market News.

QUANTITIES OF QUOTA MEAT PERMITTED TO BE SHIPPED TO THE UNITED STATES UNDER AGREEMENTS WITH FOREIGN SOURCE COUNTRIES

	1968	1969 original	1969 adjusted	1970
Australia	483.0	505.0	519.80	527.2
New Zealand	202.0	211.0	217.40	220.3
Mexico	63.0	65.8	67.80	68.7
Canada [1]	60.0	62.7	37.70	45.0
Ireland	60.0	62.7	64.50	65.5
Nicaragua	36.0	37.6	38.45	39.3
Costa Rica	32.0	33.4	34.16	34.9
Guatemala	20.5	21.4	21.88	22.3
Honduras	13.5	14.1	14.10	14.7
Dominican Republic	10.0	10.5	10.74	11.0
Panama	[1] 5.0	5.2	5.32	5.4
United Kingdom [1]	3.0	3.5	3.50	5.0
Haiti	[1] 2.0	2.1	2.15	2.2
Total	990.0	1,035.0	1,037.5	1,061.5

[1] No agreement; quantity estimated.

Source: U.S.D.A., F.A.S.

MEAT IMPORT QUOTAS BY COUNTRIES, 1970, COMPARED WITH ACTUAL IMPORTS DURING 1ST 4 MONTHS, AND PERCENTAGE IMPORTED OF ANNUAL QUOTA

	Meat import quota, 1970	Actual imports, 1st 4 months, 1970	Percent of annual quota
Australia	527.2	202.3	38.4
New Zealand	220.3	65.0	29.5
Mexico	68.7	37.2	54.1
Canada [1]	45.0	25.2	56.0
Ireland	65.5	27.1	41.4
Nicaragua	39.3	17.4	44.3
Costa Rica	34.9	19.7	56.4
Guatemala	22.3	12.0	53.8
Honduras	14.7	11.8	80.3
Dominican Republic	11.0	2.7	24.5
Panama	5.4	3.5	64.8
United Kingdom [1]	5.0	1.0	20.0
Haiti	2.2	0.4	18.2
Total	1,061.5	425.9	40.1

[1] No agreement; quantity in quota column is estimated.

Source: U.S.D.A., F.A.S.

(The following colloquy, which occurred during the delivery of Mr. HRUSKA's address, is printed at this point in the RECORD by unanimous consent.)

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. HRUSKA. I am happy to yield.

Mr. CURTIS. Mr. President, I commend my distinguished colleague not only for his remarks today, but for the leadership he has shown over the years in reference to this meat import problem.

Several times the Senate has considered proposals which the distinguished Senator has offered in pioneer efforts to put some semblance of control on imports so that they would not run wild, to the ruination of agriculture and the entire economy of rural America.

It happened that the proposal that finally became law came under the jurisdiction of the Committee on Finance. I recall the proceedings there and in the conference committee very well. As a

Footnotes at end of table.

matter of fact, the present program is a very mild and reasonable restraint on imports; is it not?

Mr. HRUSKA. It certainly is.

Mr. CURTIS. It not only did not require a rollback of foreign imports, which perhaps could well have been justified from the standpoint of the American producer, but it permitted the quotas to apply on levels commensurate with our imports immediately prior thereto.

Mr. HRUSKA. Which were disproportionate with the years preceding 1963 and 1964.

Mr. CURTIS. That is correct. Did it not also provide for the foreign producers to share in the growth factor, by reason of our growth in population and increased consumption?

Mr. HRUSKA. That is right; and of course, the per capita consumption of beef in America has constantly been increasing for the last 20 years. Even of that increase per capita, as well as the increase on account of the growth in population, the foreign market gets a share each year.

Mr. CURTIS. And, as a matter of fact, the restraints on imports that finally became law were much less than as passed by the Senate.

Mr. HRUSKA. That is right.

Mr. CURTIS. Because, as with a great deal of legislation, there had to be a compromise.

If the Senator will bear with me just a minute more, I just hope that the critics of the idea of having some restraint on meat imports will stop and look at the facts, because it has not been an unreasonable program. It has been in the interests of our entire economy, and to do away with, or weaken it, would be a very grave mistake. As a matter of fact, whenever that law is revised, it should be revised in a more restrictive manner.

I thank the Senator.

Mr. HRUSKA. I thank the Senator for his contribution. His service, and his point of view as expressed in the sessions of the Committee on Finance of this body, certainly have been helpful toward achieving a complete understanding of this problem, and also of the adverse effect that any increase in import quotas would have not only upon cattle prices but also upon other segments of agriculture, including feed grain consumption and feed grain prices.

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

Mr. HRUSKA. I yield.

Mr. MANSFIELD. The cattleman gets anywhere from 26 to 31 or 32 cents a pound. All one has to do is compare that price with what the ultimate consumer pays in the supermarket and the grocery store to which he goes. Certainly it is not the fault of the cattle producer that the exorbitant prices are charged to American consumers, any more than it is the fault of the wheat rancher, who operates below a $2 a bushel base, for the increase in the cost of bread. The same reasoning, the same logic, holds there. But the farmers and the ranchers get the blame for the high prices, over which they have no control and for which in the beginning they get very little, indeed.

Mr. HRUSKA. The Senator from Montana is correct.

If anyone is desirous of getting a technical breakdown of the difference in the prices of the cattle as they are sold to the packer and then as they are laid down on the meat retail counter, he can get that explanation in the reports of the National Commission on Food Marketing. Those reports were issued approximately 3 years ago, and they contain a full and complete analysis, with all the figures and statistics and the items that go into the differential between the table price and the price of cattle on the hoof.

Of course, the examples given by the Senator from Montana can be multiplied many times. The cotton in a man's shirt forms a small percentage of the price of that shirt. I do not recall any demonstrations by men or by housewives against the cotton raiser because they have had to pay more for cotton shirts in the last 5 or 10 years than they used to pay—or for any other cotton goods.

It is, therefore, unfair that consumers would undertake to criticize and to try to put the burden of higher meat prices in the meat market upon those who produce the cattle.

Mr. AIKEN. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I am happy to yield to the Senator from Vermont.

Mr. AIKEN. This big increase in imports is, we all recognize, not only in beef but in other commodities as well. Is that increase sponsored by American investors in other countries or by foreign investors or foreign producers themselves? I was wondering. I have a strong suspicion that the cost of production in this country had forced—enticed is perhaps a better word—American investors to put their faith in other areas of the world with the expectation of selling their products in the United States, which is still the world's best market.

Mr. HRUSKA. Yes; that is true. I do not know where it has been documented as to the extent of American investors going to New Zealand or Australia.

Mr. AIKEN. All around.

Mr. HRUSKA. That point will be developed a little later in the collcquy that will be made on the floor.

Mr. AIKEN. I think that situation will stand a good investigation, or, rather, it will not stand a good investigation. An investigation of the situation should be made as to whether we are furnishing money to put ourselves out of business.

Mr. HRUSKA. That is true. However, the cattle industry is not unique in that regard. I imagine——

Mr. AIKEN. No.

Mr. HRUSKA (continuing). It could be found to be true in the automobile, camera, or almost any other manufacturing industry in this country.

Mr. AIKEN. Let us take the dairy industry. That is the most hazardous of all, I think, from the American producer's standpoint.

Mr. HRUSKA. That is true.

Mr. MANSFIELD. Mr. President, will the Senator from Nebraska yield, along the same lines as he did to the Senator from Vermont?

Mr. HRUSKA. I yield.

Mr. MANSFIELD. I am in receipt of a letter from my State of Montana which reads, in part, as follows:

I am also told that 72 percent of meat of the fresh frozen variety coming into the United States now from Australia and New Zealand is owned by American or Wall Street investors. The largest stations in Australia are owned by huge investor clubs off Wall Street.

Mr. HRUSKA. That is probably——

Mr. MANSFIELD. That should answer the question raised by the distinguished Senator from Vermont as to how much American investment is evident in this import of meat problem which the distinguished Senator and I and others in this Chamber, 6 years ago, were able to control, in some part through passage of the meat import law, Public Law 88–482, which the Senator from Nebraska can recall with great clarity.

Mr. HRUSKA. That is correct.

Mr. MANSFIELD. What about this American investment?

Mr. HRUSKA. May I make this observation before I yield further to the Senator from Vermont, that when we consider the source of the propaganda, the publicity, the lobbying and the pressures which are brought upon this Government to modify and increase the import quotas, we can look to the American investors who have invested in New Zealand and Australia in holdings there for the purpose of increasing imports. It is not from the consumers. The financing in chief is from those producers.

Mr. AIKEN. All that some people seem to be able to see is the immediate profits, the big earnings they make on their investments. They completely ignore the fact that nearly one-third of the gainfully employed people in the United States are dependent upon agriculture, including the meat industry, and that when they reduce their income, their earnings, they are destroying part of the market which they previously had here in the United States, because the purchasing power of the American people goes down as American agriculture goes down.

Mr. HRUSKA. That pertains not only to income and activity in the cattle market directly but also to the feed grains market, for example, because that is where the consumption of feed grains goes. To the extent that the American cattle-producing industry will be reduced, so will the consumption of feed grains be reduced. It comes in full cycle and in vicious fashion.

I am very grateful to the Senator from Vermont for having brought out that point.

Mr. CURTIS. Mr. President, will the Senator from Nebraska yield to me once more?

Mr. HRUSKA. I am happy to do so.

Mr. CURTIS. With reference to the source of the agitation and propaganda for changing the meat quotas, I should like to call the attention of my colleague and the Senate to the fact that the mayor of New York City, on April 19, wrote a letter to the congressional delegation of the State of New York urging that the meat quotas be abolished, or nearly so.

He has this outrageous statement to make, which is hard to believe, that someone would be so wrong in his conclusions

and in the facts, and also so unfair to the agricultural segment of this country:

> Meat is kept artificially high because of a restricted meat import formula which guarantees that demand will outstrip supply and which insures inflated profits for the Nation's ranchers at the expense of the Nation's consumers.

Mr. President, that is a quotation, not from a consumer—that would not make it correct, of course—but here is a New York politician who is stirring things up.

I think it would be quite interesting to find out what connection there is between the promotion of these prices and American ownership of foreign production of meat.

Mr. HRUSKA. We cannot travel in the city of the mayor whose name is John Lindsay, without realizing that although the current dollar prices of hotel rooms in New York City are not what they were 20 years ago, cattle prices are the same or a little bit less. That applies to every bit of expenditure that anyone has to make when he goes to New York, from the time he steps off the airplane until he gets back on it.

I am sure that the mayor would not like to have any controls over the prices of goods and services in New York City, but he is willing to engage in a demogogic discussion on unfair, unbased, and unfounded charges.

Mr. AIKEN. Let me say to the Senator from Nebraska that I think I must come to the defense of the mayor of New York City, that as a Member of the House I believe he did not have a cow in his whole district, or any kind of agriculture in central New York City. Thus, perhaps he does not understand agricultural problems and the impact they have on the total American economy as well as the two distinguished Senators from Nebraska.

Mr. HRUSKA. The observation of the Senator from Vermont is very much in order and I am glad that someone rose to the defense of the mayor.

Mr. AIKEN. That is right.

Mr. FANNIN. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield.

Mr. FANNIN. I should like to make the observation that he is very much aware and stated that we do have the problems of imports from these other countries, at the same time they place barriers on our exports to their countries, such as the Japanese now have. We have an imbalance of trade of $1,600,000,000, and still the Japanese Government has opened two huge packing plants down under which are strictly packaging and canning plants. The Australian beef is packaged in cans and shipped to the United States. Also, products are shipped to the United States from Canada. So there is no embargo controlling the amount of meat that can be shipped to the United States.

The Japanese people want free access to our markets. They have nontariff barriers to products that enter their country. There is a 4-percent tariff on cars coming to this country. There is a 17-percent tariff on cars, to start with, going to their country.

It is a one-way street.

I certainly commend the distinguished Senator for bringing out the inequity that exists. I hope that we can through the legislative process or through administrative action change this situation.

We understand that many countries could not compete with us if we had free access to their markets. At the same time, we cannot continue to have this situation where countries want to ship into our country without limitation and yet they place a barrier on our products so that we cannot reciprocate.

Mr. President, I commend the distinguished Senator from Nebraska for his speech on this subject.

Mr. HRUSKA. Mr. President, the Senator from Arizona is certainly a very knowledgeable student of the problems of imports generally. When he speaks on the subject, he is well documented and well equipped.

I thank him for his contribution.

Mr. President, I yield briefly to the Senator from Iowa.

Mr. MILLER. Mr. President, I thank my colleague, the Senator from Nebraska, and I commend him for bringing the attention of the Senate and of the country to the very important problem of increasing meat imports into the United States.

I might say that my State produces the largest amount of slaughtered livestock of any State in the country. And so we are very concerned about the impact of imports on our domestic prices.

There is another aspect of this matter which has become increasingly serious in the last few years. And that concerns the increases in the pork imports.

I have introduced a bill which is substantially the same as the bill introduced by my friend, the Senator from Nebraska, except that it also covers pork imports. What I am particularly concerned about is a loophole in the present import law which does not cover canned, cured, and cooked items.

Mr. President, I have a series of tabulations based upon information secured from the Department of Agriculture which bear on this subject.

The first tabulation is a composite picture of the pork imports by product weight for the years 1964 through 1969, covering various types of pork products—fresh, chilled, or frozen pork, canned items and cured items.

I also have a series of tabulations covering the years 1964 through 1969 showing the breakdown of these products by country of origin. I point out that in the case of canned hams, the major exporters to the United States are Denmark, the Netherlands, and Poland.

Mr. President, I ask unanimous consent that these tabulations be printed at this point in the RECORD:

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

PORK IMPORTS (PRODUCT WEIGHT)

[In thousands of pounds]

Year	Fresh, chilled or frozen pork 106.40-20 and 106.40-40	Canned: Hams and shoulders 107.30-20	Canned: Bacon 107.30-40	Canned: Other 107.30-60	Cured: Hams and shoulders 107.35-20	Cured: Bacon 107.35-40	Cured: Other 107.35-60	Total
1964	39,187	140,535	4,807	17,908	1,569	4,087	587	208,680
1965	47,972	175,328	4,588	22,459	1,699	4,681	572	257,299
1966	41,982	198,231	17,248	32,812	1,606	3,397	390	295,666
1967	47,362	210,847	9,562	30,670	1,761	3,141	1,078	304,421
1968	48,420	227,044	9,033	30,897	2,211	3,273	756	321,634
1969	42,939	233,117	6,329	23,496	1,988	2,944	915	311,728

PORK.—U.S. IMPORTS BY TYPE AND COUNTRY OF ORIGIN, PRODUCT WEIGHT

[In thousands of pounds]

Country of origin	Fresh, chilled or frozen	Sausage	Canned: Hams and shoulders	Canned: Bacon	Canned: Other	Cured[2]: Hams and shoulders	Cured[2]: Bacon	Cured[2]: Other	Total[3]
1969[1]									
Denmark	2,338		92,693	5,963	6,859	622	48	71	108,594
Netherlands	129		80,356	146	4,657	216	17	72	85,594
Poland			42,877	48	10,489			178	53,592
Canada	42,852	1,407	1,498	71	6	791	2,662	582	49,868
Yugoslavia			11,049	18	818				11,886
Czechoslovakia			1,915		341				2,256
Germany, West		5	1,286	37	268	224	21	7	1,848
Sweden		2	338	11	36				387
United Kingdom		1	272	6	1		10		289
Belgium		4	246			4		2	256

Footnotes at end of table.

PORK.—U.S. IMPORTS BY TYPE AND COUNTRY OF ORIGIN, PRODUCT WEIGHT—Continued

[In thousands of pounds]

Country of origin	Fresh, chilled or frozen	Canned: Sausage	Canned: Hams and shoulders	Canned: Bacon	Canned: Other	Cured [2]: Hams and shoulders	Cured [2]: Bacon	Cured [2]: Other	Total [3]
Ireland	69	------	5	20	------	13	67	3	178
Other countries	18	28	582	9	21	118	119	------	897
Total	42,939	3,914	233,117	6,329	23,496	1,988	2,944	915	315,645
1968 [1]									
Denmark	1,121	------	91,584	8,831	10,214	7	103	80	111,939
Netherlands	117	------	77,031	121	4,352	507	20	9	82,157
Canada	48,252	1,080	1,623	22	4	1,071	2,969	479	55,500
Poland	------	------	40,884	------	13,723	355	------	164	55,126
Yugoslavia	------	2	11,392	------	1,958	------	------	------	13,352
Czechoslovakia	------	------	2,374	------	316	------	------	------	2,690
Germany, West	------	2	1,045	59	129	204	------	6	1,446
Sweden	------	------	266	------	60	------	------	------	326
Ireland	155	------	10	------	------	2	126	18	311
Italy	------	109	------	------	7	------	------	------	116
United Kingdom	6	------	36	------	1	------	------	------	43
Others	7	54	799	------	133	65	55	------	1,113
Total	48,420	2,485	227,044	9,033	30,897	2,211	3,273	756	324,119
1967 [1]									
Denmark	------	904	80,384	8,825	11,916	15	30	183	102,257
Netherlands	------	67	69,630	513	4,266	100	2	------	74,578
Poland	------	------	43,971	3	12,808	285	------	143	57,210
Canada	47,318	861	2,046	39	8	904	2,968	697	54,841
Yugoslavia	------	------	10,831	------	1,262	------	------	9	12,102
Czechoslovakia	------	------	2,423	7	191	------	------	------	2,621
Germany, West	------	6	844	164	77	239	------	45	1,375
Ireland	7	------	33	------	------	------	126	------	166
Italy	------	370	15	------	9	128	------	1	523
Sweden	------	4	115	11	------	------	------	------	130
United Kingdom	30	1	68	------	------	18	------	------	117
Others	7	267	487	------	133	72	15	------	982
Total	47,362	2,480	210,847	9,562	30,670	1,761	3,141	1,078	306,902
1966 [1]									
Denmark	------	504	87,707	16,321	12,373	37	3	5	116,950
Netherlands	------	72	59,209	612	5,129	68	------	------	65,089
Poland	------	------	38,879	85	12,644	------	------	------	51,608
Canada	39,633	832	2,451	26	6	1,026	3,155	339	47,468
Yugoslavia	------	2	6,602	2	2,141	------	------	------	8,748
Czechoslovakia	------	------	1,672	------	368	------	------	------	2,040
West Germany	------	8	1,283	200	118	177	------	12	1,798
Ireland	1,400	------	1	2	------	2	174	------	1,579
Italy	------	1,190	29	------	3	290	------	28	1,540
Sweden	615	------	19	------	19	------	------	------	653
United Kingdom	262	------	79	------	------	------	1	------	342
Others	72	69	301	------	11	6	64	6	528
Total	41,982	2,677	198,231	17,248	32,812	1,606	3,397	390	298,343
1965 [1]									
Denmark	------	94	72,532	7,383	5,149	12	------	------	85,170
Canada	44,726	671	5,263	28	6	1,237	4,532	551	57,014
Poland	------	------	39,243	11	13,624	------	------	------	52,878
Netherlands	------	137	45,460	83	416	74	------	------	46,170
Yugoslavia	------	------	10,037	7	2,938	------	------	------	12,982
Ireland	1,973	------	46	2	14	1	128	------	2,164
Czechoslovakia	------	------	1,676	4	271	------	------	------	1,951
Italy	------	1,079	4	------	3	181	1	5	1,273
Germany, West	------	1	596	31	21	191	(4)	16	856
United Kingdom	------	------	241	26	1	------	8	------	276
Sweden	------	2	151	12	7	------	------	------	172
Others	1,273	10	79	1	9	3	12	------	1,387
Total	47,972	1,994	175,328	7,588	22,459	1,699	4,681	572	262,293
1964 [1]									
Denmark	------	79	58,280	4,042	3,913	15	------	120	66,449
Canada	39,125	594	5,466	19	4	1,087	3,961	445	50,701
Poland	------	------	32,347	590	10,945	------	------	------	43,881
Netherlands	------	102	37,693	91	230	71	------	------	38,186
Yugoslavia	------	------	5,235	21	2,699	19	------	------	7,975
Italy	1,161	------	17	------	2	161	------	5	1,346
Czechoslovakia	------	------	944	5	93	------	------	------	1,042
Germany, West	------	------	421	------	1	215	------	17	654
Ireland	37	------	------	2	------	------	124	------	163
Sweden	------	1	83	------	------	------	------	------	83
Iceland	25	------	------	18	------	------	------	------	43
Others	------	8	49	19	21	1	2	------	101
Total	39,187	1,945	140,535	4,807	17,908	1,569	4,087	587	210,624

[1] Preliminary.
[2] Prepared or preserved except sausage.
[3] May not add due to rounding.

Source: Livestock and Meat Products Division, Foreign Agricultural Service, USDA, Nov. 1969.

Mr. MILLER. Mr. President, there is another aspect of this import picture which I hope my friend, the Senator from Nebraska, will perhaps dwell on in his remarks. I know that he is personally interested in this, because I recently joined with him and several other Midwestern Senators in expressing to the President our concern about this matter. That matter concerns the problem of the transshipment of meat originating in some other foreign country through Canada.

As of June 5, these transshipments amounted to almost 21 million pounds.

We have voluntary agreements to limit shipments from various countries which export meat to the United States. There is no voluntary agreement with Canada, although the imports from Canada for the calendar year 1970 are estimated to be 45 million pounds. For the first 4 months of this year, 25 million pounds have been shipped into the United States from Canada. But this does not include transshipments.

According to the Department of Agriculture, the voluntary agreement in effect between the United States and Australia provides that only through shipments will be counted toward the agreement. Therefore, transshipments from Australia through Canada are not counted. And there is concern that they will aggravate the import problem to the extent that the trigger point will be reached.

This is a very important aspect of the import problem which needs to be clarified at an early date. And I hope that the administration will do this. In any event, if there is legislation that will be acted on, I think that the transshipment problem should be covered.

The Senator from Nebraska and I have cooperated for years on this problem.

I again wish to commend him for his great leadership in this area. Had it not been for the Senator from Nebraska, I do not believe that we would have the present import law on the books. Granted that it is not all that we wished it to be, nevertheless, it is much better than nothing.

Mr. President, what needs to be done is to tighten it up and not to subtract from its effectiveness.

I look forward to continued cooperation with the Senator from Nebraska in the months ahead on this very important problem which fundamentally means whether or not we are going to have good quality, fair-priced meat for the American consumer.

I sometimes think that there are too many shortsighted people who do not realize that if the meat imports expand into this country, there may be a short-range consumer benefit, but in the long range, it will mean lower quality meat and higher prices, because many of our own domestic producers will have to go out of business. We will be dependent upon other countries for these products.

Mr. President, in the international picture, history shows that that is a very dangerous situation for the American consumer. I hope that the long-range, rather than the short-range view will be taken on this problem.

I thank my colleague for yielding.

Mr. HRUSKA. Mr. President, when the Senator from Iowa speaks on this subject, it is a real subject for him, because livestock sales in his State undoubtedly forms the largest single item of any industry.

I know how closely the Senator from Iowa has followed this subject of the well-being of the livestock industry in his State not only in this body, but also in the Legislature of the State of Iowa when he was a member of that body.

The total number of cattle in the State of Iowa as of January 1, 1970, was 7.5 million. And that is a lot of cattle. That means the total of all cattle and calves.

The Senator speaks with very great concern about any further tampering with the import policy which we have by way of statute at this time.

Mr. MILLER. Mr. President, I appreciate the Senator's recognition of the importance of Iowa in this picture when it comes to beef cattle.

But, Mr. President, I underscore the fact that Iowa is the largest pork-producing State in the Union, and when we have increasing imports of pork products, such as revealed by the tables I have placed in the RECORD, there is only one

result, and that is an unfavorable impact on pork prices received by our farmers.

If our farmers had been receiving parity prices for their hogs consistently down through the years, the Senator from Iowa would not be concerned. But the unfortunate fact is that although once in a while parity prices are received, if one looks at the average, month-in and month-out, and year-in and year-out, prices are considerably under parity, and we understand parity prices are necessary if agriculture people are to share fairly in the net income.

That is why I think it important that there be changes in the meat import law, including pork products, and especially canned and cooked items.

I thank the Senator for yielding.

Mr. HRUSKA. Mr. President, I thank the Senator for his contribution.

(This marks the end of the colloquy which occurred during the delivery of Mr. HRUSKA's address and which, by unanimous consent, was ordered to be printed in the RECORD at this point.)

Mr. HRUSKA. Mr. President, I am happy to yield to the distinguished Senator from North Dakota for 10 minutes.

Mr. YOUNG of North Dakota. Mr. President, I commend the distinguished Senator from Nebraska (Mr. HRUSKA) for his fine outline of the meat import situation and the problems facing the domestic livestock industry.

The American livestock producer has a strong friend in the Senator from Nebraska.

There has been a great deal of publicity in recent months about the high price of meat. This has been coupled with calls for a revision or complete repeal of the present, limited Meat Import Control Act.

Some of this publicity has obvious appeal to the consumer who is hard pressed to stretch the family budget.

The truth is, however, that most of these charges have little, if any, basis in fact.

The American livestock producer has been accused of holding down production in a deliberate attempt to force livestock prices to high levels.

He has been pictured as making excessive profits at the expenses of the Nation's consumers.

Such is not the case, and I would like to take a few moments to comment on these charges.

The American consumer is fortunate indeed. A great deal of publicity has been given to the problems of hunger and poverty in this country and rightfully so.

In the process, we seem to overlook an even greater truth—the American people today are better clothed, better fed, and better housed than any people at any time in history.

In the case of food, the American consumer today spends less than 16.5 percent of his disposable income for food—an all-time low.

Meat prices have risen in the last year or so.

Despite this increase, live cattle prices have not reached the record levels they attained in 1952.

That was 18 years ago.

In this day of record wage levels, record high disposable incomes, record high payments of social security and other retirement benefits, and record payments for welfare programs, it is difficult to understand the arguments of those who single out a commodity whose basic price level is lower than it was 18 years ago for criticism.

During the 10 years, 1960 to February 1970, the average price of beef at retail rose 20.7 percent.

Hourly earnings of construction labor rose 63 percent.

Per capita expenditure for other goods and services went up 67.7 percent.

Nonagricultural labor earnings rose 50.7 percent.

I do not criticize this increase in earnings. It is good for the people of this country and it is good for agriculture. However, I think there is something wrong when agriculture prices are much lower than they were 20 years ago.

Mr. President, despite the publicity to the contrary, the livestock producer is not faring well.

Generally speaking, the cattle producer of this country has had little in the way of net profit since 1951.

His income has been devoted to meeting operating expenses, upgrading his operations and attempting to meet his debt obligations.

During this period, he has been faced with an ever-rising cost structure.

As with all of agriculture, almost everything the cattle producer purchases today is at record high levels.

The only part of his income-cost equation that is not at an all time high is the price of the livestock he sells.

Some have suggested that we will be unable to meet domestic demand for meat and meat products unless imports are expanded. Past history and a knowledgeable review of the potential of the livestock industry will disprove that theory.

Beef production in this country has risen in all but 6 years since 1940.

It has risen every year since 1960.

If the industry had not been able to provide this expanded production, the increase in per capita consumption that we have enjoyed could not have occurred.

In 1940, Americans consumed 54.9 pounds of beef per capita.

In 1969, with a population increase of over 70 million people, we consumed an average of 110 pounds of beef each.

This is a reflection of our rising standard of living and our preference for meat.

It certainly is no indication that the domestic livestock industry has been unable to meet the needs of the American people.

As in the past, the American livestock industry stands ready to meet the demands of the public for high quality, economical red meat.

Production can and is being expanded to meet a growing demand.

In the last 3 years, the Nation's beef cow herd has grown by almost 8 percent. Our population growth was only 3 percent.

With the continuing application of improved technology, better marketing practices, and basic expansion of the livestock industry the needed expansion of meat supplies can and will take place.

In my view, Mr. President, there is only one way we can prevent this expansion.

That is by permitting the continued flow or even an increase in the meat imports into this country.

Only by driving domestic livestock prices to submarginal levels can we halt the expansion of the meat industry.

The American farmer and rancher pays taxes at American rates.

The money he borrows, the equipment he buys and all of the other production items he utilizes are priced in our market.

These costs of production are higher today than they have ever been.

Producers in the major exporting nations face a cost structure that is vastly different. Land costs, labor, taxes, equipment, and transportation are only a fraction of what they are in the United States.

It is understandable that these nations would desire to participate in the U.S. market.

The current meat import law is designed to permit just that.

We have to import if we expect to export, but our imports should be kept at a reasonable level.

While imposing a reasonable limit on meat imports, the law permits foreign producers to share in the expansion of our markets.

This legislation was designed as a vehicle to assist the American livestock producer.

In addition, it is a major factor in the assurance of a continuing supply of high quality, economical food for all Americans.

Only by assuring the continued strength of American livestock production can this supply be assured.

Rather than heeding the calls for weakening or eliminating present meat import limitations, I feel we should be keeping a close watch on what is happening to the level of imports not covered by the quota legislation.

Meat imports have been increasing beyond what is permitted under the expansion terms of present legislation.

Last year, imports of beef and veal equaled 7.5 percent of domestic production.

In 1965, these imports were only equal to 4.8 percent of United States output.

The same comparison can be made for other meats.

I am not unaware of the need to assure improved nutrition for the Nation's poor.

Congress and this administration have been moving to provide additional assistance in this area.

During the current fiscal year, the Department of Agriculture will spend more than $1.6 billion for food assistance programs.

The agriculture appropriations bill, soon to be considered by the House of Representatives for fiscal year 1971, pro-

vides more than $2.6 billion for these purposes. This is more than 3½ times the expenditure we made in this area as recently as 1965.

Mr. President, the American livestock producer has served his fellow Americans well. He has provided a continually expanding supply of meat and meat products to meet their demands.

He has done this at prices that have not always been profitable for him. He stands ready to continue his service in this role. It would be highly unwise to take any steps that would weaken this tremendous industry.

Mr. HRUSKA. Mr. President, I yield 5 minutes to my colleague the Senator from Nebraska.

Mr. CURTIS. I thank my distinguished colleague.

THE THREAT OF UNLIMITED BEEF IMPORTS

Mr. President, oftentimes American cattlemen are told: Do not worry if the import quotas are removed, there is only a limited supply of additional beef available abroad to be shipped to this country. One spokesman for the importing interests has said, in fact, that even if quotas are removed entirely, only an additional 150 million pounds of beef will come here.

Mr. President, in the first place, we do not believe that figure. It is far too low. Total shipments of beef by all exporting countries in recent years have amounted to about 5 billion pounds or more. That represents the total quantity of beef that is available for shipment somewhere.

A great part of it already comes to the United States. In fact, the United States is by far the largest single importer of beef in the world. In 1968, we imported 1,499.7 million pounds—including all types of beef, on a basis of carcass weight equivalent—and in 1969 we imported 1,614.8 million pounds.

If we had no quotas and no system of restraint through agreements with the supplying countries, there would be every reason for them to increase their shipments to us. The price received here is, from their point of view, advantageous. Other principal importing countries have in many cases shut out the importation of beef. In fact, the United States is the principal beef market which is relatively free from restrictions on imports.

A table has been secured from the Department of Agriculture showing the quantities of beef that move in international trade, the principal markets and major exporting countries. By this table it is shown that imports of beef have increased greatly since the early sixties.

Purchases by the United Kingdom, the second leading importer, have gone down. The United Kingdom follows a policy of systematically subsidizing its domestic, beef production meet the competition of imports.

The third potential market of importance is the European Common Market—the six countries of Italy, Germany, France, Netherlands, Belgium, and Luxembourg. Imports into some of these countries have increased to a degree during the last few years, but the long-term trend is likely to be downward because of the agricultural policies followed by them. By the terms of the so-called common agricultural policy, all markets within the six countries are reserved primarily for the producers within any one of those countries, and a high level of prices is maintained by government policy which stimulates increased production.

This policy has had the effect of building up their production of such products as poultry and wheat, to the point where their imports have been practically wiped out. The prospect is that there will be a similar buildup of their production of beef, which will mean cutting down or shutting out beef imports from the surplus producing countries such as Australia and Argentina. Thus, Australia and others will once again wish to ship their beef surpluses here, as other markets are closed to their product.

However, any relaxation of our import quota system may have another even more destructive result. It will be taken as a signal by Australia and other countries that they can safely expand their production for the American market. It will be a public announcement that we are willing to take all the beef they wish to sell. It will tell them that it is American policy to invite and encourage them to produce and ship all the cheap beef they can.

We know that in Australia and many other countries there are tremendous possibilities for the expansion of beef production. I have here an article in a recent USDA publication which summarizes the prospects in a number of the major beef producing countries. The article states that the present world market situation is not unfavorable, with strong demand and no surpluses overhanging the market at this time. However, the article then goes on to give us a picture which is not encouraging at all of the expansion in production that is in prospect in most of the principal beef producing countries.

With respect to Australia, for example, the article says:

> Australia is expanding its beef output phenomenally. Large capital inputs of recent years, along with the government-sponsored beef incentive program, are producing output gains of 8 to 10 percent a year—almost unheard of in the beef business. With reasonable weather, Australian cattle numbers will continue to set a new record each year.

Australian home consumption of beef will likely increase, the article says, but huge supplies will certainly continue to seek export outlets.

Argentina, the largest exporter of beef to Europe, will continue a growth in production even though there is little if any, incentive to producers, the article points out. New Zealand, a smaller producer, is adding cattle, and is also to some extent converting from dairy to beef. Production in Mexico and Ireland is growing steadily.

Central America, including Panama, has emerged as a growing exporter to the U.S. market. Because U.S. beef prices are more favorable to producers and processors than those they could receive in their own countries, they tend to export more. This is a policy which, in my judgment, should be gravely questioned, since all of these Central American countries are greatly in need of expanded food supplies for their own people. Their dietary level at present is low, and their populations are growing at an extremely rapid rate.

Mr. President, if we weaken our defenses at this time, we can expect all these countries to launch into programs of rapidly expanding production, to gain the maximum possible benefit from selling beef to the rich American market. Furthermore, we can expect that trade channels now leading to other countries will be redirected to this country, to gain advantage of American price levels. We should not accept the role of becoming the dumping ground for all the world's surplus beef. We can easily produce ourselves whatever increased quantities of beef can be absorbed by our people. We should not expose our domestic producers to low-cost competition from abroad which they have no way of meeting.

Mr. President, I ask unanimous consent to insert in the RECORD at the end of my remarks a table from the U.S. Department of Agriculture "Livestock and Meat Situation," of May 1970, showing the steady growth in U.S. imports of livestock products during the last 6 years; also, a table prepared by the Foreign Agricultural Service showing the quantity of beef and veal exported by the principal surplus producing countries, through 1968, and also the quantity imported by the leading importing countries. Of these importing countries the United States is the largest, in spite of the fact that we are the largest producer of beef and could produce much more if needed to fill the market demand.

I also ask to insert in the RECORD a news release and a letter of Mayor Lindsay of New York City, and a reply thereto by Don F. Magdanz.

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

TABLE 6.—U.S. IMPORTS OF LIVESTOCK PRODUCTS, 1964-69

Item	1964	1965	1966	1967	1968	1969
Meat (carcass weight equivalent) (million pounds):						
Beef:						
Boneless, fresh or frozen	919.2	734.3	986.7	1,116.0	1,224.7	1,348.9
Fresh or frozen	17.2	29.3	20.7	11.7	26.8	19.6
Total, fresh or frozen	936.4	763.6	1,007.4	1,127.7	1,251.5	1,368.5
Canned	110.2	126.8	126.6	136.7	165.2	164.4
Pickled or cured	.4	.4	.6	1.8	1.3	1.6
Other, processed	20.7	32.2	47.6	47.3	81.7	80.3
Total	1,067.7	923.0	1,182.2	1,313.5	1,499.7	1,614.8
Veal: Fresh or frozen	17.5	18.8	22.0	14.2	18.3	25.7

Footnotes at end of table.

TABLE 6.—U.S. IMPORTS OF LIVESTOCK PRODUCTS, 1964-69—Continued

Item	1964	1965	1966	1967	1968	1969 [1]
Pork:						
Fresh or frozen	39.2	47.9	42.0	47.4	48.4	42.9
Hams and shoulders, not cooked	1.7	1.9	1.8	1.9	2.4	2.2
Hams and shoulders, canned	189.7	236.7	267.6	284.6	306.5	314.7
Other	36.8	46.5	69.9	58.6	58.8	49.0
Total	267.4	333.0	381.3	392.5	416.1	408.8
Lamb	10.4	12.5	14.9	12.3	22.9	43.9
Mutton and goat	68.6	60.0	121.1	108.6	124.0	108.4
Total red meat	1,431.6	1,347.3	1,721.5	1,841.1	2,081.0	2,201.6
Variety meats (product weight)	1.2	2.2	3.3	3.5	3.8	5.6
Wool (clean basis):						
Dutiable	98.4	162.7	162.5	109.1	129.8	93.5
Duty free	113.9	108.9	114.6	78.2	119.6	95.7
Total wool	212.3	271.6	277.2	187.3	249.4	189.2
Hides and skins (1,000 pieces):						
Cattle	315	302	221	233	494	276
Calf	926	458	242	481	508	358
Kit	1,084	607	438	357	286	334
Sheep and lamb	29,621	29,821	27,893	20,300	30,822	20,715
Number:						
Cattle [2]	528,872	1,110,631	1,081,474	740,448	1,024,235	1,021,054
Hogs [3]	5,094	14,453	22,698	34,926	21,678	13,430
Sheep and lambs	12,680	19,073	8,310	12,403	26,579	22,805

[1] Preliminary.
[2] Dutiable; not for breeding.
[3] For years 1964-66 imports reported in pounds; pounds converted to 200-pound hog equivalent. Beginning 1967 reported in numbers.

BEEF AND VEAL [1]: PRINCIPAL EXPORTING AND IMPORTING COUNTRIES, QUANTITY AND PERCENT OF TOTAL, AVERAGE 1961-65, ANNUAL 1967-68

Country	Quantity (million pounds)			Percent of total		
	Average 1961-65	1967 [2]	1968 [2]	Average 1961-65	1967 [2]	1968 [2]
Exporting countries:						
Argentina	1,216.8	1,535.7	1,265.4	27.2	28.3	22.9
Australia	879.6	927.0	903.2	19.7	17.1	16.3
New Zealand	355.7	365.6	413.6	7.9	6.7	7.5
France	259.6	237.6	385.4	5.8	4.4	7.0
Ireland	187.9	391.3	318.1	4.2	7.2	5.7
U.S.S.R.	212.7	396.4	298.2	4.8	7.3	5.4
Denmark	183.2	270.0	257.3	4.1	5.0	4.6
Uruguay	215.2	121.9	234.7	4.8	2.3	4.2
Netherlands	135.8	158.5	201.4	3.0	2.9	3.6
Yugoslavia	149.3	184.8	193.4	3.3	3.4	3.5
Brazil	90.5	58.3	180.8	2.0	1.1	3.3
Mexico	81.1	66.6	100.3	1.8	1.2	1.8
Poland	65.1	70.2	83.3	1.5	1.3	1.5
Germany, West	24.5	39.8	74.9	.5	.7	1.4
Belgium and Luxembourg	10.3	59.6	69.3	.2	1.1	1.3
Nicaragua	29.6	44.6	52.1	.7	.8	.9
Other countries	379.8	499.7	503.7	8.5	9.2	9.1
Total	4,476.7	5,427.6	5,535.1	100.0	100.0	100.0
Importing countries:						
United States	1,236.3	1,327.7	1,518.0	30.3	28.6	30.4
United Kingdom	1,090.4	1,000.5	958.7	26.7	21.5	19.2
Italy	434.3	767.3	581.9	10.6	16.5	11.6
Germany, West	266.2	334.9	430.3	6.5	7.2	8.6
U.S.S.R.	236.6	40.8	(3)	5.8	.9	(3)
Spain	101.2	243.8	248.2	2.5	5.2	5.0
Netherlands	58.5	103.6	128.9	1.4	2.2	2.6
Greece	58.0	110.7	114.9	1.4	2.4	2.3
Belgium and Luxembourg	43.8	82.7	99.6	1.1	1.8	2.0
France	91.6	88.3	90.6	2.2	1.9	1.8
Switzerland	63.1	78.5	80.1	1.6	1.7	1.6
Israel	34.6	52.2	70.7	.9	1.1	1.4
Other countries	366.0	416.9	677.6	9.0	9.0	13.5
Total	4,080.6	4,647.9	4,999.5	100.0	100.0	100.0

[1] Carcass weight equivalent basis; excludes fat, offals, and live animals.
[2] Preliminary.
[3] Included in "Other countries."

NEWS RELEASE OF MAYOR LINDSAY

Sunday, April 19, 1970.—In letters to the members of New York City Congressional Delegation Mayor John V. Lindsay today expressed his concern over the skyrocketing cost of meat for New York City consumers.

The Mayor said he is particularly troubled because meat prices are being kept artificially high by government import quotas.

The Mayor said that if action was not taken it will soon be the case that hamburger meat, "Is going to be as costly as a cut of Porterhouse" and "Even such a universal American food as frankfurters" will be considered in the luxury class.

While the Mayor's letter dealt specifically with costs in New York City, he said the implications of Federal import quotas affect prices for all American consumers.

Following is the text of the Mayor's letter:

"I am writing to urge you to give your attention to a very serious problem affecting all New Yorkers. That is the highly inflated prices of meat, particularly manufactured meat such as hamburger and frankfurters, now prevalent in all the grocery stores and supermarkets in New York City.

"The Commission on Inflation and Economic Welfare which I appointed last August has reported that the price of meat, fish and poultry in New York City has risen by 18% in the last year. For a family of four earning $6,000, the additional cost per year to put meat on the table is $101. For a family of four earning $9,500, the additional cost is $135.

"As we all know, these are substantial increases in necessary expenditures which are borne by the average citizen regardless of how much he wishes to economize or how carefully his wife shops in her local supermarket.

"The Commission correctly observed that numerous factors have contributed to this extraordinary price increase, many of which are also influencing other sectors of our economy.

"At least one important factor, however, is unique to the price structure of meat. The price of meat is kept artificially high because of a restrictive meat import formula which guarantees that demand will outstrip supply and which insures inflated profits for the Nation's ranchers exacted at the expense of the Nation's consumers.

"That restrictive formula was passed into law in 1964, the only year in the last eight that domestic production rose more rapidly than domestic consumption. Moreover, the formula is keyed, not to the level of consumption which would insure a stable price for consumers, but to the level of production which allows the cattle industry to increase meat prices simply by holding down production and has a multiplier effect on prices by keeping imports down when domestic production is down.

"Consider for a moment the incredible arrogance of the American Cattlemen's Association representative when he had the audacity to testify before a Congressional Committee that in slowing down production by 5%; 'We were attempting to balance supply with demand, hopefully so we could improve our income position.'

"The time has come for the representatives of our Nation's big cities, both in City Hall and in the Congress, to exert leadership on behalf of our citizens and consumers.

"If we do not act it will not long be hyperbole to say a hamburger is going to be as costly as a cut of Porterhouse, and that even such a universal American food as frankfurters will become so expensive that a large percentage of our citizens will consider it a luxury to purchase them.

"The meat import quotas must be revised if not lifted altogether to cut consumers' prices. Coincidentally the side effects of lifting the embargo will also be beneficial. We will establish better trading relations with our allies in Australia, New Zealand and Ireland, and we will bring about the streamlining of the domestic meat industry through the elimination of noncompetitive fringe producers and of unnecessarily high distribution costs that now plague producers and consumers alike.

"Our case here is irrefutable, our cause is one dear to every housewife who watches her nickels and dimes, and to every working man who likes his three square meals a day.

"Legislation repealing the meat import quotas should be passed."

NATIONAL LIVESTOCK FEEDERS ASSOCIATION,
April 24, 1970.

Hon. JOHN V. LINDSAY,
Mayor of New York,
New York City Hall,
New York, N.Y.

DEAR MR. MAYOR: As representatives of cattle feeders in the Nation—those who supply the bulk of the beef available to the Nation's consumers—we are literally shocked at the letter you wrote to the New York City Congressional Delegation and released on April 19. While we can appreciate your concern for citizens in the City of New York, we cannot understand why anyone in such a prominent position would make as many false charges as your letter contained, or show evidence of such a complete lack of understanding of meat supplies and prices.

When you refer to, "The highly inflated price of meat, particularly manufactured meat such as hamburger and frankfurters," you demonstrated conclusively that you have not researched the situation. In fact, you have made a completely inaccurate reference. The price of meat, (though it does

vary from city to city, as well as supermarket to supermarket) and prices of live cattle have in no sense of the word gone up as much in the past ten years as costs of living in New York City, nor as much as hourly wages or incomes of your residents there.

In a later paragraph you admit to these "Substantial increases in necessary expenditures which are borne by the average citizen regardless of how much he wishes to economize or how carefully his wife shops in her local supermarket." Under these circumstances, Mr. Mayor, how can you justifiably reason that meat prices should not go up accordingly and consumers should balance off their other increased living costs with savings at the meat counter?

You mention the price of meat, fish and poultry in New York City has risen 18% in the past year. If this has occurred, let me remind you of the fact that the prices of live cattle from which beef is derived, have only belatedly been catching up with the price of everything else consumers buy including taxes you levy on your good people in New York for the cost of public services. Compared to 1960, the Government records show that by February, 1970, the average price per pound of choice beef at retail rose from 80.7¢ to 97.4¢ or 20.7%. In the same period, the average price of choice steers (based on Chicago) rose from $26.24 cwt. to $30.27 cwt., or an increase of 15.3%.

Meanwhile, the Nation's average cost of all consumer services (less rent), from 1960 to February, 1970, rose 46.3%, average nonagricultural hourly earnings rose 50.7%, average hourly earnings in construction rose 63%, and per capita disposable income went from $1,937 to $3,172, a whopping increase of 63.8%.

Still covering a ten year period, the per capita disposable income spent for food declined from 20% to 16.4%. With this lower pecentage of income spent for food, consumers have been able to buy 110.7 pounds of beef per capita compared to 85 pounds in 1960, an increase of 30.2%. The truth of the matter is, Mr. Mayor, that beef has been a bargain for consumers compared to practically everything else they buy or the costs they must sustain.

You mention that "Meat is kept artificially high because of a restricted meat import formula which guarantees that demand will outstrip supply and which insures inflated profits for the Nation's ranchers at the expense of the Nation's consumers." The 1964 Meat Import Law was passed for the sole purpose of preventing foreign nations from carving up the domestic beef market and from flooding the domestic market with excessive quantities of cheap beef that would bankrupt the Nation's cattle feeders and ranchers. Their costs have gone up too, Mr. Mayor; up tremendously, just as acknowledged substantial increases in necessary expenditures which are borne by the average citizen in New York. Meat prices are not artificially high, as we have already demonstrated, and the demand has not outstripped supply as you contend. The nation's cattle industry, has been increasing production consistently since 1964, not only in absolute volume, but also in per capita supplies from 99.8 pounds to 110.6 pounds. With the increase, the formula to which you refer allows a corresponding increase in imports making up a portion of the total supply.

You mention that this restricted meat import formula "Insures inflated profits for the nation's ranchers exacted at the expense of the nation's consumers." We challenge you, Mr. Mayor, to show us where these inflated profits among ranchers and cattle feeders of the nation do exist. The truth of the matter is, they do not, since their costs of production have risen far more than prices they receive and net returns they might realize. Frankly, you need to look elsewhere for inflated profits which may be improperly extracting income from the consumers of New York.

Yes, Mr. Mayor, it would be a gross exaggeration to suggest that the price of hamburger may some day be as high as a cut of Porterhouse, and frankfurters may become so expensive they will be considered a luxury unless something is done to relax or eliminate the Meat Import Quota Law. While supplying the Nation with an increased per capita supply of total beef since 1964, contained in that supply is an increased volume of processing type meat, such as that used for hamburgers, amounting to 49 pounds per capita in 1969 and compared to 44.3 pounds in 1964. Such a suggestion as you make could in no way occur by the most irresponsible stretch of the imagination and, despite the statement you wrote, I would be sure you realize this.

The contents of your letter, Mr. Mayor, which have received certain publicity throughout the country, have rendered a great disservice to the Nation's cattle industry, the largest single segment of the overall, agricultural industry and one on whom millions of persons—not only operators, but processors, suppliers, financiers, transporters, distributors, etc.—depend on for a living. Not to be ignored also, are over 200 million consumers who rely on this industry for the finest food that is available to them.

Most consumers realize, we are sure, that under inflated circumstances existing today, they cannot expect to buy beef or any other meat products at lower prices while costs of all other items have risen substantially. I hope that upon examination of the facts, you will realize the incredibility of the charges and statements you have distributed.

Respectfully yours,

DON F. MAGDANZ,
Executive Secretary-Treasurer.

Mr. HRUSKA. Mr. President, I yield 5 minutes to the distinguished majority leader, the Senator from Montana.

Mr. MANSFIELD. Mr. President, all I want to say has already been said by the distinguished Senator from Nebraska, who has been a leader in the fight to give protection to the domestic cattle industry for more years than I personally care to remember. I do recall that, working together, we were able to get the meat import bill, Public Law 88–482, now in effect, passed 6 years ago.

At that time we discussed the matter with our various State cattle associations, as well as the American National. But times have changed since then. Costs have increased. Basically the price received by the producer has remained approximately the same, but the cost to the ultimate consumer has increased considerably.

I am in receipt of a letter from the Department of Agriculture, under the signature of Andrew J. Mair, Deputy Assistant Secretary for International Affairs and Commodity Programs, under date of June 8, 1970, which gives us the latest information, at least as far as I am concerned, on the matter of imports of beef. It shows what the figures are as of this time, and also gives some consideration to the question raised about the Japanese sending us processed meat. I would like to read just the last paragraph, which is a short one:

We well understand the concern of our cattlemen. Please be assured that we favor continued restraints on imports of beef and that in any review made of this subject their interests will be given strong consideration.

I hope this is not merely rhetoric, but means what it says.

I ask unanimous consent that the letter from Secretary Mair be incorporated at this point in the RECORD.

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

DEPARTMENT OF AGRICULTURE, OFFICE OF THE SECRETARY,
Washington, D.C., June 8, 1970.

Hon. MIKE MANSFIELD,
U.S. Senate.

DEAR SENATOR MANSFIELD: Thank you for your letter of May 8 regarding imports of beef.

We, too, have been receiving letters expressing concern about increases in imports of beef. Most of these have been concerned with imports of fresh and frozen beef, veal and mutton, the items subject to the Meat Import Law, P.L. 88–482. The letters we have received have usually pointed to the increase in imports thus far this year as compared with a similar period in 1969.

It is true that imports of fresh and frozen beef, veal and mutton have been higher for the first four months of this year than for the same period last year. The figures are 426 million pounds this year compared with 318 million pounds last year.

Part of the apparent increase in 1970 has been due to the receipt of about 30 million pounds of in-bond shipments which arrived in 1969 but could not be entered because of last year's restraint program. Also, during 1969 receipts were reduced because of the strike in many of our major ports. Despite these two factors, there has been an increase in shipments through April. This does not mean that the restraint program will not work. Rather, it is a reflection of the strong demand for processing beef in the United States. The agreements signed with the principal exporting countries give us authority to impose restraints of our own when they are needed, and we will not hesitate to do so if it appears that any country will exceed its annual restraint level.

Concern has also been expressed about the possibility of Japan sending us processed meat. As best we know, there are two canning facilities under construction in Japan but these will be used to process meat for domestic distribution in that country.

Imports of all cattle through April this year totaled 414,000 head, compared with 362,000 head during the same four months in 1969. You will be interested to know that imports from Mexico are up from last year, while those from Canada are down.

We well understand the concern of our cattlemen. Please be assured that we favor continued restraints on imports of beef and that in any review made on this subject their interests will be given strong consideration.

Sincerely,

ANDREW J. MAIR,
Deputy Assistant Secretary for International Affairs and Commodity Programs.

S. 3942—INTRODUCTION OF A BILL TO PROVIDE FOR THOROUGH HEALTH AND SANITATION INSPECTION OF ALL LIVESTOCK PRODUCTS IMPORTED INTO THE UNITED STATES

Mr. MANSFIELD. Mr. President, in line with the genuine concern expressed by many of the congressional delegations in the West and Midwest on the issue of cattle and beef imports, I have sent to the desk, legislation which would provide for thorough health and sanitation inspection of all livestock products

imported into the United States. Information which has reached me in recent weeks indicates that this is an area which is in need of some immediate attention. It is tied to the importation of frozen beef and veal. The problem is not at the inspection stations in this country, but overseas establishments, in many instances, are in need of surveillance by U.S. personnel.

This legislation was proposed early in May and introduced by my very able colleague, JOHN MELCHER, Congressman from Montana's eastern district. Congressman MELCHER, a veterinarian and rancher, shares the concern about this situation, as do the other members of the Montana congressional delegation, and has added a special interest in view of his many years as a veterinarian and active rancher in eastern Montana.

While our efforts in the past several years have been directed toward an effective quota system limiting the importation of cattle and beef products, we now face a sudden increase in imported, processed, and canned meat products which may or may not have been subjected to proper inspection. I think it is only fair to say that our foreign competitors must conform with the same health requirements that any U.S. meatpacker does at the present time. Such a regulation would bring about an immediate reduction in imports and give the domestic livestock industry some deserving relief. This situation is analyzed more succinctly than I can do it in a recent column in the Western Livestock Reporter published at Billings, Mont., may I say to my colleague from Oklahoma (Mr. BELLMON), who comes from Billings, Okla., but they are both cattle producing centers.

Mr. President, I ask unanimous consent to have publisher Patrick Goggins' column, "An Industry at the Crossroads," printed at this point in my remarks.

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

AN INDUSTRY AT THE CROSSROADS

The livestock industry and your future is at the crossroads of success or failure. There has never been a time in the last 40 years when there is so dire a need for the attention of every cowman in the United States.

I'm talking again about imports. There is a situation at hand such as the industry has never seen that is made to order for a two fold effect. I'm talking about health standards under which foreign Packers are shipping meat into the United States in competition with U.S. packers.

If the United States cattle industry would champion the cause to the public of America that the United States Government insist that foreign Packers shipping meat into the United States conform with each and every health requirement that U.S. Packers must conform with, we would have an immediate curtailment of imports into the U.S. and still keep face with world trade.

We would have no need to worry about putting more strings on foreign imports or quota restrictions. It would be automatic and the United States cattlemen and livestock industry could, if they would but do it, become champions with the American Housewife. Every Congressman and Senator who might give a helping hand would be rewarded as better statesmen to the American way of life.

There hasn't been a time in the last 40 years that the cowman has had an opportunity or a situation arise that he could become a champion. Most of the time the people of America, especially the housewife and working people, think of the cowman as a baron, a wealthy king with all the money in the world he wants to spend.

I can appreciate that some officials of the livestock industry do not condone this thinking, using the argument, "don't talk about dirty meat or uninspected meat to the American Housewife as she will quit buying all meat and hurt our business."

I do not believe this. Think of the effect if the American National Cattlemen's Association and others would get the word to the American Housewife that she should demand that all of the meat she buys is wholesome and inspected just like U.S. meat. It could be put in such a way that "Mrs. American Housewife, we're looking out for you" and in essence, we are. If Mrs. Housewife must learn of its irregularities via the grapevine through the "back-door", she will quit buying.

When major automobile manufacturers call in 500,000 cars for changes in safety equipment or unsafe parts, quality control they call it, the American buyers don't quit buying their product! They actually buy more because of the confidence it instills into their automobiles.

We need to instill some confidence in the American meat buyer that she is going to get a "quality controlled" product, via efforts of the livestock industry and Congress. Imports are not clean and while they are robbing our markets . . . much worse, they are lowering the "quality-control" that USDA Meat Inspectors have instilled in American meat, USDA—Prime—Choice—Good, etc.

And if you don't think imports are hurting the American livestock producer and feeder, hear these figures: In the first quarter of 1970, all livestock slaughtered under federal inspection in the United States totaled 7,448,644 head. This compares against last year at 7,455,644 head. Hogs, 18,092,000 compared against 19,875,096 head. Lamb slaughter, 2,455,880 head against a year ago of 2,589,659 head. Every category is less than a year earlier; and yet the market isn't nearly as good this year as it was last year.

What has taken up the slack? It's imports!

In this same period of time, meat imports subject to the meat import law were up over 48%. I repeat, 48%! This is meat under the meat import law only and doesn't include the millions upon millions of pounds of meat coming in as canned.

If you want your livestock business to get in the same shape that the grain business is in, then sit back and do nothing. And if you do nothing, three or four years from now when many more are broke, you'll have no right to complain, because they are after the U.S. meat business and they don't mean maybe. There are fewer of us around all the time.

Who is going to be left on that ranch or farm in 1980? With the tremendous decline of farm and ranch numbers estimated at as much as a million farms and ranches in this decade the so called family farm unit is receiving its most severe test in history. The federal census of agriculture is expected to show less than 3 million units as of 1970 year end. If this is true, this will be the lowest number of farms and ranches in the United States since 1835.

This is one of the reasons I have kept repeating and repeating that the farmer and rancher legitimately in business is fast becoming one of the most important persons in these United States.

Efficiency and streamlining of your operation are going to be the keys to the decades' production.

With credit a very tight commodity at this point producers must evaluate their current situation and look to the most profitable way to expand—and expand you must, one way or another. If you are going to compete and stay in the industry you must expand through better efficiency, more production, more beef per acre, more bushels per acre. If you do not have the capital to expand in land holdings, then you must do so through better efficiency in marketing . . . that means some market protection from American plants in other lands who are using the U.S. meat market for their market place.

Yes, there is no doubt that those left by 1980 will be some of the most efficient, economically sound farmers and ranchers that the world has ever known. With fewer and fewer agriculture people around each year, we must protect our own market. It can be done. Let's tell America's Housewives the truth.

Mr. MANSFIELD. Mr. President, I also ask unanimous consent that a copy of the bill, which provides for thorough health and sanitation inspection of all livestock products imported into the United States, and for other purposes, be printed in the RECORD.

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

The bill (S. 3942) to provide for thorough health and sanitation inspection of all livestock products imported into the United States, and for other purposes, introduced by Mr. MANSFIELD, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S. 3942

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is directed to establish a system of thorough examination and inspection of all livestock products imported into the United States, including all fresh and frozen or chilled meats after thawing, providing for such examination at the time of entry or before any processing or offering for sale to consumers, to prevent the entry of any disease or distribution of any unwholesome products. The Commissioner of Customs shall levy on such animal products entering the United States, in addition to any tariffs, a charge or charges set by the Secretary of Agriculture, sufficient to defray the costs of such examinations and inspections and of United States surveillance of all establishments abroad slaughtering animals or processing animal products for export to the United States.

Mr. HRUSKA. I thank the Senator from Montana for his contribution.

I yield 5 minutes to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I thank the distinguished Senator from Nebraska, and compliment him for the leadership he has taken in helping point out the very critical problems we face in connection with the beef import question.

Mr. President, I have in my hand a report entitled "Foreign Agricultural Circular," published by the U.S. Department of Agriculture in May of 1970. I should like to read some figures from this report, to help show American consumers just how fortunate they are so far as the costs of beef are concerned.

On page 10 of this publication, it is brought out that dressed beef prices range from 22 percent in Paris to 50 percent in Milan higher than they are in New York City for roughly comparable grades of beef.

The report goes on to say that profits from feeding cattle at observed locations range from $126 a head, on a 120-day feedlot in an efficient operation in Italy, to losses in France.

I come from an area where we raise a lot of beef and feed cattle, and I know that, rather than make $126 a head, as this report says is the case in Italy, a good, efficient feeder in the high plains of Oklahoma, Texas, Kansas, or anywhere throughout the corn belt, is very fortunate if he can make even $20 a head. Our beef producers are working at a very low level of profit as compared to that in other parts of the world; and as a result, the consumer here is benefiting by their efficiency and by the high level of output that is possible using the modern methods that have been developed here.

Recently, I was a member of the delegation from the U.S. Congress that attended a meeting of agricultural attachés for Asia held in Canberra, Australia. There we received some additional interesting information. We were told that in Japan, at the present time, beef costs the consumer about $7 a pound. We have been told by the report to which I have referred that it costs from 22 percent to 50 percent more in Europe than it does here; but in Japan, beef is about $7 a pound at the retail level; and as a result, beef over there is used, not as a staple in the diet, but as flavoring, the way we would use pepper or paprika or some other flavoring material. They do not have a steak or a roast, but a few flakes of beef mixed in with their rice or other food.

The result is that the per capita consumption of beef in Japan is only 3 pounds per year. There are 100 million people living there, in one of the most progressive industrialized nations in the world, enjoying a rapidly increasing income, with wage levels rising 15 to 20 percent per year. They are able to afford, and want, much more beef, but at the present time the laws of Japan almost totally eliminate importation of beef into that country from the United States. The U.S. Department of Agriculture has been able to obtain a very slight exception to those restraints in order that our exporters can provide beef for Expo '70, which is now in progress, but there is no way at the present time producers in this country can get the high quality beef we produce shipped into Japan to meet what is certainly a tremendous latent demand. The solution to this dilemma is to figure out a way of removing these trade restrictions.

There are many other countries in that part of the world that could also use American beef. I have before me a table showing the amounts of beef shipped into many other countries in Asia. For instance, India imports no beef at all. Thailand imports no beef. Malaysia imports no beef. Singapore imports no beef at all, and Indonesia imports no beef. The Philippines imports no beef. The Republic of China imports no beef at all. Japan allows no beef imports, as I mentioned earlier. And, believe it or not, Australia, which exports so much beef to this country, will not allow one single pound of American beef to be imported into that country. The same is true of New Zealand.

So, Mr. President, my conclusion, after attending this very meaningful conference, was that we in this Nation are being extremely impractical in allowing such huge quantities of a product that we produce here more economically than in most parts of the world, and which has a higher quality than beef coming in from most parts of the world to be imported into our country, also we have not done an aggressive job of merchandising our own product in other nations which need more beef.

It was interesting to talk with some of the Australian beef producers. We visited several ranches, or stations, as they are called there, and also a packing-house. One of the gentlemen there asked me, "Why is it you Americans will not buy good beef?" He said, "All you will buy from us is our old bulls and worn-out cows. I would not put my teeth into what we send to your country."

The reason is that we import what we call processing beef, which is mixed with scraps of beef from our own cattle, and then the American consumer will accept it, though it is less palatable than American-grown beef.

There is a good deal more to be said on this subject. I recognize the time limitation we are operating under today, but I expect to take advantage of any opportunity to talk about it more later. Congress will very soon be considering a new farm bill, which will undoubtedly involve the appropriation of several billion dollars to support the farm economy of this Nation. I feel this is a totally necessary and desirable use of tax funds; but to me there is a far better answer to the overproduction of agricultural products that we have here, and it lies in meeting our own needs for beef. We import, as the Senator from Nebraska has told us, well over a billion pounds of beef into this country each year. We could produce every bit of that beef as well as additional beef to be exported to other countries which presently get no beef. The citizens of these nations have a desperate need for more beef in their diets, but we are not going to be able to increase our beef production here as long as a threat of a drastically expanded level of imports exists. No beef producer is going to make the tremendous investment involved in expanding his output as long as he is threatened by a market crash such as happened in 1964, when the imports of beef reached the 1,600 million pound level.

If we are to have a continuing supply of high quality, low-cost beef for the American consumer, our producers are going to need assurance that the market will remain in a fairly stable condition. For that reason, I feel that when we take steps here to limit the importation of beef, we are not protecting the producer, we are protecting the consumer. By assuring the consumer a dependable supply of high quality domestically produced beef for the years ahead we are protecting him from the low quality and high prices consumers in other nations suffer.

Right now, with the farm programs we have in effect, this country is keeping about 58 million acres of land in a relatively nonproductive state. Much of that land would produce beef if the owners and operators of those farms felt they could shift into beef production without causing the market to collapse.

I believe very strongly that in the long run, we should take steps to encourage this kind of transition, and I hope to be able to support a farm bill that will direct our efforts toward that goal.

Mr. President, again I congratulate and thank the distinguished Senator from Nebraska for calling attention to this problem, and wish to say that I feel the colloquy that has taken place here today will do a great deal to help improve the understanding of the problems we face, and hopefully make it possible for Congress to work out long-range solutions to those problems.

I thank the Senator from Nebraska.

Mr. HRUSKA. Mr. President, the contribution of the Senator from Oklahoma is especially welcomed and should be appreciated by the entire membership of this body. His vantage point, not only in being from one of the great cattle States of the Union, but also from having attended the conference to which he referred, and the observations he made there, will be invaluable in putting this problem into proper perspective.

Mr. President, I yield 5 minutes to the Senator from Kansas.

THE RECORD OF THE AMERICAN BEEF INDUSTRY

Mr. PEARSON. Mr. President, I thank the distinguished Senator from Nebraska, and wish to associate myself with the points he developed in his speech, as well as with the statement made by the distinguished majority leader (Mr. MANSFIELD).

I state to my friend from Oklahoma that a year and a half ago, with a group of Senators and Representatives, I was in Japan and had the opportunity of visiting with the agricultural attachés in Tokyo to explore, in some detail, the importation into Japan of wheat, soybeans, and beef. I should like, with the Senator's permission, to confirm many of the facts that he has stated in his excellent statement.

Mr. President, during recent years the domestic cattle industry has established a really tremendous record of supplying the American consumer with the ever-increasing quantities of beef that he demands and at reasonable prices. The increase in beef production over the recent years is another example of the outstanding efficiency of American agriculture.

Yet, the domestic cattle industry has been subjected to criticism from some quarters in recent months. Some have complained about the retail prices of beef. The Meat Importers Council of America, for example, has argued that this country will face a beef shortage in

the years ahead unless imports of foreign beef are substantially increased.

These criticisms of the domestic beef industry seem to have been triggered by two factors—first, by a rather sharp, but temporary increase in cattle prices during the middle part of 1969 and, second, by a growing organized effort from foreign countries such as Australia, New Zealand, and some of the Latin American countries to increase their imports of beef to the United States in order to strengthen their own domestic cattle prices.

Mr. President, in actual fact, any reasonable and objective study will show that live beef prices are not too high. Likewise, any objective study will show that predictions of a beef shortage within the next few years is without foundation.

First, let us take a look at the price situation. American agriculture has been plagued by low prices almost continuously during the past 50 years. Indeed, low farm prices have become such a common characteristic that if the price of one farm commodity rises; it attracts an undue amount of attention, even though we all know that the prices of all consumer items have been steadily rising during the past two decades and particularly during the last 10 years. In fact, because of the increase of prices in general, some people seem to imply that farm prices should somehow not be allowed to increase at all.

Mr. President, beef prices have to some extent increased over the past decade, and during a short period last summer there was, indeed, a fairly sharp rise. During June the price of choice steers in the Chicago market reached a peak of $34.24 per hundredweight. But a decline soon set in and during the past few months prices of choice steers have stabilized at around $30.30 per hundredweight which is a decline of about 12 percent from last year's high.

Chicago choice steer prices in May of this year averaged $30.29. This compared to a price of somewhat over $26.00 per hundredweight at the same time in 1960, a decade ago. This is an increase of about 16 percent. But if steer prices had kept pace with the cost of consumer services during the last 10 years, choice steers should be selling at over $38 per hundredweight. If choice steer prices had gone up as much as hourly earnings for nonagricultural labor, they would be selling at over $39 per hundredweight.

If the price of choice steers had increased at the same rate as the increase of per capita disposable income in the United States, choice steers would be selling at around $43 per hundredweight.

Moreover, during this period, when steer prices increased by 16 percent, the prices paid by the farmer for his production items increased by over 20 percent.

Mr. President, the American housewife spends about 16.5 percent of the aftertax family income on food. This is a decline from 20 percent in 1960. This is, of course, the lowest in American history and the American individual spends a smaller proportion of his disposable income on food than any other citizen in the world. It may also be useful, in this connection, to note that meat purchases represent 15 percent of the American consumer's food dollar.

If farm prices had increased at the same rate as other prices, this remarkable record would not be possible. The productive efficiency of the American farmer is one of the major economic achievements of modern times and the American consumer has been a major beneficiary.

I now turn to the question of the cattle industry's capability to increase production to meet the growing demand.

In 1959, U.S. beef production was 13,580 million pounds. By 1969 that had been expanded to 21,126 million pounds—an increase of 57 percent over a 10-year period.

While production has been increased dramatically, consumption has also been growing. This increase in consumption grows out of the increases in our population and also is a result of the fact that individuals are consuming more. The per capita consumption of beef in 1950 was 63.4 pounds. In 1960 it had increased to 85.2 pounds. By 1969 it reached the level of 110.7 pounds, and may go as high as 113 pounds during this current year. This represents a total gain over the 20-year period of around 50 pounds per capita. If our economy continues to prosper, some further increase in per capita consumption is likely. However, increased rates comparable to those of the last 20 years are not very probable. A leveling off in the rate of increase in per capita consumption can certainly be expected.

We will also witness a growing demand for beef because our population is growing, but again it is necessary to point out that the rate of increase in population has tapered off in the past 2 or 3 years, and this can be expected to continue.

I have reviewed a number of projected consumption requirements for the year 1975, and the most reasonable prediction seems to be that we will be consuming somewhere around 25 or 26 billion pounds of beef at that time. Somewhat less than 2 billion of that market would be supplied by foreign imports under the existing meat import law.

Thus, the domestic industry would have to produce about 23½ billion pounds to fill this market. Production in 1969 has already reached something over 21 billion pounds. Therefore, we are talking about an increase of 11 percent over the next 6-year period. This is an entirely reasonable expectation, given the fact that in the last 6 years American beef production has been increased by 28.6 percent.

Mr. President, as I have indicated, there have been some modest increases in beef and other livestock prices in recent years, but we also know that almost all prices in our economy have been moving upward. Therefore, this is not at all unusual. It is, however, somewhat unusual for agriculture, which, as I have said, has been plagued with depression level prices more times than not during the last 50 years. Today, livestock prices are holding rather stable but other farm prices are down. Indeed, if it were not for the strength in livestock prices, American agriculture would be in much more serious economic trouble than it already is.

The latest issue of Agriculture Prices reports that index of prices received by farmers between March 15 and April 15 dropped by 3 percent while the index of prices paid by farmers continued its upward climb, registering a gain of ¾ percent. Thus, the parity ratio for April fell to 72. This is the lowest in the past 10 years and, indeed, is the lowest since the 1930's.

Other figures could be cited, but the fact remains that the current strength in livestock prices is about the only reassuring aspect of the agricultural economic situation. This is particularly true for those farmers whose livelihood depends on a cash grain and cattle combination. Cash grain prices, particularly wheat, are extremely depressed. Thus, a drop in cattle prices, which would surely result from any substantial increase in imports, would have disastrous results for literally thousands of farmers in my own State of Kansas and in a good number of other States as well. We cannot allow this to happen.

Mr. President, the Meat Import Act of 1964 has achieved its basic objective. It has given the domestic producer some measure of protection, while at the same time allowing a steady increase in the number of pounds of beef that foreign countries can send to this country.

Indeed, if there are any deficiencies in the present law they are in the nature of allowing too much foreign beef to be imported into this country rather than too little. Likewise, there are a number of loopholes which potentially raise some serious problems and hopefully will be corrected by administrative regulations.

Finally, Mr. President, let me say that my concern is not whether or not beef production will increase fast enough but that it will increase too fast. The history of American agriculture since the 1920's is one of production outstripping demand with the resulting downward pressure on prices. A study of past records will show that beef production has been no exception. There are, indeed, identifiable cycles in beef production, and periodically production gets so far ahead of demand that prices are forced down to such a low level that many farmers are economically ruined. I hope that we can prevent this happening again.

Mr. President, I have tried to show that beef prices, considering today's CPI, are not out of line, and that the domestic cattle industry can meet future demands.

Mr. President, I commend the Senator from Nebraska, who has not only alerted us to the problem, but has also indicated to many of us that this is a most appropriate time to speak about the problems of beef import and beef prices and the capacity of the domestic industry to meet these demands. I think it most appropriate that he has taken the leadership today, as he has for so many years, in calling to the attention of many of us who have a vital interest in this problem that this is an appropriate time to answer some of the criticism, to review the record, and to indicate what the cattle industry has done for the American con-

sumer and what it can do in the years ahead.

I thank the Senator.

Mr. HRUSKA. Mr. President, the Senator from Kansas has made a fine contribution. Historically and persistently and constantly, the cattle industry has risen to the additional demands for beef consumption in this country. The analysis he has given on that point is very useful.

Mr. President, I yield 5 minutes to the Senator from Idaho.

Mr. JORDAN of Idaho. Mr. President, I commend the distinguished senior Senator from Nebraska for his leadership in this important area.

I think we had better consider a very important facet of this problem, because never before in the history of this country or of any other civilized country has it taken so small a percentage of the disposable income of consumers to buy food. Red meat and products of the farm are certainly the best bargains in the market today. The price of beef is no higher today than it was immediately after World War II. I was in the business then, and I know. The costs have doubled and tripled, and in some instances they have quadrupled. Yet, the price is the same as it was immediately after World War II.

So there is no bonanza in beef farming or the raising of red meat in this country. It is a matter of trying to save a substantial portion of the American market for the American producer.

Arguments are focused on the lowly hamburger. It is said that we need cheap meat for processing. This is a fallacious argument, because we have the facilities to produce all the meat that is needed in processing. We can produce it in America. We can produce it and make jobs for Americans, make jobs for the people in our own country. And we can use some of the surplus grain that we produce in the farming area. So I do not subscribe to the proposition that we are going to do without hamburgers unless we can get imported beef. I say that we get better quality hamburgers if we rely on local sources, because we have the kind of inspection and the kind of processing plants that will assure us of the best quality.

Among those who urge an increase in imports of meat it is a favorite argument that the beef and mutton we import is required for the production of manufactured meat products, particularly hamburgers, since it is of a cheaper price and lower quality than the bulk of the domestic beef. This argument insists that American sources of similar beef, such as through the culling of excess cows, are declining. They argue that without a great increase in imports our supplies of this type of beef will be inadequate, and they tell us that we are on the verge of a hamburger crisis, that the price of hamburgers—that great American institution—will go out of sight and we may even be threatened with a physical shortage of hamburgers.

These are the forecasts. But what are the facts? The facts clearly disprove any such hysterical predictions.

It is a characteristic foible of those of the free trade school that, when arguing for more imports, they must insist that the imported product is in some degree different from the domestic one, and, therefore, not directly competitive with it. Thus, the free trade advocate claims that Italian shoes should be imported because of style differences. Japanese machinery items should be brought in because of the technological innovations they contain.

European automobiles should be bought because their manufacturers have engineered a superior product which Detroit should have done, first and better, paying American wage scales. In each case the argument is made that the foreign article should be admitted because it is not only cheaper but different. In each case it is claimed that the imported article will not really displace an American product, because the foreign item is different and is bought because it is different—not solely because it is cheaper—and that if it were not permitted to be imported, perhaps the consumer would not buy anything at all. That is the argument.

In the same way now we are told that more beef must be admitted, not only because it is cheaper, but because the American industry does not supply enough of some particular grade of beef.

The argument is absurd on its face. The American industry can supply whatever quantities of whatever kind of beef the consumer wishes to purchase. We allow certain quantities of beef to be imported because of the obligation to allot a certain share of our market to foreign suppliers on the basis of their historical share of that market. It may be a diplomatic and legal obligation in some sense, but it is not a physical need on our part. We can use their beef, but if we did not have it we would produce our own. Let it not be supposed that we are in any real sense dependent on foreign sources for meat supply. If some unforeseen event were to interrupt the shipments of foreign meat to this country, the domestic industry, after a reasonable period of time allowed for readjustment, would make good the shortage and fill the market.

Parenthetically, the hamburger, as a convenient and inexpensive means of getting some quick nourishment, was created and popularized by America, not by Australia. I feel sure that neither the beef producers nor the packers and processors have any intention whatever of letting it become obsolete or pricing it out of the market.

Where does our supply of manufacturing or processing beef come from? Does it come chiefly from foreign sources? It does not.

I have a tabulation showing the principal sources of the beef used for processing or manufacturing purposes in this country, covering the period 1964 through 1969. The table shows that the beef for processing purposes in 1969 amounted to 9,953 million pounds, and of this supply of raw material, 8,339 million pounds—83.8 percent of the total—was from domestic sources. Only 16.2 percent was foreign. Evidently the contribution to our needs of the foreign producer—like the report that came during his lifetime to Mark Twain of his own death—has been greatly exaggerated.

The tabulation shows in the same way the contribution from domestic and foreign sources of beef to the supply of processing meat during each of the other years since 1964. In each year the percentage contribution of foreign beef was of minor importance. No doubt particular manufacturers found it helpful to have a supply of the lower cost low-fat foreign product in creating his mixture for consumer acceptance. However, the basic reliance was on the domestic source.

The table also shows that there has been a substantial growth in the supply of beef for processing purposes during this brief period, from both domestic and foreign sources. Most of the increase came from domestic sources. Domestic beef for this purpose increased by 1,000 million pounds, while foreign beef increased by 434 million pounds. It is fortunate indeed that we did not rely too heavily on foreign beef. Even if all the bars had been lowered and all the foreign beef been let in without hindrance, I do not know if there would have been enough to supply the growth in the American market. As always the domestic beef industry was the place we had to look for this supply.

One further point is shown by the table. Not only did this growth occur in gross quantity, but there was also a growth on a per capita basis. In 1964, there was available 44.3 pounds per capita of processing beef. In 1969, the quantity available was 49 pounds per capita.

In fact, manufactured beef from domestic production comes from two sources. There is the production of cow and bull beef, much of which is lean because the animals have been produced on grass. The other source is that part of the carcass of steers and heifers, whether fed or nonfed, which is not sold as beef cuts. Beef cuts come generally from the loins, rounds, ribs, and chucks. Much of the rest of the carcass, including the plates, shanks, brisket, and trimmings, wind up as ground beef which is used in the manufacture of processed products, either hamburger or some other.

The exact use of each constituent depends to some extent on the demand for various products, on the supply of various components, on the shifting of prices among them and among geographic regions of the country, and so on. The market in this country for live animals and for beef is a marvelously flexible mechanism. It diverts excess supplies of beef to fill whatever demand is most pressing at that particular time. In that way it finds a use for each part of the animal, in the creation of a processed product which fits the pocketbook of each consumer.

Even part of the chuck may find its way into hamburger instead of being sold as chuck roasts, since the prices of

this particular cut are often comparable or close to prices received for hamburger.

Those taking the importers' side of the argument like to emphasize the declining supply of lean beef available from the culling of dairy herds. It is argued that a supply of lean beef from some source is essential to the manufacturer of hamburgers, who mixes the lean with fat from other sources to compound a mixture that meets his specifications and is acceptable to his public.

It is true that the quantity of beef from cow and bull slaughter has declined through the years. My table shows that. But there is nothing surprising in the fact that the industry is undergoing changes. There are always those who view with alarm. At all times there are changes underway in any dynamic industry; 75 or 100 years ago there were doubtless those who viewed with alarm the passing of the open range in the West, and pointed to the impending shortage which that event might precipitate. Yet, we see that challenge was met.

With respect to the future of the American hamburger let me reassure my colleagues. The hamburger is alive and well in this year of our Lord 1970. It is not about to disappear. It is not about to become too high priced for the poor urban dweller. The urban dweller's income has increased faster than the farmer's. It is our confident hope and belief that he will be eating hamburgers for many years to come, and that we will somehow be able to supply him with the component materials needed by the meat manufacturer to create that hamburger, at a price he will be able to afford.

It is true that the price of hamburger has increased somewhat—along with everything else. Whether all that increase has gotten back to the farmer is another question which I will refrain from going into here. There is evidence that it has not.

The point is, from the standpoint of this discussion, that the price of hamburger through the years has generally paralleled the price fluctuations of other kinds of beef—and it still does. When beef prices generally were up, hamburger was up. When other cuts of beef were down, hamburger was down. There were variations of a few pennies one way or the other in the price of hamburger or of other beef cuts, but they never amounted to more than a few pennies one way or the other. Neither was there ever any shortage of hamburger, nor do we face the possibility of one now.

The best proof of this is made by a detailed comparison of the price of hamburger with the price of chuck roast. Chuck is the least expensive of the principal table cuts from the beef carcass. It comes largely or almost entirely from domestic sources. Customarily it is priced only a few cents per pound above the price of hamburger, and in fact it is frequently available at the same retail counter where hamburger is sold.

I will insert in the RECORD a short table showing, year by year since 1950 and month by month for 1969 and 1970, the difference in the retail price between chuck roast and hamburger, according to the Bureau of Labor Statistics retail price index. Detailed analysis of these figures shows that the price of chuck operates as a sort of ceiling over the price of hamburger. The price of hamburger fluctuates usually between 5 and 8 cents below the price of chuck. Between 1964 and 1969, the annual average for hamburger was never less than 6.1 cents below chuck, and never more than 8.7 cents. Last month—April of 1970—hamburger was exactly 8 cents per pound cheaper than chuck. That shows that there is no shortage of hamburger. If there had been, the price of hamburger would have climbed up to a point approaching that of chuck. The table gives clear proof that through the action of the market the price of chuck operates as a ceiling to keep the price of hamburger down to a reasonable level.

Clearly there is no danger of a hamburger shortage facing us, nor is there any peculiar need for foreign beef which cannot be supplied by domestic sources. To the extent that there are differences in quality in some cases between imported beef and some part of the domestic supply, these quality differences can easily be dealt with by the manufacturer in the compounding of manufactured meat products through using meat from various sources.

As a corollary to the above statement, it must also be clear that any increase in imports of beef represents a direct competitive threat to the well-being of the domestic beef industry. Additional imports of beef replace the domestic product pound for pound, or else they depress the price received by the domestic producer. It is no use pretending that imports can be increased without affecting the American cattleman. He knows better, and he cannot be persuaded otherwise.

Mr. President, I ask unanimous consent to have the tables to which I have referred printed at this point in the RECORD.

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

TABLE I.—DOMESTIC PROCESSING BEEF PRODUCTION AND IMPORTS, 1964-69

	Million pounds					
	Cow and bull beef products [1]	Processing beef from steers and heifers [2]	Total domestic processing beef	Imported beef carcass weight equivalent	Total processing beef	Per capita supply (pounds)
1964	3,433	3,906	7,339	1,180	8,519	44.3
1965	4,270	3,759	8,029	923	8,952	46.0
1966	4,064	4,072	8,136	1,182	9,318	47.3
1967	3,741	4,284	8,025	1,313	9,338	46.9
1968	3,841	4,429	8,270	1,500	9,770	48.6
1969	3,880	4,459	8,339	1,614	9,953	49.0

[1] Computed from total domestic beef production, steer and heifer slaughter, and cow and bull slaughter.
[2] Computed from domestic production of steer and heifer beef using accepted fact that 26 percent of all steer and heifer beef is used in processing and manufacturing.

TABLE II.—DIFFERENCE BETWEEN THE PRICE OF CHUCK ROAST AND HAMBURGER: AVERAGE RETAIL PRICE PER POUND IN LEADING CITIES IN THE UNITED STATES, 1950-70

[Difference in cents]

1950	5.0
1951	7.7
1952	10.2
1953	7.9
1954	10.8
1955	10.6
1956	9.9
1957	10.5
1958	10.4
1959	9.2
1960	9.2
1961	8.2
1962	10.2
1963	9.0
1964	7.3
1965	8.7
1966	8.0
1967	6.1
1968	7.4
1969	8.0
1969—January	7.4
February	7.8
March	7.7
April	8.9
May	8.7
June	9.3
July	10.2
August	8.3
September	7.5
October	7.2
November	5.9
December	6.6
1970—January	5.6
February	7.1
March	7.1
April	8.0

Source: Calculated from price data compiled by Economic Research Service from Bureau of Labor Statistics Retail Price Bulletin.

Mr. HRUSKA. Mr. President, I thank the Senator from Idaho for his remarks. What he has said is true. The cattle industry has come forward very well in that regard and will continue to do so.

I yield 5 minutes to the Senator from Arizona.

Mr. FANNIN. Mr. President, I express my thanks to the distinguished Senator from Nebraska, and I commend him for the leadership he is exhibiting in this very important matter. Certainly, his expertise is well known. Some may equal but none will excel him in that regard.

Some very important factors have been brought out here this morning regarding what is happening in our Nation today with the tremendous volume of imports coming into this country, the imbalance of trade that exists with many countries of the world, the threat to our economy, and especially the threat that faces us with respect to jobs.

Mr. President, no doubt imports from friendly foreign nations are a valuable tool in our effort to strengthen the free world. But the maintenance of a strong America is also a must in that same effort, and America can remain strong only if our economy does. A growing, dynamic economy depends fundamentally upon the creation of a new wealth, and new wealth is created from natural resources. Agriculture must be considered the most important creator of new wealth because it makes use of renewable resources. This is especially true of cattle because they convert an otherwise largely unusable renewal resource—grass—into new wealth which is injected into the economic bloodstream of America. For example, Arizona encompasses approximately 70 million acres.

Of this, only slightly more than 2 percent is either cultivated or in municipalities. Most of the balance has only one primary productive surface use; that is, the production of grass and forage. We are fortunate in that the production from such a vast area can be converted into a usable product—nutritious meat for the tables of America. Without the constant injection of new wealth our economy would soon stagnate and wither away. Imports, as such, do not create, nor even replace, new wealth.

Because of this all-important aspect of the cattle business any program which threatens its existence would have effects far beyond the comparatively few people who produce cattle. It is sometimes stated that we have a favorable balance of trade in agricultural commodities, and that, so long as we do, even though specific producers may be hurt, our total agricultural economy will benefit. In other words, according to this premise, the cattle segment of agriculture could be eliminated and, if our beef needs could be imported, no harm would be done—except to the beef producer—providing we could still maintain a favorable trade balance in agriculture. Such a premise is a fallacy because livestock, especially cattle, is the foundation of American agriculture. According to the census of agriculture about 85 percent of all U.S. farms and ranches are involved to some degree in marketing of cattle and calves, and so depend on those receipts for all or some portion of their income. No other commodity is this basic and the economic condition of all agriculture is to a very great extent dependent upon the economic condition of the livestock segment.

Likewise, it is probably safe to assume that livestock supports a greater proportion of American agribusiness than any combination of other commodities. A generally accepted figure is that 40 percent of our U.S. labor force is engaged in agribusiness—the production, servicing, processing, transportation, and marketing of agricultural commodities.

As stated previously, I believe that imports can be a valuable tool in foreign relations. I also believe that, if judiciously regulated, imports can have a salutory influence on extremes in price cycles. But although an overly generous U.S. import policy might be helpful to our foreign friends on a short-term basis, even their long-term best interest lies in helping to keep the United States sound economically.

Mr. President (Mr. JORDAN of North Carolina), let me digress here a moment to say that we have been a friend to many countries of the world. We have been of assistance and have done a great deal for the other nations in the world. We have an opportunity to do a great deal more, but we must have the protection of our industries just as other countries want protection for theirs. We have a great imbalance of trade with many countries of the world. We realize what we are facing in this regard. Consequently, we are facing a serious situation so far as the employment of our people is concerned. We can give illustrations of where we have had manufacturing businesses moving to other parts of the world and then we have had to lay off our workers here.

We do not want that to happen in the livestock industry, but it is threatening us and it will happen unless we continue a policy that does give protection, the kind of protection which the livestock industry is entitled to.

Mr. President, here are a couple of situations that apparently exist and have existed for some time. They need our attention because they are inconsistent with the 1964 meat import law.

First. The Japanese Government has just opened two huge packing plants down under that are strictly packaging and canning plants. Australian beef is being bought, packaged in cans, and shipped to the United States. Also similar prepared products are entering the United States through Canada. As you know, there is no embargo or controls on the amount of canned meat that can be shipped into the United States.

Second. Some of the imported meat has been processed in plants not conforming to our Federal specifications for our domestic supply.

The American cattleman is personally committed to the supplying of wholesome and nutritious beef to the American consumer. It seems to me it is imperative to assure them every consideration in their efforts to continue this service to American consumers.

Third. The cattlemen are immersed in a severe adverse economic situation. Over the past several years, the cattle industry has been operating on nothing more than the appreciated value of its land. The U.S. Department of Agriculture figures prove that the farm debt is at an alltime high. No business can continue to operate for long without a net profit.

The cattlemen are attempting to solve their own problems within the framework of the free market system. The cattlemen's associations are voluntarily attempting to balance supplies of beef with effective demand. The main thrust of their program is designed to balance the tonnage of beef produced to achieve a goal that has been eluding them for so many years—a reasonable net profit.

The cattlemen want to achieve their goal of net profit in the best tradition of their industry without direct Government assistance. However, they find that this is going to be extremely difficult to achieve with tremendous quantities of fresh, chilled and frozen imports arriving on our shores from other nations of the world.

The cattlemen do not seek to ban all imports. They are attempting only to achieve a degree of reasonableness and adjustment to a statute already on the books—the Meat Import Act of 1964. This very act has tended to become a pattern for other commodities to follow because it is not protectionist in the true sense of the word. To the contrary, it guarantees reasonable access to the U.S. market for the exporting nations of the world.

Many misleading and untrue statements have been made about the effect of cutting back imports to the United States. Charges that appear in some syndicated columns would lead one to believe that the price of hamburger is going to skyrocket because the supplies of lean, boneless beef from foreign countries would be regulated.

This is simply not accurate. To the contrary, the cattlemen and meatpackers want to continue to produce the finest quality, most wholesome beef available anywhere on the face of the earth at the most reasonable prices to the consuming public. They can continue to do this on a long-range basis only if their business is placed on a sound economic basis. As a matter of fact, should their economic situation not improve, the consumers of this Nation will suffer the consequences of a shortage of domestically produced beef complicated by the whims of exporting nations. Those exporters hold no basic allegiance to the United States but merely wish to achieve their selfish ends by selling to the currently highest bidder. If the American consumers become dependent on foreign meat supplies, it is very possible beef prices may be forced up or the United States could be deprived of a meat supply.

If the U.S. beef-producing industry is lost through insolvency, or through the unfair competition of cheap foreign imports, the loss would result in a serious detriment to the nutritional requirements of our citizens during normal peacetimes. Further, our consumers would be subjected to the possibility of improperly inspected meat being inadvertently exported to the United States. Also in case of an international emergency or the failure of the cheap beef-producing countries to furnish adequate quantities of meat, by reason of national disaster or political decision, or otherwise, our beef-producing industry could not be reinstituted overnight or within years.

We have many sound, compelling reasons for making certain that our beef-producing industry is permitted to remain strong, productive, and profitable.

Fourth. Mr. President, I think it essential that the Senate keep in mind the importance of the domestic beef cattle industry to the overall economy and further that domestic production can assist in correcting the recent deficit in the balance of trade. Because cows are so common and easily ignored in the passing scenery of modern America, we often overlook that the sales of cattle and calves in recent years have topped $10 billion. This makes it the largest single source of agricultural income, exceeding several of the other major, basic crops combined. The valuation of the Nation's beef cattle herd, conservatively is a substantial portion of our basic national production resource.

Further, 35 of our 50 States have more than 1 million head of cattle and 29 of our States realize more than $100 million in annual sales of cattle and calves. This is not just a "cow country" problem, a Western problem or a Midwestern problem—the industry has so burgeoned in recent years to make beef production a major factor throughout the Nation.

In fact, one of the major difficulties experienced by the beef cattle industry in recent years is that our own Government—accompanied by a chorus of enthusiasm from local chambers of com-

merce, colleges, agricultural supply industries, and so forth—has encouraged expansion of beef cattle production on acres diverted from, or deserted by other crops. Our domestic beef production since 1960, for instance, has increased 35 percent, while our human population increased only about 8 percent. This encouragement for more and more, seemingly ignored the expansion in, or condition of, the world beef trade which was gearing, meanwhile, for the American market.

That the two paths were clashing was recognized in 1964 when the Congress of the United States passed overwhelmingly, over vigorous administration objection, Public Law 88–482 to establish, for the first time for a major domestic commodity, quantitative limitations on meat imports.

The reasons for passage of that law still stand and are further enforced by conditions within the domestic industry and developments in foreign lands too obvious and well known to be repeated here.

It is apparent that there cannot be true balanced foreign trade unless nations have purchasing power or the power to produce wanted goods. However, we are not fully cognizant of just how fast and deliberately the ground rules can be changed, too often to the detriment of a nation such as ours which seems to feel that everybody always will play fair. Free trade is a two-way street, but up to this point, it seems that the United States has only traversed in one direction, we have given while the other nations have remained rather static in their trade policies, many becoming even more protectionistic in just this short time.

Orderly trading calls for fair trade for our agriculture producers—not protectionism. There is a big difference. Fair trade allows trade to flow. It permits comparative advantage to function with relative freedom for the good of all. Protectionism, by completely shielding inefficient producers from competition, stifles trade. The U.S. beef quota law illustrates what I mean by fair trade.

Mr. HRUSKA. Mr. President, I wish to express my appreciation to the Senator from Arizona for the efforts and the research he has engaged in before making his remarks today. They are most helpful and will be useful in the debate which lies ahead.

Mr. FANNIN. Let me express my appreciation to the distinguished Senator from Nebraska who has carried the leadership of this program, a program which is so vital to the people of America.

I realize the tremendous amount of work involved in this problem and also realize that this is not something that the Senator from Nebraska began in recent weeks or months, but has been a program he has carried forward for many years.

Mr. HRUSKA. I thank the Senator from Arizona very much.

Mr. President, I now yield 10 minutes to the Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. The Senator from Kansas is recognized for 10 minutes.

Mr. DOLE. Mr. President, first of all, I join my colleagues in expressing my thanks to the distinguished Senator from Nebraska for his leadership in this very important matter.

Recent attacks on the meat industry have brought undue concern to consumers of meat in the United States.

As the result of a report made before the House Committee on Government Operations by a special subcommittee on "the Federal responsibility for retail price increases for beef", headlines appeared in most of the major newspapers of the United States indicating the supply of beef by 1975 would be critically short. This report said the Nation would need 4 million more cattle in 1975 to meet the need of the consumer and that the beef industry could not meet the demand. The report proposed that meat import quotas, therefore, be dropped to insure an adequate supply of beef at low prices.

Due to the efforts of the beef industry and my colleagues in the Senate and the House, the real facts of this situation were brought to the attention of the committee and the report was referred back to the subcommittee. The fact was that 2.5 million head of the desired 4 million increase was already in the feedlots by the time the report was given. The damage was done, however, as lobby groups commenced to pressure President Nixon for suspension of quotas on meat imports in order to avoid anticipated increased beef costs.

FACTS NOT ACCURATE

The consumer public heard of this threatening shortage through an Associated Press newsstory on the report of the subcommittee. On May 13, the same Associated Press writer, Don Kendall, a distinguished Kansas journalist now writing on agriculture here in Washington, prepared another story explaining the Department of Agriculture had, indeed, given the subcommittee incorrect information in testimony at hearings.

I ask unanimous consent to have printed in the RECORD the article as it was published in the Omaha World Herald, May 13, 1970.

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

USDA ADMITS CALCULATION BOOBOO LED TO ITS BEEF "SHORTAGE" REPORT

A miscalculation by government economists last year about the size of the nation's cattle industry may have misled congressional investigators into charging the nation's consumers face a beef shortage by 1975.

The apparent discrepancy came to light Tuesday in an Agriculture Department report on beef cattle projects through the next decade.

The author of the report, livestock economist Donald Seaborg, said insufficient data was used in computing beef consumption patterns provided the House Government Operations Committee last October.

The report estimated Americans will consume 119 to 121 pounds of beef per capita by 1975, compared with slightly less than 111 pounds last year.

FOUR POUNDS HIGHER

The new projection ranged four pounds higher than the estimate departmental officials gave congressional investigators last fall, thus indicating more beef will be available in 1975 than previously thought.

Partly because of the October estimate, a subcommittee charged last month the U.S. cattle industry was failing to meet expected future consumer demands. The beef industry said at the time the charges were wrong.

Seaborg told a reporter the earlier projection was based partly on a smaller cattle inventory for 1969.

Last fall officials said they expected a cattle inventory increase during 1969 of between 500,000 and one million head.

REVISED ESTIMATE

However, Seaborg said, the department's inventory Jan. 1, 1970, was almost 2.5 million head larger than a year earlier.

When this revised estimate was computed along with other more recent information, he said, the larger per capita consumption figure for 1975 resulted.

Per capita consumption, in effect, includes all U.S. beef output during a year plus imports. Thus, the revised estimate showed beef supplies by 1975 were expected to be nearly in line with what many experts expect to be consumption patterns and population growth.

The government operations subcommittee headed by Rep. John C. Monagan, D-Conn., said in its report American consumers were faced with a beef shortage of "some magnitude" by 1975 unless steps were taken to increase imports and monitor the nation's cattle industry.

CALF CROP MISCALCULATED

Seaborg said the latest projections disputed this claim but added his findings in no way were intended as a challenge to the Monagan report.

The economist said last October's estimate miscalculated the size of the 1969 calf crop by one per cent.

Mr. DOLE. Mr. President, the story indicates that a USDA economist stated one of the figures used in multiplying to obtain the projected supply of beef was incorrect and resulted in the error in testimony. I commend the Department of Agriculture for having the honesty to admit its error. However, had the beef industry not been awake and aggressive, the meat import quotas on beef could have well been suspended and the stockmen of this Nation ruined by an influx of unnecessary beef.

Therefore, I commend the American National Cattlemen's Association and the National Livestock Feeders Association for acting quickly to insure that all Congressmen were aware we had adequate beef supplies. The damage, however, was done—and I fear it will not be rectified.

SECOND STORY NOT APPEALING

My staff has made inquiries throughout the Nation to find out how many newspapers carried Mr. Kendall's second story indicating ample beef supplies for the foreseeable future. We found one story in the Fargo Forum and one story in the Omaha World Herald.

I know other newspapers carried the story. I know some conscientious farm broadcasters discussed the story on radio and television, but the story was told to the livestock men—not to the public who had read the screaming headlines in March about the beef shortages predicted. I want to see headlines: "Plenty of Beef!" But that does not sell newspapers or entertain audiences.

Therefore, after commending the Department of Agriculture for its honesty in acknowledging its error, I charge it to review its reporting system and make

it accurate. This error has caused a costly setback to the beef industry. It will be some time before it can regain its position against the damage caused by this inaccuracy.

CONTRADICTION IN ACTIONS

The Department of Agriculture worked to obtain the meat import quotas to stabilize America's meat industry. Since the law was put into force, the meat industry has offered more incentive for farmers to produce livestock. Now an agency of that same Department produced inaccurate reports that could have brought about the suspension of the quotas.

Safeguards against such future inaccuracies need to be initiated, and direction toward a unity of purpose of all agencies of the Department of Agriculture needs to be indicated.

Mr. President, as we discuss and consider the importance of controlling meat imports, I quote a statement from last Friday's issue of the Wall Street Journal, June 5, page 1, under the heading "Washington Wire":

Coming Agriculture Department action may trigger meat import quotas that would cut shipments. But a White House aide predicts Nixon will rule otherwise, permit a bigger influx.

I hope this is a rumor. Through meat import quotas, the cattleman now has the stability to project investment for increasing needs of the consumers of this Nation. Cattlemen are expanding their operations to provide for this growing need.

As I commented when the false threat of a "beef shortage" was before us, the number of cattle increased by 2½ million in 1969. With an industry that is capable of reacting to demand quickly and in that great a capacity, that industry deserves the protection meat import quotas provide.

I trust that the rumor repeated in the article in the Wall Street Journal is groundless.

KANSAS CATTLE INDUSTRY

Mr. President, considering the crisis facing the cattle industry, when any thought is given to increasing meat imports, I should like to emphasize the importance of this industry in the State of Kansas.

Kansas is known as the Wheat State, as it produces far more of this vital grain than any other State. However, in Kansas during the past 8 years, income from beef has exceeded that of wheat. Last year alone, the value of cattle and calves in the State increased 23 percent to $1.02 billion.

I ask unanimous consent to have printed in the RECORD, an article from the February report of the Kansas Economic Development Commission which fully describes the growth of the cattle industry in Kansas.

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

KANSAS CATTLE WORTH $1.02 BILLION

The cattle industry is booming in Kansas and livestock farming has become the backbone of the agricultural economy of Kansas. Income from beef has exceeded that from wheat in each of the past eight years and normally provides about 40 percent of total farm receipts. Total value of all cattle and calves on January 1, 1970 was $1,022,720,000 or 23 percent more than a year ago.

Kansas livestock producers began the new decade with the total number of cattle and calves on grain feed in Kansas feedlots, the total number of cattle and total cattle value at a record high according to the Kansas Crop and Livestock Reporting Service.

Cattle and calves on January 1, 1970 totaled 6,016,000, six percent above the 1968 level and five percent above the previous high set in 1966. A sharp increase of inshipments of feeder stock for new and expanded feedlots and a larger calf crop contributed to the increase. All classes showed increases except milk cows. The average value per head for all cattle and calves this year was $170 compared with $146 a year ago.

Cattle and calves on grain feed for the slaughter market in Kansas feedlots totaled 892,000 head, a new record and 16 percent more than last year's record. Kansas ranked fifth among the states after Iowa, Nebraska, Texas and California.

In 1969 approximately 9,000 feedlots were in operation in Kansas. About 67 percent of the grain-fed cattle marketed for slaughter were fed in 126 Kansas lots of more than 1,000 head capacity.

Cattle on feed January 1, 1970 include 606,000 in large feedlots with 1,000 or more capacity. This was up one-fourth from last year and is a new record number for large feedlots. Smaller farm operations had 286,000 on feed, up two percent this year and the highest number for January 1 in seven years.

The total on feed was up seasonally from the 745,000 head reported October 1, since feedlot cattle usually peak around the first of the year. Steers accounted for 71 percent or 637,000 while heifers on feed comprised the balance of 255,000.

Marketings of grain-fed cattle for slaughter during the October–December quarter were 400,000, up 37 percent from last year. Placements during the quarter were 547,000, up 12 percent. Feeders intentions to market indicate that 545,000 cattle on feed January 1 will be marketed during the first quarter of 1970.

The outlook for the nation's beef industry is very bright in the face of increasing demand for beef. Kansas is in an excellent position to take advantage of this growing industry.

BEEF TRANSSHIPMENTS THROUGH CANADA

Mr. DOLE. Mr. President, last year, it became evident that Australia and New Zealand were transshipping beef through Canada to the United States, in order to exceed agreed import levels. It was estimated that they shipped approximately 18 million pounds in this manner.

This year, Canadian imports for the first 4 months of 1970 reached over 25 million pounds of the agreed level of 37.7 million pounds, two-thirds of the annual agreement in just 4 months. It is obvious that Australian transshipments are again entering the United States and at a rate of nearly 1 million pounds per week. The only way an accurate accounting of these transshipments can be made—and controlled—is through the use of bills of lading on all incoming shipments of meat.

Such a program has been recommended by the Secretary of Agriculture, Clifford M. Hardin, to President Nixon.

Australia is already at approximately 40 percent of its annual amount of imports with over 200 million pounds of meat imports through regular channels the first 4 months. Australia's agreed level is 519 million pounds, 50 percent of all U.S. meat imports.

With bills of lading, Australian imports could be confined to agreed levels. Honduras and Guatemala exceeded their agreed levels last year and are well on the way to setting new levels again in 1970. Guatemala has shipped in over 50 percent of its annual amount, and Honduras over 80 percent.

The U.S. beef industry is not enjoying excessive prosperity, but through the meat import act it has stabilized to the point that cattlemen are planning for the future, assured of a modest margin on their investment. Without proper accounting and control of meat imports, this industry can lose any progress it has gained during the past 4 years in this single year with excessive imports.

USE OF IMPORTED TABLE CUTS BY BONANZA RESTAURANT CHAIN

Mr. DOLE. Mr. President, those who plead the case for greater imports argue that the beef imports are needed for manufacturing purposes because, they say, there is not sufficient lean beef produced in this country to meet the demand for that type of meat for manufacturing purposes. According to this argument, all or nearly all of the beef imported is of low-grade, lean, manufacturing quality, and does not compete with the marbled beef steaks and roasts that come from our fed cattle. That is what we are supposed to believe.

Now the fact is that we do not know just what kind of beef is imported, but, contrary to the argument just recited, it is certainly not all manufacturing beef and some part of our imports very definitely do compete with the table cuts that come from our feedlots. How large a percentage of our imports consists of table cuts I do not know. Some have estimated that perhaps as high as 25 percent of the imports is table cuts.

One case of such imports of table cuts came to light about 2 years ago, when a firm called Bonanza International, which franchises a string of steak restaurants, protested publicly against any restrictions on meat imports. These restaurants indicated their utilization of this imported beef for steak cuts, in a telegram to Senator YOUNG of North Dakota.

Mr. President, I ask unanimous consent that the telegram to which I have referred and a telegram that Senator YOUNG of North Dakota sent in reply be printed at this point in the RECORD.

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

BONANZA INTERNATIONAL, INC.,
September 18, 1968.

MILTON R. YOUNG,
Senate Office Building.

DEAR SENATOR YOUNG: The United States meat industry and the millions of meat consumers in this country are faced with an immediate dilemma.

The United States cattle producing lobby (representing a small part of our voting population) is pressing Congress to enforce meat import quotas from other countries.

They do not mention some significant facts:

1. The United States producers cannot,

will not or certainly are not producing enough lower-grade, lean beef to support the requirements of the United States consumer by a long shot.

2. If they were, we wouldn't rely so heavily on imported beef.

Over and above the millions of pounds of lean beef required in mixing with domestic beef for the billions of hamburgers sold each year—in addition to the heavy requirements of our domestic canned food, frozen food and soup industry and all the factory workers and grocery workers and consumers who rely on these industries, let me tell you about our industry and our company specifically.

Bonanza Sirloin Pit is the name of low-cost steak restaurants, franchised to independent entrepreneurs by Bonanza International Inc.

We are the largest volume chain of this type in the world and presently operate approximately 130 units.

We and others supply to many millions of Americans the opportunity to eat a steak dinner in a restaurant at a price they could not otherwise afford.

We alone use an average of 11 million pounds of portioned beef per year. This is made up of short loins, strip loins and ribeye rolls.

We therefore rely very heavily on GAQ and FAQ short loins, strip loins and ribeye rolls from Australia and New Zealand.

Our suppliers presently have under contract between this date and January 1, 1969, millions of pounds of product. Our entire industry needs immediate assurance of availability of this product.

Bonanza Sirloin Pts are only a part of this industry, yet an average of 47,000 people a day depend on us for meals and approximately 3,000 people depend on us for salaries. And we depend on imported beef to meet this need because the United States cattle producers cannot supply it.

Further, we are not unaware of the strength we have in allies such as Australia and New Zealand. At the ambassador level I have this date personally been assured of their countries' economic need and desire to continue shipping beef to the United States.

It is clear that the political football—conceived by a minority lobby—has been diplomatically tossed into our much needed allies' laps.

The United States consumer needs your support and your action now. I urgently and respectfully request that you bring the power of your office to bear on this most immediate and serious dilemma.

Sincerely,

CHARLES F. SNYDER,
Vice President.

SEPTEMBER 19, 1968.

Mr. CHARLES F. SNYDER,
Vice President,
Bonanza International Inc.,
Dallas, Tex.

Reurtel. Think your argument concerning beef imports is all wrong. You are buying beef cheaper now than you did twenty years ago. Beef imports in recent years have been so high that they have done great damage to our domestic beef industry. I don't think any restaurant operator would claim that an Australian steak would compare in quality with an American steak. Regards.

MILTON R. YOUNG,
U.S. Senator.

Mr. DOLE. Mr. President, unfortunately the junior Senator from Wyoming (Mr. HANSEN), who is an expert in this matter, is unavoidably absent today and cannot take part in the discussion.

The Senator from Wyoming (Mr. HANSEN) is today speaking at Sheridan, Wyo., to the Wyoming Stock Growers Association about the beef and cattle industry in the United States. He has asked to be associated with the remarks of the various Senators who have spoken today concerning beef imports.

It is my understanding that upon his return tomorrow, the distinguished junior Senator from Wyoming, who is an expert as everyone in the Senate recognizes, will make a statement on beef imports.

Mr. President, I again thank the distinguished Senator from Nebraska for his leadership in this matter.

Mr. HRUSKA. Mr. President, I thank the Senator from Kansas for his remarks.

BENNETT SUPPORTS BEEF INDUSTRY

Mr. BENNETT. Mr. President, I appreciate this opportunity to participate with the distinguished Senator from Nebraska concerning the problem of cattle prices, beef prices, and the future of this industry in the United States.

I have read with great interest the statement by the distinguished Senator from Wyoming (Mr. HANSEN), made on the floor of the Senate April 9. I have also read the penetrating and helpful speech by the distinguished Senator from Nebraska (Mr. HRUSKA), on April 16 concerning beef prices.

The cattle industry in the State of Utah is very important. It ranks near the top in agricultural income for our State. There are thousands of people in Utah connected with the beef industry, and I think it is vital, therefore, that this discussion be held in order to get at the facts concerning rising beef prices.

In the earlier speeches by Senators HANSEN and HRUSKA, reference was made to the report of the Subcommittee on Special Studies of the House Government Operations Committee. Fortunately, that report was not adopted by the full Government Operations Committee, and rightfully so. That committee cannot claim expertise in the field of beef prices and beef production. In the future, the problem should be dealt with by the Agriculture Committees and subcommittees of both Houses of Congress.

I would like to comment on the central proposal contained in that report. Although it was not adopted, I am sure the issue is not dead because the consumer movement is becoming increasingly active and the level of beef prices will continue to come under scrutiny.

I will address myself to the actual price of beef in a few moments, but let me comment first on the possibility of some type of Government control over the cattle industry. I suppose we will always have someone advocating deeper Government involvement in our economy. For some reason, these people believe that the marketplace has failed and that controlled programs should be implemented to assure an adequate supply and a price which is acceptable to the consumer advocates.

This leads me to ask if we have learned anything from Government involvement in the agriculture sector. I have cosponsored a bill in the Senate designed to reduce and, hopefully, eliminate many agricultural subsidies over a period of 5 years, thus allowing agriculture to operate, eventually, in a free market.

I believe, Mr. President, in spite of the problems over the years, the cattle industry has done well without the long arm of Government control. If Congress should now decide to tamper with that industry, I believe it would be a serious mistake.

I think the American consumer, under the present system, is receiving the finest quality meat products at a reasonable price under present economic conditions and without the harassments and bureaucratic boondoggles of Government controls.

It is clear that over the years, the 1964 Meat Import Act has worked quite well. Our foreign friends who produce for the American meat market now import into this country approximately 1.06 billion pounds of meat annually. Under the present system, these imports can rise to 1.09 billion pounds before the 110-percent quota figure is triggered into action.

There are basically two reasons why the provisions of this act should not be changed, and they go to the heart of the Monogan report. In the first place, the report questions the ability of the American cattle industry to meet the supply demands of the American people over the next several years. It also, as often happens when consumer advocates become involved, charges that meat prices are too high without comparing these prices with the rest of the economy or investigating the background.

I submit that if beef prices are to be subjected to this kind of blind inquiry, all other aspects of our economy should be likewise scrutinized. We should look at recent labor settlements which in some union contracts have gone as high as 25 to 42 percent. The Senate Finance Committee is currently investigating the high cost and long range deficit predictions in the medicare and medicaid programs. We are not just looking at the prices paid by the patient; we are investigating the problems in depth by looking at the cost structure throughout the entire system.

When this kind of indepth analysis is made of beef prices as done by the distinguished Senator from Nebraska and the distinguished Senator from Wyoming, it is obvious that the price of beef in the overall economic picture has been stable and in some cases has gone down.

I would like to cite some examples:

Comparing 1960 with 1970, we find that the average price of choice beef per pound has increased at a much slower rate than most other consumer products and services. The distinguished Senator from Wyoming has pointed out that choice steers rose from $26.24 per 100 cut to $30.27 for an increase of 15.3 percent. At the same time, disposable per capita income increased 63.8 percent from $1,937 to $3,172. He has dramatically shown that the average retail price of choice beef increased from 80.7 cents to 97.4 cents for an increase of 20.7 percent.

Hourly earnings of labor in the manufacturing sector increased 63 percent and expenditures for goods and services increased 67.7 percent. The average consumer price index, which includes all

items, increased 29.6 percent. Food items purchased by consumers increased 28.5 percent during this 10-year period. The percentage of disposable income spent for food declined from 20 percent to 16.4 percent in this same period.

Equally dramatic is the simple, hard fact that cattle prices have not changed markedly over the price paid 20 years ago. In February of 1970, the average price for a choice steer at Chicago was $30.27 per 100 cut; in 1950 that average price was $29.02; in 1960, $26.24. No matter how the economic picture is viewed, the cost of beef to the consumer has not increased nearly as much as the rest of the consumer price index including food. In fact, if the price of beef had increased at the same pace of other commodities, a choice steer would now bring $38.39, and sirloin steak would cost $1.60 per pound instead of $1.31 and hamburger would cost 80 cents instead of 64.5 cents per pound.

This economic situation, when superimposed over the cost factor in the cattle industry, will convince any thinking person that the price of meat has not become excessive under our present situation. The steer which a farmer sells has thus increased in price by some 15 percent while the cost of his production has kept pace with the rest of the economy, which far exceeds 15 percent.

The cattleman is paying the same inflationary prices for his tractor, his truck, his gasoline, his oil, and his labor at a time when his price for cattle is almost static in relative terms. Yet this unique American, the cattleman, has managed to stay in business and even earn a small profit because he has, through ingenuity and hard work, created a production system that improves its efficiency almost annually. I submit that if anybody should be left free of Government bureaucratic controls, inhibitions, and inefficiency, it is the American cattleman.

I question the rationale of those who advocate unlimited imports of any commodity. These people only tell half the story. They conveniently close their minds to the economic chaos that unlimited imports would bring. We are experiencing this right now in the mink industry.

It is convenient if you have no farm economy to represent to write off a cattleman, his investment and his hard work. I find it very difficult, however, to see how the advocates of no controls can so freely write off American jobs. When a foreign producer sends in so many pounds of beef, so many mink pelts, so many pairs of shoes beyond a reasonable quota, he is in fact, destroying the jobs of an American producer.

I am not about to tell cattlemen of my State the "you've fought a valiant fight, you have produced some delicious sirloin and some great T-bones, but I'm going to write you off in favor of a foreign producer." These people support the American Government with taxes; they support our schools; they are some of the leading citizens in our towns and in our State government; and they buy many products from other segments of our economy. I do not think they should be written off or sacrificed on the altar of unrestricted meat imports.

Let me turn now just briefly to the question of whether or not we face a shortage in this country of fresh beef. That issue was raised by the Monogan report, and I find it strange that the subcommittee did not find it necessary to turn to experts to determine if the American cattlemen can meet the growing demands for beef in this Nation. I believe the distinguished Senators from Nebraska and Wyoming have answered that very well.

I wish to add my view that the American cattle industry will have no difficulty in meeting the demand for beef in the United States this year or in the foreseeable future.

Mr. President, there is no doubt in my mind that beef remains a good buy for the American consumer. Our cattle industry is continuing to meet the demand of our people and is fully capable of increasing its capacity and production to meet our growing population and our growing taste for fresh, choice American beef, if it is given half a fair chance to do so.

I wish to commend again the distinguished Senator from Nebraska for organizing this discussion; and may I add in closing that in my view, the cattle industry should be most grateful for his enlightened leadership in Washington and his effort to bring out the facts about beef prices.

Mr. MANSFIELD. Mr. President, I would like, at the conclusion of this very educational round robin on the plight of the cattle industry, to again add my commendation to the many which the distinguished Senator from Nebraska has already received.

I also want to give him credit for being a leader in this field and for showing great aptitude, great intelligence, and great understanding in making the record which all of us hope will make clear to the people of this country that the high price of beef is not to be blamed on the cattle producers. The blame—if there is blame, and I am certain there is—should rest with one of the many steps that occur after the cattle on the hoof on the range are transported to the processing and other plants, from which the meat product goes to the consumer's table by way of a grocery store, a market, or a butcher shop.

I again commend the distinguished Senator from Nebraska.

TEN BASIC PROPOSITIONS

Mr. HRUSKA. Mr. President, I thank the Senator from Montana for his generous remarks.

Mr. President, at the outset of this colloquy I recited 10 fundamental propositions which would be the basis for the discussion which would follow. I would like to conclude my remarks on this occasion by repeating those 10 basic propositions. They are:

First. Imported beef, if at a disproportionate volume, has a direct, substantial, and depressing effect on cattle and agricultural prices is in the United States. It also has an adverse effect on jobs in America.

Second. The import quota law on beef is reasonable and fair. It does not prohibit imports. It is based on an historical import volume, and is adjusted each year by the increase in U.S. production.

Third. The farmer and rancher does not sell beef. He sells cattle. A differentiation should be made.

Fourth. Cattle are selling today for about the same—or even a little less—number of current dollars as they sold for in 1950–51—20 years ago. In terms of constant dollars, they are selling for about 40 percent less than 20 years ago.

Fifth. Meat prices, including beef, have not increased disproportionately. In the past 10 years, retail prices of meat increased about 21 percent. In that same period, the following table show other increases:

Increased costs 1970 over 1960

	Percent
Retail meat—average	20.7
Average—all food	29.6
Average cost of all consumer services other than rent	46.3
Average hourly wage for nongriculture workers	50.7

Sixth. Average wages for nonagricultural workers rose 50.7 percent from 1960 to 1970. They were $1.44 per hour in 1950. In 1970, they were $3.32.

Seventh. For these wage increases, we rejoice. But compare this with choice steers in Chicago: In 1950 at $29.68 per 100 pounds; in 1970 at $30.52, as of June 4. About the same.

Eighth. United States cattle producers have the capacity to meet any increased demand which the rise in population and increased beef consumption will place upon them. They have historically and consistently done this in the past. In 1950, per capita beef consumption in the United States was 63 pounds. In 1969, it was 111 pounds. In 1950, U.S. production was only 11 billion pounds. In 1969, it was 21 billion pounds.

Ninth. The present beef import quota as prescribed by law should not be increased.

Tenth. Some improvements should be made in the law. For example, it should provide quarterly quotas instead of annual quotas. This would stabilize the market.

It should also be made to include canned and other prepared and preserved meats.

INCREASES IN BEEF IMPORTS WOULD BE SERIOUSLY DETRIMENTAL TO IDAHO CATTLEMEN AND CONSUMERS

Mr. CHURCH. Mr. President, I would just like to take a few minutes to associate myself with some of the major points made by the Senator from Nebraska (Mr. HRUSKA) regarding the beef import problem.

As the Senator so clearly points out, our farmers are receiving about the same income today as they did 20 years ago. I especially noted the Senator's comparison of the increase in the average wage earner's income to that of the increase in price received by a farmer for his cattle. Average wages for nonagricultural workers have risen 50.7 percent from 1950 to 1970. They were $1.44 per hour

20 years ago and they stand at $3.32 an hour now. But in 1950 the price of a choice steer in Chicago was $29.68 per hundred pounds, while 20 years later, in 1970, it stood at only $30.52. This can hardly be labelled a dramatic increase.

The beef industry, Mr. President, receives no Government subsidy. At the same time, this segment of the agricultural economy contributes nearly 27 percent of total farm income nationwide. It is not by any means a small or unimportant part of the Nation's agricultural sector.

As the Senator from Nebraska has pointed out in his remarks, the farmer does not sell beef. He sells cattle, and the price received by the cattlemen has not significantly increased in the last 20 years. Unfortunately, however, when beef prices drop, the cattleman is the individual within the economic chain who is damaged the soonest and the most.

I fear that opening the doors wide to more foreign imports would have a detrimental effect upon the cattlemen of my State. I also fear that such a policy could result in permanent damage to the cattle industry as a whole and, by forcing certain of our domestic producers out of business, result in the formation of economic conditions within the industry which would be, in the long range, detrimental to the American consumer.

Mr. ALLOTT subsequently said: Mr. President, earlier today several Senators discussed some of the problems which are confronting the cattle industry of America. Because of committee responsibilities I was unable to participate in this important discussion. I would like to say, that I, too, am concerned about recent suggestions to increase the flow of foreign beef into this country. In any discussion of this matter I believe that it is important to examine the facts which are involved. In this regard, I am very concerned about the allegation that domestic beef prices are too high.

At a time of rising prices all of us are unusually sensitive to price changes on the things we buy. Those things that we buy frequently, we worry about more and we discuss the price of them more. In discussing inflation we somehow think particularly in terms of the housewife, and her weekly struggle to balance her household budget and to feed her family. Meat makes up an important part of her grocery bill. Unfortunately, there are those who profit by directing her attention to the price of meat, especially beef.

Beef has increased in price somewhat, along with everything else. Is the price high compared with other products, with services, with taxes and wages, and all other standard economic statistics? Clearly it is not. The record ought to be set straight.

The inflationary pressures we live under have brought cost and price increases of almost every item we can think of. During the past 10 years, since 1960, many of these increases have been substantial. But the prices of live cattle, and even of wholesale and retail beef, have not nearly kept up with the rate of increase of other parts of the economy.

Even during the spring and summer of 1969, when cattle and beef prices moved up sharply for a very short period, the peak prices never equaled the price reached in 1952, 18 years earlier. It is not true that cattle prices reached an alltime high last year. For about 2 weeks in June of 1969 the price of choice steers in Chicago were about 30 percent above the average of 1960. In less than 4 months choice steers were back down to only 10 percent above 1960. Wholesale beef prices declined similarly. Retail beef prices also came down, though not as much.

More importantly, what has been the trend over a longer period, such as 10 years?

The answer is, at today's prices, beef is still the best bargain in the food stores. The same was true last summer and fall even though prices were higher than now.

In February 1970, the average price of choice steers at Chicago was $30.27 per hundred. February is chosen as the basis for comparisons because all figures are available. It was $26.24 in 1960. If choice steer prices had gone up during the 10-year period and kept pace with the cost of consumer services—except rent—choice steers would have brought $38.39 per hundred, $8 more than they were and $4 more than the highest figure reached last year.

If the retail price of beef had gone up as much since 1960 as consumer services, the average cost of beef to the consumer in February would have been $1.18 per pound instead of 97 cents which it actually was. Sirloin steak would have cost about $1.60 instead of $1.32, and hamburger would have cost 80 cents instead of 65.3 cents a pound.

Had the price of choice steers at Chicago gone up as much as the average hourly earnings of labor—nonagricultural—they would have brought $39.54 a hundred instead of $30.27. If choice beef at retail had increased as much as hourly wages, it would have cost about $1.22. Sirloin steak would have been selling for about $1.65 and hamburger for about 83 cents.

Neither live animals, nor beef at wholesale, nor even beef at retail has increased nearly as much over this 10-year period as have other foods, or consumer services generally, or average wages, or all prices—or almost any other indicator that might be mentioned. Look at the record.

Choice steers rose from $26.24 to $30.27 per hundred, an increase of 15.3 percent. The wholesale price of beef—choice carcasses at Chicago—increased from $42.98 to $46.74, or 6.3 percent. Retail prices went up more, from an average of 80.7 cents a pound to 97.4 cents a pound, or 20.7 percent.

Even so, it was less than the average consumer price index, which increased 28.5 percent. The average cost of all food purchased by consumers went up to 29.6 percent. The average cost of all consumer services other than rent rose 46.3 percent. Average hourly wages for nonagricultural workers rose 50.7 percent.

All of these costs went up more than the price of cattle, or the wholesale price of beef, or even the retail price of beef. Beef has been the laggard. Beef has not been leader in the inflationary spiral, beef has been the follower.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). Under the previous order, there will be a brief period for the transaction of routine morning business, with statements therein to be limited to 3 minutes.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may be permitted to continue for 5 minutes in the morning hour.

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

MANSFIELD OF MONTANA

Mr. PROXMIRE. Mr. President, last Sunday, there appeared in newspapers throughout the United States an article by Saul Pett of the Associated Press entitled "Mansfield of Montana." It captures in a highly accurate way what those of us who serve with him know about the majority leader.

In an atmosphere of public relations experts, image-makers, and media spectaculars, MIKE MANSFIELD of Montana is a rare man. He occupies one of the most powerful positions in the Government of the United States, yet he constantly eschews both the trappings and perquisites of power.

In an age of cant and phony sophistication, MIKE MANSFIELD is a man of strong character, simple tastes, and fierce honesty. Would that we had many, many more like him.

And combined with this strong sense of personal integrity Senator MANSFIELD is well read, deeply philosophical, and holds strong convictions developed from a foundation of fact and information.

Mr. President, I would like to give some of the flavor of this remarkable article by quoting one brief paragraph about the majority leader.

This is what Saul Pett writes:

> He is in a position of power which, it is commonly agreed, he uses with all the respectful care of a yeoman carrying the crown jewels, to a coronation. On both sides of the aisle, in an age of alarums, of strident voices and personal image-building, old-fashioned words like honest, fair, humble, quiet, guileless, nice, unassuming and patriotic cling to him like stubborn vines. Mike Mansfield of Montana is, perhaps, the last of the low profiles, a man so singularly uncolorful and so indifferent to personal charisma that he is, these days, singularly colorful!

May I add one other word? Under the leadership of the Senator from Montana, the Senate is a pleasant and happy place in which to serve. It mirrors to an amazing degree the personality of its leader. It is an institution where issues are hammered out, dissent and minority views heard, and equal handed fairness is dispensed. Meanwhile, the Senate retains its essential civility and humanity.

Because of MIKE MANSFIELD, the Senate is a place where democracy works. It is not run as a benevolent dictatorship or as the province of a modern rhetorical buccaneer. Instead it is a place where arguments and ideas have an opportunity to be accepted and acted on provided only that they can survive the clash of debate.

Senator MANSFIELD'S views of our troubled world are summed up eloquently and precisely in the final two paragraphs of the article:

In his office Mansfield spoke quietly with a reporter about the country's profound problems at home and abroad, of the deep trauma in the land. He drew slowly on his pipe, pausing deliberately between thoughts.

"We can't give up," he said. "This country is too young to die. We'll have to work our way through our problems and find a greater maturity. We've been lucky for too many decades. Now our luck is running out and we have to do some thinking."

I ask unanimous consent that the Associated Press article by Mr. Saul Pett be printed in the RECORD at this point.

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

MANSFIELD OF MONTANA

(By Saul Pett)

(NOTE.—He is a paradox, Mike Mansfield. A man of integrity as deep as the wise lines of his weathered face, yet holder of one of government's most partisan jobs. A man of calm in a chamber of clamor who reveres the presidency but who is battling a president. A paradox because even his chief adversary in the Senate calls the Majority Leader "the most decent man I've ever met.")

WASHINGTON.—At his place of business, he fidgets or wanders among the richly finished mahogany desks or sits with the clerks and stares from a lined, leathery face with hurt expression at the bronzed clock on the wall as though time were a personal affront.

Often, he wears the anxious look of an undertaker who fears that casket won't fit through the door; at other times, the pained look of a school teacher waiting and wondering why in the hell the kids can't return faster from recess. He seems to hurt inside but outside his patience is legendary except for those rare moments when he mutters to the chair, "Call the votes, damn it."

Under the skylight outlining the Great Seal of his country, he returns to the first seat on the right of the center aisle in the front row, the chair of an extraordinary man in an ill-defined job at an extraordinary time. He is the Democratic majority leader of the United States Senate, in a season of constitutional crisis, a time of greater rupture between the Senate and the President of the United States than any, since the days of Woodrow Wilson.

None of this is to the liking of Mike Mansfield, who is awed by the office of the presidency but not by presidents, who reveres the institutions of government and is constantly pointing out that its occupants are only transient. It happens, too, that he is profoundly opposed to the war in Vietnam and Cambodia and is orchestrating the bipartisan effort to define and limit the president's war-making powers.

He is in a position of power which, it is commonly agreed, he uses with all the respectful care of a yeoman carrying the crown jewels to a coronation. On both sides of the aisle, in an age of alarums, of strident voices and personal image-building, old-fashioned words like honest, fair, humble, quiet, guileless, nice, unassuming and patriotic cling to him like stubborn vines. Mike Mansfield of Montana is, perhaps, the last of the low profiles, a man so singularly uncolorful and so indifferent to personal charisma that he is, these days, singularly colorful.

"The most decent man I've ever met in public life," says Hugh Scott, Republican minority leader, of the enemy general across the aisle. "He's fair. His word rates in fineness above the gold at Fort Knox."

In 1964, Mansfield's last election year, Everett Dirksen, then Republican minority leader, threw back his classic mane, rose on the floor of the Senate and committed what he called "political heresy." He hoped publicly that Mansfield would be back. He praised him as a leader who leads "through sheer force of character and gentility," not through drive. Dirksen said he would go almost anywhere to campaign for Republicans, even to the moon, but please, not Montana.

Northern Democratic liberals, Southern Democratic conservatives, moderate Republicans, conservative Republicans: there are apparently no anti-Mansfield senators as such these days. Some have complained mildly in the past that he could be more effective as party leader by being more partisanly aggressive. Others, apparently a large majority, insist that this ex-miner and ex-Marine is effective by being one of the least combative men in the Senate. In any case, says a member of the Senate staff, Mike Mansfield, at 67, in his ninth year as majority leader and his 18th as senator from Montana, "has now grown into a kind of untouchable—nobody dares really zing him."

By the usual standards of politics, Mansfield is as dynamic as a celery stick. "He is the original tell-it-like-it-is man, bland, straight-out, completely devoid of frills, fanfare or plumage," says an admiring Hubert Humphrey. "I've met many jokers who know how to be clever. Mike has something more remarkable. He knows how to be sensible."

He may also be the Gary Cooper of national politics, the exception who thinks that one word can be better than 10. He is the bane of TV panel shows where, it is said, his five favorite answers are: "Yep. Nope. Maybe. Can't say. Don't know." That may be exaggeration but it is a fact that on TV's "Issues and Answers," for example, the panel normally gets to ask about 25 questions in a half hour. With Mansfield they asked 76.

Picture, if you can, this scene in the White House, which violates Newton's law of motion that every action demands an opposite and equal reaction. Lyndon Johnson is president and he is conferring with the Democratic leaders of Congress. He particularly wants something from Mansfield, who was once his protege and succeeded him as Senate leader. The President rises, warming to his task, circles his prey, gestures, cries with passion, pleads, cajoles, invokes the gods of patriotism and party. The president subsides and awaits the reply from the thin man from Montana.

"Mike," said a man who was there, "simply would keep his firm jaw up tight, puff on his pipe and answer, 'yes!' or 'no' or 'won't work.' It was like stepping from a very hot bath into very cold water."

There is a searing no-nonsense quality about Mansfield, the leader of the club who is not clubby, a man not given to small talk or lounging in the Senate cloakroom to gossip. He has in his office a photograph blown up to about four-by-six feet. It is one of those accidentally funny pictures taken in the Rose Garden of the White House after a congressional leadership meeting in 1962 with President Kennedy. The leaders have just concluded a news conference and seem to be suspended in arrested motion. Vice President Johnson looks vaguely at the empty mike. Sen. Hubert Humphrey looks vaguely over his shoulder. Other leaders seem to have nothing to do, except Mansfield, who is walking firmly out of the picture, his back to the camera. Kennedy inscribed the photograph:

"To Mike, who knows when to stay and when to go."

Mansfield employs no press secretary, sends out few releases and, unlike most who do, does not have his picture or name lettered largely on the material. In a chamber of galloping egos, he rarely claims credit for anything and praise makes him uncomfortable. He has been one of the few men in Washington consistently believed when he denies having any ambitions beyond the Senate.

In 1964, when President Johnson seemed to be shopping around elaborately for a vice president, James Rowe, a friend and Democratic strategist, asked MANSFIELD: "Any feelers from the White House?"

"No," said the man from Montana, "and there better not be."

Recently a staff assistant asked the majority leader when he was going to have his portrait done to hang one day in the Capitol with those of past leaders.

"What for?" asked Mansfield.

"For history's sake."

"When I'm gone, I want to be forgotten."

Period.

Mansfield's interest in material things or the trappings of power is low. The only things he personally acquires are pocket mysteries and Dixieland jazz records. He and his wife, Maureen, bought their first and only house in 1952 without his seeing it; he thought any choice of hers would be fine with him. His clothes suggest an underpaid college professor of the '30s, which he was, and even when they aren't there actually, one imagines there are leather patches on his elbows. It took him years to get comfortable in the big black Cadillac that goes with the job of leader, frequently grumbling about being a "limousine liberal." He chose a modest office as leader instead of the huge "Taj Mahal" occupied by Johnson. Friends find all this remarkable in a man who has known much poverty in his life. . . .

Born of Irish immigrant parents in Manhattan, father a hotel porter, mother died early . . . Carted off to Montana to live with relatives. Kerosene lamps, no inside plumbing. Saturday night baths in a wash tub of water heated on the stove . . . Fibbing about his age at 14, joined Navy in first world war, then the Army, later the Marines, making him rare alumnus of all three services . . . Worked eight years in Montana copper mines 2,800 feet down for $4.25 a day in the Depression . . . At urging of wife, who cashed in her life insurance, completed education, getting last high school credit and BA from Montana State almost simultaneously, at 30 . . . Came home one day with proud purchase: four pounds of hamburger for 25 cents. Wife cried. "I guess she felt I squandered the money. We had no icebox and the window sill wasn't much help in July . . ."

Taught Far Eastern and Latin-American studies at Montana University 10 years . . . Elected to Congress in 1942, showing up in old tweed suit and combat boots . . . Served five terms . . . Ran for Senate in 1962, refusing to fire campaign aide who was proving ineffective. He gave me free room and board when I got out of the Marines. Even a Senate seat isn't worth hurting his feelings." . . . Elected in squeaker, re-elected easily in 1958 and 1964 . . .

Mike Mansfield is up again for re-election this year and expects to campaign in his usual low-key style, shunning most big rallies, set speeches and TV spectaculars. He drives long distances between towns, walks the streets, seems to know everybody, asks and answers questions. He shows up in a hotel lobby smoking his pipe and the word gets around and soon he is talking with 30 or 40 constituents. He phones ahead to the next town and asks a friend to collect some people for coffee.

He is expected to have little opposition despite talk in Montana of a "gun" candidate. Mansfield voted for gun control legislation, highly unpopular in his own state. He is, however, a senator who takes meticulous care of constituent's minutiae, arrives at the office at 6 a.m., reads all the mail and papers from home. It is said that no one can die in Montana without the family getting condolences from the senior senator. It is also said that one of the most impassioned speeches of his Senate career was de-

livered in successful opposition to the threatened closing of a Veterans hospital in Miles City.

But nothing is apt to make Mike Mansfield flare quicker than any reflection on his independence. In the years of the Johnson presidency, he was constantly and sternly reminding reporters he was not the president's majority leader but the Senate's. At a dinner party once, the lady on his right made the mistake of asking, "And what are your people back in Montana telling you to do on this issue, senator?"

"Madame," said the man from Montana, "my people don't tell me what to do. They sent me here. I do the voting."

In the view of James Rowe and others, Mansfield comes as close to the tradition of Edmund Burke, the 18th century British statesman, as anyone they know. Burke told the voters of Bristol, in a classic statement of the legislator's role: "Your representative owes you not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion."

The job of majority leader, which is not mentioned in either the Constitution or The Rules of the Senate, is what tradition and the leader make of it. Lyndon Baines Johnson made the most of it. He drove with a bull whip, wheedled, pressured, arm-twisted, jugular-squeezed, threatened, dispersed or withheld favors to push through legislation. He was a one-man decathalon.

Mansfield works almost as though from a civics book. He relies on gentle persuasion, accommodation and understanding. He clings to the notion that all senators are equal and each state has two, that each is a man of consequence who should be free to exercise his own judgment. He encourages committee chairman to floor-manage their own bills on the simple logic that they know most about them. He encourages young senators to speak up because he values their "currency." He rarely lobbies for votes and then only to the extent of saying, "If you can see your way clear to go with me on this, I'd appreciate it."

"Some senators like to be shoved around and told what to do," says William Fulbright of Arkansas. "But Mike rarely even tells you how he'll vote unless you ask him. Which is proper. It's all right for other senators to lobby senators but not the leader."

Hugh Scott says, "There is no cuteness or deviousness in him." Which means Republicans as well as Democrats trust him and are not nervous about leaving town for fear the majority leader might suddenly rejuggle the calendar or try to slip through a last-minute amendment.

With an absence of cuteness, an abundance of trust and a soupcon of persuasion, Mansfield steered the leviathan bulk of Great Society legislation through the Senate. He had, of course, considerable help, on the bridge and in the boiler room, from the big mover and shaker in the White House.

Since the Johnson days, he has been personally credited with revitalizing the Democratic policy committee in the Senate, pulling together such disparates as Richard Russell of Georgia and Edmund Muskie of Maine, Robert Byrd of West Virginia and John Pastore of Rhode Island. It was Mansfield who reportedly led the committee and ultimately the Democratic-controlled senate to adoption of a tax reform bill, an amendment that would give 18-year-olds the vote, a resolution calling for troop withdrawals in Europe and another warning the president he could make no binding national commitments abroad without the approval of Congress.

His greatest frustration in public life, Mansfield says, has been his inability to affect recent presidential thinking about Southeast Asia.

A recognized expert on the Far East, he made fact-finding trips out there for six presidents, including Johnson and Nixon. Nonetheless, he was unable to dissuade Johnson from escalation in Vietnam or Nixon from incursion into Cambodia, which he visited last year at the president's behest.

Aides say Mansfield agonizes before opposing any president, such is his respect for the office and his compassion for the burdened tenant. He, himself, says of the Johnson days:

"It's not easy to be the only one to say no to the president in that oval room, where he is surrounded by all his advisers and chiefs of staff. I guess I had to do that a dozen times."

Until Cambodia, Mansfield said he thought the Nixon policy in Vietnam was in the right direction—out—but hoped troop withdrawals could be speeded up. He was quick to acknowledge agreement with the President when he thought he was right. When Nixon briefed Congressional leaders on his plans for the strategic arms limitation talks, the Democratic leader was the first to respond to the Republican president, saying, "I think you've made the best choice. I will support you."

Then came Cambodia, about which Mansfield and other congressional leaders were briefed briefly by the president after the operation had started, That night the majority leader had trouble sleeping. He put pillows over the phones in his house and tried to sort out his thoughts. The next morning he looked like he had been kicked in the stomach. He had, he explained to a reporter, been thinking of the spreading war, the problems and divisiveness at home. "I've never been so down in the dumps in my lifetime," said the man from Montana who almost never says never.

On the floor of the Senate, he said several times how much he regretted differing with the president but spoke out against Cambodia and warned, "There is grave danger the Parrots Beak may well turn out to be an albatross." Off the floor, he won agreement from Scott to ask all relevant Senate committee chairmen to give top priority to anything dealing with Cambodia and Vietnam. He also saw to it, says an aide, that the various attempts to limit the presidents war-making powers be brought up one week as a "building-block" operation in a rising debate over the constitutional issue between President and Congress.

In his office, Mansfield spoke quietly with a reporter about the country's profound problems at home and abroad, or the deep trauma in the land. He drew slowly on his pipe, pausing deliberately between thoughts.

"We can't give up," he said. "This country is too young to die. We'll have to work our way through our problems and find a greater maturity. We've been lucky for too many decades. Now our luck is running out and we have to do some thinking."

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

Mr. PROXMIRE. I yield.

Mr. CHURCH. Mr. President, I associate myself with the remarks of the distinguished Senator from Wisconsin. I thank the Senator for having this exceptional article printed in the RECORD. I read it with the same sense of appreciation that the Senator has mentioned in the course of his remarks.

We have a majority leader who is a completely unassuming and utterly uncontrived man. And in this age of image making, particularly in the field of politics, that is a rare quality that commends our majority leader most highly, and reflects great credit upon the Senate and upon the whole political profession.

We need more leaders like MIKE MANSFIELD.

Mr. PROXMIRE. Mr. President, I thank the Senator from Idaho very much.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following communication and letters, which were referred as indicated:

PROPOSED AMENDMENT TO THE BUDGET, 1971, FOR THE DEPARTMENT OF STATE (S. Doc. 91–90)

A communication from the President of the United States, transmitting an amendment to the budget for the fiscal year 1971 in the amount of $1,900,000 for the Department of State (with an accompanying paper); to the Committee on Appropriations, and ordered to be printed.

REPORT ON A VIOLATION OF SECTION 3679 OF THE REVISED STATUTES, AS AMENDED

A letter from the Attorney General of the United States, reporting, pursuant to law, on a violation of section 3679 of the Revised Statutes, as amended, involving the operation fund of Federal Prison Industries, Inc.; to the Committee on Appropriations.

PROPOSED LEGISLATION TO EXTEND THE DURATION OF THE HIGHWAY TRUST FUND

A letter from the Secretary of Transportation, transmitting, a draft of proposed legislation to extend the duration of the Highway Trust Fund, and for other purposes (with an accompanying paper); to the Committee on Finance.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improvements made in building construction inspections to determine compliance with contract specifications, District of Columbia government, dated June 9, 1970 (with an accompanying report); to the Committee on Government Operations.

VYACHESLAV PAVLOVICH ARTEMIEV, AND OTHERS

A letter from the Secretary of the Army, transmitting a draft of proposed legislation for the relief of Vyacheslav Pavlovich Artemiev, and others (with accompanying papers); to the Commitee on the Judiciary.

PROPOSED FEDERAL-AID HIGHWAY ACT OF 1970

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes (with accompanying papers); to the Committee on Public Works.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

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

H.R. 12860. An act to establish the Ford's Theatre National Historical Site, and for other purposes (Rept. No. 91–921).

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

S. 710. A bill to designate the Mount Baldy Wilderness, the Pine Mountain Wilderness, and the Sycamore Canyon Wilderness within certain national forests in the State of Arizona (Rept. No. 91–922).

EXECUTIVE REPORTS OF A COMMITTEE

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

By Mr. YARBOROUGH, from the Committee on Labor and Public Welfare:

Edward C. Creutz, of California, Lloyd G. Humphreys, of Illinois, Louis Levin, of Maryland, and Thomas B. Owen, of Washington, to be Assistant Directors of the National Science Foundation.

Mr. YARBOROUGH. Mr. President, I also report favorably sundry nominations in the Public Health Service which have already appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they may lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Arnold B. Barr, and sundry other candidates, for personnel action in the Regular Corps of the Public Health Service.

BILLS INTRODUCED

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

By Mr. MANSFIELD:

S. 3942. A bill to provide for thorough health and sanitation inspection of all livestock products imported into the United States, and for other purposes; to the Committee on Agriculture and Forestry.

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

By Mr. TYDINGS (by request):

S. 3943. A bill supplemental to the Act of February 9, 1821, incorporating the Columbian College, now known as the George Washington University, in the District of Columbia and the acts amendatory or supplemental thereof; and

S. 3944. A bill to authorize the District of Columbia to enter into the Interstate Agreement on Qualification of Educational Personnel; to the Committee on the District of Columbia.

ADDITIONAL COSPONSORS OF BILLS

S. 2348

Mr. CHURCH. Mr. President, on behalf of the Senator from Maine (Mr. MUSKIE), I ask unanimous consent that, at the next printing, the name of the Senator from Utah (Mr. Moss) be added as a cosponsor of S. 2348, the Federal Broker-Dealer Insurance Corporation Act.

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

S. 3546, S. 3677, AND S. 3687

Mr. CHURCH. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from South Dakota (Mr. McGOVERN) and the Senator from Massachusetts (Mr. KENNEDY) be added as cosponsors of the following three bills: S. 3546, the National Air Quality Standards Act of 1970, which would accelerate the designation of air quality control regions required by the Air Quality Act of 1967; S. 3677, which would set up an independent agency to develop and enforce Federal environmental quality standards; and S. 3687, the National Water Quality Standards Act, which would increase the Federal grant authorization for waste treatment facilities to $2.5 billion a year for 5 fiscal years and extend the standards program to all navigable waters.

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

S. 3656

Mr. CRANSTON. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from New Mexico (Mr. MONTOYA) be added as a cosponsor of S. 3656, the proposed Veterans' Housing Loan and Amendments Act of 1970.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). Without objection, it is so ordered.

S. 3657

Mr. CRANSTON. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Ohio (Mr. SAXBE) be added as a cosponsor of S. 3657, the proposed Veterans Educational Assistance Allowance and Work-Study Program Act of 1970.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). Without objection, it is so ordered.

S. 3941

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCHWEIKER), I ask unanimous consent that at the next printing, the name of the Senator from Minnesota (Mr. MONDALE) be added as a cosponsor of S. 3941, to provide civil penalties for the use of lead-based paints in certain dwellings.

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

ADDITIONAL COSPONSOR OF A JOINT RESOLUTION

SENATE JOINT RESOLUTION 207

Mr. CHURCH. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Michigan (Mr. HART) be added as a cosponsor of Senate Joint Resolution 207, a resolution to create a Joint Committee on the Environment.

His name was omitted from the original list of cosponsors inadvertently, and he has been a strong supporter of this concept.

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

AMENDMENT OF SOCIAL SECURITY ACT WITH EMPHASIS ON IMPROVEMENTS IN THE OPERATING EFFECTIVENESS OF SUCH PROGRAMS—AMENDMENTS

AMENDMENTS NOS. 682 THROUGH 684

Mr. PROUTY. Mr. President, I rise at this time to express my intention to offer three amendments to H.R. 17550, the House-passed Social Security Amendments of 1970, when that measure comes to the Senate floor for our consideration. I ask unanimous consent for the printing in today's RECORD of the amendments which I submit, in order that my colleagues may study my alternative proposals.

Briefly, Mr. President, my amendments provide substitutes to sections 101, 102, and 107 of H.R. 17550. Section 101 is designed to increase social security, old-age, and survivors benefits, and section 102 increases special age 72 benefits under the Prouty amendment of 1965. Section 107 liberalizes the retirement earnings test.

As passed by the House, section 101 provides a 5-percent across-the-board increase in old-age and survivors benefits, raising the minimum benefit of $64 a month to $67.20 a month and to $100.80 a month for family benefits.

Mr. President, for the past three sessions of Congress I have sought to raise minimum social security benefits to a realistic level—a level which can truly fulfill the purpose of the Social Security System to provide a basic floor of protection for our retired workers. Last year I supported an increase in the minimum to $100; the best we could do was $64 a month. Now, Mr. President, just try to imagine an elderly person actually living on $64 a month. It cannot be done. That is why over 1 million social security beneficiaries are currently on welfare.

On Thursday, May 21, the House of Representatives passed a landmark bill, H.R. 17550, which contains many significant and needed changes in social security, medicare, and medicaid. I can support most of those changes wholeheartedly. I, too, have long advocated an increase in widow's benefits from 82½ percent to 100 percent of the spouse's benefits, a liberalization of the retirement test and many other reforms contained in H.R. 17550. I am also pleased that the House has increased the so-called Prouty payment special benefits for certain uninsured persons over age 72.

However, Mr. President, I cannot accept the meager 5-percent increase in benefits which raises the minimum level from $64 to $67.20. Such an increase is meaningless in light of the needs of our older people to support themselves in this period of rising prices. Indeed, Mr. President, $67.20 a month is only two-fifths of the minimum poverty level income.

In effect, we are being asked to sanction a Federal Government program which does not even provide beneficiaries half of the minimum income needed to sustain life. A retired person could barely buy a month's supply of food on $67.20, let alone pay for the necessary utilities, rent, and clothing. Just last week, Mr. President, I received a touching letter from an elderly lady in Vermont who described the extreme difficulty she had in living on even as much as $100 a month.

Accordingly, Mr. President, when the Senate considers H.R. 17550, I shall propose an amendment to section 101, to amend section 215 of the Social Security Act so as to provide a minimum benefit

of $100 a month, and a correspondingly scaled increase up the line, beginning with a 10-percent increase at the lower levels and a 1-percent increase at the upper level. This increase would be financed out of the increased wage base and adjusted tax rate provided in H.R. 17550. I do not believe that any increase in contribution is required at this time, since it is estimatel that the system's trust fund will be substantial for the next 10 years. However, I am hopeful that the Senate Finance Committeee will seriously consider the possibility of either financing the future needs of the system out of general revenue or proposing an amendment to the House bill to retain the present tax rate, rather than deferring the increase as the House did.

Mr. President, even $100 a month is insufficient to provide an adequate income for retired persons. But we must strike a balance somewhere between a fully adequate minimum and the financial soundness of the system as an income-replacement device. The system has always been regarded as a basic floor of retirement income, which the retired beneficiary may then supplement from other sources. I estimate that $150 per month is the truly realistic estimate of an elderly person's minimum monthly income needs. My proposal is to close the gap between social security benefits and minimum income needs to a realistic degree. A minimum social security benefit of $67.20 requires a beneficiary to find additional income sources to the tune of over $80 a month if he is to live above poverty means. Such a burden cannot easily be met, even if the beneficiary is fortunate enough to have savings or a private pension—and most beneficiaries have no private pension income and only modest savings. I propose to reduce that burden to an acceptable level. Thus, my amendment is wholly consistent with the fundamental rationale of the Social Security System, while, at the same time, it faces up to the realistic income needs of retired persons. I want to make it clear, Mr. President, that I do not advocate turning the Social Security System, which is an earnings-related pension, into a straight welfare program. If I sought to do that, I would urge an even higher minimum benefit. For this reason, I introduced a bill in March of this year entitled the Older Americans Income Assurance Act, S. 3554, which would assure all older persons a minimum income, financed by the general revenues, of $150 per month. Thus I approach the needs of our Social Security System apart from the welfare needs of the 6 million older Americans living in poverty.

Mr. President, I approve the imaginative leadership of President Nixon in advocating automatic cost-of-living increases in social security benefits, which the House has now adopted. Congress should, however, at the same time provide an adequate benefit level upon which to build as the cost of living increases. Under the House version, the first benefit increase under the cost-of-living factor would not take effect, if at all, for 2 years, until January of 1972. In the meantime, we cannot complacently compliment ourselves on providing adequate retirement benefits if we are content to accept only a $67.20 minimum. Such action would constitute a callous disregard of the present needs of our older citizens.

My second amendment, Mr. President, very simply substitutes a 10 percent increase for the House-passed 5 percent increase in special age 72 benefits, so that the new monthly benefits will be $50.20. As the original author of section 228 of the Social Security Act, providing benefits to uninsured persons who reached age 72 by 1967, I can testify to the incalculable benefits this modest measure has produced in terms of easing the economic hardship of our elderly citizens who were unable to obtain coverage under the Social Security System. My amendment simply conforms the age 72 benefit to the 10 percent increase which I propose for covered beneficiaries.

Finally, Mr. President, I am sponsoring an amendment to section 107 of the House measure. As passed by the House, section 107 would increase from $140 to $166.66 the amount of monthly earned income permitted to a social security beneficiary prior to reduction of benefits. The House bill then very wisely creates an automatic scaled-up exempt amount every 2 years in proportion to the increase in average taxable wages. I am also very pleased to note that the House has adopted a $1 for $2 benefit reduction for all earnings above the exempt amount so that benefits would never be cut off entirely. I propose to exempt $200 per month from benefit reduction. Whereas the House measure would allow $2000 a year of earned income, I propose $2400. Otherwise the law would remain unchanged, so that the exempt amount will rise as average taxable wages increase.

Mr. President, I fervently believe that it is economically and socially unfair to discourage able-bodied retired persons from supplementing their pension income with part-time work. In my home State of Vermont, I am aware of numerous situations where healthy 70-year-old retired persons, such as carpenters and painters, would continue to contribute their useful skills part-time if they would not thereby lose their social security checks. This kind of work can be meaningful, not only economically, but psychologically, to a man who was accustomed to hard work all of his life. At the same time, he can contribute needed skills to his community, and in many communities today the skills of retired persons are sorely needed. I believe that a $2400 allowance base for earned income would more realistically meet the desirable goals of useful work and economic security.

I hope that my colleagues will join with me in my efforts to improve upon H.R. 17550, in order that we may truly acclaim the Social Security Amendments of 1970 a landmark in wise legislation for our 16 million retired beneficiaries.

The PRESIDING OFFICER (Mr. Moss). The amendments will be received and printed, and will lie on the table.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT—AMENDMENT

AMENDMENT NO. 685

Mr. GRIFFIN submitted an amendment, intended to be proposed by him, to the bill (H.R. 15628) to amend the Foreign Military Sales Act, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 686

Mr. PERCY submitted an amendment, intended to be proposed by him, to House bill 15628, supra, which was ordered to lie on the table and to be printed.

(The remarks of Mr. PERCY when he submitted the amendment appear later in the RECORD under the appropriate heading.)

NOTICE OF HEARING ON S. 1079, CONSENTING TO THE SUSQUEHANNA RIVER BASIN COMPACT

Mr. TYDINGS. Mr. President, as chairman of the special Judiciary Subcommittee to consider S. 1079, a bill consenting to the Susquehanna River Basin compact, enacting the same into law thereby making the United States a signatory body; making certain reservations on behalf of the United States, and for related purposes, I wish to announce that a field hearing on S. 1079 will be held at 9:30 a.m. on June 23 in the chambers of Judge Harry E. Dyer, Jr. in the Harford County Office Building in Bel Air, Md. Testimony will be taken from the State of Maryland, the Department of the Army, and the Susquehanna Interleague Committee on the League of Women Voters. Another hearing at some future date will be held in Washington to hear from the States of Pennsylvania and New York and Departments of Justice and Interior. Anyone wishing additional information should communicate with Mr. Terence Finn of my office at 225–4524.

ADDITIONAL STATEMENTS OF SENATORS

POSTAL REORGANIZATION ACT OF 1970

Mr. McGEE. Mr. President, the Tuesday morning, June 9, 1970, edition of the Washington Daily News, on page 2, contains an article written by Dan Thomasson, a Scripps-Howard staff writer, which I believe requires a response by me as chairman of the Committee on Post Office and Civil Service and the co-author of the Postal Reorganization Act of 1970. I ask unanimous consent that the article be printed at this point in the RECORD.

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

PAY-AS-YOU-GO THREATENED: POSTAL BILL LOADED IN FAVOR OF TRUCKERS AND AIRLINES

(By Dan Thomasson)

The Senate Post Office Committee's proposal to reform the nation's mail service is so loaded with benefits for the big airlines

and the trucking industry it would jeopardize efforts to put the Post Office Department on a pay-as-you-go basis.

That was the consensus today of congressional critics after analyzing the 285-page bill finally adopted last Friday after days of debate during which lobbyists clogged the halls outside the committee room.

The proposal's complex transportation section alone was described by critics as a "classic" example of catering to special interests. And a Post Office Department official said:

"If it is a choice between this and what we have now, we would be better off with the present transportation system."

The bill would prohibit the new postal authority it creates from making contracts with one segment of the air industry—the so-called "supplemental" or "nonscheduled" airlines. The House version of the bill would open mail service to these lines.

While the bill would permit the new postal authority to contract for certain routes with the big, regularly scheduled airlines at lower rates, it would discourage such contracts by setting up what postal officials call "impossible" restrictions.

These restrictions stipulate that the contract must have Civil Aeronautics Board (CAB) approval, forbid shipment of less than 1,000 pounds and require that only 10 per cent of the domestic and 5 per cent of the international airmail can be first-class letters.

In other words, at least 90 per cent of the mail in these contracts would range from parcel post to junk mail to magazines.

Postal officials said this provision would require them to ship low-priority mail the most expensive way while the high-priority letters sat on the ground. It would be an "impossibly expensive" proposition, they said.

"This contracting authority," said one postal official, "a clear fraud on the public."

In its report, the committee says it wants to discourage the proposed new postal authority from trimming its costs at the expense of the air carriers.

The air transportation provision of the bill also help the major airlines, represented by the air transport association, by stipulating that the postal authority can contract with short-haul "air-taxi" operators only when it is determined there is no "adequate" common carrier service to a particular area. And as soon as such service is established, the board of governors of the authority must cancel the air-taxi service.

The surface transportation provisions of the bill, according to both congressional experts and Post Office officials, are designed to give the big truckers a distinct advantage in mail hauling.

Unlike the railroads, the truckers would be assured of Interstate Commerce Commission (ICC) rates when they tender their availability for carrying mail. Postal officials contend these rates are too high.

The truckers also would not be forced to carry the mail, as are the airlines and railroads, but would be able to pick and choose where they want to participate in mail hauling—generally limiting their operations to profitable routes between the big cities.

Some congressional experts believe the truckers may have outfoxed themselves in lobbying thru this provision. They say the Post Office would be reluctant to use the trucks at such rates.

It is alleged that both the CAB and the ICC are industry-dominated, and by giving them regulatory authority over transportation within another government agency, the Senate Committee has assured the airlines and truckers a high return for handling the mail.

"This section is worth hundreds of millions of dollars to the big transportation boys," a congressional critic charged. "It leaves the new postal authority very little flexibility in trying to move the mail as well and as cheaply as possible."

Mr. McGEE. Mr. President, Mr. Thomasson's article describes the transportation provisions of S. 3842 as being "loaded in favor of truckers and airlines" and generally so bad that, in the words of one unidentified Post Office Department official, "we would be better off with the present transportation system." That anonymous source is in complete agreement with the representatives of all of the scheduled airline industry. Because, while the Air Transport Association and all of the individual airlines who are members of the Air Transport Association reluctantly agreed to the provisions of the Senate bill, they would all prefer the status quo.

Under existing law, the Postmaster General has no authority to negotiate any contract with any air carrier—period. All mail carried by scheduled air carriers is carried on a fair distribution of the mail at ton-mile rates established by the Civil Aeronautics Board. Neither Congress nor the Postmaster General has any say at all about the rate to be paid.

It is so, as Mr. Thomasson points out, that "supplemental" airlines are not permitted under the Senate bill to carry the mail where scheduled airline transportation is available, but it is fair to say that the Post Office Department never requested such authority in either the House version or in the Senate version of the bill; and the Federal Aviation Act of 1958 does not permit "supplemental" air carriers to carry the mail except in very limited circumstances. The Committee on Post Office and Civil Service does not have jurisdiction to amend the Federal Aviation Act, and we did not attempt to do so; although in our report accompanying S. 3842 we did recommend that the Committee on Commerce, which has such jurisdiction, give very careful consideration to the problem of permitting "supplemental" air carriers to transport mail.

Mr. Thomasson quotes other unidentified postal officials to the effect that the restrictions of the Senate bill, particularly on the Postmaster General to negotiate contracts with scheduled air carriers, are "impossible." Obviously, our committee does not agree with that anonymous postal expert. Our goal, as clearly expressed in our report, is to encourage the Post Office Department to use the most expeditious means of transportation of all kinds of mail—not just air mail or "important" letter mail or some other class of mail that produces a significant amount of revenue for the Post Office Department, but all mail.

In negotiating a contract, we intend to require the Post Office Department to make an effort to improve mail service, not merely to reduce the costs of transportation. If a contract for 10 cents a ton-mile can be negotiated, then the transportation of newspapers, magazines, advertising, parcels, and any other mail matter, particularly over long distances, can be improved—vastly improved. Nothing whatever will prohibit the new Postal Service from charging an extra fee to nonletter mail for air transportation service. Indeed, as our committee said in 1967, when we recommended special air transportation service for newspapers and magazines, we expect each class of mail to pay a fair rate for expeditious transportation. Our disappointment is that the Post Office Department has not, in 2½ years, developed such service for second-class mail as authorized by the 1967 act; indeed, in recent months it has gone far to eliminate the airlift program for regular first-class mail in a pound-foolish effort to pinch pennies.

The First Amendment stands as a protector for Mr. Thomasson and his unidentified postal sources, but I think it would be to the advantage of both the Postmaster General and me to know what postal official described the transportation system as in our bill as "a clear fraud on the people."

Mr. Thomasson describes the surface transportation provisions of our bill as "giving the big truckers a distinctive advantage in mail hauling." It does not do anything of the sort. Because the highway transportation industry has never carried the mail on other than a Star Route competitive basis, we have recommended a restrained approach to the development of this new program. We leave the choice, for instance, with the trucker rather than with the Government as to whether he shall be required to carry the mail; but it is absolutely false, contrary to Mr. Thomasson's statement, that truckers would be able to "pick and choose where they want to participate in mail hauling—generally limiting their operations to profitable routes between big cities." Mr. Thomasson's anonymous source needs to read the bill. Our bill requires that if a trucker wants to carry mail at all, he must submit a general tender of availability to carry mail on any route where his truck line is authorized to operate by the Interstate Commerce Commission. He cannot—he is forbidden—to "pick and choose" choice routes.

The rates paid to truckers could be either those rates established by the Interstate Commerce Commission or rates negotiated between the Department and a common carrier or a star route carrier, whichever method the Postmaster General wishes to use. The committee expects that the Postmaster General will use his negotiated-rate authority in order to reduce costs and improve service. Seventy-five percent of the mail now moved by rail is moved at negotiated rates rather than ICC rates. We think a similar situation could apply to truck transportation costs.

Finally, I think it should be pointed out, as a majority of our committee did in adopting this transportation section, that the Senate Committee on Post Office and Civil Service is not in sympathy with the cost-cutting practices of the present administration in the Post Office insofar as the transportation of mail is concerned. Although we are glad to see any programs for efficiency developed, we are not glad to see them when they result from slowing down the mail. The air taxi program, developed 3 years ago by Postmaster General O'Brien and his very fine staff under the direction and supervision of our committee, has been severely cut

back in an effort to save money. The airlift of first-class mail program has been reduced so that, in some instances, the Department has virtually abandoned the hope of overnight delivery of regular letter mail within 750 miles of the origin of the letter.

If the only way we in Congress can stimulate the Post Office Department to try its best to deliver mail is by imposing legislative restrictions upon their authority to move high-revenue mail, to write a few "thou shalt nots" into the law, and to delegate to the Civil Aeronautics Board or the Interstate Commerce Commission the regulatory and supervisory authority to insure compliance with congressional policy, then that is the way we will do it.

It is not the Post Office Department which establishes policies of postal service; it is Congress. It is we who answer to the people, not the Postmaster General or the board of governors of a new postal service, or anyone in the Department who vents his unhappiness upon local newspapers. Our effort, our sole objective, is to improve the mail service.

I must say I have not seen that same objective demonstrated in the transportation policy and programs of the Post Office Department.

TIME IS PASSING FOR AMERICANS HELD PRISONERS OF WAR

Mr. GRIFFIN. Mr. President, long ago Benjamin Franklin wrote in Poor Richard:

> Dost thou love life? Then do not squander time, for that is the stuff life is made of.

Over 1,400 American prisoners of war, now held captive by the North Vietnamese, love life, and time is passing for them.

When will the North Vietnamese abide by the Geneva Declaration?

I do not know.

Time passes.

When will the North Vietnamese allow the delivery of mail to these men?

I do not know.

Time passes.

When will the North Vietnamese allow the wives and the children of these men to know if they are alive or dead, sick or well?

I do not know.

Time passes.

If life is indeed a long lesson in humility, then it matters not how long we live, but how. Without life, time is but death. In prison, time is without life.

Mr. President, time is passing for the American men held prisoners.

PROBLEMS OF AGING IN RURAL AREAS

Mr. MUSKIE. Mr. President, on June 2, the Special Committee on Aging continues its exploration of the problems of older Americans in rural areas. Among the witnesses we were privileged to hear was Dr. Roger S. Leach, field program coordinator for the cooperative extension service at the University of Maine.

Dr. Leach described a nutrition education program in Maine which has had great impact on the senior citizens employed as nutrition aides and their communities. Dr. Leach also pointed up most articulately the difficulties faced by the elderly poor whose problems are often not visible to the communities in which they live.

I ask unanimous consent that his remarks and my statement at the hearing be printed in the RECORD.

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

MAINE'S SENIOR SERVICE CORPS NUTRITION AIDE PROGRAM

(Statement of Dr. Roger S. Leach)

Maine is known to both residents and nonresidents as "Vacationland". Few people realize that Maine is the northernmost state in Appalachia and approximately 23% of its nearly one million people live on incomes that fit the poverty guidelines. Currently approximately 75,000 people are participating in the donated commodities or food stamp programs.

The Maine Cooperative Extension Service initiated a Nutrition Aide Program in November of 1968 as part of a nationwide effort in nutrition education. This initial effort has now been expanded to include twelve of our sixteen counties in one of these three separately funded nutrition aide projects: (1) The Expanded Nutrition Education Program, funded from the U.S. Department of Agriculture, (2) The Volunteer Nutrition Aide Program, supported by a grant from Title I of the Higher Education Act, and (3) The Senior Corps Nutrition Aide Project, contracted with the State Office of Economic Opportunity and funded through the National Council on Aging.

The Expanded Nutrition Education Program administered by the Federal Extension Service provides supporting materials for both professional staff and aides in all of our nutrition education projects as well as direct funding for the employment, training, and supervision of 50 to 60 nutrition aides.

The volunteer nutrition aide program, "Mobilizing Volunteers for Personal and Community Growth", is a one- or two-year demonstration project (depending on availability of funds) with an objective of recruiting, training, and supporting 150 volunteers over a two-year period. This project is based on these assumptions: that (1) there are people in every community who have time and a need to do something useful for others, (2) communities should be given encouragement to solve their own problems, and (3) we cannot obtain sufficient funding to employ enough aides to work with all low income families.

The Senior Service Corps Nutrition Aide Project was funded in January of 1970. Thirty half-time aides were employed by the end of February. All were 55 years of age or older and met the OEO poverty guidelines.

The basic approach for all of our projects has been the same. Before aides are employed in any county, local and state level Extension staff members meet with representatives from all agencies working with low income families in the area. Outreach workers, child and family services, public health nurses, Maine Employment Security Commission, Diocesan Bureau of Human Relations, Farmer's Home Administration, and others are represented. An attempt is made to reach an understanding whereby all agencies feel that this aide program will compliment their individual activities. If such an agreement cannot be reached, we will not initiate a program in that county. With our limited resources, we cannot afford to waste energy competing with other agencies. The most desirable arrangement seems to be an interagency committee on recruiting, training, supervision, and evaluation, for the aide program.

Direct supervision is provided by Extension professional staff. The local professional staff also conducts the training of the aides with assistance from the State Nutrition Specialist. Initial orientation and training of one or two weeks is followed by weekly half-day sessions throughout the duration of the project.

Training includes:

1. Getting acquainted with each other;
2. Getting acquainted with the job ahead;
3. Learning to be a helper;
4. How to prepare meals using simple, low-cost recipes;
5. How to plan and prepare well-balanced meals;
6. How to shop for food;
7. How to store food;
8. The value and use of food stamp and donated food programs;
9. An understanding of basic nutrition; and
10. How to become better managers of all resources.

Although this project has been in operation for only a few months, it is obvious that it has become extremely meaningful to the recipients, the aides and the communities. The meaning is captured in these reports from our field staff and aides.

Zelma reported that the selectmen said there were visible changes in the recipients of donated foods in his community. He meant that the recipients coming in to the food distribution center have a new facial expression, "they look pleased; they know that they will no longer be looked down on like dogs, but, in fact, are viewed as ladies". This change has come about because of the Nutrition Aides. The recipients know that when they go to their monthly food distribution they will have friends there, the Nutrition Aides.

Lucille has been visiting older people in her area and realizes that she cannot visit them often enough, so she has asked a number of neighbors if they might consider visiting these people. Lucille is excited about the fact that several of the neighbors are visiting the older people and that it is truly beneficial, both to the older adult as well as the visitor. It is sort of a neighbor to neighbor approach.

Mary in her contacts with people receiving donated foods learned that some people were not using corn syrup and she has suggested a modification of the corn syrup using a maple flavoring extract so that it tastes just like "maple syrup". Mary also reported that one of the persons she provided with this corn syrup recipe has passed it on to a coparticipant of donated foods. This helpful information is being recycled among the recipients. In addition, Doris, another Nutrition Aide, picked this information up from Mary and is passing it around to her recipients.

Mary reported that a woman receiving donated commodities said to her, "Officials look down on me, but you made me feel welcome and treated me like a person".

Dorothy, one of four of York County's Nutrition Aides who attended a week's training in certification of people to receive donated foods, said that the selectmen in two communities let her certify people with whom she comes in contact. Her work is good in the eyes of the selectmen.

Mary reported that the Nutrition Aide program to her was like a breath of Spring. She feels a new spirit and is living now. She feels better and looks forward to the next day. Stated simply she said, "I feel needed".

Laurette says because of her work as a Nutrition Aide she does not have time to think about herself and her problems—there are just too many other people to help. The Nutrition Aide program has been good for her morale.

Mary says, "I look forward to Fridays when all the Nutrition Aides and staff get together; I really can't wait for Fridays". She likes the fellowship, the relationships and the "schooling". She feels treated like a person with value.

Elin, a young 74-year-old Nutrition Aide, reported with a smile on her face, "Conrad, I may have wrinkles on the outside, but I don't have a one on the inside!" She looked just like a young girl, full of life and radiance.

Mara, another Nutrition Aide, summarized the program from the vantage point of someone deeply involved. She says:

"We find such situations as a young widow so numbered by grief that even her impending motherhood cannot give her a will to live—or a very elderly man who has lived all alone all winter on nothing but potatoes, because he thought that there was no one he could ask for help, no one who cared. We may hear of a family of eleven children, all under working age, whose home burned with all its possessions.

"We may find elderly people too feeble or crippled to get out to do errands, or too apathetic through loneliness to even prepare their own meals. We have found people who cannot eat properly because they need dentures, or cannot see without glasses they cannot afford—people imprisoned through lack of a crutch or wheelchair. We hear of sudden illness, accident, job-loss, discouragement, defeat. These things are our job. Not to BUY a crutch, or COOK a meal, but to help people regain their own initiative, and restore their pride by helping them to help themselves.

"Our role is to stimulate their interest, to provide information, to lead and guide the needy into the situations where their own effort will again sustain them. Whether the need is financial or physical—intellectual or spiritual, we must train ourselves to observe, in every circumstance, the loophole through which each individual may escape his predicament with his pride and his personal integrity intact. This program also offers employment to older adults. I think one of the basic precepts on which this program was founded is to restore to the aging their birthright of participation. In any age group, pride in accomplishment is more than a reward. It is a spur to further accomplishment.

"We hope we will see this program expanded from our small group to embrace every senior citizen who dares to hope his usefulness and productivity cannot be finished.

"The Elder Statesman's role in service to his country is well recognized. The Elder Citizen, too, has invaluable contributions to make to society through his accumulation of knowledge and experience.

"A unifying force such as this program can offer these older citizens many more rewarding years of service, from which our entire culture may reap incalculable benefits."

Senator MUSKIE. Thank you, Dr. Leach, for your excellent statement. How many counties does the program cover?

Dr. LEACH. We have York County, Androscoggin County and northern Aroostock.

Senator MUSKIE. Rather well distributed over the state?

Dr. LEACH. Yes.

Senator MUSKIE. How many low-income families are you now assisting with the program?

Dr. LEACH. At the last report, we were working directly with 431, I believe, but that was about a month ago and, of course, it was just getting started.

Senator MUSKIE. The latest figure I have is that you have about 830.

Dr. LEACH. That may be correct. I think that may be what has happened within the last month, because the project has been expanding quite rapidly.

Senator MUSKIE. The statement which you put in the record indicated that many older citizens are reluctant to use the food stamp and commodity distribution programs. I wonder if you would touch upon the reasons why so many of our older citizens do not now use the available programs.

Dr. LEACH. I think one of the main reasons is that we are dealing with two different types of people. I think someone made the statement we are dealing with the poor who have grown old and the old who have grown poor.

Now the old who have grown poor just don't think in terms of taking what they call welfare; they are too proud. They need someone to go out and establish a personal relationship with them, become a friend, and then take them by the hand and say, "It is all right, this is a program that is for you," and take them in and get them certified.

I think this type of an approach is the only way we are going to reach these types of people.

Senator MUSKIE. Do you think it has the most value with respect to the second group; that is, the older poor?

Dr. LEACH. No, I think it is of equal value to the poor who have grown old. I think they are somewhat more receptive to a program of this type, but they have still got to go ask for something in order to reap the benefits.

Senator MUSKIE. Is the accessability of these programs a limiting factor?

Dr. LEACH. You mean location?

Senator MUSKIE. Yes.

Dr. LEACH. I think very definitely. We have been finding people who would like to have been certified, but the roads were impassable or they could not get out to the certification center.

It does take transportation. I feel very strongly—in fact, we feel in all of our Nutrition Aide Programs that one very valuable element in building a bridge between the low-income and higher income people in the community is to try to involve them in providing things like transportation, building an organization. We find very frequently that the average citizen in our community does not understand the problems of the elderly, the problems of the poor.

We find this a very good way to get them acquainted with the problems, and, after all, they are the ones who are going to have quite an influence on what happens.

Senator MUSKIE. Have all Maine communities been receptive to these programs? What is the situation now, more receptive? Is the absence of the program in a community or county a limiting factor?

Dr. LEACH. I have been directly involved with communities, in fact, my own community. I live in Orono and the first statement made was that there were no poor in Orono, or, at the most, perhaps 20. But I think it is kind of pathetic.

People don't really understand, they don't know the situation. I think that one of the problems we have is lack of education. We must build the bridge, as I indicated before, between the haves and the have-nots, so that they understand the situation and do something about it.

Senator MUSKIE. In other words, what you are saying is that the poverty of a lot of people, whether it comes to them in old age or is the condition in which they have lived all their lives, is not visible to their community.

Dr. LEACH. Absolutely right.

Senator MUSKIE. Is this because of reticence or insensitivity on the part of the community? What is the reason?

Dr. LEACH. I think we consciously have to bring people together; it won't happen by itself. We drive by these homes and we don't realize that somebody lives there or the problems he might have—perhaps it is insensitivity, blindness or just lack of awareness.

Senator MUSKIE. So that even in a state with small communities like Maine there is a lack of communication.

Dr. LEACH. Very definitely.

Senator MUSKIE. I think our largest city now is 68,000, but even so we have that problem.

Do you find that the most rural persons eligible for food assistance programs would prefer food stamps or commodity distribution programs, or is there any distinction?

Dr. LEACH. I really can't answer that question. Since they have not had the opportunity, they really don't know what the choices are. I think some of them have said they would rather have the food stamp program, but of course for us the donated food does provide an opportunity, a link where we can get in and at least share recipes. It provides some way of establishing that relationship which is very important.

Senator MUSKIE. The dietary help you mentioned in the 10 points involved in the training—how to prepare meals, for example, using simple low-cost recipes. This would seem to me to be a valuable service to provide. Have you had any reactions to that yet? Is such assistance given to all the people in these programs?

Dr. LEACH. There again it varies with the individual. For some it is very helpful, for others we have not reached the point where we can work on dietary habits. It takes quite a while to establish a relationship where you can even suggest that they might need to improve their diets. This project has been of such short duration that we really have not gotten too far into the nutritional aspects.

The needs are there and over time we will be able to deal with them.

Senator MUSKIE. This next question I have probably is not answerable in light of the program's short experience, but I would like to put it any way.

Those elderly that you contacted in your program, what percentage have nutritional deficiencies?

Dr. LEACH. I anticipated that question, but I cannot really answer it.

Senator MUSKIE. Did you have any impression that there are a sizable number who have nutritional deficiencies?

Dr. LEACH. Yes, there are and it is awfully hard to put your finger on the real problem. Sometimes these people—as one of the aged referred to—are quite apathetic. They don't eat well and then because they don't eat well, they don't get a proper diet and feel more apathetic.

It is a kind of a cycle and you cannot put your finger on any one thing and say that is it, is the problem. But I think very definitely a high percentage of our elderly people do not have an adequate diet and, therefore, they cannot feel well.

Senator MUSKIE. I suppose that you have a special problem with the aged individual who lives by himself and lacks incentives to prepare his own meals.

Dr. LEACH. Yes.

Senator MUSKIE. Is that in your program?

Dr. LEACH. Well, just visiting with some of these individual older people provides some kind of an incentive for them. The aide may try to encourage them to try a new recipe or just to check with them and say, "What did you have for breakfast this morning?"

Once they establish a relationship with them, the rest follows. You don't do that on the first visit.

Senator MUSKIE. One final question: Again you may not have the experience yet to answer it, but I will ask you. At the White House Conference on Food Nutrition and Health last December, one of the major recommendations was this:

All housing programs for the elderly, regardless of the method of financing or sponsorship, should include meal services with proper nutrition.

What would be your reaction to that?

Dr. LEACH. That is quite a blanket statement to respond to.

Senator MUSKIE. Yes; it is.

Dr. LEACH. I think it is a very desirable thing. I am sure that for many people this would be very valuable. I also feel that we want to be careful that we don't take away from those who have ability, the opportunity to be creative and prepare their own meals. This is a creative thing for women preparing the meals and something for them to look forward to. It keeps their mind active.

I don't think you can make an inclusive statement.

Senator MUSKIE. What I was driving at in the question is that your kind of program, your kind of service thus provides for their additional needs.

Dr. LEACH. Yes. Recently, suggestions have been made that that in-school lunch program facilities be used to provide a meal a day for some of our senior citizens. I think this would be a very valuable program. I think they are moving in this direction at the present time—not the school lunch necessarily—but using other facilities they have there.

Senator MUSKIE. I would like to congratulate you, Dr. Leach, on this program. Our people in Maine are not very communicative by nature which I suspect has resulted in the neglect, through lack of exposure, of a lot of the problems that we ought to deal with.

I want to congratulate you.

Dr. LEACH. Thank you, sir.

I want to add one more thing. When you were asking me about communication—why people didn't understand the problems of the low income—I think that I would only be fair to say that we have a very strong feeling in Maine which is very deeply ingrained that anyone who really has any ambition will get out in his own way.

It is very uncomfortable to confront people on this issue, but they do have to be confronted. I am convinced of that. They have to be shown that the people who need these programs are not lazy, that really there are serious problems which cause them to be the way they are.

Senator MUSKIE. Thank you.

STATEMENT OF SENATOR EDMUND S. MUSKIE

Mr. Chairman, the hearing today is timely and appropriate because the 7 million older Americans in Rural areas have too often been overlooked or ignored.

They are probably among our most "forgotten Americans."

They are forgotten because their retirement income needs are not met by social security or old age assistance.

Their nutritional needs, although aided by the food stamp and commodities distribution programs, are largely unmet because of gaps in these programs and woefully inadequate funding. In fact, our 20 million older Americans probably constitute the most uniformly malnourished segment of our population.

The depths and extremes of this "hunger crisis" are most acute among the elderly in rural areas.

Many are hungry or malnourished simply because they are too poor to buy enough food.

In far too many instances, they are confronted with the choice of buying food or necessary prescription drugs to maintain their health. And, too often, both needs suffer irreparably.

When food assistance programs are available, other problems present formidable obstacles.

Lack of adequate transportation can impose an almost impossible barrier for those who must travel great distances to receive free food at distribution points.

Of the 118,000 senior citizens in Maine, for example, only 40,000 have drivers licenses, leaving almost 80,000 with no immediate access to transportation.

Failing health can make it difficult to walk to the local welfare office to apply for food stamps or stand in long lines to receive food stamps in banks. It may also be impossible for senior citizens to walk to market to purchase food or carry heavy packages to their homes.

Fortunately, some steps are being taken to ease the nutrition crisis of the senior citizen in rural areas of America.

One such undertaking is the senior service corps nutrition aide program which is described in detail this morning by Dr. Roger Leach. Outstanding accomplishments have been achieved by this program.

For example, one nutrition aide located an elderly man who had been living on potatoes, apples and beans for an entire winter. After several calls, the malnourished older man agreed to apply for donated commodities. He is now gainfully employed after being jobless for several years.

In another senior service corps program in Maine, aides have been assigned to community action agencies in nine "Hunger Counties" designated by the citizens board of inquiry into hunger and malnutrition. They have worked as helpers in surplus food certification and distribution, resulting in the certification of 38,000 persons for surplus foods in areas which previously had no program. In Presque Isle, Maine, alone, 5½ tons of badly needed surplus foods were distributed in one month.

Other outstanding senior citizen projects in Maine are currently being funded under titles III and V of the Older Americans Act. Grants to 21 community organizations have resulted in 80 community centers for senior citizens in both urban and rural areas.

The community centers have helped senior citizens find new careers as well as meaningful volunteer opportunities.

The senior feeding program in the Waterville Center provides balanced meals for about 300 people once a day, five days a week. In Portland, two senior centers provide meals along with other services to older persons.

We need to expand such nutrition programs to rural areas where they are so badly needed.

The problems of senior citizens in Maine are symptomatic of those besetting the elderly throughout the United States. They have been forgotten in the past, and they will continue to be overlooked in the future unless major policy changes are made now.

In the area of nutrition, we must ask pressing questions:

Why do so many senior citizens lack adequate food? And how many are slowly starving that we have not yet discovered?

What is a realistic expenditure to ensure that each senior citizen has a nutritious diet?

How can we make our present food assistance programs more responsive to need?

In the wealthiest Nation in the world, with a gross national product approaching $1 trillion, it is unconscionable to delay in finding the answers.

POLLS OF THE FORT LAUDERDALE NEWS AND SUN SENTINEL SHOW STRONG SUPPORT OF PRESIDENT NIXON ON CAMBODIA

Mr. GURNEY. Mr. President, various newspapers in Florida have been conducting polls of their readers concerning the President's decision to send troops into Cambodia.

The Fort Lauderdale News and Sun Sentinel have recently conducted such a poll. Yesterday, I brought the results of the Sun Sentinel poll to the attention of the Senate. Today I call attention to the combined totals of the poll of both newspapers.

To put the results in the words of the editor and publisher, Jack W. Gore:

A very large majority of our readers who participated in the poll registered their approval of Mr. Nixon's Cambodian decision and his program for ending the war as soon as possible.

I ask unanimous consent that the letter to me from Mr. GORE and the results of the polls be printed in the RECORD.

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

FORT LAUDERDALE NEWS,
Fort Lauderdale, Fla., June 2, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR ED: As you may have already heard, The Fort Lauderdale News and The Sun-Sentinel conducted a poll, the purpose of which was to sound out the sentiment of our readers in regard to President Richard Nixon's decision to send U.S. troops into Cambodia and on two amendments currently under discussion in the Congress to curtail public funds for the Cambodian operation and to force our troops out of Vietnam next year.

Attached herewith you will find a copy of the questions we used in that poll, together with the results of the balloting as reflected by the ballots returned to The News.

I think you will find results very interesting inasmuch as they reveal that "a very large majority of our readers who participated in the poll registered their approval of Mr. Nixon's Cambodian decision and his program for ending the war as soon as possible."

For your information, The News made no editorial attempt to influence this poll in any fashion. We merely presented the issues to our readers along with the information that the final result of the poll would be sent to all members of the Florida Congressional delegation.

This we are now doing and we would be happy to receive any comments you might wish to make.

Sincerely yours,

JACK W. GORE,
Editor and Publisher.

RESULTS OF POLL

1. Do you support President Nixon's dispatch of troops into Cambodia to destroy enemy sanctuary and protect American troops, a mission that is to be completed by June 30? Yes, 6,973; No, 787.

2. Do you support the Cooper-Church Resolution that would cut off federal funds for retaining U.S. troops in Cambodia after June 30? Yes, 1,016; No, 6,592.

3. Do you support a House version of the McGovern-Hatfield Amendment that would require removing all U.S. troops from South Vietnam by June 30, 1971? Yes, 1,342; No. 6,004.

4. Should the U.S. hold out for a military victory in South Vietnam? Yes, 4,162; No, 2,865.

DELAY ON GOLDEN EAGLE PASSPORT

Mr. MOSS. Mr. President, the failure of the House of Representatives to take final action on the bill to extend the golden eagle passport is causing chaos among users of the passport and in the Government departments which administer the golden eagle passport program.

The passport idea has more than proved itself in the 5 years it has been in operation. Thousands of Americans have been purchasing a passport each year to provide admittance to all Federal recreational areas, including national parks and monuments.

The passport expired on March 31 of this year. Last September, well in advance of the expiration date, the Senate passed a bill extending the golden eagle passport and sent it to the House. Now, nearly a year later, the bill has just been put on the calendar, and a rule granted—but it still has not been passed.

In what I hope will be a spur to the other body to take action quickly, I ask unanimous consent to have printed in the RECORD a column written by Don Brooks for the Salt Lake Tribune of June 2, which indicates the "utter confusion" which now reigns because of the Hous delay. I might add that my office in Salt Lake City probably receives as many calls about the golden eagle passport as do the Government agencies involved.

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

GOLDEN EAGLE'S DEMISE LEAVES UTTER CONFUSION BEHIND

(By Don Brooks)

Tag along with the Dead Fish Editor now, if you will, while he does a bit of eavesdropping at certain places in the Federal Office Building. The FBI need not be concerned. The G-Man wigwam gets a wide berth.

Quiet now, please! We are in the receptionist's office of the Wasatch National Forest. Phones are are ringing like crazy. Rachel Davenport answers one line:

"Yes, mam. I'll talk to you about the Golden Eagle. No, mam. The Golden Eagle program is not in operation right now. Congress has not yet made a final decision on extending it.

"Yes, we can sell you a Forest Service recreation lands permit. It costs $7 and allows you to use recreation facilities such as improved campgrounds on all national forests. You may buy it here or at other Forest Service offices. You're welcome, mam."

Marie Manteca is on another line:

"No, sir. The Forest Service permit will not get you into Yellowstone or other national parks. It is good only on Forest Service recreation areas. I don't know why, sir. We will exchange it for a Golden Eagle passport if and when that program is extended by Congress. When will that be? We haven't any idea, sir."

NATIONAL PARK OFFICE

We now tippy-toe up a couple of flights to the National Park Service office on the sixth deck. Sarah Faron is talking over the Alexander Graham Bell:

"All I can tell you is if fees were charged last year, then they will be charged again this year. Now, we do not have a passport as yet which will be good on all national parks. I don't know if we will get one.

"Yellowstone? So much per day for each vehicle. No, that permit would be no good for entering a campground on the Teton National Forest. The Forest Service has it's own fee system. You must contact them."

So it goes. John Q. Public accepted the Golden Eagle program. He found it a very handy piece of cardboard to take care of his summer recreation needs.

And now John Q. is utterly confused. I know, because I stuck around the Forest Service office with Rachel and Marie for an hour Monday and heard them attempt to explain the messed-up situation that now exists. I even pitched in and answered a few calls myself.

One of them was from a little girl who said she had been told by her teacher to find out "what the poor people are going to do?"

I dunno, little gal, I dunno. Ask Congress. Ask when in heck the Golden Eagle is going to fly again!

POLISH ARMED FORCES DAY IN FRANCE

Mr. MUSKIE. Mr. President, June 20–21, 1970, has been declared Polish Armed Forces Day in France.

This event will honor the many brave and valiant Polish soldiers who fought for the freedom of France and Europe during World War II.

Commemorating this 30th anniversary two monuments will be unveiled in the cities of Lagarde and Dampheres. The monuments will pay due tribute to these brave men and will serve as a constant reminder of their brave and heroic acts.

Many of the veterans being honored are now living in our country. It is appropriate that we note this event and add our congratulations.

USDA COOPERATIVE POLICIES

Mr. DOLE. Mr. President, the principle of cooperation is a strategic concept in the government of the Nation.

The cooperative principle as interpreted by the many farmers of the Nation in forming organizations to accomplish what they could not accomplish alone, is an equally strategic factor in the history of growth and development of our agriculture and to its future.

The importance of cooperatives to agriculture has never been so emphatically outlined by a Secretary of Agriculture as it was recently by Secretary Hardin in a policy memorandum to the Department of Agriculture personnel.

Because the statement offers such definite support and requires action to implement these principles to the benefit of agriculture, I ask unanimous consent that it receive the wide distribution deserved by having it printed in the RECORD.

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

SECRETARY'S MEMORANDUM NO. 1697: USDA POLICY ON COOPERATIVES

Farmers and other rural residents have long-recognized cooperative action as an effective instrument to help them adjust to a dynamic society. A progressive farm policy includes support for those who seek to help themselves through constructive group action.

Forty-one years ago, Congress approved the Agricultural Marketing Act. In it, Congress said: ". . . it is hereby declared to be the policy of Congress to promote the effective merchandising of agricultural commodities in interstate and foreign commerce, so that the industry of agriculture will be placed on a basis of economic equality with other industries . . . by encouraging the organization of producers into effective associations or corporations under their own control for greater unity of effort in marketing and by promoting the establishment and financing of a farm marketing system of producer-owned and producer-controlled cooperative associations and other agencies."

In addition, Congress has by law authorized the Department—

To help farmers improve their marketing, purchasing, and service cooperatives by studying their organization and operations and providing assistance to management;

To promote the knowledge of cooperative principles and practices;

To use cooperatives in its price support, commodity loan, crop insurance, and marketing agreements and orders programs;

To lend money to cooperatives for electric and telephone service;

To assist rural people and their communities to improve their economic and social positions through effective self-help programs and credit;

To encourage joint action of farmers by eliminating discrimination on the part of handlers against farmers who are members of a cooperative.

It is the policy of the Department to carry out the full intent and spirit of these laws and to offer maximum encouragement to cooperatives as a means of improving farmers' incomes and developing rural America. It is imperative that we renew and continously strengthen our efforts to do so.

Therefore, I hereby direct—

(1) The Administrator of each Agency in the Department—

To reexamine each year each of his programs and, where necessary, reshape them to carry out the full intent of the law and Department policy so as to offer maximum encouragement to the growth and development of sound, cooperatives; and

To report each year on such redirection of programs as he has taken pursuant to this Memorandum and continuing efforts to encourage cooperative growth and development.

(2) The Under Secretary to analyze these reports and recommend to me such action as he believes is necessary to implement effectively this Memorandum.

Secretary's Memorandum No. 1540, dated July 9, 1963, is hereby repealed.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

THE AD HOC COMMITTEE ON THE HUMAN RIGHTS AND GENOCIDE TREATIES

Mr. PROXMIRE. Mr. President, the Genocide Convention and the other human rights conventions before Senate committees are of such universal interest and significance as to attact unusually broad and active public support. Some 54 major national organizations have officially joined the Ad Hoc Committee on the Human Rights and Genocide Treaties. These organizations differ widely in their primary concerns and constituencies. They range from the national board of the YMCA and the American Federation of Teachers to Americans for Democratic Action, the United Automobile Workers, and the American Civil Liberties Union.

The Senate's failure to take action on the Genocide Convention is partly due to the American Bar Association's failure to endorse it. But this year even the ABA's House of Delegates came within four votes of giving its approval to the Convention. The spirited debate which took place in the ABA indicates that it has no decisive or overwhelming constitutional obligation to ratification.

Now I ask the Senate: Should we continue to withhold action on the basis of the lack of support from an organization which is almost evenly divided on the question of the Convention? Or

should we rather heed what I believe is the majority opinion in this country by ratifying the Genocide Convention.

I believe that the position taken by the 54 organizations which are members of the Ad Hoc Committee on the Human Rights and Genocide Treaties better represents this country's opinion and national interests than does the position of the ABA.

I ask unanimous consent that the list of members of the Ad Hoc Committee on Human Rights and the Genocide Treaties be printed in the RECORD.

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

AD HOC COMMITTEE ON THE HUMAN RIGHTS AND GENOCIDE TREATIES

LIST OF ORGANIZATIONS

American Baptist Convention.
American Civil Liberties Union.
American Ethical Union.
National Women's Conference, American Ethical Union.
American Federation of State, County and Municipal Employees, AFL–CIO.
American Federation of Teachers, AFL–CIO.
American Friends Service Committee.
American Humanist Association.
American Jewish Committee.
American Jewish Congress.
American Roumanian National Committee.
American Veterans Committee.
Americans for Democratic Action.
Baha'i National Spiritual Assembly of the U.S.
B'nai B'rith.
B'nai B'rith Women.
Brotherhood of Sleeping Car Porters, AFL–CIO.
Episcopal Church.
Farband Labor Zionist Order.
Friends Committee on National Legislation.
Hadassah, The Women's Zionist Organization of America.
Industrial Union Department, AFL–CIO.
International Ladies' Garment Workers' Union, AFL–CIO.
International Rescue Committee.
International Union of Electrical Workers, AFL–CIO.
Jewish Labor Committee.
Jewish War Veterans.
League for Industrial Democracy.
National Association of Negro Business and Professional Women's Clubs.
National Association for the Advancement of Colored People.
National Board, YWCA.
National Catholic Conference for Interracial Justice.
National Jewish Community Relations Advisory Council.
National Conference of Christians and Jews.
National Council of Jewish Women.
Methodist Church, General Board of Christian Social Concerns.
Poale Zion, United Labor Zionist Organization of America.
Quaker U.N. Office.
Retail, Wholesale & Department Store Union, AFL–CIO.
Textile Workers Union of America, AFL–CIO.
Ukrainian Congress Committee of America.
Ukrainian National Association.
Union of American Hebrew Congregations.
Unitarian-Universalist Association.
United Automobile Workers of America.
United Church of Christ.
Women United for the United Nations.
Women's International League for Peace and Freedom.
Workers Defense League.
Workmen's Circle.
World Federalists, USA.
World Jewish Congress, American Section.
Conference of U.N. Representatives, UNA–USA.
National Council of the Churches of Christ in the USA.

JUNIOR ACHIEVEMENT

Mr. COOK. Mr. President, on May 21, 1970, I was honored to be the principal speaker at the Junior Achievement "Future Unlimited" Banquet at the Marriott Twin Bridges Motel.

However, I must say the real high point of the evening for all of those in attendance, including myself, was a talk by Cynthia Wilson on the subject of Junior Achievement and its impact upon her philosophy of life.

Mr. President, I have heard many speeches in my 13 years of public life—some good and some not so good—but this surely must rank among the best. This is the reason I wanted to invite attention to it today.

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

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

SPEECH BY CYNTHIA WILSON

You have come here tonight expecting me to tell you about my three years in Junior Achievement, to tell you about the three years that changed my life. But that is not what I'm going to do. I am going to tell you what Junior Achievement caused me to discover about this country, about society, and about myself; and I will begin with America.

To the glory of mankind, for a unique time in history, there existed a country of money—and I have no greater, more reverent tribute to pay to America. For a country of money means a country of reason, justice, production, freedom and achievement. Man's mind and money were set free, and for the first time, there were no fortunes-by-conquest, only fortunes by work. But today, money is widely regarded as the root of all evil. Has the question ever been asked, what is the root of money? Money is an implement of exchange which will not exist unless there are goods produced, and men able to produce them. Money is the concrete shape of the abstract principle that men who wish to deal with one another must deal by choice, and give value for value. Is this to be considered evil?

Junior Achievement led me to question the attitude of self-righteous persecution of business by society. When business has given so much to society, when business has created countless innovations and products to improve every individual's life and make it a little easier, when business has opened new job possibilities where there were none before; for all of these business is condemned. Often singled out as the major cause of society's ills, industries have been cited as purveyors of "ruthless competition", where a man is judged solely on his ability alone, not on his need, his education, or his color. Is this to be considered evil? Does society persecute business because it gives no advantage to anyone? Because it doesn't start off giving the higher salary to the needier man? Because business can't reward anything but ability?

Business, and the product of business—money—demands of a person the recognition that men must work for their own benefit, not for their own injury, for their satisfaction, not their suffering. Junior Achievement caused me to discover the symbol of America—the symbol that has been slandered, ignored, corrupted and condemned—the dollar sign.

The dollar sign symbolizes money, and money demands that you sell not your incompetence to men's stupidity, but your talent to their intelligence. And when men live by trade, with reason, not force, as the final judge, it is the best product, the best performance, the man of best judgment and highest ability that will always win.

Money will not purchase happiness for the man who has no conception of his desires. Money will not buy knowledge for the fool, or esteem for the coward, or respect for the unfit. The man who damns money has obtained it dishonestly; the man who honors it has earned it.

Junior Achievement was the catalyst that sparked a desire in me to learn why America's economic system, Capitalism, was never cited as the reason for America's greatness. Capitalism, and its monogram, the dollar sign, have been ignored too long. Money is the barometer of a society's virtue. When, in a society, trading is done not by choice, but by coercion; when money is flowing to those who deal, not in products, but in favors; when men get riches by graft and by influence, rather than by work; when corruption is accepted and rewarded, and honesty becomes self-sacrifice, you may know your society is doomed. Until and unless it is acknowledged that money is the root of good, we are asking for our own armageddon. When money ceases to be the tool by which men deal with one another, then men become the tools of men.

Junior Achievement was the beginning of a change in my philosophy of life; the beginning of a new set of values and principles that were to determine the basis of what I believe in. Junior Achievement led me to realize that each man should advance as far as his own efforts can take him. Wealth is the product of man's capacity to think. Money is made—made by the efforts of honest men, each to the degree of his own ability. Then, advancing as far as one's own talents and energy allow, man develops pride in himself and his work. Man's highest recognized value is his own pride, which has to be earned; the attaining of your goals which is made possible by the creation of your own character—that your character, your emotions, your desires, your actions, are all products of the premises of your mind. And man must shape his soul in the image of his moral ideal, that he is born able to create, but must create by choice. Junior Achievement asked of me that I question the accusations and demands directed toward American industries and industrialists, demands that every man born is entitled to received food, clothing and shelter, with no effort on his part, as his birthright. To receive it—from whom? No answer. That every man owns an equal share of the technological advances created in the world. Created—by whom? No answer. That intellectuals who flutter around the globe and return to deliver the message that the backward peoples of the world demand a higher standard of living. Demand—of whom? No answer.

This country cannot survive on the morality of sacrifice. It was not built by men who sought handouts. From its beginnings this nation was a threat to the ancient rule of tyranny and dictatorship. In the brilliant, energy-filled burst of its youth, this country displaced to an unbelieving world what greatness was possible to man, what happiness was possible on earth.

America's system has to be rebuilt on the moral permise on which it was founded, the premise that man is an end in himself, not a means to the ends of others. That man's freedom, his life, his happiness, are his by inalienable right. This country will then become once again a haven for a vanishing species; the rational individual. The political system that will be in existence is contained in a single moral standard—man can obtain

no values from others by force. Every man will stand or fall, live or die, by his own rational judgment. Man's proper stance is in an upright position, with an intransigent mind, and a stride that travels limitless roads.

This world can be won—it is real, it exists, and it is possible.

Thanks to Junior Achievement for being what it is.

RETIREMENT OF CARTHA D. DeLOACH FROM THE FBI

Mr. TALMADGE. Mr. President, last week Cartha D. DeLoach announced his retirement as Assistant to the Director of the Federal Bureau of Investigation.

Deke DeLoach, considered the No. 3 man in the Bureau, has served as an assistant to Director J. Edgar Hoover since 1965, and in that capacity he supervises all investigations and crime record operations of the FBI. He joined the Bureau in 1942, and over the past 28 years he compiled an illustrious record in Federal law enforcement.

I know that his services will be sorely missed when he leaves the Bureau on July 20. Deke DeLoach is my warm, longtime friend, and I know other Senators join me in wishing him every success and happiness in all his future endeavors.

I ask unanimous consent that there be printed in the RECORD a brief biographical sketch outlining Mr. DeLoach's service to the Bureau, and two articles from the Washington Evening Star regarding his announced retirement from the FBI.

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

CARTHA D. DELOACH, ASSISTANT TO THE DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, MAY 1, 1969

Cartha D. DeLoach, who was born July 20, 1920, in Claxton, Georgia, attended Gordon Military College, Barnesville, Georgia; South Georgia College, Douglas, Georgia; and Stetson University, Deland, Florida. During his college years he played varsity football. Mr. DeLoach received a Bachelor of Arts degree from Stetson and subsequently attended its Law School. He was given a "Distinguished Alumni" award by this institution in November, 1958, and a similar award by Stetson's Alumni Association in February, 1966. The Pi Kappa Phi Fraternity, of which he was a member, presented him an award in 1966. He received Honorary Doctor of Laws degrees from Stetson University in 1966 and from Lincoln College, Lincoln, Illinois, in 1968.

Mr. DeLoach, who is married and the father of seven children, was appointed a Special Agent in the FBI in December, 1942. After his training period, he served in the Norfolk, Virginia, and Cleveland, Ohio, Field Divisions. In August, 1944, he left the FBI temporarily for duty in the United States Navy and returned in April, 1946. Upon his return, he was again assigned to Cleveland after which he served in a supervisory capacity at FBI Headquarters. In October, 1951, he was elevated to the position of Inspector and in January, 1959, was designated an Assistant Director. In December, 1965, he became an Assistant to the Director, and in this capacity he supervises all investigative and crime records operations of the FBI.

As an active member of the American Legion for many years, he has served as Department Commander and National Vice Commander and now is Chairman of the National Public Relations Commission. He was named "Man of the Year" in the Legion by the State Commanders Society at the Legion's National Convention in 1963. In September, 1964, he received the annual President's Award of the National Association of State Directors of Veterans' Affairs for distinguished public service.

On May 12, 1967, the President of St. John's College, Washington, D.C., presented Mr. DeLoach the President's Medal of St. John's College. He was presented the George Washington Honor Medal by Freedoms Foundation of Valley Forge, Pennsylvania, in 1967, 1968 and 1969. He was selected for membership in the International Platform Association in September, 1967, by the Board of Governors of that organization, and selected to be a member of the Board of Directors of the Ophthalmic Research Foundation in 1968.

[From the Evening Star, June 5, 1970]

THIRD-RANKING FBI OFFICIAL RETIRING TO TAKE BUSINESS POST

(By Jeremiah O'Leary)

Cartha D. (Deke) De Loach, veteran FBI official and operating chief of the bureau in recent years as assistant to director J. Edgar Hoover, is retiring next month to enter private business.

De Loach, who will be 50 July 20, leaves on that date to become a vice president of Pepsico Corp.

There was no indication at FBI headquarters as to who will step into the post of assistant to the director, although there is speculation that the vacancy will be filled by one of 10 assistant directors.

By title, De Loach is the third-ranking official in the FBI behind Hoover and associate director Clyde A. Tolson, but in effect he has been the functional chief of four major divisions of the bureau: Domestic Intelligence, General Investigative, Special Investigative and Crime Records.

In this role, he has been in direct charge of all criminal investigations and FBI counterspy operations. He also has played a major part in representing the bureau in relations with Congress, the White House, other federal agencies, the Justice Department of which the FBI is part, and with the press.

LIAISON WITH WHITE HOUSE

During the five years of the administration of President Lyndon B. Johnson, De Loach was Hoover's liaison man with the White House and frequently briefed Johnson and his aides on cases involving national security, racial problems and FBI background checks on potential nominees for high office.

De Loach played key roles in a number of top-priority cases, including the strenuous FBI effort to eliminate the White Knights of the Ku Klux Klan in Mississippi after the murder of three civil rights workers in Neshoba County and the international manhunt that led to the apprehension of James Earl Ray, later convicted as the assassin of Dr. Martin Luther King, Jr.

De Loach's office on the fifth floor of the Justice Department building became the command center for hundreds of cases for which the FBI had jurisdiction. Hoover and Tolson, although retaining final authority in all matters affecting administration of the bureau, gave De Loach a long tether in day-to-day operations after he was appointed to his present job on Dec. 31, 1965.

De Loach has been known as a "take-charge guy" with no fear of responsibility, but at the same time reflecting the general viewpoint of Hoover, the man known to De Loach and everyone else in the FBI as "the Boss." His role under Hoover and Tolson was to take on the intricate detailed work involved in FBI cases, with the two older men continuing to exercise ultimate control.

His relations with a succession of Justice Department officials and attorneys general, like those of Hoover, were sometimes less than cordial. Before the CIA and the FBI worked out an amicable division of responsibility, De Loach figured in collisions between Hoover and the CIA over FBI operations overseas and CIA operations inside the continental U.S.

De Loach, a native of Claxton, Ga., and a star football player at Stetson University, joined the FBI in 1942. He was in the Navy from 1944 until 1946, when he returned to the FBI. He established a reputation as a tough, hard-working special agent, working on the whole gamut of FBI cases—bank robberies, kidnappings, car thefts, national security—in several field offices.

In 1951 he was promoted to inspector, transferred to Washington and assigned to the Domestic Intelligence Division. In 1953, he was transferred to Crime Records, the section which not only keeps track of national crime statistics and trends, but also acts as the FBI's public relations and press office. He was promoted to assistant director before he was 40.

De Loach became known as a skilled public speaker and a prominent official of the American Legion. He also holds a number of honorary degrees and awards and is a prominent Catholic layman in St. Mary's Parish, Alexandria, Va.

De Loach and the former Barbara Owens were married in 1945. They have seven children and make their home in Fairfax County, Va.

[From the Evening Star, June 6, 1970]

HOOVER SURVEYING AIDES TO FILL DE LOACH POST

(By Jeremiah O'Leary)

FBI Director J. Edgar Hoover has begun looking among his aides for someone to fill the post of departing assistant to the director Cartha D. DeLoach, who has been in effect the operating chief of the bureau.

DeLoach's decision to leave the bureau on July 20, his 50th birthday, to become a vice president of the Pepsico Corp., caught Hoover by surprise.

It's considered certain that Hoover himself will select DeLoach's successor as chief of the Domestic Intelligence, Criminal Investigation, Special Investigation and Crime Records Divisions, that the replacement will come from FBI ranks is also viewed as a certainty.

Speculation has centered on John P. Mohr who also holds the title of assistant to the director. He now has charge of the Identification, Administrative, Files and Communications; Inspection, the FBI Laboratory and Training Divisions.

Hoover, now 75 and showing no signs of wanting to retire himself, will be looking for someone in the image of DeLoach. The prescription would call for a veteran FBI man, well acquainted with Hoover's ways and wishes, completely responsive to the system and a workhorse capable of acting as chief of staff.

The new man also would have to be resilient enough to accommodate to the overall control and occasional vetos of Hoover and his long-time associate, director and best friend, Clyde A. Tolson.

In his 28 years with the FBI and five years as No. 3 man, DeLoach proved invaluable to Hoover because he knew his way around the White House and Capitol Hill.

At one stage in the administration of Lyndon B. Johnson, it was reported Johnson had promised DeLoach he would someday succeed Hoover as director. But Hoover has had continuous presidential blessing to stay on, and those close to him are certain Hoover has no plans for retiring at least until the new FBI building is completed in 1973.

DeLoach has seven children of whom five still have college ahead of them. Apparently he decided sometime ago that he was not going to get the top job and that he ought to shift to private industry as soon as he could qualify for full retirement pay.

THE RULE OF LAW—SPEECH BY MAYOR JOHN V. LINDSAY

Mr. JAVITS. Mr. President, the current issue of the RECORD, of the Association of the Bar of the City of New York, contains a speech entitled "The Rule of Law," delivered by Mayor John V. Lindsay, of New York City.

As a lawyer committed to the preservation of the rule of law as fundamental to a free society, I commend this speech to the attention of Senators and ask unanimous consent that it be printed in the RECORD.

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

THE RULE OF LAW

(By the Honorable John V. Lindsay)

What has happened to the rule of law in America?

Something is very wrong in America. You can hear it in a Governor's call for a bloodbath on college campuses. And in the Weathermen's rhetoric of violence that threatens New Haven tonight.

You can see it in the upended school buses of Lamar, South Carolina. And in the spiteful fires lit at Hunter and Yale to burn books and murder ideas.

You can sense it in the decision to spend more money on war than on people. And in the nihilistic leap across fact and reason to the conviction that the only way to build is to destroy.

The sights, the sounds, the sense of what we are becoming have spawned a polarization and hostility so fundamental that, for the first time in a hundred years, sane men worry about the violent end of America. Among the young, there is an increasing readiness to rush right on—to any destination, no matter how uncertain or ill-defined, as long as it is different from where we are now.

This is not a time for business as usual. It is not a time to talk about safe issues in safe ways. It is a time for understanding and for choice—to comprehend our alienation rather than merely naming it—to decide where we go from here. We must deal with a crisis of faith in the system. And if the Nation's leaders, at every level, do not speak to it, who can blame those who decide to disbelieve?

Growing numbers of our citizens are convinced that the American dream is a cruel illusion or a hypocritical nightmare. They hear the slogans of peace and they see the signs of a wider war. They hear the slogans of freedom and they see the signs of retreat. They refuse to serve a system which, in their view, consistently fails to rise to its own rhetoric.

Events have opened up a new credibility gap. But this time there is a crucial difference. The disaffected no longer compain that the government lies. They now insist that the government is a lie.

Nowhere is the crisis more acute—nowhere are the ragged edges of freedom more visible—than in the system of criminal justice . . . which tragically strikes more and more citizens as a criminal system of injustice.

Black militant and white radical—the poor and the politically unorthodox—in varying degrees and for different reasons, all have lost faith in the system. They perceive the law as partisan or insensitive or vicious. And they are at least partially right. They are angry. And they should be.

The poor could have told us years ago about the inequities of criminal justice—but no one was willing to listen. What committees have been formed for indigent defendants who languished in jail because of clogged calendars, archaic methods, or simply because they could not afford any bail—even fifty or a hundred dollars? The inmates of prisons even in my own city have a hatred as justified as anyone's for procedures that so grossly abuse their dignity. Most of them happen to be black or Puerto Rican, and poor. A few of the most desperate make another kind of bail—suicide.

It is difficult for blacks to believe in the system's fairness when bail for black defendants appears more severe than bail for white defendants. An abhorrence for Black Panther philosophy and practice—an abhorrence I share—does not excuse treating any black more harshly than whites. This is the key to understanding the current controversy over bail and other criminal procedures for the Panthers in New York and elsewhere.

There is not a simple answer to the question of whether the $100,000 bail for the New York Panthers is excessive, the question remains unresolved in the public mind even after appeals all the way to the Supreme Court. But in cases that seem comparable, involving whites, bail has been lower. This alone stirs doubt and suspicion among blacks and disaffected whites. It is that doubt and suspicion the system must face. It is that doubt and suspicion that must be dispelled by those of us who hope to save the system.

This is no new idea. Recall the conclusion in 1968 of the National Commission on civil disorders, the members of which, appointed by the President, were decidedly establishment people:

"The belief is pervasive among ghetto residents that lower courts in our society dispense 'assembly-line' justice; . . . that procedures such as bail . . . have been perverted to perpetuate class inequities. We have found that the apparatus of justice in some areas has become a focus for distrust and hostility."

Skepticism about the law is not confined to one part of the community. The signs of a legal structure that mocks its own ideals are everywhere for every American.

You cannot expect people to respect the law if you tell them, almost proudly, that its final arbiters should be mediocre. You do not persuade people that the law is apolitical by converting the highest court in the land into a political battlefield. And you do not convince people to wait patiently for justice with a Supreme Court nominee whose only notable public remark is an ethnic joke.

You do nourish and multiply disaffection by debasing the court. Or by turning toward repression, toward repudiation of our rights and liberties.

The course of events in recent months reveals clearly the reaction repression breeds.

Faith in the system declined—and rightly so—in the aftermath of the tawdry judicial parody enacted in the trial of the Chicago Seven—a trial that was fundamentally an examination into political beliefs. After that dubious exercise, a disaster for all concerned, it is harder to believe that the system is open, fair-minded, and humane.

Faith in the system declined—and rightly so—when those in charge of justice proposed legislation to undermine or erase basic protection against illegal searches and self-incrimination. We cannot begrudge the doubters their doubts when we learn how little opposition to these proposals has surfaced in either houses of congress.

Faith in the system declines—and rightly so—when the administration exults in its "prosecution mindedness"—and the intemperate language of the vice president heightens the tensions at a university already on the edge of turmoil.

And a fugitive faith is not recaptured by proposals for preventive detention—or new restrictions on peaceful picketing.

The dangerous temptation is to decide that we can no longer live with this system. But the inescapable truth is that we cannot live without it. If the schools close down for awhile—or if an outraged citizenry finally succeeds in tearing down City Hall brick by brick, we will survive somehow. But if we lose the courts, we lose everything. All we will have left is the law of the jungle.

The destruction of our legal institutions would level the strongest barriers between us and tyranny. It is the law which guarantees that we can speak and write whatever conscience moves us to believe. The law forbids the use of coerced confessions and secures the right to legal counsel in all felony cases. By requiring the exclusions of illegally seized evidence, the law discourages invasions of our homes or our privacy.

The law nurtured and protected the civil rights movement. It rescued many of the innocent victims of anti-communist hysteria in the days of McCarthyism. At its best, the law has pushed and prodded this nation toward a freer society. It sustains freedom today. And, I believe, we can use it to extend freedom's writ in the future.

What the law does, it often does imperfectly. Through accident or ignorance or design, the law sometimes falters and fails the crucial tests of liberty.

Worst of all, the archaic machinery of justice is remarkably resistent to change. Like every other bureaucratic institution, it is distant, impersonal, and even terrifying. It often fails to recognize that cases are people—and that when the wheels of justice grind "exceeding slow," they grind people down.

The courts could change. They could be modern. They could be efficient—and their efficiency could significantly reduce the number of defendants who wait too long for trial. The problem is partially money. And that has to be repaired. But you can't use money as a cop out. It is also true that the System stubbornly adheres to outworn patterns and traditions. It has not taken off the green eyeshades of a century ago. In sum, the law is far less than it should be.

But that is not only a description of the law—it is also a description of human existence. Life is at best uneven, and at worst unbearable. What keeps us going is the belief that, at least at the margins, we can make things better in life—or in the law—perhaps not in a moment or an hour, but in years of hard and continuing effort.

The effort will be slow and painful. It will not always work. A lot of the most important fights will be lost—and injustice will continue. But I do believe that through peaceful means, we have a decent chance to turn things around—to stop the official fascination with repression—to make law and order the Rule of Law that works instead of the code word that doesn't work.

In any case, we literally have no alternative. If we sacrifice the imperfect protections of the legal system for confrontation and violence, at the end of it all, there will only be more repression, more injustice, and more hatred. Freedom will be a memory, not a hope. Guilt or innocence will be a matter of expedience, convenience, and whim. And the sounds of dissent will be heard only in the solitude of the mind's ear.

If we embrace revolutionary violence, we will not only set back the cause of justice, we will render it irrelevant. If we protest by striking out against innocents, if we seek to cleanse institutions with the rhetoric of hate and the fury of destruction, we may satisfy some psychic longing—we may feel more potent and more committed—but we will lose the hope of building anything better in the place of what we now have.

Will we choose to live the mocking slogans of the purveyors of violence: "kill for peace" or "kill for justice" or perhaps "kill for love"? It not only sounds wrong. It is wrong. It *is* the wrong choice.

No society in the world has higher aspirations for individual freedom than ours. Inevitably, we fall short. Our task—your task

and my task—is to make the reality equal to the promise. In peace, under law, we must go right on.

TALKING TO EACH OTHER AND LISTENING

Mr. CRANSTON. Mr. President, the Washington Post Outlook section of the past Sunday contains two very hopeful articles. They are quite pertinent to each other, and in this time of strident talking and militant demands and reactions they represent a remarkably low-keyed and sensible expression of concern about the state of the Nation and its people, especially its young.

The first is an excerpt from a commencement address by Secretary Finch at Arizona State University a week ago, in which he cautions that we must take students seriously because they help to voice the Nation's conscience.

His call for listening to the young is complimented by the valedictory to the 1969–70 academic year, written for the Washington Post by Charles Palmer, president of the National Student Association and a graduate of the University of California at Berkeley. Certainly what Mr. Palmer has to say about bringing our people together through building lines of communication and understanding of the other fellow's position is well worth listening to.

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

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

[From the Washington Post, June 6, 1970]

LISTEN TO THE YOUNG, MR. FINCH ADVISES

(NOTE.—The following is excerpted from the commencement address by HEW Secretary Robert H. Finch at Arizona State University, Tempe, Ariz., last Tuesday.)

By tradition, commencement addresses take note of the times in which we live, and of the nation's deep dependence on our colleges and universities. Never have these two themes been more relevant than they are today.

Four weeks ago, Cambodia, Kent State, and Jackson State for most of us were just names. Now they are powerful symbols, and they have unleashed forces that may shake and transform the American political system. Headlines tell part of the story—six young Americans dead, scores of others injured, several hundred colleges and universities closed down . . . an episode wholly without precedent in the nation's history.

And behind the headlines there is rage and bitterness . . . uncertainty . . . and yet a passionate conviction these events *will not* have been in vain.

I visited Kent State. I held a long conversation with President Peoples of Jackson State, and these are indeed stunned communities—students, faculty, administrators—have come to Washington, and scores have come to my office, for long and searching conversations. Out of this ongoing dialogue has come fuller understanding on my own part, and I hope on theirs. The lines of communication are now open, but they must remain open and be improved.

From the left, we hear that "the system" is totally corrupt, that it must be brought down. From the right, it's "trouble makers" and "outside agitators" who are to blame. Neither extreme helps to describe events—they simply perpetuate apocalyptic myths. And both, on any scale of reason, represent "cop-outs."

But new changes are taking place as well. The great, diverse center has been catalyzed. There is a growing unity on many campuses, a drawing together of students, faculty and administrators. And substantial numbers of concerned and moderate students have signaled that they are becoming fiercely committed to involvement in politics . . . *within* the system.

They are being joined by others, young and old, who find to their amazement that they have interests in common with students. Some would point to environmental concerns, to the reordering of the nation's priorities, to the more rapid fulfillment of our commitment to racial justice.

And on the other side of the coin—disturbing signs, but no less part of the picture—old fault-lines are widening, between young and old and between town and gown . . . and also within the generations. The cleavage is both vertical and horizontal. It cuts many different ways.

Some might be tempted to play down these past few weeks—to write them off as another round of student unrest or a particularly vigorous outbreak of spring fever. Or they might be characterized with such words as "revolt" and "revolution." Both views, I think, are wrong. The one suggests we have nothing to be concerned about . . . the other, that it is too late to be concerned at all.

It is time, instead, to face hard reality . . . to admit to ourselves the sheer fact that much *has* changed, both on and off the campus . . . and to begin engaging in the compassionate criticism that leads to constructive action.

I would like first to address some remarks to those of you who are not students . . . for it is time to understand who students are and what they want. It is time to be very careful and discriminating about the role we think our students, and our colleges and universities, should play in our national life. It is time for reason, and sanity, and fine distinctions.

To begin with, let's all remember that students are not some sort of aliens traveling on false passports—but our own children, and the products of our laws, values and customs. Let us examine our views and practices—before discrediting theirs. Let us never make them the scapegoats for our own anxieties and fears.

Indeed, it is not easy for those who have struggled against economic adversity to understand others who seem blithely unconcerned about "making it" and whose lifestyle outrages accepted senses of decency. But adversity, let's remember, wears many faces. It can come in the form of draft notices and rejection slips as well as overdue bills. It can come in the absence of draft notices among those who know themselves to be privileged, and feel guilty because of it. And it can come in the incessant pressure for grades and degrees and credentials.

We must also recognize that today's students are ready to sacrifice—that indeed they have laid on the line their academic standing, their career-hopes, even their physical safety, for their beliefs. They have demonstrated courage . . . and staying power.

It is perfectly true that students have no monopoly on wisdom. They did not suddenly "discover" war, or hunger, or poverty, or discrimination. But, as it always has been through history, they are the least able to compromise with injustice. They have no tolerance for race hatreds. They have no patience with the deferral of burning problems.

The war *is* the issue for many of them—and many simply do not believe, as I do, that the Cambodian operation will shorten the war and speed the troop withdrawal. But that really is not the core of the issue: it is not the war they want brought home, it is the peace. They want to get on with the works of social renewal.

We should take students seriously, not because they are future voters or because they pose a threat to democratic process—*but because they help voice the nation's conscience.* It slanders an entire generation to confuse a militant fringe with the vast preponderance of deeply concerned, genuinely motivated young citizens—and it throws them into the extremists' arms.

[From the Washington Post, June 6, 1970]

"WE'VE USED EACH OTHER TOO LONG"

(By Charles Palmer)

I have been asked to give a valedictory address; to wrap up the year in a smooth package of rhetoric; to unfold what might be the scenario next month or next fall.

There are several alternatives open to any student speaker at any commencement exercise this year.

He can lead a walkout, condemning the university for complicity with the ever-growing war machine. If he wants to stay, he can recap the growth and change and trouble and education of his school year; he can talk about classes that never happened because the strike against the war and repression intervened; he can explain what happened in what some schools call "reconstituted" classes, where people discuss subjects as they relate to our society and our generation and our war.

He can eulogize Fred Hampton, the latest martyr in the continual purge of Black Panthers and other militant groups, and demand an end to the repression of black people.

The speaker can be moral, haranguing his audience about the senseless killing and destruction—of Vietnamese, of Americans; both those killed on the battlefield and those languishing in jails because they were courageous enough to say no.

The average valedictorian can talk about polarization and nonparticipation and partisan politics—and how all segments of our society are the victims of those vicious and continuing forces.

And whichever of these alternatives he does take, it's valid and true. All these things happened this year; these feelings of injustice and frustration and anger will be shared by the vast majority of his classmates.

After all, his student audience helped to make those large peace demonstrations last fall that President Nixon was too busy watching football to notice. They are the students who fought against racism in athletics in Colorado and challenged the exclusion of black people from the building trades in New York.

And we are the very same students who found ourselves—as so many who worked for social justice do—resisted, gassed, clubbed and jailed. Our publications have been shut down. Our teachers have been fired and denied tenure for standing with us. There is a lot to remember and recall at commencement this year.

THE SILENT MINORITY

But maybe the most important speeches are the guys who didn't make it to graduation. Not because they were tossed out of school; not because they chose, as a protest, not to attend, but because they were just never given the chance to even think about that choice.

There's the kid in L.A.'s East Side who's been out of the service for two weeks and is spending today reading the paper—the want ads—because there is no demand for a chicano who can shoot to kill.

There's the 42-year-old Teamster whose oldest son is going away to the state university this fall . . . and he's scared because he wants all the things for his kid that he didn't have and he's afraid that the Communists and radicals will pervert his dream.

And money's tight and there's not the overtime he was counting on to pay the extra bills.

There's the mother of seven, on welfare, bitter about the possibility of her son ever surviving his inferior high school, and concerned that the President expects her children to live on 19 cents a meal.

We can't even talk about the participation of people as a valid solution to these problems, since we've now become embroiled in a game of seeing which side can build the biggest rally.

And we see the hard-hats, marching and waving what they call "their" flag, and we know that they do not represent the American labor movement. There are reasonable and humane men out there; Walter Reuther wasn't alone in fighting for social justice.

There are working men in this country, the kind whose children go not to Harvard and Yale but to Kent State and Jackson State, who don't want war and conflict, but a better world.

And between these men and students, bridges must be built. I don't believe they get built by throwning all the stones at those on the other side. They don't get built by trite rhetoric or self-righteous condemnations. They get built by our understanding the pressure on workingmen and relating to them in a language they understand.

Another lesson we must learn is that we've used each other for too long. Politicans, running for office, first speaking out on civil rights, now on the war—speaking out every election year and doing little else.

Nixon, soaking his silent majority, crassly interpreting students as ridiculing the men who fought in previous wars, allowing the economy to crumble bit by bit, letting money tighten so quickly that the gains won by labor will soon be negated by the dwindling job market.

POSITIVE GAINS

We have accomplished a great deal this year, the last few weeks in particular. When no one else would take on the President and his generals, we did. And we have shaken the establishment to its very roots. But there have been dangers in what we have done.

While our numbers have swelled and we have found ourselves with new and welcome allies, our movement remains, basically, white and middle class. We have allowed and, in fact, assisted in the creation of the fraud that Nixon-Agnew-Mitchell speak for the common man, while they, in fact, are helping to rob him of his money, his security and his freedom of choice. While we reacted with a righteous and justified anger at his escalation of the war, we have failed to channel that anger and energy into channels which are meaningful for working people.

At the same time, we have all noticed the absence of black and brown people from our ranks. They seem somewhat hardened at our horror and anger for they are neither surprised nor shocked at the murders of Kent and Jackson. They have seen it all before.

So it is that we must turn our concern to building lines of communication to those other groups and we must come to have some understanding of how it all feels in their shoes. We must build for the long run, for it is far more frightening than what we have seen.

This is a time of commencement, of beginning. Let us begin the work that will bring our people together, in a country that is just and moral. For many of us, this year marks our first substantive involvement in political action. As we begin, in earnest, the struggle to turn this country around on war, racism and poverty, let us not fall into the President's trap. Let us base our success on bringing together the American people, rather than tearing them apart.

SEA BREEZES FROM ST. LOUIS

Mr. DOLE. Mr. President, the U.S. Naval Academy Alumni Association publishes a monthly magazine called Shipmate. Along with the regular Alumni news, the magazine carries a column called Sea Breezes, written by a retired submarine captain by the name of Paul Schratz.

Captain Schratz no longer uses his naval title, for of recent years he has earned a Ph.D. and is now director of the Office of International Studies at the University of Missouri in St. Louis, with branches in four State campuses.

Despite what might be considered a heritage of years of militarism, Dr. Schratz has an incisive understanding of the civilian view in our presently polarized society. He combines this with a keen appreciation of the problems of national leadership in a world in conflict.

His most recent column, published in the June 1970, issue of Shipmate, contains much food for thought for this Nation today. It is, indeed, an example of what must happen if demoralization of our way of life is to be prevented. The thinking members of our population, those who still have the mental resiliency to see our national ferment objectively, must now speak up.

He refers, in part, to the current crises in Washington University in St. Louis—not, incidentally, one of the four campuses with which he is associated. Among the groups of students who visited the Capital recently was a delegation from Washington University, including their senior student body officers, seeking support to preserve their university from the radicals seeking to bring it down. Although the majority do not sympathize with the radicals, Schratz agrees with Admiral Rickover that—

> Academicians across the country have been bamboozled by young radicals who grant the professor neither the freedom to teach nor the student the freedom to choose courses which displease the rebels.

In Admiral Rickover's words, which he quotes from recent testimony before the Congress:

> No one in modern times has violated academic freedom so senselessly and brutally in our country. Why do we let them escape punishment for lawless acts in the name of the same academic freedom that they are attempting to destroy?

It is time to speak up, and this column is an example. Mr. President, I ask unanimous consent that the article entitled "The Revolt of Youth," be printed in the RECORD.

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

THE REVOLT OF YOUTH

(By Paul Schratz)

We're all getting our lumps these days. The leadership of the dedicated and loyal senior military professional in Vietnam is criticized for gross overmilitarization of "a political and social problem." His concept of military justice is criticized as a travesty on the rights of the accused, even though many of the accused deliberately forfeit those rights by openly challenging the whole structure of discipline on which justice itself must be founded. Because of the over-competitive drive for advancement imposed on the senior by the system, he is accused of callousness and insensitivity toward the men who bear the brunt of his ambition. A great managerial feat in fighting a major war on the opposite side of the globe without mobilization is overlooked in accusations of over-organization and "staultification of innovation and dynamism" in the younger officers.

At the opposite end of the military pyramid, the fledgling officer in an ROTC uniform is equally harassed. Campus activities, protesting the war and its military leadership, swing out in mindless anger to destroy the symbolic presence of militarism on campus and with it the best hope for providing a civilianizing influence which they also claim is missing in the military profession. The current crisis at Washington University in St. Louis is typical. The majority of students and faculty have repeatedly expressed support for ROTC in campus polls, yet the young radicals burn and deface buildings and bring the university to a standstill. When police are reluctantly called in, substantial majorities of other students and faculty join the fray in sympathy with presumed rights of the minority, and the harassed university officials suddenly appear to be the aggressors. Worse, students and faculty not in sympathy with the radicals also attack the university with a multimillion dollar lawsuit charging that their studies are interfered with, their rights of assembly have been abridged and "orderly political processes and participation in education and related activities" are barred.

Admiral Rickover aptly suggested to Congress recently that academicians across the country have been bamboozled by young radicals who grant the professor neither the freedom to teach nor the student the freedom to choose courses which displease the rebels. "No one in modern times has violated academic freedom so senselessly and brutally in our country. Why do we let them escape punishment for lawless acts in the name of the same academic freedom that they are attempting to destroy?"

At close range, it is clear that the few leaders are fanatics with a religious zeal impenetrable to facts and logic and comparable to nothing since the inquisition. The tragedy is the many followers who accept the cause as their own and utterly reject the whole purpose of an education aimed above all to teach one to think, to evaluate and to judge on merit and not on mass appeal.

My own university is not involved, bless 'em, but as both a senior military member of the Establishment and a university official, I expect the worst of both worlds. Nonetheless, my support is unquestionably with the students, for here is our hope for a better world. I disagree on principle with violent activism, yet the world will someday be a better place if only because the iconoclast offers hope to throw off the shackles of the world as it is.

ADDRESS BY THE VICE PRESIDENT AT SUFFOLK COUNTY REPUBLICAN LUNCHEON, HUNTINGTON, L.I.

Mr. PROUTY. Mr. President, on May 28, the Vice President of the United States spoke at the Suffolk County Republican luncheon at Huntington, L.I.

Mr. President, in the speech, the Vice President outlined his views on certain aspects of our national economy and economic conditions in general. His remarks are quite timely and deserve consideration by a wide segment of our national population.

This for the very reason that, as the

Vice President points out, 28 million Americans are stockholders in American business. The final word which the Vice President gives us in these remarks is that 1970 is going to be a good year, and it is also a turnaround year in American foreign policy, with specific emphasis on Southeast Asia.

I am sure that many readers of the CONGRESSIONAL RECORD will benefit from the Vice President's remarks, as I have done.

I ask unanimous consent that the address by the Vice President be printed in the RECORD.

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

ADDRESS BY THE VICE PRESIDENT, SUFFOLK COUNTY REPUBLICAN LUNCHEON, THE TOWN HOUSE, HUNTINGTON, L.I., MAY 28, 1970

Today I'd like to talk to you about the American economy—where it is, and where it is headed.

I'm not one of those who thinks you can talk about the economy and not talk about the stock market. You can be sure that the market is a topic considered long and hard in Washington, because twenty-eight million people have their money invested in Wall Street; and whenever that many people have a common interest, it is an important national interest.

I was talking to John Mitchell the other day about an idea he has to revise the conflict of interest laws. When a new appointee takes office, under the new plan, he should be required *not* to sell his stock.

Last night, some 45 financial leaders came down to have dinner with the President at the White House. They presented a calling card: The highest single day Dow-Jones increase in history. If they can keep doing that, we'll feed them there every night for a month.

Seriously, we have to keep the market decline in perspective. It is true that the market is an accurate measurement of investor confidence, and it is true that it has an effect on both consumer spending and capital spending plans. But it is also true that Wall Street is capable of overreacting in both directions. It has predicted eleven out of the last four recessions. I don't critize this sensitivity on the part of the Wall Street community. It is difficult to remain calm and unruffled when your living depends on your ability to recognize and react to sudden changes in investor temperment.

Businessmen I've spoken to recently have made it clear that Cambodia has been a big influence in the market slide. Peace is bullish, and there are three fears that are currently prevalent:

First, that we have widened the war;

Second, that the withdrawals of our troops might be discontinued;

And third, that the Cambodian operation will add to our budget and thus to the inflationary spiral.

These fears are totally unfounded. As a matter of fact, if you have been making investment decisions on the basis of these fears, I suggest you take a hard look at reality.

The war has not been widened; we are not about to get into any war in Cambodia, nor are we about to assume the responsibility for training the Cambodian Army. The President has made that clear, and as the North Vietnamese have discovered, the President is a man of his word.

The Cambodian operation has seriously disrupted the enemy, assisted the Vietnamization process, and protected our plans to withdraw at least 150,000 additional U.S. troops as announced by the President. Thanks to the most successful military move since the Inchon landing in the Korean War, we can continue our withdrawal program without endangering the lives of the men remaining there next spring.

Finally, the Federal budget is not going to be increased as a result of the Cambodian move. In fact, it will help us move from a war economy to a consumer economy by hastening the day when the American troops are completely out of there and adding to the incentive for the communists to make peace.

So, I suggest that we heed the advice of Thomas Jefferson in our overall view. He said, "I prefer the flatteries of hope to the gloom of despair." Actually, we are talking here of the realities of hope—because the courageous decision by the President to clean out the Cambodian sanctuaries will be seen by historians and even by some of the instant historians as the action that turned the corner toward peace in Southeast Asia.

I don't claim to be an expert on the stock market, but if I had to make a decision today on the basis of the chances for peace, I would feel 100 per cent more assured than I would have 30 days ago.

Now let me turn more directly to the causes of the economic slowing pains that we are experiencing today.

The "Great Society" of the mid-sixties is now presenting its bill, and many of those now offering snap solutions to an inflation caused then are the same people who caused the present problems.

The effort of this Administration is to taper off inflation without the kind of recession that usually follows the kind of spree we were on in the Sixties. Although there have been substantial declines in the stock market and corporate profits, the decline in production has been relatively small.

Although unemployment is up, total employment was at an all-time high in March 1970 and only slightly less in April. Total employment in April 1970 was almost 1½ million higher than in April 1969.

Total production (Real GNP) was about one per cent less in the first quarter of 1970 than at its peak in the third quarter of 1969. All of the decline was in inventory accumulation.

Real per capita disposable income—*what individuals have available to spend after allowing for taxes and inflation*—was at the highest rate in history in the first quarter of 1970.

There is clear evidence that total production will begin rising soon, probably in the third quarter. The main reasons are:

1. Moderately rapid monetary expansion is now taking place after a period of exceedingly tight money up to February of this year.

2. Consumers' purchasing power will grow, as a result of the end of the tax surcharge, the big increase in social security benefits and the government pay increase.

3. Housing starts will turn upward because of the large back-log of demand and more money in supply, combined with vigorous programs of government to divert money into housing. Interest rates for new mortgages have turned down for the first time in 18 months. This turn will be hastened if the Congress will act on the Administration's emergency housing legislation.

4. Plans for investment in plant and equipment by businessmen remain steady and strong, according to the most recent surveys.

The decline in the stock market neither reflects nor predicts a serious decline of the economy. Experienced observers agree that the decline of the market far exceeds anything that can be explained by the relatively small drop in economic activity which we have experienced.

The stock market needs to be watched closely, but it would be a mistake to let its swings take us off the course toward price stability and sound economic growth.

We are now passing through the first phase of a successful campaign against inflation in which the rate of inflation ceases to rise.

As part of this campaign we have taken the following steps:

We have slowed down the growth of Federal spending drastically, from an average increase of 12 per cent a year in 1965–1969 to 7 per cent in 1970 and less than 4 per cent in 1971. This has enabled us to keep the budget close to balance in Fiscal 1970 and Fiscal 1971 despite actions by Congress to reduce Federal income.

We have achieved this restraint on total Federal spending while recognizing important new national priorities with respect to the environment, welfare, transportation and other purposes. To do this it was necessary to keep firm control of defense spending, cut back less urgent non-defense programs and press for greater efficiency throughout the government.

Last year we recommended to the Congress improvements in the Unemployment Compensation System and in Manpower Training programs which would both reduce unemployment and reduce the hardships caused by it. Congress has not yet enacted this legislation.

We have not deluded the American people into thinking there was an easy way out of the problem we had been left. We have not run for the superficially attractive solution of wage-price controls, which no one would want one month after they had been put into effect. And we have not pretended that we could coerce the economy into stability while creating all the real conditions of instability.

This Administration will not permit the increase in the cost of living to rise unabated; it will not curb inflation by permitting serious dislocation and the kind of unemployment prevalent in the early Sixties. Instead, it will continue to take the responsible middle course of cooling inflation steadily and surely, mindful of the concerns of workers, investors and consumers.

It might be a good idea to remember some of these facts of history when you hear the men who got us into this fix come up with the easy answers to get us out.

It is ironic, for example, to now hear the Democratic National Chairman, whose recent brief sojourn on Wall Street was spectacularly unsuccessful, hold himself out as an economic expert.

Back in 1963, when Lawrence O'Brien and his associates had been at the center of government power for 3 years, the unemployment rate was 5.7 per cent. Since then the work force has grown. If you apply a rate of 5.7 per cent to today's labor force of 83 million people, there would be ¾ of a million more people unemployed than there are today. You didn't hear him calling *that* a recession.

In summary, I would say this: 1970 is going to be a good year for business, with an upturn in the second half. But even more important for business and for the nation, 1970 will be a turnaround year in Vietnam, when a President showed the world that the United States intends to remain a great power, a power with enough muscle to bring about a peace with honor.

In the Middle East, at the Arms Limitation Talks, wherever in the world that our credibility is important in making progress toward peace, the spring of 1970 will be remembered as the time when everybody learned that it never pays to sell America short.

ADDRESS BY JACOB S. POTOFSKY

Mr. MUSKIE. Mr. President, on May 25, in the keynote address to the 27th biennial convention of the Amalgamated Clothing Workers, General President Jacob Potofsky spoke out in favor of congressional efforts to bring about an end

to the war in Indochina. Citing unrest at home and neglect of our other interests abroad as results of this endless war, Mr. Potofsky made an urgent appeal for a reordering of our national priorities and, above all, for peace. I should like to second him in his closing words, as he said:

This is the hour of decision. Our nation needs peace now. The world needs peace now. Let us all be united to help achieve that inspiring goal.

I ask unanimous consent that Mr. Potofsky's keynote address be printed in the RECORD.

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

KEYNOTE ADDRESS BY JACOB S. POTOFSKY, GENERAL PRESIDENT AMALGAMATED CLOTHING WORKERS OF AMERICA, AFL–CIO, CLC

Members of the General Executive Board, Distinguished Guests, Delegates and Friends:

Greetings:

I salute you on two more challenging and eventful years.

The past two years have brought many gains to our members. We met two years ago just at the conclusion of the most difficult but most productive negotiations we had ever held in the clothing industry. You may remember that those negotiations brought a substantial wage increase, totalling 57½ cents an hour. Along with that increase came substantial improvements in our medical and retirement insurance programs.

Less than a year ago we followed up with a substantial increase in the cotton garment industry. Again our negotiations were the toughest we had ever experienced. It was not until almost the final hour that we settled on our increase of 45 cents an hour, plus major gains in our insurance and pension programs.

This period also saw the largest gain ever won for our laundry workers in New York; substantial improvements were also made for our many retail workers throughout the country; and another major increase was won for the members of our Xerox division in Rochester and other parts of the country. Gains were also won for our members in other branches, including gloves, neckwear, work clothes and uniforms, cleaning and dyeing and alteration tailors. Major gains were also made for our large group of members in Canada, and by our new joint board in Puerto Rico.

STEADY GROWTH

The past two years have also seen a steady increase in our membership. Almost 17,000 new members joined our ranks through organizing drives since we last met. Many of them were in Southern and Southwestern states and in retail stores, another expanding area. We brought a large group of glove workers in upstate New York into our union. But in general the new members come from every state and every industry in our jurisdiction.

I would like to welcome to our ranks the new-comers who are here for the first time.

May I ask the delegates from new shops to stand up and accept the welcoming applause of the convention.

Organizing the unorganized is a basic principle of our organization. We have therefore devoted more of our resources and energy than ever before to our organizing mission.

The problems are many and difficult. I cannot count the number of times we have won bargaining rights through an election but have been unable to sign a contract because an employer refuses to bargain in good faith. When we use the procedures of the National Labor Relations Board, we are met with lengthy delays—delays which sometimes destroy our efforts to maintain an organizing campaign. A ruthless and determined anti-union employer can prevent his workers from winning their right to a union contract for months and even years, by using the loopholes of the law and delays of NLRB.

A 16-YEAR STALL

Perhaps the most notorious example is the Rutter-Rex case in New Orleans, which began with an election victory in 1954 and is still not over 16 years later! We have won two elections and several favorable decisions before the NLRB and in the courts, but Rutter-Rex workers still do not have a union contract.

Last month we won an outstanding Supreme Court decision in the Rutter-Rex case. One hundred and sixty-one former workers there received more than $160,000 in back pay due them for wages lost during a strike. It was a fine decision—but our battle is not yet over. We still have a claim for back pay from 1960 and the Rutter-Rex workers still do not have a contract. And what is outrageous is that although Rutter-Rex has been found guilty of unfair labor practices, the government has showered that firm with contracts involving millions of dollars. That, my friends, should not be permitted!

MORE THAN WAGES

We have been winning wage increases and organizing new members despite all obstacles—but we have been doing a lot more, besides. Our health and retirement programs have been improving. In all our recent negotiations we have recognized that we had to increase the level of benefits to try to keep up with the increased costs of medical care.

In our two major industries, clothing and cotton garment, our members are now covered for most of their hospital costs, and we have raised benefit levels for disability and surgery. Similar improvements have been won in all our industries. During the two years we have raised our pension benefits in all industries—including a $10 a month increase for clothing workers which was agreed upon a little more than a month ago.

I cannot help but be proud of the benefits we have paid. In the last two years, we had 370,000 claims and paid out $80 million.

Since 1944, the beginning of our health insurance program, we have had 2.5 million claims and paid out $400 million.

Today there are over 40,000 Amalgamated members receiving pensions. Since 1947, when the program was started, we have paid out $317 million. Would you believe that in about 25 years our members have received almost three-quarters of a billion dollars through our own insurance and retirement programs? It is true, and we are mighty proud of it.

Our services to our members do not end with the welfare and pension programs. The Amalgamated, since its inception more than half a century ago, has looked for ways in which it could serve its membership beyond the boundaries of the factory and shop. Early in our history we began to pioneer in building low-cost cooperative housing and insurance programs and labor banks.

As the years went by, we expanded and improved on those institutions and continued to pioneer in new areas, such as medical clinics, day-care centers and scholarship programs. By now we have a network of institutions and programs, serving a variety of the needs of our members, and I am pleased to say that they are thriving and growing.

MEDICAL AND DAY-CARE CENTERS

Our medical centers and programs in New York, Philadelphia, Chicago, Rochester, Baltimore and several areas of Pennsylvania are constantly offering additional services, such as drugs, psychiatry, preventive care, services for dependents and other programs.

We have three day-care centers already in operation, two in the Baltimore region and one in Chicago. Four more are in progress—three more in the Baltimore region and one in the planning stage in New York. Meanwhile we have also become a major force in the campaign to expand the government's efforts in this field, which is of growing importance for all women workers.

In addition, we are providing more and more of our members' children with scholarship help, and we have pioneered in a new program to provide scholarships as a matter of right.

As the founding members of the United Housing Foundation in New York, we are building more low-cost housing than any other agency, public or private, in the United States. And we are about to start in Chicago, too.

Our bank in New York still offers low cost loans and checking accounts. This year, it made banking history by offering small savers the same high interest rate income which only corporations or the wealthy were able to obtain at other banks.

These are only some of the activities our union is sponsoring. I could spend much of the morning talking about our educational seminars and institutes, about our retiree centers and retiree educational programs, about the special rehabilitation program sponsored in New York or the special retiree apartment house in Philadelphia.

The range of our efforts to serve our members spans all of life, from childhood to the years of old age—from recreation to education to insurance to housing to health.

These are the activities of a union old in experience but young at heart, eager to find new ways we can serve our members and improve the communities where we live and work.

IN MEMORIAM

I want to take a moment to pay tribute to the men and women whose dedication and sacrifice helped make our achievements possible, and who are no longer with us as this Convention opens. Since our last gathering, we lost two of the great pioneers of our union Hyman Blumberg and August Bellanca.

Hyman Blumberg spent his entire lifetime in our ranks, starting in Baltimore in the first decade of the century and rising to become the executive vice president of the Amalgamated. During his more than a half century as a leader of our union, he played a role in many areas, including Rochester and Canada, New England and the South. He was a man of tremendous integrity, devoted to the membership, warm and friendly and beloved by all who knew him. He was also an excellent negotiator and a forceful organizer—a truly outstanding labor leader who gave his life to our cause.

August Bellanca came out of the same generation as Blumberg. He started with the Amalgamated in New York in the 1912 strike, and quickly established himself as a leader. He served as a vice president of the Amalgamated for many, many years, and was active in many areas. He was particularly well known in the Italian-American community, where he gave leadership to the democratic forces, during and after the Mussolini period. He, too, was a man much beloved by the many people who knew him and worked with him. Like Brother Blumberg, he will be long remembered.

May I say a word, too, about our late research director, Milton Fried, who for fifteen years gave to the Amalgamated his skills as an economist and a diplomat; and also about Samuel Smith, a one-time manager of the Chicago Joint Board and a vice president of our organization, both of whom died during the past two years.

I also want to pay tribute to Walter Reuther, one of the oustanding leaders of labor of our time, who died with his wife in a tragic airplane accident three weeks ago. We of the Amalgamated felt a special closeness to Walter and to his union, for we shared

in the creation of the UAW in the early days of CIO. Reuther was a man of unusual vision, and all of us in the trade union movement will miss him.

My friends, for these leaders of labor, and for the others who are listed in our GEB Report who died during the past two years, I would like the Convention to rise and remain standing for a minute of silence.

The delegation arose and stood in silent tribute to the memory of their departed brothers.

CHALLENGES AHEAD

Most of my remarks so far, have been about the achievements of the union. I want now to refer to some of the challenges facing us, today and in the years ahead.

One of the challenges has been the changing nature of our industry. What was once an industry of small firms and family ownership is gradually being transformed into an industry of conglomerate giants, managed by professional administrators.

It is an inevitable change, matched by similar changes in other industries, but it poses many new problems. In past years we were able to establish a relationship based on mutual respect and long personal relationships with the individual owners of the companies with which we had contracts. Today some of the new conglomerates have long records of antiunionism. Their ownership is more distant and more difficult to approach. The challenge of these changing conditions in our industry will put us to the test.

Another development that gives us concern is in the technological field. Many new devices, processes and machines are being developed—all of them designated as "labor-saving." My friends, we are watching these developments with sharp eyes. I can assure you that we will halt and we will not permit the introduction of any device or change which will in any way affect the security of your jobs or your wages. Job security and wage preservation are basic and will always remain so!

There is another challenge that does not lie within our control—and that is the current economic situation.

Continuing inflation has brought recession in its wake, and with recession we are now going through a period of growing unemployment. The results have been felt in our industries, which are experiencing declining sales, short work weeks and layoffs.

These conditions make even more serious and immediate the increasing threat posed by imports of apparel. The problem has grown so acute that just two months ago hundreds of thousands of our members carried out a mass work-stoppage to demonstrate our concern about the rising imports.

I want to tell you and I want to tell the nation that our work-stoppage was just the beginning of our campaign, not the end! We have no intention of standing idly by and allowing our jobs to disappear or our working conditions to deteriorate.

DANGER OF IMPORT FLOOD

We believe in international trade. But the old concepts of international trade no longer hold true.

Under the old theories, which were popularized 35 years ago, international trade was supposed to bring benefits to all the trading nations. Each nation naturally specialized in products based on its own resources and skills, and traded its products for those of other nations.

Today the advantages of technology are quickly available to any nation, and the speed of transportation has virtually eliminated special skills or resources.

Today, giant corporations set up factories all over the world, and every nation, developed or underdeveloped, has the capacity to produce.

Today, the principal advantage of one nation over another is likely to be low wages. The result has been that low-wage nations, particularly in the Far East, have been rapidly building up their textile and apparel industries and have zeroed in on the rich United States market.

You all know the result. Tremendous increases in imports, amounting to as high as 300 percent in some categories. Clothing and department stores are featuring foreign-made apparel at high mark-ups for themselves. We must put a stop to this!

The answer now is a law, a law to establish quotas for imports. Such a bill has been introduced by Chairman Mills of the Ways and Means Committee in the House of Representatives. I testified only last Wednesday in Washington in support of the bill, as did spokesmen of other unions. Many of you have already contacted your Congressmen, but we have to continue our efforts to impress on Congress the importance of passing a law, and passing it quickly.

Because of inflation, the threat of low-wage imports will grow even more serious. The threat must be stopped now, before our industry is overwhelmed and our jobs are lost. We have fought and we will continue to fight, until we have won this battle.

Our country is facing one of the darkest periods of the century. We are beset by a host of problems—more complex, more perilous and more numerous than at any time in recent history.

The war in Southeast Asia is escalating without end in sight; more of our boys are being killed and maimed. The blight of our cities is becoming worse with each passing day; pollution is increasing; our natural resources are being wasted; inflation is continuing at an intolerable rate; unemployment is increasing daily; prices and interest rates are soaring; dissent is discouraged and intimidated; our young people are frustrated, alienated and angry; our foreign friends are bewildered by our actions; extremism of right and left is becoming a part of our daily life; and our country is more bitterly divided than it has been in a century or more.

TIME TO SPEAK OUT

This is a sad and sorry picture. It can be remedied only if we begin by having the courage to look honestly at these issues. It is time to speak out. That is what I shall attempt to do.

I shall therefore talk principally about Vietnam because it underlies practically all our troubles. Vietnam is a vital key to war or peace in the world. On its swift end may well depend the very preservation of our own democratic way of life. And everything that we cherish lies in balance on the developments in that area.

I am not suggesting that the American public is of one mind about Vietnam. Because that is so, it is important to analyze the issue as rationally as possible.

Now, let's see what are the facts.

Vietnam has cost us almost 50,000 of our young and almost 300,000 wounded and maimed.

A week before last, more of our soldiers were killed than in any week during the past nine months.

It has disrupted the lives of millions of our young who were inducted in that war.

It has brutalized and demoralized our soldiers on a scale never before experienced.

We have devastated a land that we are trying to save; villages and towns have been destroyed; uncounted numbers of innocent Vietnamese have been killed or uprooted.

This war has already cost us more than $100 billion; yes, $100 billion.

The President recently vetoed a measure of Congress providing one and a half billion dollars more for education, on the ground that it is inflationary. Yet, at the same time, we are spending more than 2½ billion dollars a month on the war in Vietnam.

How topsy-turvy things are! Money for education is inflationary but money for killing is considered by some to be right.

But $100 billion is not the only cost.

We shall have to pay interest on that $100 billion probably indefinitely, and the interest bill alone in the future will be tens of billions of dollars.

We have been in Vietnam for almost nine years. We have bombed Vietnam, North and South, with more explosives than were used in World War II. Think of all that bombing against a small country. Yet it appears that the military will of the North Vietnamese and the Vietcong has not been broken.

MILITARY VICTORY A QUESTION

It has become questionable whether a military victory will ever be possible—a fact that even the generals are now admitting.

General Ridgway—the former UN and U.S. Commander in Japan, Korea and Far East, and later Army Chief of Staff, said some time ago:

"We should repudiate once and for all the search for a military solution and move resolutely along the path of disengagement."

On April 20, the President gave the nation a reassuring report that "everything is going well and we are in sight of a just peace." He announced at the same time an intention to withdraw 150,000 troops within a year. Yet, only nine days later, with nothing substantially new developing on the military scene, the President widened the war in Cambodia and renewed the bombing of North Vietnam—a complete re-escalation of the war.

One may ask: why the panicky rush? Why didn't he consult with the Congress about this? There was plenty of time. Was he afraid that the Congressional and public opposition would veto the military eagerness to go into Cambodia? After all, Congress has a Constitutional responsibility in these matters, too.

Our invasion in Cambodia means that all the tragic errors of escalation are being repeated. We are being plunged deeper and deeper into the pit of disaster.

CONGRESSIONAL RESPONSIBILITY

That is why we support the efforts of those courageous and truly patriotic American Senators who have sponsored legislation designed to bring to a speedy end the most disastrous war in our history. Let us pray that success may crown their efforts.

The Congress must exercise its Constitutional responsibility of not leaving the war-making decisions to the President alone. To do so would spell the abdication of its responsibility.

The Cambodian invasion is tragic on other grounds as well. For example, it may undermine or threaten the success of the arms control negotiations and talks in Vienna. And the success of these talks is vital to the peace of the world.

Another damaging consequence of the Cambodian maneuver is the definite weakening of American power to influence the situation in the Middle East. I need not remind you what a powder keg that is. The Mideast may blow up again.

Israel's security is an over-riding moral imperative of the world. Yet the Soviet Union freely sends arms, planes, missiles, technicians and pilots into Egypt to support Egyptian and Arab belligerency. Direct Soviet intervention in the Middle East has already stimulated Egyptian offensive action along the Suez Canal.

Do you believe that the Soviets would have dared to risk such brazen intervention into Egypt—particularly after its brutal invasion of Czechoslovakia—if we were not bogged down in Vietnam?

One must ask: "How did our country get so involved in Southeast Asia? What is the explanation?"

I suggest that there are two explanations underlying our activities in Vietnam. One is the dominant role of the military, and the other is the enormous profitability of war.

MILITARY-INDUSTRIAL COMPLEX

It is probably a fact that never before in our history have the military and their allies in defense industries possessed such power in our nation. This military influence even worried President Eisenhower after his long experience as a general and as President. And if anyone had intimate knowledge of this military-industrial connection, President Eisenhower was the one.

President Eisenhower said in his farewell speech (January 18, 1961):

"We must guard against the acquisition of unwarranted influence . . . by the military-industrial complex . . . We must never let the weight of this combination endanger our liberties or democratic processes . . ."

Yet, that is exactly what happened.

The record of military miscalculation in Vietnam is terrifying.

Our so-called military experts have made one costly mistake after another. They have asked us to swallow their forecasts of victory through escalation far, far too often. They have asserted that their special sources of secret intelligence should command complete and unquestioning support. But their dismal record of failure has lost them their right to a blank check from the American people. We have all paid, and are still paying dearly, for their mistakes—and how much longer? Who knows?

Now we come to the other half of the military-industrial complex. If profits were taken out of war, we would have fewer and shorter wars. I have no hesitation in saying that if profits were taken out of the Vietnam war—profits shared by industrialists here and by the new crop of millionaires in Saigon—the Vietnam war would have been a dim memory by this time. All the talk about saving democracy for the South Vietnamese would have vanished into thin air by this time. Pious cries of security and patriotism are too often the mask for profiteering patriots. Let us never forget that.

The military are responsible for the staggering increase in defense expenditures from 12 billion dollars in 1948 to 80 billion this year—an increase of 700 per cent.

Senator William Proxmire established that military spending could be cut by $10 billion a year without impairing national security. The waste runs into billions more.

An Air Force efficiency expert testified on the enormously inflated costs of a Lockheed plane for the Air Force, amounting to $2 billion. You know what happened to him? He was fired for telling.

Over 2,000 former officers of the rank of colonel or navy captains or higher were employed by the leading military contractors. I don't have to tell you what that means.

The former Research Chief of the Pentagon called on Congress to halt the growth of the United States military machine before it became a Frankenstein monster that could destroy us.

WASTE VERSUS SECURITY

Do you know what happened when Congress was asked to scrutinize defense spending more closely? The President appointed a blue-ribbon panel to serve as a watchdog over the Pentagon. But do you know who was on the blue-ribbon panel? Eight of its members have interests of more than a billion dollars in defense-related industries. Instead, what we desperately need is the most critical, intensive examination of every aspect of defense spending industries.

Let us not mistake waste for security. The true American patriot is not the one who wants to increase defense spending. The true American patriot is the one who wants every dollar spent on defense to be spent effectively, not wastefully—and not for the benefit of defense profiteers.

We want an America which is strong—strong not only militarily, but economically, politically, diplomatically, and above all, humanly.

Now let me turn from the military arena to our domestic scene. What has the Vietnam war done to us at home?

The war has done great damage to the spirit of America. There is a bitter and ugly mood in the nation. A climate of fear has descended upon our land. The war has set men against each other. The war has caused division between the people and their government. It has aroused suspicions and false accusations. It has brought back some of the evils of McCarthyism—an evil which it took us years to overcome, and which we had all hoped would never reappear.

Today, we have taped wires, political snooping, secret informers—all of them the marks not of a democracy but of a police state.

Our Bill of Rights is in danger of erosion. Until we have peace, our very democratic processes are threatened.

Today those who oppose war are attacked for their lack of patriotism. Dissent is confused with disloyalty. Yet high government officials try to intimidate our newspapers and radio and TV.

THE RIGHT TO DISSENT

Let us bear this important fact in mind. Dissent is the spur to reform. It is in troubled days that the rights of the dissenters must be upheld if the liberties of the many are to remain safe.

Let us not forget that our nation's greatness springs from the vision of greater freedom for all, not restricted liberties for some. We must carry the torch of freedom against the forces of dark suspicion and fear.

When the war ends, we can hope that we will be able to establish our democratic priorities once again. But it may take much longer to recover from the spiritual effects of this military disaster.

One of the greatest tragedies is what has happened to our youth, so many of whom have lost much of their faith in our leadership and in our democratic system. Students are not saints, but neither are they bums or rotten apples!

Their frustrations and alienation have become intense. Some have resorted to violence—and in some cases, such as in the tragedy at Kent State and Jackson State, they have been met with inexcusable violence. It is most unfortunate that it took these tragedies to wipe out the indifference with which the problems of the young were met in high places.

I do not wish to be misunderstood. Violence must be condemned. It is self-defeating and leads only to more violence.

VIOLENCE LEADS TO CHAOS

Those who practice violence—whether they be young or old—whether they be white or black—whether they be students or national guard, or police or workers—must recognize that they are all contributing to chaos. If history teaches one thing, it is that chaos is followed by periods of the iron fist. After the chaos, no one knows what kind of dictatorship will emerge. We do not have to be reminded how Hitler came into power.

Let me say one word to the youth, to our young—for they are our most precious asset. Meet the challenge that faces you not with violence but with practical, constructive action. Choose the traditional way of democracy, the peaceful way. Become active this summer and fall in the election campaigns; work with labor to elect candidates who will help end the war in Vietnam speedily. Help not only end the war, but enable America to meet its domestic needs.

Years ago, students used to be excused from school to harvest the crops in the fall. Today, why not let them out of school to harvest votes?

I hope that we will give our youth the right to vote in national elections.

It will bring the talents and energies of our young into the normal democratc processes. Today, the educational levels of our young people are so much higher than they were before. They are old enough to fight and die in Vietnam; they are old enough to work, to marry, to pay taxes, yet they are denied the basic right to participate in our democratic society—the right to vote.

As a matter of fact, by depriving 18, 19, and 20 year olds of the right to vote, we are contributing to one of the causes of their despair.

The 18-year vote is overdue and should be passed by Congress this year.

BYPRODUCTS OF WAR

There are many other consequences of the Vietnam War.

The 30 billion dollars a year we spent for war cripples our financial ability to deal with serious domestic needs.

Every warplane built for Vietnam means we cannot build a new high school.

Every shipment of guns costs us public housing for our cities.

Every tank and truck means a cutback in our war on poverty.

Our needs are almost without end. Our resources of water and air are being polluted at such a rapid rate that the very life of civilization is in danger.

To reclaim our air and water will cost billions of dollars, to build advanced disposal plants, to change the way we burn our fuels, to create new and cleaner sources of power.

We must spend those billions of dollars if we are to preserve life itself—but today we are spending those billions on tanks and ammunition for Vietnam—almost $3½ million every hour of the day and night.

NEED DECENT HOMES

One of the most serious national needs is housing for those of moderate income. We need officially 2,600,000 new units of housing each year just to keep up with our population growth, but we are building less than half. In some cities, including New York, our stock of housing is slowly growing smaller at the very time when our needs are increasing.

We will never solve the crisis of our cities until we start a massive housing program.

But today inflation has driven up the cost of housing beyond the means of private enterprise to build it, and the war has robbed our government of the funds to build it.

As a result, we are not building middle- or low-income housing to meet our needs, and our cities continue to deteriorate.

Many of our citizens—blacks, Puerto Ricans, Mexican-Americans and others—have not been given equal opportunity. Some of their needs must be met through laws requiring an end to discrimination in voting, jobs, housing and education. These laws must be enforced vigorously and fairly.

TO WIPE OUT GHETTOS

But some of the needs of minorities can only be met by new expenditures for schools and housing and medical facilities to wipe out the ghetto slums from the face of the land. So long as we have a war budget and inflation, we will not have the funds that are needed for these purposes. Until we have peace, we will not be able to make substantial progress in reducing poverty and ending all trace of discrimination and bringing all people into a first-class citizenship.

My friends, the quicker we extricate ourselves from the war in Vietnam, the sooner we can attend to these urgent needs.

There are other costs of war as well.

Working people in America do not need an economist to tell them about inflation. We feel and see inflation every time we walk into a supermarket or barber shop or movie theatre. We feel and see inflation when we buy a car, or look around for a modest home to buy—those who can afford it—or get a bill from a doctor or hospital.

Despite wage increases negotiated by trade unions for every major industry during the

past five years, workers' real wages have gone down instead of up.

There appears to be no end to the inflationary spiral. Despite the Administration's repeated predictions to the contrary, the battle against inflation has been lost! It is estimated that it won't take many more years before our present dollar will lose a third of its purchasing power.

Inflation is a direct consequence of our swollen wartime economy—and so are the steps taken by the Administration to halt inflation. One of these steps has resulted in the highest level of interest rates in more than a century. The government had to borrow more than 100 billion dollars for the Vietnam war. This has resulted in an escalation of interest rates, with the result that every purchase became more costly. The cost of money affects every nook and cranny of our lives.

If the war continues, interest rates may go so high that the government may find it difficult to finance the war and even minimum domestic requirements. That will mean higher taxes and more will be taken out of our pay envelopes.

Between inflation and high interest rates, many businesses will have to close down or face bankruptcy.

We don't need dictionaries to tell us when a recession comes. It is here right now—it is here!

UNEMPLOYMENT AND INFLATION

What do you think will happen when businesses close down? More and more unemployment. Those still working will be working fewer hours. Take home pay will go down and down.

I ask you, who is the first to lose his job when unemployment rises? Is it the President of General Motors or Dupont? Of course not! It is the working man, and what is worse, it is likely to be the least skilled, the member of a minority group, the person who has the least savings to fall back on, and the one who has the most difficult time to find a new job.

Neither inflation nor recession affects all equally. It is those of modest means—workers, retired people—who are hardest hit by both. If this trend continues, social tensions are bound to be aggravated. Both inflation and recession are a direct result of the war, and we will not end them until we end the war.

Two years ago we faced the challenge of a Presidential election. The trade union movement met the challenge with all its energy and determination, and almost singlehandedly made it one of the closest elections of modern times. Nevertheless, despite our efforts, the election was lost.

The 1970 elections will be a battlefield for the control of Congress, particularly the United States Senate. In the elections of six to 12 years ago, a number of remarkable liberals came to the Senate from marginal states—men who might never have won except for the unusual liberal landslides of those years.

This year, no one has any expectation of a liberal landslide, and, as a matter of fact, a number of those Senators face very difficult re-election races. One of them, Senator Ralph Yarborough, of Texas, the chairman of the Senate Labor Committee and one of our liberal champions, has already lost to a conservative in the primary.

The labor movement must meet this challenge with all its resources. These Senators depend to a large extent on organized labor, because the support which used to come from their party has sharply declined. Only the trade union movement survives as a strong, nationwide institution to support liberal candidates.

I know I do not have to urge the officers and staff members of the Amalgamated to greater political efforts, for it was under Sidney Hillman's leadership that the labor movement first became active in political education and we have continued to devote ourselves wholeheartedly to this important task.

ACHIEVEMENTS AND CHALLENGES

So, delegates, I have talked this morning mostly about challenges, not achievements. The fact is, that we have much to be proud of. We have given working people a strong voice in their own destiny. In the course of our years, we in the Amalgamated have built institutions to provide many of the necessities of a decent life—health insurance, pensions, education, housing, medical care, and much more.

But this is no time to rest on our achievements. The challenges that confront our country and indeed the world, are overwhelming. If we do not meet them, our way of life, and civilization itself could be in mortal danger.

We, as Amalgamated officers and members, represent a cross-section of American working people, men and women from every area of the nation, from big cities and small towns and villages, from North and South, from the East Coast and the West Coast. Our membership works in factories and stores and service establishments. We represent every nationality and every race and religion.

Delegates, I am convinced that our members, like all working people, and like the majority of all Americans want peace. They want peace now, without delay. They want peace without further military adventures, without more killing.

So I call on you today, to bring up all your reserves of strength and dedication to our noblest ideals and goals.

PEACE, NOT WAR

We must strive to impress upon our government that the people of our country and of the world want and demand an immediate commitment to peace, not war.

We must bend every effort to influence our military leaders that death and destruction must come to an end, that the way of weapons is not our way.

I do not talk of peace next year. I talk of peace now. The hour is late and the country's danger is great.

This is the hour of decision.

Our nation needs peace now. The world needs peace now.

Let us all be united to help achieve that inspiring goal.

(*The audience stood and applauded.*)

OKLAHOMA IS PROUD OF NORTH AMERICAN ROCKWELL CORP.

Mr. BELLMON. Mr. President, the recent decision to award the developmental contract for the B–1 aircraft to North American Rockwell Corp., is of considerable significance to the State of Oklahoma because this company operates a major industrial complex in the State. Oklahoma citizens have been justly proud of this company and the contributions it has made to the defense and space industries, and as a Senator from Oklahoma I am proud of the work our citizens have done in these vital areas. I am confident the company will continue its same excellent record of performance.

Certain charges have been raised concerning the B–1 contract award. In order to set the record straight, I ask unanimous consent that a statement from the Department of Defense be printed in the RECORD.

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

STATEMENT OF DEPARTMENT OF DEFENSE

It has been reported that the bid of the winner in the B–1 competition was the highest bid and presented the least desirable design. This is not the case. North American Rockwell Corporation was the lowest bidder, received the highest weighted score, and was the unanimous choice at each reviewing level.

When the contractors submitted their proposals, some 600 selected specialists reviewed and evaluated them over a period of months. The proposal was divided into a large number of separate sub-areas, and basic evaluation scores were rendered by separate evaluation groups after they analyzed each of the subareas. These raw data were consolidated and presented to the Source Selection Advisory Council. After hearing the presentation of the evaluation group, the Source Selection Advisory Council went into executive session. In this executive session the Advisory Council applied weighting factors to the raw evaluation data. These weighting factors had been created before the contractors' proposals were received. They were not changed and were never made available to the members of the evaluation team which conducted the detailed analysis.

The results of the Source Selection Advisory Council were formalized in writing and presented to the Secretary of the Air Force, who had the authority to select the winning contractor. In addition, this analysis and findings were presented to the Commander, Strategic Air Command; Commander, Air Force Systems Command; Commander, Air Force Logistics Command; The Force Council; and the Chief of Staff. All these individuals, as well as the Air Force Secretary's principal civilian advisors, reached the same conclusion as Secretary Seamans with respect to the contractor's proposal to be selected.

The North American-Rockwell Corporation received the highest weighted score of the three proposals and their negotiated bid was the lowest—some $1.35 billion compared to $1.45 billion and $1.56 billion for the other competing contractors.

The contract is for development and testing of the new aircraft only. No decision has been made on whether production will be authorized.

FDA PILL NOTICE

Mr. DOLE. Mr. President, recent hearings on oral contraceptives before the Monopoly Subcommittee of the Select Committee on Small Business succeeded in confusing and terrifying the 8.5 million American women who are taking these drugs and most of the general population who followed the news accounts of the hearings. Through an initial series of biased and one-sided witnesses, those hearings painted in the mind of the American public a nearly indelible picture of dangerous side effects, unknown possible damage, and heightened mortality rates associated with birth control drugs.

By the accounts of nearly every witness who appeared before the committee some definite hazards and risks are associated with oral contraceptives. By and large, however, these risks are ones which can be identified and effectively dealt with in a program of proper medical consultation and supervision. In balancing the risks against the benefits of oral contraceptives, a general view seems to be that the pill is valuable and worthwhile—when taken with an understanding of its risks and effectiveness and with continuing medical attention.

The hearings did disclose that too

often women were taking these drugs without the understanding necessary for their full protection. In recognition of this situation, the Food and Drug Administration undertook to devise a means of alerting women to the risks without alarming them or interfering with their relationship between prescribing physicians and their patients.

Yesterday, before the House Committee on Government Operations, Dr. Charles Edwards, Commissioner of the Food and Drug Administration, made public the language of a notice which will be included in every package of oral contraceptives marketed in this country.

It would appear that the FDA notice is a reasonable statement, one which would alert women but at the same time avoid panicking them or imposing on their relationships with their doctors.

For the information of Senators, the text of the FDA notice is as follows:

Do not take this drug without your doctor's continued supervision.

The oral contraceptives are powerful and effective drugs which can cause side effects in some users and should not be used at all by some women. The most serious known side effect is abnormal blood clotting which can be fatal.

Safe use of this drug requires a careful discussion with your doctor. To assist him in providing you with the necessary information, (firm name) has prepared a booklet (or other form) written in a style understandable to you as the drug user. This provides information on the effectiveness and known hazards of the drug including warnings, side effects and who should not use it. Your doctor will give you this booklet (or other form) if you ask for it and he can answer any questions you may have about the use of this drug.

Notify your doctor if you notice any unusual physical disturbance or discomfort.

LEGAL ASSISTANCE TO THE POOR

Mr. JAVITS. Mr. President, the Young Lawyers Committee of the Association of the Bar of the City of New York has just published a survey of the many organizations which provide volunteer legal assistance to the poor in New York City. The breadth of services provided by these organizations is a demonstration, I think, of the real need we have in this country for legal services for everyone, and of the willingness of the legal profession to provide those services. This survey could be of great use as a demonstration of what can be done in a great city.

I ask unanimous consent that the survey, which is a committee report of the Association of the Bar of the City of New York, be printed in the RECORD.

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

COMMITTEE REPORT: NEW YORK VOLUNTEER ORGANIZATIONS RENDERING LEGAL ASSISTANCE TO THE POOR

(By the Young Lawyers Committee)

In response to numerous inquiries directed to the Association, the Young Lawyers Committee has prepared a revised list of groups who provide free representation and legal assistance to the underprivileged and poor in the New York City area and who make use of volunteer legal services from members of the Bar. The list contains a brief summary of each organization and the person to contact when volunteering. Because the size and activity of the organizations vary greatly, that person should be contacted for elaboration. The need for voluntary legal assistance is constantly growing and the number of groups with it; the Young Lawyers Committee realizes this list is not complete and hopes to issue periodic supplements. In addition, the Bar Associations throughout the City have referral lists for indigents. The Committee has attempted to provide a framework in which to place the various groups but overlap is inevitable.

SECTION I

This group comprises organizations providing legal counseling and representation in both civil and criminal cases in the areas of housing, immigration and naturalization, landlord-tenant, welfare, family, matrimonial, employment, selective service, consumer and criminal law. These organizations are those which presently offer the broadest base of participation to volunteers.

A. The Legal Aid Society

The Legal Aid Society is the oldest and largest legal service organization in New York City. It has a continuing need for volunteers and is well organized to receive them. The Society is currently enlisting volunteer attorneys through several means: (a) a new program designed to extend the civil work of the Society's neighborhood offices to evenings, (b) an on-going program in conjunction with the Society's criminal branch and appeals bureau (under way for more than 10 years), (c) an on-going program with the staff of the Society's civil branch augmenting services during normal business hours, and (d) a special project in East Harlem (The Community Law Offices program), which is listed separately below.

A lawyer joining the civil branch nighttime extension program will be expected to devote at least three days during normal office hours for preliminary introduction to the work of a Legal Aid office. Subsequent training will be carried on during the evening hours and on weekends. A volunteer on the civil side for work during normal business hours at a Legal Aid Society office will be asked to commit himself for three months or more, will then receive the same introductory training as a new Legal Aid staff lawyer and will be introduced to the work of interviewing clients, counseling and undertaking court work.

Similarly, a lawyer who will commit himself for one month or more to work in the arrangement parts of the criminal court will be given the same introductory training as a Legal Aid staff lawyer or an assistant District Attorney and will have an opportunity to take up the work of a Legal Aid staff attorney in those courts as rapidly as he can undertake it.

The Joint Appeals Program of the Society, The Association of the Bar, and the New York County Lawyers Association affords opportunity to work upon a criminal appeal, briefing and urging the case in association with the Legal Aid appellate staff. Volunteers are assigned to cases from a panel which is administered by the Committee on Legal Assistance of The Association of the Bar. The time commitment necessary will obviously depend on the particular appeal.

B. Community Law Offices

This organization has provided legal assistance to the East Harlem community through 40 participating law firms and corporate law departments. Until recently, most of the volunteers' cases consisted of individual representation in divorce actions, family court proceedings, landlord-tenant controversies, consumer frauds and the like. However, CLO is now providing counsel in an increasing number of matters which involve corporate organization and financing, housing rehabilitation, economic development, job training and education.

Volunteers may staff the CLO office approximately once a month and follow through, on firm time, on both individual and group matters assumed by them during such office hours; volunteers may "specialize" and under this arrangement, CLO will schedule only specified types of matters (e.g. housing, consumer, membership corporations, etc.) for the volunteers; volunteers may handle CLO office assignments and follow-through work in two or three-man teams rather than on an individual basis; may hold themselves available, either individually or in teams, to work only on specified types of major CLO matters, such as corporate finance, legislative drafting, housing rehabilitation, school decentralization and the like; and volunteers may participate in CLO's new criminal law program under which interested criminal matters under the CLO staff's supervision.

C. Community Action for Legal Services, Inc.

CALS is the administrative and coordinating agency for New York City Office of Economic Opportunity-funded legal service projects, under which are presently organized approximately twenty-six comprehensive Neighborhood Law Offices in and for specific poverty areas of various sizes throughout the City. Each Neighborhood Law Office has a basic staff of lawyers which handles a complete variety of cases, and volunteers would work closely with such lawyers. The CALS Neighborhood Law Office program is and will be a major factor in the City's legal service capabilities. CALS will accept volunteers who are available for regularly scheduled daytime hours during the work-week, and who are willing to accept responsibility for handling cases or volunteer attorneys who are prepared to make court appearances in domestic relations cases.

D. MFY Legal Services, Inc.

This organization has been in existence since 1964, is presently O.E.O. funded and provides a well organized and intensive legal service function. It has a staff of 30 lawyers working fulltime, has offices on the lower East side and West side of Manhattan and is one of the largest organizations providing legal services to the poor in New York City. Civil cases make up over 90% of MFY's case load (primarily housing, welfare, family and consumer problems); the balance are criminal misdemeanor cases. The organization provides legal representation in all capacities as advisor, litigator and negotiator and represents both plaintiffs and defendants in civil action. MFY will take only volunteers who are able to give a block of time of at least 4 weeks of regular office hours. Volunteers will receive on-the-job orientation.

E. Harlem Assertion of Rights, Inc.

This organization, O.E.O. funded, maintains three neighborhood legal services offices, each with full-time legal staff, engaging in a wide range of general civil practice and limited criminal practice generally to the point of arraignment. Volunteer lawyers are welcome in all phases of the services. There is a need for prior consultation with such lawyers or firms to designate specific times for serving, i.e., one evening per week, for a specific length of time, at either the main office or the branch offices at 2133 8th Avenue and 1646 Amsterdam Avenue.

F. National Office for the Rights of the Indigent

This organization is a wholly owned subsidiary of the NAACP Legal Defense and Education Fund, Inc. It takes civil and criminal cases by referral but is generally limited to test cases involving new legal theories. Volunteers to conduct litigation and research legal problems can be used. There is no requirement for block time.

SECTION II

The following organizations provide guidance concerning business, economic and other community development problems.

A. The New York Urban Coalition, Inc.

The Urban Coalition has several different requirements for voluntary legal assistance in connection with its program to establish and maintain sound economic institutions in the Black and Puerto Rican communities of the City. The first is the Economic Development Task Force, which is involved in rendering assistance to minority entrepreneurs and ghetto-based businesses. The work consists, among other things, in preparing loan documents for long-term investment money on high-risk terms, and providing business counseling. The intended aim of this program is to provide "one stop service" to expedite the handling of small business problems by city agencies, coordinated with the giving of legal and training management and accounting advice.

Legal assistance volunteers will deal with the immediate problems involved in the operation and establishment of sound businesses and provide new ideas about types of businesses to develop and ways of involving the private sector more closely. It is estimated that 50 to 100 hours a year per volunteer would meet the Coalition's needs.

The Lawyers Committee of the Coalition's Housing Task Force meets to consider housing-legislation and other problems. This group renders assistance to local community groups who seek to sponsor private housing. At present, minimal direct legal counseling is being done, but considerable research is being undertaken on legislative reform and the development of new programs. There is no time requirement.

Another use for lawyers within the Coalition's structure is as proposal writers and "shepherds." The Coalition receives proposals for funding for which the Coalition has no money but which could be funded out of existing governmental appropriations or foundation money. Individual lawyers are necessary to prepare the requisite proposals (and undertake background work such as incorporation and tax exemption) and see to shepherding the proposal through the appropriate agency or foundation. No particular background is required and the time needed cannot be set.

B. Community Development Agency of the Human Resources Administration of the City of New York

This organization is the receiving and disseminating agency in New York City for the O.E.O. funds, and the administrator of O.E.O. funded community groups working in the poverty area. There are over 200 such groups, located in 26 different geographical areas of the five boroughs, each under the overall management of a Community Corporation, some of whose legal needs may be serviced through Community Action for Legal Services neighborhood law offices or other legal service groups. A great need exists for volunteer lawyers. Volunteers would be expected to render advice on a wide variety of matters including forms, doing business, applicable governmental regulations, problems of incorporation as nonprofit membership corporations, maintenance of proper reports, fees and licenses, possibility of tax exempt status from the Internal Revenue Service, etc. Volunteers would also work on developing entrepreneurial interests within the community and in qualifying for federal or other grants, with problems such as interpreting contracts and grants containing complicated formulae for matching funds.

SECTION III

The following are organizations specializing primarily in public-assistance law.

A. Center on Social Welfare Policy and Law at Columbia University

This organization engages in research, drafting and providing counsel for litigation on social welfare legislation and law. It obtains judicial review of significant legal issues raised by social welfare programs, gives legal aid on matters involving social welfare law through local legal social programs, conducts training programs, and develops training materials in the social welfare area. The Center can use volunteers especially for work on briefs and legal memoranda in major test cases. There would be no requirement that a specific amount of time be made available.

B. The United Welfare League

This organization is heavily engaged in the representation of clients for (1) welfare hearings, and (2) landlord-tenant problems. Its use of volunteers would relate to both of the above. There is no requirement that a block of time be volunteered.

C. The Citywide Coordinating Committee of Welfare Groups

This is an organization of welfare recipients primarily engaged in educating themselves, unaffiliated recipients, and the general public on the functioning and changes in the welfare system, and in influencing this and other systems to meet more adequately the income needs of poor people.

Volunteer lawyers or law students would be welcome to handle "Fair Hearings"—an administrative review held at a client's request to redress a grievance against the Department of Welfare, and to provide legal assistance on clients' welfare problems. Volunteers are also needed to train welfare recipients to handle fair hearings; to conduct seminars to acquaint recipients with legal issues and changes in the social services law; and to participate in social and legal research projects.

SECTION IV

Organizations primarily providing representation in the courts or administrative agencies on matters involving issues of civil rights, civil liberties or racial discrimination.

A. The National Association for the Advancement of Colored People

The NAACP national-office legal department offers advisory and research services to its 19 New York City branches, and, in addition, conducts some litigation referred to it from those branches. The branches have no legal staffs, all work from them is done on a voluntary basis by direct referral, or in conjunction with the NAACP main-office legal staff. It is probable that the NAACP will continue to put its primary emphasis on cases involving race discrimination. However, those desiring to be of assistance should call Nathaniel R. Jones, General Counsel.

B. The New York Urban League

The League, while heavily involved in projects affecting the poor, has at this time a limited involvement in non-fee legal services. There are, however, two programs in which legal aid is furnished by the Urban League. (a) The League sponsors twelve street academies which give "hard-core" school dropouts preparatory work required to resume their education. Each academy has an enrollment of 15 to 40 students. A salaried attorney is employed to represent students who encounter difficulties with the police or other authorities, and he would welcome assistance. (b) "Operation Open City" offers its services to anyone subjected to discrimination in the sale or rental of housing; legal representation is provided when possible but it also provides advisory services. "Open City" uses volunteer attorneys to appear before appropriate City and State Commissions.

C. The National Lawyers Guild

This organization undertakes litigation and defense in cases referred from many groups or agencies on matters involving peace, poverty, civil rights, civil liberties or racial discrimination. It can use volunteers for research, appellate briefs, and undertaking cases. There is no requirement for making a block of time available.

D. The American Civil Liberties Union and the New York Civil Liberties Union

The ACLU is a national organization which through NYCLU, its New York State affiliate, handles trial and appellate work in the New York area, primarily concerning free speech and equal protection of the laws. The primary objectives of the organization are to guard against encroachments upon the Bill of Rights. It also attempts to prevent and counteract legislation which is basically anti-civil libertarian. At present considerable emphasis is being placed on cases arising under the Selective Service law and regulations. Projects on student rights and mental commitment are also litigating actively in those areas. Volunteer lawyers may participate in hearings and trials or do research work on appellate matters in these areas. There is not time requirement for either organization.

E. Law Center for Constitutional Rights

The Center is a clearing house for other organizations and individual attorneys in providing advice on the most current theories of causes of action and trial techniques in the areas of civil liberties and civil rights, and it creates and develops new approaches through litigation and research. Volunteer lawyers would perform research work and write appellate briefs. It is not presently contemplated that litigation assumed by the Center would be handled by volunteer lawyers. There is no requirement for making a block of time available.

F. The Scholarship Education and Defense Fund for Racial Equality, Inc. (SEDFRE)

This organization, financed through foundation and private gifts, has three objectives: scholarships, largely for young activists in the civil rights and poverty field, leadership training in connection with community, civil rights, poverty and other related activities, and the following legal activities. The legal services operations of the Fund are advisory and litigative, criminal and civil. Its work involves civil rights and racial discrimination cases and substantial work in the welfare, family relations, landlord-tenant, consumer fraud and equal employment fields. It is the General Counsel for the National Welfare Rights Organization (Washington, D.C.) and does a substantial amount of legal service for other organizations. The Fund can usefully employ and relies extensively on volunteer lawyers in both research and litigation capacities. It does not require a block of time to be offered.

G. NAACP Legal Defense and Educational Fund, Inc.

This organization is the parent corporation of the National Office for the Rights of the Indigent. It concentrates its efforts in the area of civil liberties, civil rights and poverty law, conducting research but primarily involved in test litigation. It offers an unusually close supervision of the volunteer's work efforts and a volunteer will have the opportunity to work on a case from its inception to its trial and appeal. The NAACP Legal Defense and Education Fund is a separate entity, in no way affiliated with the NAACP.

H. National Emergency Civil Liberties Committee

This organization, formed in 1951, is concerned primarily with the preservation of the bill of rights and the expansion of civil liberties. It handles cases involving the Selective Service Law, anti-war demonstrations, illegal searches, the federal anti-riot act, Attorney General's list of subversive organiza-

tions, etc. The organization relies heavily on volunteer attorneys who either handle cases directly or write and prepare briefs. There is no specific amount of time which a volunteer must contribute.

I. New York Lawyers' Committee For Civil Rights Under Law

This organization, co-chaired by Vincent L. Johnson and Russell D. Niles, is the operating arm in New York of the National Lawyers' Committee For Civil Rights Under Law. It has been active in providing workshops and training programs to assist lawyers and others in understanding the Community School District System Act. Other projects include urban areas programs, anti-poverty programs, challenges to various administrative decisions. Board of Elections cases, civil rights cases and class actions in unfair labor practices cases. There is a continual backlog of work and cases in all of these areas and volunteer attorneys are needed.

SECTION V

The following organizations are involved in general projects related to the poverty area or the administration of justice in the poverty area.

A. The Vera Institute of Justice

Vera operates entirely within New York City and its work is limited to criminal law reform. It provides no litigation services, but works closely with other agencies in the criminal justice system and is concerned with the quality of justice afforded the poor. Vera is currently engaged in a variety of activities, including consultant to the Mayor's Criminal Justice Coordinating Council, operating a project in the Manhattan Criminal Court designed to provide counseling, job training and employment for selected defendants as an alternative to criminal prosecution, an experiment in the Bronx Criminal Court with an advance adjournment program, and an experiment with the use of short form pre-sentence investigation in misdemeanor cases. Other programs under way include a study of the prosecution in juvenile delinquency cases, a comprehensive study of bail jumping, a study of the feasibility of a centralized prearraignment facility and an experiment of monitoring of police interrogation. Volunteer lawyers will be employed in the research and writing of studies and reports concerned with these matters. No block of time need be made available.

B. VISTA

VISTA (Volunteers in Service to America) recruits volunteer lawyers (among others) to work in economically depressed urban and rural areas. Law graduates, selected for the Legal Services programs on a national basis, live among the people whom they serve. The regular term of service is one year after six weeks of training in the area of urban and poverty law. VISTA attorneys serve as advisers and house counsel to local community organizations on matter of strategy, legal requirements and appropriate types of action. They are also engaged in the area of statutory reform, working with the Office of Economic Opportunity's Neighborhood Legal Services Agencies. VISTA attorneys are working on problems relative to consumer fraud; housing violations; co-operatives; credit unions; community planning; welfare rights; health issues; economic development; Federal and local funding; and preparation of individual and group cases for court actions.

C. The Council of New York Law Associates

The Council of New York Law Associates was formed this past November for the purpose of increasing the flow of information among young associates with the expectation of thereby increasing the degree of participation of such attorneys in the public service area. In its first few months some 600 lawyers have become members. This membership is spread among 75 firms and offices.

The Council expects to make a significant contribution to a great many sectors of the public service simultaneously without establishing any program of action or priority of interests. It will promote any and every potentially valuable project that may be of interest to any appreciable segment of its membership. The bulk of the Council's work, then, consists of maintaining relationships with a broad range of organizations already engaged in public service projects, assisting those organizations to make efficient use of the resources that the Council attracts. The supplying of legal assistance to the underprivileged is one of the areas of public service in which the Council engages. Legal assistance organizations with which and projects on which the Council and its members already are involved include: Trying civil liberties cases; working on Family Court matters; lecturing to high school and community groups on housing, consumer law, criminal law, etc.; helping the state defend against habeas corpus petitions; counseling small nonprofit organizations and community groups working with ghetto businesses on tax, corporate, labor and real estate matters.

Respectfully submitted.

GEORGE J. WADE, Jr.,
Chairman, Young Lawyers Committee.

THREAT TO BLAME PRESIDENT IF COMMUNISTS CONTROL SOUTH VIETNAM

Mr. BELLMON. Mr. President, a few days ago one of Washington's more critical newspaper columnists, Miss Mary McGrory, who writes as if she is convinced that the world will come to an end because Richard Nixon is President, wrote one of her typically hypercritical columns.

Toward the end she said of the President:

> He is incapable of believing that the Democrats would not, someday, accuse him of "losing Indochina," even though some of them are committing their futures to the proposition that it might be the best thing that ever happened to this fractured and anguished country.

Mr. President, the former Democratic National Chairman, my colleague from Oklahoma (Mr. HARRIS), said some things that might make it difficult for anyone including the President to believe that the Democrats do not mean to have their cake and eat it, too, so far as Indochina is concerned.

Ever since the President took office, the former democratic chairman Senator HARRIS, and his successor, Lawrence O'Brien, have demanded that the President surrender now and get all Americans out of Vietnam. They, more than any other two persons, have sought to turn Vietnam into a political issue.

Yet, in an off-guard moment, Senator HARRIS told some members of the press that the Democrats will blame President Nixon if the Communists take control of South Vietnam.

Columnists Roscoe and Geoffrey Drummond quote Senator HARRIS as saying:

> We will hold Nixon responsible if he turns South Vietnam over to the communists.

That is a very interesting threat, one that Miss McGrory apparently was not aware of.

The Drummonds go on to say:

> But simultaneously, Senator HARRIS and Democratic Senators like EDWARD KENNEDY, GEORGE MCGOVERN, EUGENE MCCARTHY, and J. W. FULBRIGHT are continuing to demand such a rapid pullout of U.S. troops that the end result would be to give the Communists control of South Vietnam.

So there you have it. Former chairman HARRIS and his successor demand that we pull out of South Vietnam, whether or not it means the Communists will take over.

But at the same time they are prepared to blame the President if the Communists do, and attempt to reap as much political gain as possible.

Miss McGrory is obviously capable of believing that Senator HARRIS did not mean what he said. So far as I know, he has not changed his mind. Incidentally, I should like to make reference to one other of Senator HARRIS' statements regarding the war in Vietnam. He is quoted in an Associated Press story of last October 8 as saying in January, 1969:

> Arguments of critics of President Johnson's policy in Vietnam have little validity. The biggest factor "—and I emphasize this point—" the biggest factor in prolonging the war is division at home. I'm sure the government will continue in Vietnam its present course and that we will not abandon the countries of Southeast Asia.

It is helpful to know, that at one time, Senator HARRIS' views, those who are fracturing our country are the biggest factor in prolonging the war. Those are my views, also.

Mr. President, in the interest of world peace now and in the future and to prevent needless killing in Indochina, those who are tempted to try to gain partisan or philosophical advantage by criticizing the President could do a great service to the country and probably to themselves by controlling this impulse. Partisanship may no longer stop at the water's edge, but certainly it has little merit in the rice paddies and jungles of Indochina.

I ask unanimous consent that Miss McGrory's column and two other articles on the same subject be printed in the RECORD.

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

DICK NIXON WEARS A HARD HAT

(My Mary McGrory)

The Senate was extremely polite, almost apologetic, as it wound the first delicate threads around the hands of a President bent on some unknowable venture in Indochina.

Sen. Frank Church, D-Idaho, one of its least partisan members and co-sponsor of the Cooper-Church amendment, explained that "no disrespect was intended" by this tentative, preliminary attempt at preventive detention of the war-making executive.

"We are strengthening the President's hand," said Church, "helping him overcome the evasions and foot-dragging by bureaucrats and foreign allies."

The language of the preamble of the amendment, which merely holds the President to his promise to bring all American troops "home" to Vietnam by July 1, was so softened that even Chairman John Stennis of the Armed Services Committee, a fierce and unwavering hawk, said it was "meaningless."

The Senate is extremely nervous on its first expedition into composite dissent, which

probably will come to a vote this week. Since 1967, individual members like Sens. J. W. Fulbright and Eugene McCarthy have formed and led resistance, but the Senate as a whole has been content to let the commander-in-chief, who is the proprietor of the flag, the definer of "patriotism" and the protector of "our boys," make all the decisions.

The Senate is not built for speed or definance. Nor had it seen itself in the role of savior of the country, which it has now assumed in the eyes of millions of troubled and despairing Americans.

Since Cambodia, it has been swamped by mail and besieged by lobbyists—not the old comfortable kind who bought them lunch, but lean and hungry hordes of students, housewives, doctors, lawyers and clergymen demanding justice and threatening retribution at the polls. The senators are told that if they could reject Carswell, they can reject the war.

The President is free of such pressures. He is surrounded by servants and courtiers in his splendid mansion. He is told by his staff that the men who oppose him never did or would vote for him, and merit his contempt.

While George W. Ball, former undersecretary of state, the celebrated, tame dove of the Johnson years, was telling the House Foreign Affairs Committee that "congressional consultations," not congressional curbs, were the answer, the President was receiving the construction workers, the most vocal and violent supporters of his Cambodian decision, in the Oval Room. The day before, he had seen the head of the far-right Young Americans for Freedom.

"I'm only a senator," moaned Warren G. Magnuson, D-Wash., when importuned by the Yale Law School student lobby to stand up to the President.

It is, to be sure, an unequal contest. The President has symbolic and actual superiority. He did not even tell the Senate he was sending troops into Cambodia. Eight thousand were over the border when the Senate, with the rest of the country, learned about this new expansion to shorten the war.

When the howls of outrage went up, the White House virtuously claimed "fear of security risks on Capitol Hill."

Sen. George D. Aiken of Vermont, dean of Republicans and ranking member of the Senate Foreign Relations Committee, sputtered, "I have never betrayed a president's confidence. He didn't tell us because he knew we would not approve."

The President reckons, apparently, that disunity and fear will strike the anti-war forces in the Senate, who, after they deal with Cooper-Church, must face the radical McGovern-Hatfield fund cut-off. His marksmen have no convenient personal target, the sponsorship is bipartisan. No stars have yet been born during the struggle and, to date, no deep divisions. His spokesmen are invoking the prisoner-of-war issue to delay the vote.

It seems unlikely the Senate will part him from his money. For many of them, it would smack of regicide, and the presidency has become, partly due to the Senate's compliance, something of a monarchy.

What is needed more is an effort to separate the President from his memories and suspicions. He came of age in the 1950s, came into prominence as a Red-hunter and cold warrior. He was a leader in the hue and cry against the Democrats that they "lost China," never mind that we never had it. *He is incapable of believing that the Democrats would not, some day, accuse him of "losing Indochina,"* even though some of them are committing their futures to the proposition that it might be the best thing that ever happened to this fractured and anguished country. The President has, in short, put on his hard-hat, and the Senate is going to have a nasty, awkward time getting him to take it off.

OU, OSU War Protest Meetings Book Harris

Oklahoma City.—U.S. Sen. Fred R. Harris will speak at the University of Oklahoma and Oklahoma State University next Wednesday for the war protest meetings, but Gov. Dewey Bartlett declined an invitation to appear.

Harris said he expects to discuss the Vietnam War situation in all his speeches, but added, "I regret that some people have tried to put a partisan label on the strong feelings I have concerning the war."

The Democratic national chairman said he "didn't change my mind on this war during this administration. I spoke out against it during the last administration."

During the final year of President Johnson's Administration, Sen. Harris spoke out in support of the President's policies in Vietnam, newspaper files show.

In a January 1968 interview with Lawton newspaper reporters, Sen. Harris said:

"Arguments of critics of President Johnson's policy in Vietnam have little validity.

"The biggest factor in prolonging the war is division at home. I'm sure the government will continue in Vietnam its present course, and that we will not abandon the countries of Southeast Asia."

He said he had visited Korea, Australia, Thailand, New Zealand, Malaysia and others.

"To a man, the leaders of those nations say, 'If you leave us here and pull out without a successful conclusion in Vietnam, you will have weakened our positions almost overwhelmingly.'"

Democratic Leaders Are Playing With Dynamite on Vietnam

The leaders of the Democratic Party are playing with political dynamite in trying to force President Nixon to withdraw U.S. troops from Vietnam so rapidly as to throw away all prospect of negotiating a peace.

The United States of America would be hurt—grievously hurt—by this shortsighted, reckless, perilous undermining of what the President is doing to end the war by seeking a fair peace.

No one is suggesting that those who want peace at any price, those who want to withdraw all American forces immediately, regardless of the consequences, should still their protests. All the President and others who are earnestly seeking disengagement and a decent peace are asking is that for a reasonable period Congressional critics should stop telling Hanoi that it doesn't need to negotiate, that all it has to do is to wait and they—the Congressional critics—will see that the U.S. government accepts a no-peace policy.

The Vietnamese war has never been a partisan issue, and attempting to bring it to an end with a fair peace is not a partisan issue. But leaders of the Democratic Party are now trying to make it so. Sen. Fred R. Harris of Oklahoma, chairman of the Democratic National Committee, disclosed this strategy in a candid remark to the press last week.

"We will," he said, "hold Nixon responsible if he turns South Vietnam over to the Communists."

But simultaneously, Senator Harris and Democratic Senators like Edward Kennedy, George McGovern, Eugene McCarthy, and J. W. Fulbright, are continuing to demand such a rapid pull-out of U.S. troops that the end result would be to give the Communists control of South Vietnam.

Thus, the national chairman of the Democratic Party is not only acting to make Vietnam a pay-dirt partisan issue but is also seeking to put President Nixon in such a box that no matter what he does he's bound to lose. . . .

In other words, Senator Harris' neat formula is to make Mr. Nixon punishable by the voters if he doesn't yield to pressures to get out quick and also if evil consequences come from yielding to such pressures.

Senators and congressmen know that the President has the constitutional duty to conduct foreign policy and that negotiating peace is the most difficult and delicate act of foreign policy. Heckling and harassing the President is delaying the peace—not hastening it.

Have the Democrats forgotten so soon that Richard Nixon is acting to end a war which he inherited from his Democratic predecessor and which they helped to authorize?

FOREIGN BANK SECRECY—COMMENTS ON S. 3678 AND H.R. 15073

Mr. PERCY. Mr. President, a problem which is of great concern to me and to all Americans is the apparent increase in tax and criminal activities which have been aided and concealed by the use of foreign bank accounts, especially in those countries that offer a maximum degree of bank secrecy.

The Committee on Banking and Currency is now holding hearings on two similar bills which attempt to curb this increase: S. 3678, introduced by the distinguished Senator from Wisconsin (Mr. Proxmire), and H.R. 15073, which was passed by the House on May 25, 1970.

There is widespread agreement on the need for legislation to curb the illegal use of foreign bank accounts. H.R. 15073 was passed unanimously. At the hearings held by the House Committee on Banking and Currency on this subject, all administrative agencies that testified supported the implementation of legislation to curb the illegal use of these accounts. The American banking community has also supported the need for corrective measures in this area.

While there has been uniform support for legislative action to control secret foreign bank accounts, there has been some disagreement over the specific means to be employed toward this end. The Treasury Department speaking on behalf of the administration strongly opposed several elements of H.R. 15073 and urged the enactment of several other provisions. Moreover, S. 3678 introduced by Senator Proxmire includes an additional provision not found in the bill passed by the House. This provision would prevent U.S. securities brokers from transacting business on behalf of a foreign entity unless that entity disclosed the person for whom it is acting or certified that it is not acting for a U.S. citizen or resident. It is a new and different concept which should be studied thoroughly. I believe that these differences will be thoroughly discussed and examined by the Senate Banking and Currency Committee, and that all Members of the Senate will give careful consideration to the proposed legislation before us.

I would also note that new legislation is just one element of the program necessary to effectively curb the illegal use of foreign secret bank accounts, and that I am pleased with efforts being made presently in connection with these other elements. In addition to any legislation to strengthen our own legal framework to combat this problem, the United States must seek increased assistance from foreign nations, especially those in which secret accounts are maintained for il-

legal purposes. I am pleased with the vigorous efforts being made by the administration to obtain increased assistance in tax and criminal matters from Switzerland, and the approaches being made for similar increased assistance from other nations.

I am also pleased with the increased efforts being made by the Internal Revenue Service and other law enforcement agencies to improve their existing enforcement methods and techniques to maximize their efficiency in combating this problem. I was especially encouraged by the recent announcement by the Treasury Department that U.S. taxpayers will be required to declare their interests in foreign bank accounts on this year's tax return. I believe this requirement will be extremely effective in reducing the number of foreign accounts used for illegal purposes. Finally, I am pleased with the assistance and positive attitude shown by the American banking community and other sectors of the economy that can greatly aid law enforcement officers in combating this problem of the illegal use of foreign secret bank accounts.

THE PEACEFUL REVOLT OF THE REAL VICTIMS

Mr. ALLOTT. Mr. President, of recent months I have not been one to indulge in blanket approval of the editorial policy of the great morning newspaper in the District of Columbia. I have more often than not found myself in opposition to what I feel are overly permissive and overly nihilistic positions.

This morning, however, as its lead editorial, the Washington Post has reaffirmed my faith in the basic principles of a free press and free journalism, and reasserted its proud credo of being "an independent newspaper."

The editorial points out that extremists from the left and the right are today doing incalculable harm to our Nation. In the concluding paragraph of a long and thoughtful dissertation, the editorial states what must surely be the basic feeling of the great majority of American people. It says:

> Surely those so-called "anarchists" of the left—the shouters-down and seizers and bombers—are in fact repressors. And surely "repression" in the form of extra-legal police violence or hardhat rampaging is of a piece with anarchy . . .

Is this not what the moderate position is all about? If we are to preserve our land—in the proudest all-encompassing meaning of the word—we must preserve respect for all the laws and all the rights of all the others. When our Nation was founded, procedures for legal and considered change were drawn from the inherited wisdom of ages past. The very ponderousness of some of the procedures was designed to prevent the species of instant change which, so frequently ill considered, so often results in disastrous, unlooked-for side effects.

We can see these side effects throughout history and throughout the world today. We call them dictatorships or police states or mob rule. Whatever the avenue they travel, they always result in the same thing: Repression of the people.

Mr. President, the editorial, entitled "The Importance of the Peaceable People," is by and large the balanced appraisal of our current social malaise which we have the right to expect from a newspaper of the stature of the Washington Post. I commend its study to all Senators and to all citizens of this country. I ask unanimous consent that it be printed in the RECORD.

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

THE IMPORTANCE OF THE "PEACEABLE PEOPLE"

"One might suppose that as extremists become increasingly inflammatory, moderates would close ranks and oppose them. But just the opposite is occurring. The moderates begin to take sides against one another. . . . Lest this give the impression that moderates are victimized, let it be said at once that most of them have a secret complicity in the activities of the extremist. The moderate conservative does not explicitly approve of police brutality, but something in him is not unpleased when the billy club comes down on the head of a long-haired student. The liberal does not endorse violence by the extreme left; but he may take extreme pleasure in such action when it discomfits those in authority."

The observation comes from the text of an undelivered speech by John Gardner, parts of which were printed on this page a while back. About the same time—on the heels of the Kent State killings—a long and exceedingly wise editorial in the Wall Street Journal made a number of similar points. It turned a shaft of light on the intellectual acrobatics of those who know better but who still manage to condone the brutalities of the violent left, and it was equally unsparing of those—who also know better—who cannot conceal a degree of brutish joy when the violent left meets violent counterattack. Since then we have had, in addition, Sen. Margaret Chase Smith's perceptive and moving appeal to the same persons, based on the same analysis of where the real danger lies in our present social chaos:

"It is time that the great center of our people, those who reject the violence and unreasonableness of both the extreme right and the extreme left, searched their consciences, mustered their moral and physical courage, shed their intimidated silence, and declared their consciences. It is time that with dignity, firmness and friendliness, they reason with, rather than capitulate to, the extremists on both sides—at all levels—and caution that their patience ends at the border of violence and anarchy that threatens our American democracy." Both Mrs. Smith and the Wall Street Journal warned—accurately, in our opinion—that anarchy on the left will beget repression from the right and that in any ultimate conflict between the two, repression is likely to prevail.

There are several things to be said about all this, and the first, in our view, is that these sensible, anguished voices are speaking truth—and they are speaking it in a disinterested, and therefore most compelling, way. Sen. Smith and Mr. Gardner are Republicans, and the Wall Street Journal is constitutionally conservative in outlook. Yet in none of their warnings concerning the radical students is there even the most faintly perceptible sound of a grinding ax. For these are not contestants in a national street-fight, contributors to our chaos who announce from on high that they see no reason to "lower their voices" or stop "shouting fire" until Jerry Rubin does. They do not view themselves that way. They are too repelled by the incivilities on all sides to undertake to manufacture more, and they have properly fixed their attention on the people in the stands—the nation's moderates, left and right, who are only tangentially involved in the fist-swinging and name-calling—as holding the key to how the thing comes out. "The notable fact about civil tumult today," John Gardner said, "is not that a few fanatics start it but that larger numbers of peaceable people tolerate it and lend themselves to it." The most "worrisome thing in the [New York hardhats] episode," the Journal observed, "was not violence by the workers but the cheering and confetti-throwing by the crowds of presumably respectable citizens."

We expect that if Mrs. Smith or Mr. Gardner or the editorialists at the Journal were asked whether they could not go back through the past few years and identify moments and moods in which they themselves had taken a mental short-cut or two in these matters, they would reply that they could. We know that we can. For it is characteristic of situations such as that to which this country has now come, that people and groups of people don't march into them in phalanx formation, eyes ahead, all self-aware: rather they slip into them, a bit at a time, sideways. And surely anyone who is honest knows why. There are, first, predispositions and perspectives that simply allow each of us to take some acts of violence seriously and not quite focus on others, perhaps for unwitting reasons of political or emotional convenience. Witness the outcries about the hardhats on the part of people who could view more (politically) congenial bashing with relative calm; and witness the outrage expressed over left-wing inspired bombings by people who didn't and don't give a damn that hundreds of Negro churches and homes have been bombed and/or burned in the South in recent years. There is, again, beyond the problem of perspective, the very real effect of the cross-tug. One talks with a student who is touching and makes sense, a shopkeeper whose view is no less affecting or persuasive, and it's all a bit like the war in Vietnam and people's reaction to it: only those who are not aware of their own limitations can find their way through all the complexities and uncertainties and mutually cancelling truths of our social turmoil without doubt or inconsistency. So one day you're enraged and the next day you're mild and the day after that there is something else on your mind. And meanwhile it all gets worse—imperceptibly at first and then perceptibly. Around that time, if a nation has any luck at all, people like those we have cited will blow the whistle.

What should be plain to all of us by now is that the tired old locations and debater's points don't constitute a worthy response—the so's-your-old-man line of reasoning that condones, or at least accepts, unspeakable acts on one side on the grounds that the other side has been even more unspeakable. There is another, less crude and infinitely more insidious response that Mrs. Smith's allusion to the Joseph McCarthy years got us to thinking about, and it too seems a good candidate for extinction—namely, the sentiment (never quite put in those historically fraught terms) that exculpates student and other violence on the grounds that one agrees with their objectives but does not approve of some of their tactics. For just as it was the last time around, tactics and objectives are inextricably bound together in this affair. Anyone who believes it is of no consequence that buildings are burned or bombed or that people are harmed or brute force exerted in the name of stopping the violence in Vietnam, plainly does not know what is wrong with the war there. And anyone hoeing a different political row, who believes it is acceptable for policemen or Guardsmen to gun down unarmed students or Black Panthers or rioters, does not know what is wrong about the

campus or black violence he purports to deplore and similarity disqualifies himself as credible critic.

What Sen. Smith and Mr. Gardner and the Journal (and, we should add, a number of other voices) have done is to give meaning and illustration to that mindstopper "polarization," which they have wisely identified with the ungenerous new emotions of both the moderate right and left—the vanishing middle. We would add one point to their arguments, and, roughly, it is that there is nothing to "polarize" about. For it is true, in practical political terms, that a distinction can be drawn between "left-wing anarchy" and "right-wing repression," that the latter will tend to prevail in any broad-scale conflict, and that neither can, by its nature, win anything much worth winning in the end. But in another and maybe more important sense, it is a distinction without a difference. Surely those so-called "anarchists" of the left—the shouters-down and seizers and bombers—are in fact repressors. And surely "repression" in the form of extra-legal police violence or hardhat rampaging is of a piece with anarchy so far as its effect on order, law, and authority is concerned—is anarchy, in fact. The first is no suitable refuge (even at second hand, from the stands) for people of the left who fancy themselves free spirits. The second is no suitable refuge for people of the right who believe themselves traditionalists, upholders of duly constituted order. The combatants will doubtless keep up the fighting. But isn't it time for everyone else to wonder what he is so loudly (or secretly) cheering for?

EMERGENCY HOME FINANCE ACT OF 1970

Mr. PERCY. Mr. President, recently the House Committee on Banking and Currency reported H.R. 17495, a bill that this is substantially the same as the Emergency Home Finance Act of 1970, passed unanimously by the Senate 7 weeks ago. The purpose of the bill is to increase the supply of credit available to people who want to buy homes.

I urge my colleagues in the House to act promptly on the bill, so that we can move quickly into conference and enact a measure that will make home financing in the United States both more reasonable and more available.

President Nixon, in supporting this legislation, has clearly indicated his desire to see new measures for home financing adopted promptly. He proposed this week a supplemental appropriation of $250 million to permit immediate implementation of the act. There is little argument from any quarter that we need to take action now to force interest rates down and raise the level of homebuilding activity.

The most important provisions of the proposed Emergency Home Finance Act are those that are designed to increase the flow of money into housing through new channels.

Title I of the act authorizes the appropriation of $250 million to the Federal Home Loan Bank Board. This subsidy would be used to reduce the rate of interest charged by home loan banks to savings and loan associations, and so reduce mortgage rates for homebuyers. The act specifically provides that the funds are to be used in a way that assures that low- and moderate-income families will share fully in the benefits of lower interest charges.

The boost to homebuilding activity from this assistance should be significant. In testimony before our subcommittee, the President of the Federal Home Loan Bank Board estimated that the addition of this $250 million to the housing finance stream could result in an increase of $4 billion in homebuilding activity this year, enough to finance about 160,000 homes. This would take us a giant stride toward our national housing goals this year.

Title II of the act broadens an existing channel for financing home mortgages by permitting the Federal National Mortgage Association to purchase "conventional" mortgages. Fannie Mae would, for the first time, be able to buy mortgages that are not backed by the FHA or VA, and so enable the holders of these mortgages to make more home loans. The broadening of FNMA's secondary mortgage market activities could, within a few years, significantly expand available financing for the $20 billion of conventional mortgages that are issued each year.

Title III opens up a new channel for financing home mortgages. It authorizes the creation of a Federal Home Loan Mortgage Corp. to buy and sell residential mortgages. Operating under direction of the Federal Home Loan Bank Board, this new corporation could buy mortgages from savings and loan associations, mutual savings banks, commercial banks and other qualified financial institutions, with funds raised in the private capital market. These institutions would then be able to use the proceeds of these sales to make additional loans to homebuilders and buyers.

Title IV of the act would strengthen the President's ability to assist housing construction and rehabilitation where and when it is needed. Under the Senate-passed bill, $750 million in special housing funds authorized last year would be reallocated from congressional to Presidential authority, enabling the President to use the funds for financing a broad range of sales and rental housing.

In the House bill, an additional authorization of $1.5 billion is proposed. I do not believe this additional authorization is needed to accomplish the objective we have in mind. The Senate bill contemplates reselling the mortgages purchased to the FNMA, and through this tandem plan, providing financing for as many as 75,000 housing units. On this basis I urge the House to accept the Senate measure.

Title V of the proposed Senate act would provide up to $60 million yearly to reduce mortgage interest rates for some 150,000 middle-income homebuyers. This new subsidy for housing has an automatic control valve that shuts off the flow of Federal assistance as the financial emergency eases. I urge Members of the House to give serious consideration to the Senate proposal which aims to increase the flow of mortgage credit to hard-pressed middle-income families that have been priced out of the housing market by high interest rates.

Title VI of the Senate act aims to induce additional investment into housing by establishing a dual system for setting interest rates on FHA and VA-assisted housing. Under the dual system the Secretary of HUD and the Administrator of the Veterans' Administration are authorized to insure housing loans, either at a maximum interest rate set by the Secretary of HUD or at a rate agreed to by both borrower and lender, if no discount is included.

In passing this trial measure, rather than simply extending the existing interest rate authority of the Secretary of HUD and the Veterans' Administrator, the Senate version would put the dual system to the test of producing more home financing. The House, I believe, should join us in testing the ability of a dual system to channel critically needed investment funds into housing activity.

Mr. President, three basic housing facts face the Nation at this time: First is the fact that housing demand and supply are out of balance. The demand for housing by Americans is higher today than at any time since World War II. The supply of vacant housing is at an all-time low. It is clear that housing needs, particularly of low- and moderate-income families, are not being met. Second is the fact that homebuilding activity is at low ebb today. We have watched housing construction and rehabilitation fluctuate downward in recent months. It is clear that we need to boost homebuilding activity if we are going to achieve our national housing goals. The third fact is the high cost of money. Current interest rates have squeezed the supply of mortgage credit, particularly for low- and middle-income housing, to the vanishing point.

These facts make eminently clear the need for prompt enactment of the Emergency Home Finance Act of 1970 now.

THIRTIETH ANNIVERSARY OF MARGARET CHASE SMITH

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a statement by the Senator from Nevada (Mr. CANNON) concerning the 30th anniversary of the membership in Congress of the Senator from Maine (Mrs. SMITH) be printed in the RECORD.

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

STATEMENT BY SENATOR CANNON

Mr. CANNON. Mr. President, it is with great pleasure that I pay tribute to our Senate Colleague, the Honorable Margaret Chase Smith of Maine, on this 30th anniversary of her membership in the Congress.

It has been my privilege to serve in the Senate with Mrs. Smith for almost 12 years. During that time, we have served together on two Senate committees—Armed Services and Space and Aeronautics.

In our years of service together I have grown to know and appreciate this fine lady. I have come to appreciate the rare qualities she possesses of quiet courage and strong conviction, her fair mindedness and independent judgment. As we worked together on the problems of national defense and space she has displayed the embodiment of the credo that a representative of the people owes to the people not only industry and diligence, but also judgment.

Mrs. Smith has won a secure place in the esteem and affection of all of us privileged to serve with her in the Congress of the United States. I extend to her the most

heartfelt congratulations and best wishes on this momentous day in her personal history, and in the history of her State of Maine and the Nation.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). Is there further morning business? If not, morning business is concluded.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

Mr. CHURCH. Mr. President, I move that the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). The bill will be stated by title.

The LEGISLATIVE CLERK. A bill—H.R. 15628—to amend the Foreign Military Sales Act.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho.

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

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

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CHURCH. Mr. President, because of the myriad charges and counter charges made in the course of the debate, it is possible that some confusion has arisen concerning the exact meaning of the Cooper-Church amendment, and the precise effect it would have if adopted. For that reason, it would be well to include a listing of what the amendment does not prevent, as well as what it does prevent. In this way, misunderstandings may be avoided at the time of the vote.

First, the Cooper-Church amendment does not prevent U.S. airpower from attacking the sanctuary areas.

Second, retaliation or protective reaction, as Secretary Laird would label it, in response to enemy attacks originating from across the border, is not prohibited.

Third, hot pursuit of enemy forces, which cross into Cambodia, is not barred.

Fourth, the President's general use of his discretionary constitutional power as Commander in Chief to take such action as he deems necessary to protect the lives of American forces is certainly not limited in any way.

However, the Cooper-Church amendment does deny congressional endorsement in advance to any future action that the President might take in Cambodia in the name of protecting our forces in Vietnam. He would have to act under within his constitutional power as Commander in Chief.

Second, the amendment prohibits the retaining of American troops in Cambodia after June 30, without congressional consent.

Third, the amendment would prevent our sending military advisers or instructors into Cambodia, or engaging in combat activity in the air above Cambodia for the purpose of supporting the Cambodian forces.

I hope these specific definitions of the effect of the amendment will be helpful.

RESTORING THE CONSTITUTIONAL BALANCE

Mr. President, constitutional considerations bear heavily on the current debate in the Senate over the Cooper-Church amendment. In this connection, therefore, I wish to call attention to an authoritative article in the June 1968 issue of the Harvard Law Review.

Published 2 years ago, the article quite objectively states the basic issue which the Senate is now deliberating: "How is the President's authority as Chief Executive and Commander in Chief to be reconciled with Congress power to declare war?"

Mr. President, the article is a scholarly one. It goes to the basic documents of our Nation for its authority and its judgments. It fairly balances the division of authority between the President and the Congress in respect to the warmaking power. In so doing, it clarifies the very real power which belongs to Congress under the Constitution in the area of warmaking. It weaves a thesis that draws its main strands from the enlightening discussion in the constitutional convention. It traces the trend of power toward the Presidency right down to the present day. The conclusion reached, with which I agree, is that—

> It is only during this century and particularly the last twenty years that the President has asserted powers over the military which, if taken at face value, all but reverse the original distribution between the Executive and the Congress of the power to embark on war.

Mr. President, a great volume of reading matter has passed across my desk during recent weeks—as has been the case with other Senators. But I am obliged to state that the Harvard Law Review article is the finest, most thorough and objective study I have seen. I strongly urge that each Senator, regardless of his or her view as to the merits of the Cooper-Church amendment, take time before the vote on Thursday, June 11, at 1 p.m. on the Byrd amendment to read this article.

I ask unanimous consent that the text of the Law Review article be printed in the RECORD at this point in my remarks.

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

[From Harvard Law Review, June, 1968]

NOTES: CONGRESS, THE PRESIDENT, AND THE POWER TO COMMIT FORCES TO COMBAT

Department of State, Memorandum [1]: "Over a very long period in our history, practice and precedent have confirmed the constitutional authority to engage United States forces in hostilities without a declaration of war."

Lawyers Committee on American Policy Toward Vietnam, Memorandum [2]: "It is . . . imperative that Congress guard zealously against any executive usurpation of its exclusive power to declare, or to decline to declare war."

The question of the legality of the Vietnam conflict has two distinct aspects: the justifiability of United States intervention under international law, and the constitutionality of such action under domestic law. The first has been the subject of considerable debate; [3] the second has received less attention. Where it has not been dismissed as academic [4] the issue has usually been approached polemically. One side vigorously asserts the constitutional authority of the President to act as Commander in Chief of the armed forces, while the other side with equal vigor brandishes that provision of the Constitution which gives Congress the power to declare war. The two sides assert claims which have support in constitutional history and are not incompatible but which bypass the real issue: how is the President's authority as Chief Executive and Commander in Chief to be reconciled with Congress' power to declare war? Thus phrased, the question calls for an analysis of the proper constitutional allocation between the President and Congress of the power to control the use of force in foreign affairs.[5]

I. SOURCES OF THE POWER: THE TEXTUAL AUTHORITY

A. The power of Congress to declare war

1. The Original Understanding.—Article I, section 8 confers on Congress a number of specific powers relating to the regulation and control of the armed forces; among these is the power "to declare War." [6] Construed literally, the clause would give Congress no more than the purely formal power to issue a document called "a declaration of war." The function of such a document, it might be argued, would be to distinguish "war" in the constitutional sense from all other hostilities. Its issuance would effectuate certain legal results with potentially profound consequences. Treaties would be canceled; trading, contracts, and debts with the enemy would be suspended; vast emergency powers would be authorized domestically; and legal relations between neutral states and the belligerents would be altered.[7] But though there may have been a time when these changes in legal status were uniquely the result of the issuance of a formal declaration, this is clearly no longer true today.[8] Countries have long engaged in undeclared hostilities which in terms of the effort involved, the impact on citizens, and the effect on domestic and international legal relations are often indistinguishable from a formally declared war.[9] Both in American courts [10] and in international contexts [11] rules of law which become effective on a finding that "war" exists do not depend critically on ascertaining that certain formal steps have been taken.[12] The only function which uniquely remains for the formal declaration of war is largely that of a solemn act of state which serves as a means of arousing popular support at home and abroad and which is usually reserved for extreme cases. In fact, the formal declaration of war in the modern context is often deliberately avoided precisely because of the apparent commitment to total victory and the general hardening of attitudes likely to result.[13] Hence, a literal interpretation of the clause would give Congress a minimal role under modern conditions: the President would be able to "make" what in virtually all respects amounts to "war"; he just could not "declare" it.

That the war-declaring clause is not confined to such a narrow interpretation is made clear from the history of the clause in the Constitutional Convention. An earlier draft by the Committee of Detail gave Congress power to "make" rather than "declare"

Footnotes at end of article.

war. In direct contrast to the power of the British sovereign to initiate war on his own prerogative, the clause was the result of a deliberate decision by the framers to vest the power to embark on war in the body most broadly representative of the people.[14] The clause remained in its original form in the committee drafts several weeks after other foreign relations powers had been transferred from the whole Congress to the Senate and then to the President.[15] When the proposal to substitute "declare" for "make" was introduced, the debates over the issue indicate that the new wording was not intended to shift from the legislature to the Executive this general power to engage the country in war. At most, the sole reason for the substitution was to confirm the Executive's power "to repel sudden attacks." [16] In all other cases the commitment of the country to a trial of force with another nation was to remain the prerogative of Congress.[17] Both the purpose and intent of article I, section 8 are thus more accurately conveyed by construing that clause to give Congress not simply the power formally to "declare," but also the power generally to "initiate" war.[18]

2. The Meaning of "War."—If article I, section 8 is interpreted to mean that there shall be no war—declared or otherwise—unless Congress takes the initiative, the problem of defining "war" and "initiation" of war must be faced. From the beginning it has been recognized that not every involvement of the armed forces can be a "war" requiring congressional action.[19] In the modern context where international conflict has so many forms, the problem is even more difficult. Despite occasional judicial attempts to discover a unique, general legal definition applicable in all contexts,[20] it seems clear that no verbal formula can identify one class of armed hostilities as properly subject to rules and considerations wholly different from those applicable to other classes.[21] At best "war" will assume different meanings depending on the context which prompts the investigation,[22] whether it be the interpretation of a contract, a life insurance policy, a statute, or a constitution.[23] Accordingly, the meaning of "war" in the context of the constitutional allocation of power to use force in foreign relations must be determined with reference to the purpose of the war-declaring clause: to safeguard the United States against unchecked executive decisions to commit the country to a trial of force.

There are two possible reasons for requiring such a safeguard from the body most directly representative of popular sentiment. The first is that such a decision involves a risk of great economic and physical sacrifice not to be incurred without such approval. The second is that even in cases where no significant physical effort is likely to be required—as, for example, in a conflict with a weak nation unsupported by allies—the very act of using force against a foreign sovereign entails moral and legal consequences sufficiently significant to require an expression of popular approval.[24] These two rationales provide at least a starting point for formulating a definition of "war" which will give operational content to article I, section 8. The first argues for a definition phrased in quantitative terms, which would require congressional action prior to engaging in "major" hostilities above a certain level of intensity. The second would result in a more comprehensive, qualitative definition which would forbid any use of force against a foreign sovereign without prior congressional approval. Much of the early struggle between the President and Congress in this area can be read as an attempt to translate these admittedly vague conceptions into workable guidelines for determining the proper procedures for employing the military in foreign contexts.

Footnotes at end of article.

B. The President as Commander in Chief and Chief Executive

Discussions of the President's power to control the armed forces invariably focus on the provision in article II that "[t]he President shall be Commander in Chief of the Army and Navy of the United States." As a source of power, however, this provision ought to play a rather meager role. From the first it has been interpreted as simply placing the President at the top of the pyramid of military command, making him in Hamilton's words, "first general and admiral of the confederacy." [25] Since the clause contains nothing to indicate the purposes for which the President may exercise the power thus granted to command the troops, these purposes must ultimately be found in other provisions of article II. Sections 1 and 3, which vest the "executive power" in the President and require him to "take Care that the Laws be faithfully executed," have long been construed to give the President the power to enforce the laws and "the peace of the United States" by any means he finds necessary.[26] While there has been some dispute over the extent to which inherent or implied powers of his office allow the President to use force without prior statutory authorization in other areas—notably to aid civil authorities or to protect states from domestic violence [27]—the authority of the President to use the armed forces, at least in the absence of restrictive legislation, in order to enforce within the United States substantial federal interests evidenced by the nation's laws is now generally accepted.[28]

If the President's power to employ troops extended only to situations involving the maintenance of internal law and order, there would be little room for conflict between presidential power to commit troops to combat and congressional power to initiate war. Except where he was repelling "sudden attacks" the proper exercise of the President's powers should not result in direct conflict with a foreign nation.

While there is some evidence that, absent an attack, the framers never intended troops to be used outside the country without congressional consent,[29] a rapid expansion of presidential power to use force abroad soon took place. The expansion began with the advance of the view that the duties of the Chief Executive included the power to protect American property and lives abroad—a view which received judicial support in the mid-nineteenth century in an opinion by Mr. Justice Nelson.[30] The authority for the exercise of such power seems to have been traced at times to the inherent powers of the Chief Executive [31] and at other times to the explicit duty to "take Care that the Laws be faithfully executed." [32] Although occasional efforts were made to limit this presidential power to the protection of "rights" of person and property as distinguished from the enforcement of broader national "interests," [33] the validity of such a distinction soon became questionable. Since international law as well as statutes and treaties had long been considered part of the "laws" to which the "faithfully executed" clause refers [34] any interests evidenced by those laws became a potential subject for presidential protection by force. Further, even where there was no formal legal basis for such action, the President often undertook to protect broad foreign policy interests of the United States under inherent powers of the Chief Executive over foreign affairs. By the end of the nineteenth century the capacity of the Executive to protect apparently without distinction the great variety of such interests, whether evidenced by statutes, treaties, international law, or broad foreign policy aims, was well documented.[35]

C. The area of conflict

If all of these interests are proper subjects for presidential protection, it is apparent that the exercise of presidential powers over the military may well lead to interference with the rights or interests of other nations and thus launch the United States into war without congressional assent. At this point the constitutional issue arises of the extent to which Congress' power to declare war limits this power of the President to employ the armed forces abroad. To some extent the problem is not peculiar to the question of the power to control the military. The conflict between the grants of power in articles I and II is but a specific example of the more general problem of determining where the Constitution lodges the power to determine United States foreign relations.[36] As early as 1793, the problem arose in connection with President Washington's issuance of a neutrality proclamation on the outbreak of war between France and Great Britain. In the ensuing debate carried on in the "Pacificus-Helvidius" exchange between Hamilton and Madison, the latter argued that since the power over foreign affairs could effectively become the power to commit the country to a course which would lead to war, that power belongs to Congress by virtue of the war-declaring clause. Hamilton, on the other hand, argued that the power to determine foreign policy is essentially an implied or inherent function of the "executive power" although the implementation of such policies may depend on the subsequent exercise of concurrent or independent congressional powers.[37] By and large it is Hamilton's view which has prevailed. The President is recognized as possessing a wide variety of powers, the exercise of which does not constitute an infringement on congressional power to initiate war despite the possibility that his acts may provoke another country to resort to war.[38] But though the initiative in shaping foreign policy rests with the President, the power to implement that policy through the actual employment of the military theoretically still remains with Congress, wherever such employment would amount to making "war." As indicated by the debates, only in certain defensive situations where the President is responding to an attack is his power to use force without restriction—even to the point of waging war if necessary—compatible with the intent of article I, section 8. Hence, the struggle in this area with respect to the specific question of the power to control the use of the military can be viewed as centering on two major issues. The first is the problem of determining those "defensive" cases in which the President may wage war without congressional authorization. The second is essentially the problem discussed above of defining "war" in the sense of article I, section 8 as a limit on the President's power to use force to protect or advance American interests in all other situations.

The resolution of these problems has largely been left to historical practice. The courts have from the beginning shown a reluctance to enter this classic separation-of-powers debate [39] and, on the particular issue of the proper allocation of the power to embark on war, have been virtually silent.[40] What answer there is to the constitutional issue must come from the interpretations provided through history by the two concerned parties themselves—the President and Congress.

II. PRESIDENTIAL POWER TO ENGAGE IN WAR: THE THEORY OF SELF-DEFENSE

Though the war-declaring clause was intended to give Congress the power to initiate war in most cases, the debates suggest that at least in the case of a "sudden attack" the President was to be able to respond without prior congressional sanction, even though such response would amount to "making war." The rationale for conceding the existence of this power in the President no doubt lies in the recognition that where the defense of the country itself is at stake, there is simply no room for procedural restrictions which might hamper the republic's ability to

survive intact. Thus viewed, the power need not rest on any specific provision of the Constitution; as a necessary concomitant of sovereignty itself, the inherent right of national self-defense gives the President full power to defend the country against sudden attack with whatever meas are at his disposal as Commander in Chief.[41]

Left unresolved, however, are such questions as what constitutes a "sudden attack," whether the attack must be directed against the United States, who is to determine when such an attack has occurred, and to what extent the President in repelling the attack must limit his actions solely to acts of defense.

A. The historical development

Precedents for the President's defensive powers were established under the country's first administration. In the course of American campaigns against the Indians in 1794 the Indians elected at one point to take a stand at a British fort located twenty miles within American territory. While technically an act of invasion, it was not clear that establishment of the fort by the British was in any way intended as an act of aggression against American territory. Though anxious to avoid a new conflict with the English which might arise if they supported the Indians against an American attack, President Washington nevertheless dispatched instructions to the American commander which left no doubt of his confidence that he possessed the power to begin such a conflict if necessary.[42] Fortunately, collision with the garrison proved unnecessary.[43]

The question of the scope of the President's power to respond to a foreign declaration of war arose early in Jefferson's first administration. When the Bey of Tripoli threatened to declare war on the United States Jefferson dispatched a squadron of frigates to the Mediterranean to protect American commerce there against attack in the event the threat were carried out. Before the squadron could arrive, war was declared "by the established custom of chopping down the flagpole of the consulate." [44] Doubtful of the extent of his power to act without congressional approval, Jefferson instructed his commander to release any prisoners taken and to release any vessels captured after having disarmed them. In the President's view his authority to act in defense of the country did not extend to taking further aggressive action, even against a declared adversary, in the absence of congressional authorization.[45] This conservative interpretation of the scope of the President's defensive powers was bitterly attacked by Hamilton. In his view once the country is attacked or war is declared by a foreign nation, the President has full power to respond with whatever force he deems fit. As long as the United States is not the initial aggressor, the President's actions will remain "defensive" requiring no further congressional action to enable him to continue to wage the war thrust on the country.[46]

Hamilton's view received support in the Mexican War a half century later. President Polk instructed General Taylor to occupy disputed territory and to treat any crossing of the Rio Grande [47] as an invasion authorizing him to attack first in defense and even enter Mexican territory in pursuit of the invaders.[48] The instructions were carried out, two skirmishes were fought, and hostilities finally erupted in April, 1846. Although he immediatel asked for congressional approval of his actions, the President sought to justify his recourse to arms without first securing such approval by the claim that he was defending the United States against attack. At the conclusion of a bitter debate over the factual basis for Polk's assertions that "war exists by act of Mexico," and that his response was a "defensive" one,[49] Congress finally accepted the President's claims and authorized further hostilities.[50]

The final stamp of approval on this expanding power of the President to make war without prior authorization under the theory of defense was given during the Civil War. In the *Prize Cases* [51] the Supreme Court upheld the validity of Lincoln's proclamation of a blockade of the Southern ports. The President was recognized as possessing unlimited power to wage war in defending against a war begun through invasion or rebellion; in addition, he was to be the sole judge of when such invasion or rebellion amounted to "war," thereby authorizing assumption of his full defensive powers.[52] Although four Justices, including Chief Justice Taney, vigorously opposed this result [53] the decision remains uncontroverted today.[54]

This expanding power of the President to engage in "defensive wars" is however, not without inherent limits. The basis of the theory in the *Prize Cases* is essentially Hamilton's: when another nation has "openly or avowedly" made war upon the United States [55] the President in responding is not himself "initiating" war but is merely accepting the challenge thrust on the country by the foreign attack.[56] Hence, in each case the determination must be made whether the hostile acts committed against the United States constitute "war," enabling assumption of his defensive war-making powers. In making this determination, definitional problems similar to those discussed above with respect to "initiating" war [57] must be faced. Hamilton's views notwithstanding, a declaration of war against the United States need not automatically place the country at war. Thus, when Bulgaria, Hungary, and Rumania declared war on the United States on December 13, 1941, President Roosevelt ignored the declarations. Only later, as as gesture of friendship to the Soviet Union, did he ask Congress to recognize that the United States was at war with those countries.[58] Such empty declarations still leave open the decision whether to turn the "paper war" into an actual war [59] and, hence, theoretically remain candidates for congressional, rather than presidential war making.

Similarly, not every use of force against the United States is an act which places the country at war, justifying presidential defensive war making. Almost any attack on or invasion of the United States proper would probably qualify as such an act, as would a similar act aimed at United States territorial possessions.[60] Polk's actions set a precedent for also viewing as "war" the invasion of disputed territory claimed under a treaty of annexation. Less likely candidates are cases of attacks on United States ships or personnel stationed abroad. The response to an attack on the *Pueblo*, for example, could hardly be characterized as "defending the country" in a war thrust on the United States by act of North Korea; rather, the response in such a situation is more accurately a case of protecting American rights and interests abroad.[61]

It is the lesson of the *Prize Cases* that in all of these situations this determination—whether an attack against the United States has occurred which "thrusts war" on the country for purposes of presidential, defensive war making—is exclusively the President's. The rationale of the decision, however, does not extend to anything short of such an attack.

B. The modern context: Collective self-defense

The historical development of the self-defense rationale would limit independent presidential power to engage in war to certain cases involving direct attacks against the United States. The recent State Department memorandum suggests, however, that a "direct attack" is no longer a realistic prerequisite for exercise of the President's power to act unilaterally in national self-defense: in view of the delicate balance of power among nations as well as the frightening technology of modern warfare, an attack on a foreign country may just as surely threaten our security as a direct attack on United States territory.[62]

The notion that the United States possesses extraterritorial security interests is hardly novel. As early as 1811, in a resolution declaring that the Government would not view with indifference the transfer of Florida to any other power, the idea of "defining a security zone" of the United States was introduced into American foreign policy.[63] By the end of the nineteenth century, with the development of the Monroe Doctrine, the entire Caribbean area had come to be regarded as just such a zone.[64]

It was left, however, to the twentieth century and the experience of two world wars to give full birth to the idea of linking American defense with extraterritorial security interests. National security became world security, and there emerged the thesis of collective self-defense: war was an evil which the peaceful nations of the world must guard against by developing common means of halting an outbreak of aggression. The United Nations Charter explicitly recognized "the inherent right of individual or collective self-defense," [65] and the United States proceeded accordingly in the years following World War II to conclude a number of regional and bilateral security agreements. By these the United States generally agreed to regard an attack on a member nation as threatening its own safety and to assist in defensive measures.[66]

There are a number of difficulties with the theory that, for purposes of presidential war-making power, an attack on another country—even if under circumstances specified by a mutual defense treaty—is equivalent to an attack on the United States. Presumably, any resort to war—even where authorized by Congress—is justified only because in some sense United States security is thought to be at stake. Hence, the fact that "security interests" are involved does not in itself alter the normal processes for deciding whether such interests are worth defending at the price of war. That decision, where a foreign state is attacked, will depend on a variety of factors—proximity to the United States; the value of the country as an ally; other United States interests involved, such as military bases and military sites; and the nature of the aggression and the aggressor.[67] In each case difficult political and military decisions must be made which may well lead reasonable men to different conclusions in determining whether the interest involved is necessary to the defense of the United States. Where, on the other hand, the attack is against the United States itself, there can be no question presumably that the "security interest" involved warrants defending at the cost of war if necessary; to require the President to await what amounts to an obvious, foregone conclusion on the part of Congress is at best a needless formality, and at worst may occasion dangerous delay.

Yet, even if it be granted that not every eruption of violence abroad poses a threat so inimical to our own security that the defense of the United States itself is immediately involved, still, there may be *some* cases where such a threat *is* posed. For example, an invasion of Canada by communist forces—even if clearly aimed solely at that country—may be thought to represent a threat to our continued existence which is indistinguishable from that posed by a similar invasion of Alaska. Again, though, Hamilton's arguments point to a fundamental, albeit somewhat conceptual, difference between the two cases which suggest that in the case of Canada, though not in the case of Alaska, the President must seek congressional authorization to defend against the attack where time permits. The debates suggest that one of the prerequisites for

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unilateral presidential response even in defense of the country is that the attack be so "sudden" that resort to Congress is militarily precluded.[68] Although this requirement was apparently dispensed with in the case of a direct attack,[69] the reasons which justify dropping the requirement do not extend to the case of an attack on a foreign state. In the event of an armed attack on United States territory itself, Congress' decision whether or not to go to war is not simply bypassed as obvious; it is recognized as being completely superfluous: the President is simply assuming his wartime role as Commander in Chief in a situation in which the decision to resort to war has been taken out of the country's hands by the unilateral action of another state.[70] In the case of an attack aimed solely at Canada, on the other hand, the decision whether the United States will become involved in the conflict is still open. As long as this is the case, steps taken to repel the attack would amount, from the United States point of view, to "commencing" rather than "repelling" war: the type of decision the convention debates indicate was to be made by Congress.

To say that the President must seek congressional approval before going to war where "security interests" are threatened does not mean that the President's ability to defend the country will be unreasonably restricted. Especially in the context of nuclear warfare, the understanding of what constitutes an attack has been vastly altered; retaliatory action need not lose its defensive character merely because no physical blow has actually reached the nation's shores. But the fear of nuclear war which haunted the fifties helped give rise to a sense of need for prompt executive action which is often exaggerated in the context of current crises and the re-emergence of more conventional warfare.[71] In these cases the constitutional interest in allowing Congress to decide what is worth the price of war should be accommodated as much as possible. While the President must still be left with the power to judge in the first instance whether a given event constitutes an imminent threat to our survival and demands a response which leaves no time to seek Congress' acquiescence in that judgment, such limited discretion falls far short of authorizing assumption of his defensive war-making powers whenever the interest jeopardized is labeled a "vital security interest." None of the recent examples of overseas conflict presents a convincing case for the President's use of force under the theory of self-defense. Neither the invasion of South Korea during President Truman's administration, the Arab threat to Lebanon during Eisenhower's, the sending of missiles to Cuba during Kennedy's, nor the disorder in the Dominican Republic during the current administration constituted a threat requiring an immediate response in order to defend the territorial sovereignty of the United States. With the possible exception, discussed in the following section, of the attacks on United States destroyers in the area this is also true of the current conflict in Vietnam.

C. Preparing for defense: Some unexamined assumptions about the power of the Commander in Chief

Although the commander-in-chief clause places the President at the head of the armed forces, it says nothing about the purposes for which or circumstances under which the military may be used.[72] Even the President's power to defend against attack stems primarily from the power inherent in the sovereign status of the United States under the Constitution to defend itself with its armed forces without first completing formal authorizing procedures; only in a derivative sense does this power devolve on the Commander in Chief as head of those forces. Accordingly, although a long line of precedent beginning with Lincoln's actions in the Civil War transformed the clause into "a vast reservoir of indeterminate powers in time of emergency," [73] such emergency powers were generally confined to the necessities of dealing with domestic problems in time of actual war.[74] However, a widespread practice has developed of citing the commander-in-chief clause as independent authority for doing apparently "anything, anywhere that can be done with an army or navy." [75] Such claims are clearly too broad. Yet even if the power to command and deploy the troops is restricted to actions which are necessary steps in preparing to defend the country,[76] considerable room is left for conflict with Congress' power to declare war. It will be possible to deploy troops in situations where, though combat is technically not involved, either the danger of provoking conflict is evident, or the deployment of troops itself is difficult to distinguish from a commitment of forces offensively against a foreign country.

Examples are provided by presidential actions prior to American entry into World War I and World War II. After the defeat through a Senate filibuster of a bill which would have given congressional approval to President Wilson's proposal for arming United States merchant ships in 1917, Wilson proceeded under "the plain implication of my constitutional duties and powers" [77] to order the arming of such vessels with instructions to fire on sight at submarines. The action was justified as a necessary measure of defense against the dangers to neutral United States shipping inherent in submarine warfare; yet, as Wilson himself later acknowledged, the action was "practically certain" to draw us into the war.[78] Nearly a quarter of a century later similar actions were taken by President Roosevelt. On September 3, 1940, in the famous "Fifty Destroyer Deal," the President announced to Congress that he had exchanged fifty overaged destroyers for British bases in the Western Atlantic, which were later occupied by American ships and troops.[79] In April, 1941, troops were sent to occupy Greenland, a Danish possession since 1814, under an arrangement with the Danish Minister in Washington—Denmark itself having been invaded by Germay on April 9, 1940. Two months later a similar occupation of Iceland, an independent nation, took place at that country's request, relieving the British troops which until then had occupied the strategic island. All of the troop movements involved were taken under Presidential authority as Commander in Chief for strategic reasons in insuring the defense of the Americas. All of the actions were easily subject to the interpretation that military force was being used to aid an enemy of Germany and might easily have led to immediate American involvement in the war.[80]

It might be argued that the fact that a foreign country may look on the deployment of military force in certain situations as a threat requiring retaliation does not mean the President has exceeded his authority. The fact that by shaping and directing American foreign policy he can provoke a country into an attack does not mean he has unconstitutionally "initiated" war.[81] At most, the argument continues, it is only the actual commitment of troops to combat, not their deployment in noncombat situations, which is subject to congressional control.

Where, however, military force is involved, there are strong arguments for recognizing limits on the employment of such force—by virtue of the war-declaring clause—regardless of whether such employment involves actual commitment to combat or mere deployment in friendly countries abroad in preparation for defense. The difficulty of distinguishing "mere troop deployment" from actual offensive employment against another nation is illustrated by the Greenland and Iceland examples. Secondly, even where forces are "peacefully" deployed abroad, a difficult problem arises if hostilities do in fact erupt, involving American troops in combat. An illustration is provided by one aspect of the current conflict in Vietnam. The incident which gave rise to the Gulf of Tonkin Resolution involved two alleged attacks by communist torpedo boats on a United States ship. It might be argued that this attack authorizes the war in which we are involved under the President's powers of self defense. If this argument were valid, the theoretical limits on the President's power to wage war would disappear in practice. Merely by sending troops to "hot spots" in the world, the President could insure that an attack on a foreign country would also be an attack on the United States troops stationed there. Although undoubtedly United States ships and troops abroad may defend themselves against attack without authorization, there must surely be a point when the attack has been repelled, and the enemy has indicated its hostilities are no longer directed at the United States, so that to continue the conflict or even to remain in the area would amount to aggressive war by the United States. Unlike an attack on United States territory proper, an attack on troops stationed abroad will generally still leave a decision to be made in determining whether the interest involved is worth the risk of war inherent in further military action. Since this is the type of decision which properly belongs to Congress, there are good reasons for requiring congressional approval before rather than after the conflict has started [82] and, hence, at least where the likelihood of conflict is apparent, for requiring approval of the dispatch of troops in the first place.

III. PRESIDENTIAL POWER TO PROTECT AMERICAN RIGHTS AND INTERESTS ABROAD: MILITARY MEASURES "SHORT OF WAR"

For the most part the United States has escaped the type of attack which would justify presidential use of defensive war-making powers. By far the most difficult struggle between the President and Congress over the power to control the use of the military has occurred in attempting to decide what limits are to be placed on the President's power to use force in all other situations—situations where, though the country itself has not been attacked, its interests and national aims abroad are threatened and require force for their protection or advancement. Although the President early assumed the power to enforce all sorts of national aims [83] Congress' power to declare war, if it is not to be purely formal, must include the power to decide when the country will go to war to protect such aims. Formally, then, the problem is one of definition: under what circumstances does the use of force abroad—for whatever purpose—involve a commitment of the country to a trial of force of the sort which prompted the requirement for prior congressional consent?

A. The historical development

The reasons for assigning to Congress the power to decide whether to initiate war—namely, to insure broadly based approval of a step likely to entail serious economic, physical, or moral consequences [84]—led to development of the notion that certain limited forms of military action, because they lacked such far-reaching consequences are not "wars" and do not require prior congressional approval. The form which this theory assumed in the nineteenth century resulted in what might be called a "qualitative" definition of war. The basic theory was that force could constitutionally be used without congressional approval when employed "neutrality" with respect to foreign political entities.[85] The theory was spelled out in 1912 in an attempt to justify President Taft's empployment of the armed

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forces in Nicaragua. In a carefully documented survey of nineteenth-century practice, the State Department drew a distinction between "intervention," which included interference with the political concerns of another state or political faction, and "interposition," which was confined solely to the protection of the persons or interests of the interposing country. Acts of the latter sort, it was argued, were justified under international law, and under the Constitution did not require ancillary legislation from Congress.[85] Most of the instances of presidential use of force during the nineteenth century can with varying degrees of success be reconciled with this theory.

The vast majority of the incidents involved landings to protect American property or lives abroad.[87] Generally undertaken during periods of disorder or civil unrest when local authorities could no longer provide protection against ordinary outlawry, these landings were, at least superficially, intended to maintain strict neutrality between contesting political factions.[88] The few landings to protect American treaty and other broad policy interests occurred primarily in the Canal Zone and, with the opening of Japan, occasionally also in the Far East. Again a similar pattern was supposedly followed: troops were stationed to protect the interests involved without direct interference in local political struggles.[89] A number of incidents involved the use of force to suppress piracy and the slave trade.[90] Such action was said to be aimed not at any sovereign nation, but at scattered gangs of "criminals" unanimously branded as such by both domestic and international law.[91] A similar theory was used to justify incidents involving punitive raids or reprisals against native islands and villages in so-called "uncivilized" areas of the world. These were generally undertaken in retaliation for crimes against citizens of the United States where normal diplomatic redress from the local natives was thought impossible. The practice was quick to fall into disuse as nearly all "primitive areas" came under the protection of one or another European power.[92] Finally, there were incidents where, in defending against attack or in suppressing outlaws, the President ordered "hot pursuit" of the attackers across the boundaries of another nation. Examples extend from President Monroe's orders to General Jackson in 1818 to pursue Indians in the South into Spanish territory of Florida to President Wilson's dispatch of troops in 1916 to pursue the Pancho Villa bandits across the Mexican border.[93]

The complications with Mexican authorities which resulted from the latter expedition[94] illustrate how easily this "neutrality" theory is abused. Indeed, landings to protect American interests abroad must almost invariably affect internal political struggles. The very presence of American force, which can potentially aid a favorable government if a rebellion threatens to succeed and which at the very least relieves local troops from guard duty, will tend to result in support for the status quo[95] and is easily viewed as an intervention in a civil struggle. A prime example is furnished by President McKinley's action in the Boxer Rebellion in 1900. Without express authorization from Congress a naval force had been sent to China and was subsequently employed, not merely for the purpose of rescuing and protecting American lives and property, but also to aid in avenging and punishing the rebels. Yet the President continued to maintain that our aims were directed solely at the legitimate purpose of rescuing imperiled citizens and that no "war" was involved.[96]

Finally, with President Roosevelt's intervention in Panama in 1903 the "neutrality" theory was apparently completely abandoned as a limit on the President's power to advance American interests through use of the armed forces. Invoking an 1846 treaty with Colombia which bound the United States to maintain the "perfect neutrality" of the Isthmus, Roosevelt ordered gunboats in the area to prevent Colombian troops from engaging the rebellious Panamanian "army."[97] The orders sent[98] and the actions taken strongly support the conclusion that military force was deliberately being used against the state of Colombia to establish a government more favorable to American canal interests.[99] The action set a precedent for later interventions and temporary occupations of countries in Central America and the Caribbean under Presidents Roosevelt, Taft and Wilson.[100] Although frequent attempts were made to justify the interventions on previous theories of neutrality[101] many of the actions taken were simply incapable of being accurately described as "neutral" with respect to the interests of foreign political entities.[102]

Yet despite the apparent abandonment of the "neutrality" theory as a limit on presidential power to use force abroad, the "Panama Policy" of Roosevelt, Taft and Wilson was not necessarily inconsistent with the primacy of congressional war-making power. The states of the Caribbean were in no position to respond to American intervention with sufficient force to occasion a major conflict. So predominant was American might in this area of the world that Government publications were able to claim that a threatened revolution could usually be quieted by the mere arrival of an American cruiser.[103] From a purely military point of view the operations involved, even in the extended occupations of Haiti and the Dominican Republic, were for the most part minor affairs.[104] Hence, it is possible to conclude that "war" in the sense of article 1, section 8, requiring congressional sanction, does not include interventions to maintain order in weak countries where a severe contest at arms with another nation is not likely to result.[105] Under such a "quantitative" definition of war, there was no infringement on Congress' power to initiate major conflicts.

B. The modern context: Diminishing limits on the President's power

1. The Changing Setting.—Though the history sketched above indicates a gradually shrinking interpretation of what is left to Congress by virtue of its power to declare "war," it is only during this century and particularly the last twenty years that the President has asserted powers over the military which, if taken at face value, all but reverse the original distribution between the Executive and Congress of the power to embark on war. The transformation has taken place against the background of a drastically changed factual setting which raises issues not easily answered by reference to history alone. The emergence of the United States at the turn of the century as a world power and the final, if somewhat reluctant, exchange after World War II of isolationist policies for "foreign entanglements" far beyond anything envisioned by the framers, make the question of the President's power to protect "broad American interests" far more relevant to the issue of Congress' power to initiate war than at any time in the nineteenth century. For the first time in its history America possesses a standing army, sufficiently large, sufficiently well-equipped, and sufficiently mobile to make possible, through presidential action alone and on very short notice, conflicts of unforeseeable dimensions anywhere in the world.[106] Distinctions between "the power to initiate war," "the power to direct American foreign policy," and "the power to use military force" begin to vanish as the military weapon is integrated into foreign policy as simply another tool of diplomacy. To ask when and by whom war was "initiated" in Vietnam is to illustrate the difficulty of attempting to determine which of the steps in a gradually increasing commitment should have been taken by the President and which by Congress.

The same changed circumstances, however, also lend increased significance to the constitutional concern, embodied in the war-declaring clause, that Congress express the country's willingness to undergo the internal repercussions which military conflicts are likely to entail. The difficulty lies in attempting to accommodate this constitutional concern with the need, in at least some situation, for speed, secrecy, and efficiency—the inherent advantages of the Executive.[107]

2. Recent Precedents.—The most striking illustrations of the shift in the power to commit forces to combat is the Korean episode. Faced with the invasion of South Korea, President Truman after brief consultation with advisers, committed the nation's troops to repel the invaders.[108] At no time was congressional authorization sought for the full-scale conflict which resulted. Although there is considerable evidence that without immediate action Korea would have been overrun,[109] there is also evidence that the sequence of events[110] left time to seek congressional approval and that failure to do so reflected a deliberate assertion of presidential prerogative.[111] Attempts were made to justify the decision on the grounds, *inter alia*, that the action was taken under the United Nations Charter, a part of both the treaty and international law which the President is constitutionally empowered to execute, and that the President was protecting "the broad interests of American foreign policy."[112] Significantly, though, constant attempts were made by the administration to describe the conflict, not as a "war," but as a mere "police action,"[113] suggesting that, indeed, the President's power to use force to protect such interests was somehow limited to military measures short of war. The action, however, was clearly not "neutral" with respect to foreign political entities; equally clearly, the conflict was not a "minor" one. The nature and size of this country's commitment, however measured—number of troops, number of casualties, extent of emergency legislation, dollar cost[114]—warrant the conclusion that however the line between "major" and "minor" is drawn this, at least, was the type of involvement which the war-declaring clause was meant to preserve for legislative approval.[115]

Largely as a consequence of the dissatisfaction which subsequently developed over "Truman's War," President Eisenhower, when confronted during his administration with the necessity for military intervention in Formosa (1955) and the Middle East (1957), hastened to seek congressional authorization for his action.[116] Yet when troops finally were sent to Lebanon in the midst of its crisis with the United Arab Republic, Eisenhower claimed to be acting, not under the authority of the resolution, but under his inherent constitutional power to protect American lives and property abroad and to protect a nation whose independence was vital to United States interests and world peace.[117]

A joint resolution from Congress was also involved in the Cuban Missile Crisis of 1962. Passed one month before the quarantine proclamation, the resolution, as well as a resolution of the Organization of American States, was recited in the proclamation as authority for the action taken.[118] Though the evidence is ambiguous, President Kennedy apparently also claimed the inherent power to take whatever military action was necessary for the protection of American security interests.[119] President Johnson's landing of marines in the Dominican Republic in 1965 without congressional authorization was rationalized initially as necessary to protect the safety of American citizens,[120] and subsequently as an exercise of the President's

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power to preserve the security of the hemisphere in accordance with principles announced in the OAS Treaty.[121] In the current conflict in Vietnam, although additional reliance is placed on the Gulf of Tonkin Resolution, the State Department also argues that even without the resolution current actions are fully within the constitutional authority of the President as Chief Executive and Commander in Chief.[122]

All of these assertions share a single feature: following the precedent set during Korea, the theories which history has established with respect to the purposes for which the President may employ force abroad are heavily stressed, while the historical limitations which developed concurrently with those theories—if they did not in fact precede them—apparently are ignored. This shift in the manner used to justify presidential action is emphasized in the findings of the Senate Foreign Relations Committee in its recent report on national commitments[123] and is well supported by a comparison of recent and traditional presidential rhetoric. Assertions recognizing a limit on the President's powers to use force abroad by virtue of Congress' war power are on record from Presidents Jefferson, Madison, Jackson, Buchanan, Lincoln, Grant, McKinley, Wilson and Franklin D. Roosevelt.[124] Although some of these statements may well be merely "gestures of obeisance to Congress' power to declare war,"[125] they nevertheless express recognition of a definite separation of powers in this area which, though incapable of precise definition and subject to easy abuse, at least requires some attempt to accommodate congressional interest in deciding what is worth the price of war with presidential determination to enforce and protect American interests. Any theory which purports to find a constitutional norm for such an allocation of power on the basis of an analysis of historical precedents will, by its very generality, be open to counter-examples. Yet the recognition that there are limits on executive military powers will at least direct efforts toward either constructing a more adequate theory or admitting that exceptional instances are departures from proper constitutional practice. To abandon recognition of such limits—even if only in the rhetoric[126]—and to rely on an asserted inherent power to use force, apparently without restriction, to protect American "interests" make such efforts pointless and should cause particular concern in an area where, as here, the only precedents on which future actions can be based are those set by the executive branch itself.

IV. The Proper Allocation of the Power: Restoring the Constitutional Balance

A. The relevance of the constitutional analysis

Theoretically the federal courts could assume the role of answering questions about the constitutionality of specific military actions. The obvious occasion would be a suit by a draftee resisting service or a particular assignment on the ground that the conflict was illegal.[127] But in recognition of the likelihood of direct conflict with the Executive and the appropriateness of such questions for political resolution, the courts so far have refused to consider these questions.[128]

In the absence of any final authority to whom appeal can be made or from whom enforcement can be sought, any attempt to brand particular conflicts as constitutional or unconstitutional is likely to be of little consequence. The constitutional analysis is better viewed as yielding a working directive to the executive and legislative branches that the commitment of the country to war be accomplished only through the closest collaboration possible, rather than an automatic formula for condemning or approving particular presidential action. The question should be: what concrete steps should the two branches take to assure that the policies behind the constitutional scheme are served?

B. Results of the constitutional analysis requiring congressional authorization for the use of force abroad

1. *When Should Authorization Be Sought?*

(*a*) *Presidential Discretion.*—One position which might be taken in attempting to comply with this constitutional directive is that the respective roles of the Executive and the Congress in controlling the use of the armed forces should continue unaltered, following the general trend suggested, if not made completely explicit, by recent practice. Under an extreme form of this theory the President could continue to send troops abroad and even commit them to combat according to his interpretation of the needs of the broad policy and security interests of the country. While the President would still seek congressional approval when he determined that such a course was feasible, under the official policy these resolutions would neither be necessary for the action nor would they limit his ability to commit troops beyond the terms of the resolution.

In view of the constitutional policy favoring congressional authorization of war, this position must rest on the argument that it is impossible in the contemporary context to require anything less than ultimate executive control. The contention would be that in order to make the Constitution workable, the war-declaring clause must be interpreted to place minimum limits on the President's power to respond with speed and flexibility to meet military crises.[129]

Even without traversing for the moment the basic premise of such a theory, the most that it could legitimately authorize would be presidential use of force in emergency situations where vital American interests would be jeopardized by the delay involved in any attempt to secure prior congressional action. But to equate all instances requiring the use of force with such emergencies seems clearly untenable. The position approaches acceptability only where there is no alternative which would allow greater participation by Congress while substantially preserving American interests.

(*b*) *"Major" Conflicts.*—An alternative is to require congressional authorization whenever the President's use of force, outside of the strict defense of the United States, is likely to result in a "major" conflict. Under this approach the purposes of the war-declaring clause would be satisfied by leaving for congressional action only the upper extremity of a whole scale of international conflicts of ascending intensity and scope.[130] Although there are obvious difficulties in attempting to draw a line on such a scale between "major" and "minor" conflicts, the theory assumes that at least there will be clear instances at both ends. The President would still be left with virtual discretionary power to decide when force must be used to protect American rights and interests, but he would be bound to seek congressional authorization where such action would be tantamount to initiating "war." Although the theory has considerable support in American history, in the present international context practical difficulties prevent the theoretical limitation from ever being employed as a guide for satisfying the constitutional norm for allocating control of the military.[131]

(*i*) *Problems of Prediction.*—One of the major problems inherent in any theory which depends on a determination of whether a sequence of events will result in a sizable conflict is the impossibility of predicting which particular events are most likely to result in war.[132] This is especially true in light of modern conceptions of the role of force in international politics. The use of the armed forces in a potentially explosive situation may, under the deterrence theory, actually lessen rather than increase the likelihood of war; but to pretend to be able to tell in advance whether war or peace will be the result of such action is to lay claim to a degree of prescience which few would find credible today.[133] These difficulties of prediction illustrate the crucial factual distinction between the context in which this quantitative limitation on the President's powers developed in the late nineteenth and early twentieth centuries and the context in which it is invoked today. At the time when the theory developed it was rare for such interventions to reach the stature of war.[134] The world had not yet achieved the uneasy stalemate of today in which every country is classified as friend, foe, or neutral and even the most minor skirmish which threatens to upset the balance raises the spectre of war of unknown dimensions. The unpredictability of the result of rushing troops to Lebanon,[135] the constantly revised predictions about the nature and extent of our involvement in Vietnam indicate that it can no longer be said with any degree of assurance that the commitment of troops to combat under *any* conditions is unlikely to result in major conflict.

(*ii*) *The Fait Accompli Problem.*—Lack of predictability would not be a serious problem if Congress could meaningfully decide whether to continue hostilities which have already commenced; but once our military forces are engaged, Congress often has little choice but to acquiesce. The de facto power of the President to present Congress with the *fait accompli* of a state of war has been demonstrated repeatedly in the past[136] and is reflected again today in aspects of the current Vietnam conflict.[137] This problem, too, has been aggravated by changed circumstances. With the assumption of worldwide commitments, the United States has come to occupy the center of a stage where indecision, a clash of wills between Congress and the President over the course to pursue in foreign affairs, or sudden "about-faces" in tactics is felt to discourage the confidence of our allies and encourage the actions of our enemies. The result is to make presidential action in the modern context largely irreversible.[138]

(*c*) *Returning to the "Neutrality" Theory.*—The conclusion suggested by the above considerations is not that there can be no limits on the President's power to employ the armed forces,[139] but that a quantitative limitation can no longer serve as a satisfactory guideline for the proper allocation between the President and Congress of the power to commit troops to combat. If Congress' war power is not to become purely symbolic, there must be as much room as possible for congressional expression of its will prior to the use of force abroad for whatever purpose, at least where such use is not "neutral" with respect to foreign political entities. Yet there are very few occasions today in which a truly "neutral" use of force is possible. Only the protection of American lives and property during civil disorder appears to remain as a possible candidate for such neutrality and even here the employment of the armed forces will generally be highly suspect. Intervention at the request of a local government to suppress a revolutionary guerilla band usually is tantamount to taking sides in a political contest which, as Vietnam illustrates, may grow to unforeseeable dimensions when the rebels have external support or sympathizers. Consequently, every decision to commit troops to combat becomes a potential subject for congressional deliberation.[140] At the same time, however, it must be recognized that there will be cases where in the Executive's judgment there simply is no time to secure congressional authorization before act-

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ing. In such cases, where he believes that Congress would agree with his judgment that the interest at stake is worth defending at the risk of war,[141] the President should be able to take action while *simultaneously* seeking congressional authorization. These cases should be few. None of the recent military actions appears to have involved such genuine urgency as to preclude congressional participation in the decision to employ the military.[142] Even fewer should be the cases where the demands of secrecy preclude resort to Congress.[143] There will also be difficulties in determining the extent of the control over the armed forces which is to remain with the President as Commander in Chief.[144] To require congressional approval for every decision to deploy American troops is hardly either desirable or constitutionality required. Yet there will be some situations, such as the rushing of troops to Lebanon at that government's request which, although not involving immediate commitment to combat, so clearly entail the possibility of conflict that prior approval should be sought. Other cases, such as the Greenland and Iceland examples where the movement of troops is hard to distinguish from a hostile employment of force against another nation, are also candidates for prior congressional authorization. But although the difficulty of drawing a line cannot be avoided and must ultimately be left to the discretion of the President, at least the general presumption in accordance with which that discretion is exercised would be reversed: instead of assuming that the President may deploy American forces as he sees fit and only in the exceptional case need he seek congressional approval, the presumption should be that congressional collaboration is the general rule wherever the use of the military is involved, with presidential initiative being reserved for the exceptional case.

2. *What Constitutes Authorization?*—The problem of what constitutes adequate congressional authorization where it is needed is intimately connected with the problem of whether Congress is capable at all of meaningfully participating in decisions involving the use of the armed forces. An excessively wooden concept of what constitutes congressional exercise of its power to declare war would have the effect, not of preserving congressional authority, but of transferring more and more decisions to the more flexible executive branch. At the other extreme, when the President can count on securing a blank check from Congress whenever he envisions the need to employ force abroad, congressional participation, whatever form it takes, is largely meaningless. Between these extremes, a balance must be sought which secures genuine participation by Congress in controlling the use of the armed forces, while still permitting sufficient executive flexibility to meet constantly changing developments.

(*a*) *Treaties as Authorization.*—A claim often heard today is that mutual defense treaties which commit the United States to come to the aid of an attacked ally serve as authorizations to the President to use force if he deems it necessary in particular contexts for United States "aid" to take that form. The argument raises the question whether the congressional power to initate war may be exercised by the Senate alone through the treaty power, rather than by both houses of Congress acting together. Further, even if the treaty power is a legitimate mode of authorizing use of the military instrument, the problem remains whether existing treaties can properly be interpreted to constitute such authorization.

(*i*) *Constitutional Limitations.*—The treatymaking power has been held not to extend "so far as to authorize what the Constitution forbids"[145]—a limitation which has been construed to prevent the Senate and President from exercising by treaty a power exclusively vested elsewhere by the Constitution. Two such powers, cited in the past, are contained in article I, section 9 ("no money shall be drawn from the Treasury but in Consequence of Appropriations made by Law") and article I, section 7 ("all Bills for raising Revenue shall originate in the House of Representatives"). Although it has been argued that "appropriation by law" includes appropriation by treaty as part of the law of the land,[146] the provision has generally been construed otherwise: in order to implement treaties which require appropriations, a statute and, hence, independent legislative action by both houses is needed.[147] The debate whether article I, section 7 similarly forbids revenue-affecting provisions in treaties[148] has become largely academic through the use of congressional-executive agreements and statutes.[149]

The question remains whether the war-declaring power, like the power to control appropriations and, arguably, revenue laws, also requires participation by the House of Representatives. The language of the Constitution itself offers nothing to distinguish this provision from any of the other enumerated powers in article I, section 8, most of which have been the subject of treaties.[150] Indeed the same clause which gives Congress the power to declare war also confers the power "to Make rules concerning Captures" which has long been shared with the treaty power.[151] Yet despite these considerations, there remains serious doubt that action by the Senate alone meets the general intention of the framers respecting congressional involvement in war decisions. The possibility of giving the Senate alone the power to declare war was specifically considered and rejected. According to Madison's notes, Mr. Butler pointed out that objections based on the slow proceedings of the House were equally true of the Senate. Mr. Mason opposed giving the power of war to the Senate "because [it was] not so constructed as to be entitled to it." Both he and Mr. Ellsworth felt that it should be easier to get out of war than into it and hence, that while it would be sufficient to give the Senate alone power to ratify peace treaties, the entire "legislature" had the power of war.[152] These notes seem to indicate a deliberate intent to include the House of Representatives, with its popular representation, in the war-making decision.

(*ii*) *Treaty Interpretation.*—Regardless of the outcome of the constitutional issue, there is considerable support for the conclusion that none of the existing collective security and treaty agreements to which the United States is a party is by its terms designed to alter the distribution of the war-making power. A typical example of the guaranty provisions contained in such agreements is article five of the North Atlantic Treaty:[153]

"The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them . . . will assist the Party or Parties so attacked by taking . . . *such action as it deems necessary*, including the use attack with whatever means are at his disposal.

When the treaty was submitted for ratification the contention that the United States was automatically committed to go to war in the event that one of the other members was attacked was specifically rejected in the Senate Committee Report and by the Secretary of State. The signatories, it was explained, were to be left free to decide for themselves in each instance what action was necessary.[154]

Partly to avoid the debates provoked by the NATO treaty over this issue, subsequent treaties have adopted language from the United Nations Charter[155] which even more clearly illustrates the neutrality of their obligations with respect to the internal distribution of the warmaking power. Thus, article IV of the SEATO treaty provides that in the event of armed attack on any member each signatory will "act to meet the common danger in accordance with its constitutional processes"; article IX requires that "the Treaty shall be ratified and its provisions carried out by the Parties in accordance with their respective constitutional processes."[156] Similar language in each of the forty-two mutual defense pacts to which the United States is a party[157] has led to general agreement that current postwar security treaties have not changed the relative powers of Congress and the President with respect to the use of the armed forces.[158]

(*b*) *Implied Authorization: Appropriations and Congressional Inaction.*—In addition to legislative instruments specifically authorizing use of the military it has been urged that where Congress under its power to raise and support armies[159] makes appropriations to support military operations abroad, such action constitutes at least implied approval of the President's war making and serves as authorization to continue the campaign. The difficulty with the argument is that since such appropriations must generally come after the hostilities have already begun, the effective choice remaining to Congress is likely to be severely limited. The "approval" which is expressed by the fact of such appropriations (in order not to "desert our fighting boys") is not unlike the "approval of President Theodore Roosevelt's action expressed by Congress' appropriating the money to bring back the fleet he sent halfway around the world.[160] The more blatant the *fait accompli* which forces Congress' hand, the less should exercise of its power of appropriation be taken as "consent" to the action. Even where there is no *fait accompli*, if the power over appropriations had been thought a sufficient safeguard against presidential war making, it becomes difficult to understand why the framers were so concerned about withholding the war power from the Executive in the first place. Although it may be admitted that an appropriations bill could be introduced under circumstances which leave room for no interpretation other than "a vote for the bill is a vote for the war," it is hard to see why, even in such cases, resort to implied rather than express authorization is necessary. If the issue at stake in voting for the appropriation really is so clear, a separate resolution to that effect, expressly authorizing the use of the appropriation for a specific military endeavor abroad will avoid later problems of "proving" congressional intent not evident on the face of the bill.

A variation of this argument is that failure of Congress to reduce appropriations or limit the size of the armed forces to a level which would make impossible continued prosecution of a war indicates consent to continuing the action. In addition to the objections raised above, arguments which rely on congressional inaction to show congressional approval completely shift the responsibility for initiating the war from Congress to the Executive. Further, the burden of securing a majority is shifted from those favoring to those disapproving authorization—a not insignificant factor in the political arena.

(*c*) *Resolutions as Authorization.*—The claim has been made that where authorization is needed nothing short of a formal declaration of war will satisfy the Constitution's demand for congressional control of the war power.[161] It is difficult, though, to find any rationale for such a claim. In addition to the obsolescence and general undesirability of a formal declaration today,[162] the claim finds support neither in the language of the Constitution, the intent of the framers, the available historical and judicial precedents nor the purposes behind the

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clause. The framers' desire to vest the war power in Congress is in no way defeated by allowing Congress through joint or concurrent resolutions or acts of congress to deliberate and decide whether or not to authorize specific military undertakings. As early as President Adams' administration similar procedures short of a formal declaration were followed to authorize the "undeclared war" with France [163] and were apparently accepted as entirely appropriate by courts considering claims which arose out of the conflict.[164] Since that time the use of the resolution, especially in recent years, has become the predominant means by which congressional participation in the decision to commit troops to combat has been sought.

But though potentially the resolution could serve as a vehicle for congressional participation in the decision to commit troops to combat, it is easily turned into nothing more than a device for rubberstamping executive decisions. A resolution authorizing the President to use armed forces without restriction for whatever purposes he saw fit would seem an improper delegation of Congress' power because of its lack of sufficiently articulated standards. Two Supreme Court opinions, however, indicate that at least with respect to matters connected with foreign relations a wide latitude will be given to executive and congressional judgment of what constitutes sufficient standards, and hence, a proper delegation of authority by Congress to the President.[165] Yet considerations similar to those involved in the delegation doctrine are involved in determining the propriety of the resolution as a means of congressional authorization. The dangers are illustrated by recent practice. The resolutions on Formosa, the Middle East, Cuba and Vietnam are all ambiguous at best with respect to the function they are supposed to serve. At times specific words of authorization are employed; at other times only general words of encouragement and approval.[166] Usually presented in the context of an immediate crisis they are unable to suggest a specific plan of action, but are confined to offering vague measures of support for the President in carrying out a still undefined policy. Conscientious congressmen express concern that a blank check is being given to the President, and subsequent State Department interpretations of the scope of the authority granted do little to allay such fears.

Not all of these difficulties can be avoided; many of them are the inevitable result of the inability to foresee crises and predict their outcome. Others can be remedied in part by recognizing the significance of the resolution: that it *does* confer authority, potentially, to embark on war and that, therefore, the scope of authority should be clearly and unambiguously expressed. Where problems of predictability seem insurmountable, limited authority should be granted by providing for expiration and renewal after a specified time and by confining the authorization to specific areas and specific purposes.

Much of the burden of making such resolutions meaningful devices for securing congressional consent must fall on Congress itself. The temptation to shift to other shoulders the responsibility for a decision as distasteful as that of entering into war or authorizing the use of force has no doubt been partly responsible for congressional lack of concern in the past over presidential intrusion into this area. In situations where real emergencies are involved and unilateral executive action may be required, the burden falls on Congress either to voice its disapproval or give its consent without needless delay. To claim well after the fact of intervention that the country is now so involved that Congress has no real choice will invoke little sympathy if Congress' own delay in expressing its opinion has helped accomplish the fact. Finally, prophylactic measures such as a current review of the extent and nature of United States commitments may prove desirable.[167] With the lessons of the Vietnam War as a guide both to the sacrifices those commitments may entail and the difficulties in interpreting authorizing resolutions, a careful review of the language of those commitments may avoid later difficulties.

V. CONCLUSION: VIETNAM

Under the analysis in this note the validity of the President's actions in Vietnam depends on whether or not specific congressional approval has been secured for the war which has developed. The action is not a response to an attack on or a declaration of war against the United States. In terms of troop commitment and casualties—which now exceed those of the Korean War [168]—the conflict, excluding the Civil War, has become the third largest in American history: it is "war" within the meaning of article I, section 8. Current treaty agreements, in particular the SEATO Treaty, do not purport to serve as authorization for such a war. Such authorization, if it has been secured, must be found in the Gulf of Tonkin Resolution, which provides a clear example of both the difficulties and potentialities inherent in the resolution as a device for securing congressional consent.

The first clause of that resolution states that "the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression." [169] The clause alone hardly represents more than a congressional rallying around the flag in response to the attack on a United States ship, and merely approves what could obviously be done without such approval: the repelling of an attack on American armed forces. Were this the entirety of the resolution, present operations would be justified only under the implausible construction that they were a continuing and necessary defensive response to the Gulf of Tonkin incident.[170] The second section, however, proclaims that "the United States is . . . prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." [171] This rather comprehensive language certainly supports the interpretation given it by the administration: that it is a functional equivalent of a declaration of war [172] and as such the President may conduct the war as he sees it. He has the power to bomb North Vietnam [173] and presumably even China if that is deemed necessary to defend South Vietnam's freedom.

Despite apparent statements to the contrary when the bill was being debated,[174] Senator Fulbright claims, however, that there was no understanding that the resolution extended to the authorization of war.[175] In his defense it must be admitted that the circumstances surrounding the passage of the resolution hardly lent themselves to minimizing misunderstanding. The resolution was presented in an atmosphere of great urgency immediately after the attack. This factor, coupled with the allusions to that attack and the request for approval of a response to it, creates a strong suspicion that the implications of the second section were overlooked. Although such a result is surely as much the fault of Congress as of the administration, under the circumstances, compliance with the principle that Congress be given the closest possible participation in such decisions would have demanded at the least that prior to the decision the following year vastly to increase the commitment of troops to the area, congressional reassertion of its approval be sought. Arguments have been for the view that this is what was done in the May, 1965 appropriations request: the administration expressly stated that the request was not for a routine appropriation, but was being made as a means of presenting the Vietnam issue.[176] At the same time, however, the President made clear that the additional funds were needed to "protect our men and supplies" [177] and to provide them with modern equipment, thus illustrating the difficulty in attempting to construe such appropriations as equivalent to explicit authorization for the war. At best, the Gulf of Tonkin Resolution, even coupled with subsequent appropriations, leaves unclear the extent to which congressional authorization of the war has been expressed.

With respect to the future, the problem can be avoided by placing a strict time limit on the resolution, giving Congress adequate time to deliberate and review the resolution and encouraging the Executive to seek further specific support later. With respect to the present, although the *fait accompli* problem can no longer be avoided, the ambiguity is best resolved, not by relying on Congress' failure to repeal the resolution as provided for in the third clause,[178] but by resubmitting for congressional approval a resolution specifically phrased to give consent to the war.

FOOTNOTES

[1] U.S. Dep't of State, *The Legality of United States Participation in the Defense of Viet-Nam*, 54 DEP'T STATE BULL. 474, 488 (1966), reprinted in *Symposium—Legality of United States Participation in the Viet Nam Conflict*, 75 YALE L.J. 1084, 1085 (1966), [hereinafter cited as *Memorandum*].

[2] Lawyers Comm. on American Policy Toward Vietnam, *American Policy Vis-à-Vis Vietnam, Memorandum of Law*, in 112 CONG. REC. 2666, 2672 (1966).

[3] *See, e.g., Symposium—Legality of United States Participation in the Viet Nam Conflict*, 75 YALE L.J. 1084 (1966); Partan, *Legal Aspects of the Vietnam Conflict*, 46 B.U.L. REV. 281 (1966); Comment, *The United States in Vietnam: A Case Study in the Law of Intervention*, 50 CALIF. L. REV. 515 (1962).

[4] *See* Wright, *Legal Aspects of the Viet-Nam Situation*, 60 AM. J. INT'L L. 750, 768 (1966) ("[t]he issue seems unimportant in view of the broad Constitutional powers of the President to use armed force without Congressional support or declaration of war"). *Compare* Moore, *International Law and the United States Role in Viet Nam: A Reply*, 76 YALE L.J. 1051, 1091–93 (1967), *with* Falk, *International Law and the United States Role in the Viet Nam War*, 75 YALE L.J. 1122, 1154 (1966).

[5] The recent hearings before the Senate Foreign Relations Committee constitute the most thorough attempt to date to approach the issue in these terms. *See Hearings on S. Res. 151 Before the Senate Comm. on Foreign Relations*, 90th Cong., 1st Sess. (1967) [hereinafter cited as *Hearings on National Commitments*]; SENATE COMM. ON FOREIGN RELATIONS, NATIONAL COMMITMENTS, S. REP. No. 797, 90th Cong., 1st Sess. (1967) [hereinafter cited as NATIONAL COMMITMENTS REPORT]. The result of the hearings—Senate Resolution 187—is set out as note 140 *infra*. A recent and comprehensive survey of the presidential and congressional precedents in this area may be found in R. Russell, The United States Congress and the Power To Use Military Force Abroad, Apr. 15, 1967 (unpublished thesis in Fletcher School of Law and Diplomacy Library).

[6] U.S. CONST. art. I, § 8:

The Congress shall have Power . . . [t]o define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations; [t]o declare War, grant Letters of Marque and Reprisal,

and make Rules concerning Captures on Land and Water; [t]o raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years; [t]o provide and maintain a Navy; [t]o make Rules for the Government and Regulation of the land and naval Forces. . . .

[7] *See* Prize Cases, 67 U.S. (2 Black) 635, 687–88 (1862) (dissenting opinion); J. ROGERS, WORLD POLICING AND THE CONSTITUTION 27 34–35 (1943).

[8] *See* Eagleton, *The Form and Function of the Declaration of War*, 32 *Am.* J. INT'L 19, 20, 32–35 (1938).

[9] *See* F. GROB, THE RELATIVITY OF WAR AND PEACE 283–89 (1949).

[10] *See* note 23 *infra*.

[11] F. GROB. *supra* note 9, *passim*.

[12] *See* U.S. Dep't of State, *The Question of a Formal Declaration of War in Vietnam*, in SENATE COMM. ON FOREIGN RELATIONS, 90TH CONG., SESS., BACKGROUND INFORMATION RELATING TO SOUTHEAST ASIA AND VIETNAM 175–77 (Comm. Print 3d rev. ed. 1967).

[13] *See id.* at 175; Falk, *supra* note 4, at 1154.

[14] C. BERDAHL WAR POWERS OF THE EXECUTIVE IN THE UNITED STATES 79 (1921); THE FEDERALIST No. 69 (A. Hamilton). Later comments by Hamilton indicate that in his view the power to embark on war was ordinarily an executive function which in the case of the United States was deliberately given to the legislature. *See* 7 WORKS OF ALEXANDER HAMILTON 81 (J. Hamilton ed. 1851). There is considerable evidence from the history of the colonial period and experience under the Articles of Confederation, however, that this power in America at least, was generally considered an inherently legislative function. *See* R. Russell, *supra* note 5, at 22, 27; *cf.* J. ROGERS, *supra* note 7, at 29–31.

[15] *See* J. ROGERS, *supra* note 7, at 28.

[16] This is the reason advanced by Madison during the debate over the proposed change. An earlier vote had resulted in a defeat of the motion to change the language from "make" to "declare." At least one delegate, Mr. Ellsworth, changed his vote when it was pointed out that "make war" might be construed to give Congress power to "conduct war" after it had begun—a function clearly meant to be given to the Executive. *See* 2 M. FARRAND, THE RECORDS OF THE FEDERAL CONVENTION OF 1787, at 313, 318–19 (rev. ed. 1937). Since it is impossible to tell what reasons actually motivated those who voted for the change, it is not completely accurate to conclude that the Executive was to have even the power to "repel sudden attacks." At any rate Mr. Ellsworth's remarks make untenable any suggestion that the change in wording was designed to alter to any substantial degree Congress' power to "make" war. Other views expressed during the debates are recorded by Madison as follows. Mr. Pinckney objected to the original version, arguing that the House of Representatives was too numerous and, hence, too slow to be vested with the sole power to make war. He agreed with Hamilton that the Senate would be a better repository for this power. Mr. Butler felt the same objections were applicable to the Senate and the power should be given to the President, who would not make war except when the nation would support it. To this Mr. Sherman objected that the Executive "should be able to repel and not commence war," and Mr. Gerry expressed the view that he "never expected to hear in a republic a motion to empower the Executive alone to declare war." He supported Madison's motion to insert "declare," striking out "make" and leaving to the Executive "the power to repel sudden attacks." *Id.* at 318–19.

[17] What little is added to the Convention debates by the debates over ratification indicates that the most that was left to the President was the power to defend against imminent invasion when Congress was not in session. *See* R. Russell, *supra* note 5, at 63.

[18] *See Hearings on National Commitments*, 9–10; *cf.* Corwin, *The President's Power*, NEW REPUBLIC, Jan. 29, 1951, at 15.

[19] *Cf.* J. ROGERS, *supra* note 7, at 21.

[20] *Compare* Prize Cases, 67 U.S. (2 Black) 635, 666) ("[w]ar has been well defined to be, 'That state in which a nation prosecutes its right by force' "), *with* Bas v. Tingy, 4 U.S. (4 Dall.) 37, 40 (1800) (separate opinion) ("[i]t may . . . be safely laid down, that every contention by force between two nations, in external matters, under the authority of their respective governments, is . . . war").

[21] *See* Osgood, *War and Policy*, in AMERICAN DEFENSE POLICY 109, 114 (1965).

[22] *Compare* Bas v. Tingy, 4 U.S. (4 Dall.) 37 (1800) (hostilities with France from 1798 to 1800 constituted war within the meaning of a statute granting recovery of salvage value for private vessels recaptured from "the enemy"), *with* Gray v. United States, 21 Ct. Cl. 340 (1886) (same conflict was not a war for purposes of a 1778 treaty with France whose terms were to remain in force only while France was "at peace" with the United States).

[23] The United States Court of Military Appeals in determining that the Korean conflict constituted a war within the meaning of that term as used in the Uniform Code of Military Justice gave the following reasons for its decision:

We believe a finding that this is a time of war, within the meaning of the language of the Code, is compelled by the very nature of the present conflict; the manner in which it is carried on; the movement to, and the presence of large numbers of American men and women on, the battlefields of Korea; the casualties involved; the sacrifices required; the drafting of recruits to maintain the large number of persons in the military service; national emergency legislation enacted and being enacted; the executive orders promulgated; and the tremendous sums being expanded for the express purpose of keeping our Army, Navy and Air Force in the Korean theatre of operations.

United States v. Bancroft, 3 U.S.C.M.A. 3; 5, 11 C.M.R. 3, 5, (1953).

For a review of this and similar cases attempting to determine whether the Korean conflict was a war see Pye, *The Legal Status of the Korean Hostilities*, 45 GEO. L.J. 45 (1956). For an illustration of the difficulties of defining "war" even in the context of a life insurance policy compare the majority with the dissenting opinion in New York Life Ins. Co. v. Bennion, 158 F.2d 260 (10th Cir. 1946).

[24] *Cf.* J. ROGERS, *supra* note 7, at 34–35.

[25] THE FEDERALIST No. 69, at 515–16 (J. Hamilton ed. 1864) (A Hamilton). This view was endorsed a half century later in a Supreme Court opinion by Chief Justice Taney. *See* Fleming v. Page, 50 U.S. (9 How.) 603, 615 (1850).

[26] *See In re* Neagle, 135 U.S. 1, 63–64, 67, 69, (1890); *Ex parte* Siebold, 100 U.S. 371, 394–95 (1880) (dictum).

[27] *See* E. CORWIN, THE PRESIDENT: OFFICE AND POWERS 130–39 (4th rev. ed. 1957); Note, *Riot Control and the Use of Federal Troops*, 81 HARV. L. REV. 638, 647–52 (1968).

[28] *See In re* Debs, 158 U.S. 564, 582 (1895) ("the entire strength of the nation may be used to enforce in any part of the land the full and free exercise of all national powers and the security of all rights entrusted by the Constitution to its care"); E. CORWIN, *supra* note 27, at 134.

[29] Since neither a standing army nor a navy was originally thought necessary, any military venture abroad would inevitably have required congressional participation in authorizing the expedition by raising troops or calling up the militia. Even where troops were available, resort to Congress was sought prior to their use abroad during the nation's first twenty-five years under the Constitution. *See* R. Russell, *supra* note 5, at 59–60, 146; *cf.* NATIONAL COMMITMENTS REPORT 9.

[30] Durand v. Hollins, 8 F. Cas. 111 (No. 4186) (C.C.S.D.N.Y. 1860). The case arose out of the bombardment of a Nicaraguan town because of the refusal of local authorities to pay reparations for an attack by a mob on the United State consul. (For a detailed account of the incident see 7 J. MOORE, A DIGEST OF INTERNATIONAL LAW 346–54 (1906).) Suit was brought by a private person against the naval officer for the value of property destroyed. Mr. Justice Nelson, then on circuit from the Supreme Court, upheld the defense that the officer was following legitimate orders of the President of the United States, declaring that citizens abroad, no less than citizens at home, are entitled to look to the Executive as head of the nation for the protection of person and property.

[31] *Id.*

[32] *See* M. OFFUTT, THE PROTECTION OF CITIZENS ABROAD BY THE ARMED FORCES OF THE UNITED STATES 5 (1928).

[33] *See* E. CORWIN, *supra* note 27, at 198–201.

[34] *See In re* Neagle, 134 U.S. 1, 63 (1890); 1 OP. ATT'Y GEN. 566, 571–71 (1822).

[35] *See* J. ROGERS, *supra* note 7, at 79–80.

[36] The powers conferred on the executive and legislative branches which bear on relations with other nations have been characterized as "an invitation to struggle for the privilege of directing American foreign policy." E. CORWIN, *supra* note 27, at 171.

[37] *See id.* at 177–81.

[38] Examples include the power to dismiss foreign ambassadors, to break off diplomatic relations with other countries, and to extend recognition to political factions claiming to constitute the legitimate government of a foreign nation. *See* C. BERDAHL, *supra* note 14, at 26–37; Q. WRIGHT, THE CONTROL OF AMERICAN FOREIGN RELATIONS 285 (1922).

[39] *Cf.* Foster v. Neilson, 27 U.S. (2 Pet.) 253, 309 (1829) (Marshall, C.J.) ("[a] question like this . . . is . . . more a political than a legal question").

[40] *See* J. ROGERS, *supra* note 7, at 38. In recent attempts to bring precisely this issue—the constitutionality of the President's action in Vietnam—before the courts, the cases have been dismissed as involving political questions in an unconsented suit against the government. *See* Luftig v. McNamara, 373 F.2d 664 (D.C. Cir.), *cert. denied*, 387 U.S. 945 (1967); Mitchell v. United States, 369 F.2d 323 (2d Cir. 1966), *cert. denied*, 386 U.S. 972 (1967).

[41] *See* C. BERDAHL, *supra* note 14, at 58–62; *cf.* United States v. Curtiss-Wright Export Corp., 299 U.S. 309, 316–18 (1936).

[42] The instructions, issued without consulting Congress, read: "If, . . . in the course of your operations against the Indian enemy, it should become necesary to dislodge the party at the rapids of the Miami, you are hereby authorized, in the name of the President of the United States, to do it." Instructions from General Knox, Sec'y of War, to General Wayne, in C. FISH, AMERICAN DIPLOMACY 83–84 (1915).

[43] The account is from C. BERDAHI, *supra* note 14, at 62–63.

[44] S. BEMIS, A DIPLOMATIC HISTORY OF THE UNITED STATES 176 (4th ed. 1955).

[45] In a message to Congress on December 4, 1801, Jefferson explained his actions:

> Unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defence, the vessel, being disabled from committing further hostilities, was liberated with its crew. The Legislature will doubtless consider whether, by authorizing measures of offense also, they will place our force on an equal footing with that of its adversaries. I communicate all material information on this subject, that, in the exercise of this important function confided by the Constitution to the Legislature exclusively, their judgment may form

itself on a knowledge and consideration of every circumstance of weight.

11 ANNALS OF CONG. (1801).

[46] 7 WORKS OF ALEXANDER HAMILTON 746–47 J. Hamilton ed. 1851 (emphasis in original):

[I]t is the peculiar and exclusive province of Congress, *when the nation is at peace* to change that state into a state of war; whether from calculations of policy, or from provocations, or injuries received: in other words, it belongs to Congress *only, to go to War.* But when a foreign nation declares, or openly and avowedly makes war upon the United States, they are then by the very fact *already at war,* and any declaration on the part of Congress is nugatory; it is at least unnecessary.

[47] The Rio Grande was the boundary claimed by the independent Republic of Texas since 1836 and subsequently by the United States on the annexation of Texas in 1845. *See generally* S. BEMI, *supra* note 44, at 232–38.

[48] *See id.* at 239; C. BERDAHI, *supra* note 14 at 70–71.

[49] Message to Congress, May 11, 1846, in CONG. GLOBE, 20th Cong., 1st Sess. 783 (1846).

[50] Act of May 13, 1846, ch. 16, 9 Stat. 9. Two years later, in passing a resolution of thanks to General Taylor the House tacked on an amendment reading "that the war was unnecessarily and unconstitutionally begun by the President of the United States." A subsequent motion to expunge this amendment from the journal was tabled. *See* CONG. GLOBE, 30th Cong., 1st Sess. 95, 343–44 (1848).

[51] 67 U.S. (2 Black) 635 (1863).

[52] The Court stated:

If a war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority. . . .

. . . The President was bound to meet it in the shape it presented itself, without waiting for Congress to baptize it with a name. . . .

Whether the President . . . has met with such armed hostile resistance . . . as will compel him to accord to them the character of belligerents, is a question to be decided *by him* . . . .

Id. at 668–70 (emphasis in original).

Technically, the Court's statements constitute an alternative holding since the blockade was also recognized as retroactively sanctioned by Congress. *See id.* at 670–71.

[53] While recognizing the President's authority to use force to meet the rebellion under existing laws, the dissent would have denied effect, absent a formal declaration of war by Congress, to rules of law on blockade in time of war.

[54] *See* Mora v. McNamara, 389 U.S. 934, 937 (1967 (Douglas, J., dissenting), *denying cert.* to No. 20,420 (D.C. Cir., Feb. 20, 1967).

[55] *See* note 46 *supra.*

[56] *See* note 52 *supra.*

[57] *See* pp. 1774–75 *supra.*

[58] Message to Congress, June 2, 1942, in 88 CONG. REC. 4787 (1942); *see* F. GROB, *supra* note 9, at 290.

[59] *See generally* F. GROB, *supra* note 9, at 289–302.

[60] Though also accompanied by a declaration of war, the bombing of Pearl Harbor was recognized by Congress the following day in its declaration of war as having "thrust" war on the United States. Act of Dec. 8, 1941, ch. 561, 55 Stat. 795.

[61] *See generally* pp. 1787–94 *infra.*

[62] *See Memorandum, supra* note 1, at 484.

[63] *See* D. PERKINS, THE AMERICAN APPROACH TO FOREIGN POLICY 108 (rev. ed. 1962).

[64] *See id.* at 108–09. For a brief history of the development of this "security thesis" see *id.* at 107–15.

[65] U.N. CHARTER art. 51.

[66] *See, e.g.,* Southeast Asia Collective Defense Treaty, Sept. 8, 1954, art. IV, para. 1, [1955] 1 U.S.T. 81, T.I.A.S. No. 3170 ("[e]ach Party recognizes that aggression by means of armed attack . . . against any of the Parties . . . would endanger its own peace and safety"); North Atlantic Treaty, Apr. 4, 1949, art. 5, 63 Stat. 2242 (1949), T.I.A.S. No. 1964 ("an armed attack against one or more of [the Parties] shall be considered an attack against them all"); Charter of the Organization of American States, Apr. 30, 1948, ch. V, art. 24, [1951] 2 U.S.T. 2394, T.I.A.S. No. 2361 ("[e]very act of aggression by a State against . . . an American State shall be considered an act of aggression against the other American States"); Inter-American Treaty of Reciprocal Assistance, Sept. 2, 1947, art. 3, para. 1, 62 Stat. 1681 (1948), T.I.A.S. No. 1838 ("an armed attack by any State against an American State shall be considered as an attack against all the American States").

For an exhaustive listing of similar American commitments evidenced by treaty, by less formal arrangements, and by official unilateral declaration see U.S. Dep't of State, *United States Defense Commitments and Assurances, August, 1967,* in *Hearings on National Commitments* 52–71.

[67] *Cf.* Wolfers, *"National Security" as an Ambiguous Symbol,* in AMERICAN DEFENSE POLICY 1, 4, 6 (1965). The State Department in fact insists on interpreting current defense commitments so that after an attack on another nation has occurred, it still remains to the United States to determine "in light of future facts" exactly "what is necessary." Statement by N. Katzenbach, Under Sec'y of State, in *Hearings on National Commitments* 71, 97.

[68] *See* p. 1773 & notes 16, 17 *supra.*

[69] In the examples discussed above, Jefferson, Polk and Lincoln each had time to seek congressional approval before the action taken. Though action was taken unilaterally, each sought and received congressional authorization concurrently with or immediately after the steps taken. *See* Act of August 6, 1861, ch. 63, § 3, 12 Stat. 326 (confirming all acts, proclamations, and orders of the President, after the 4th of March, 1861); Act of July 13, 1861, ch. 3, 12 Stat. 255 (authorizing a variety of emergency measures including § 4 the capture and condemnation of vessels attempting to enter certain ports); Act of May 13, 1846, ch. 16, 9 Stat. 9 (authorizing Polk's actions against Mexico); Act of Feb. 6, 1802, ch. 4, 2 Stat. 129 (authorizing Jefferson to carry on hostilities against the Barbary Powers).

[70] *See* p. 1781 & note 46 *supra.*

[71] *See* NATIONAL COMMITMENTS REPORT 6.

[72] *See* p. 1775 *supra.*

[73] E. CORWIN, *supra* note 27, at 261.

[74] *See id.* at 228–34.

[75] Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 641–42 (1952) (Jackson, J., concurring) (referring, apparently with disapproval, to government claims of the scope of power conferred by commander-in-chief clause).

[76] *See* Mathews, *The Constitutional Power of the President to Conclude International Agreements,* 64 YALE L.J. 345, 383 (1955).

[77] Address before Congress, Feb. 26, 1917, in 54 CONG. REC. 4273 (1917).

[78] Message to Congress, April 2, 1917, in 55 CONG. REC. 103 (1917).

[79] A short account of the incident and the debate which it touched off is given in T. BAILEY, A DIPLOMATIC HISTORY OF THE AMERICAN PEOPLE 718–20 (6th ed. 1958).

[80] *See* J. ROGERS, *supra* note 7, at 68–71; E. CORWIN, *supra* note 27, at 202–04.

[81] *See* p. 1777 & note 38 *supra.* Presidential control of foreign relations has in fact been the dominant factor in American entry into most of the major conflicts in our history. Of the nine conflicts through World War II which historians recognize as "wars," only five were "declared." The remainder four (the Naval War with France of 1798–1800, the Barbary War of 1801–05, the Second Barbary War of 1815 and the Mexican Hostilities of 1914–17 either were justified under the theory of self-defense or, arguably, were authorized by congressional resolution in some form. *See* J. ROGERS, *supra* note 7, at 45–56. Even the "declared" wars, however, with the exception of the War of 1812, involved little more than mechanical congressional "recognition" of an existing state of war begun by the foreign country in response to American policies formulated largely by executive initiative. *See* E. CORWIN, *supra* note 27, at 204; J. ROGERS, *supra* note 7, at 54–55. Such broad executive power over foreign relations argues for even closer scrutiny of whatever powers do remain to Congress to control the use of the military.

[82] *See* p. 1796, *infra.*

[83] *See* pp. 1776–77, *supra.*

[84] *See* p. 1775 *supra.*

[85] *See* R. Russell, *supra* note 5, at 242–43, *quoted in* NATIONAL COMMITMENTS REPORT 11–12.

[86] U.S. DEP'T OF STATE, RIGHT TO PROTECT CITIZENS IN FOREIGN COUNTRIES BY LANDING FORCES 24–34, 40, 44, 48 (3d rev. ed. 1934) (Memorandum of the Solicitor).

[87] *See* LEGISLATIVE REFERENCE SERVICE, THE CONSTITUTION OF THE UNITED STATES OF AMERICA—ANALYSIS AND INTERPRETATION, S. Doc. No. 39, 88th Cong., 1st Sess. 541 n.9 (6th ed. 1964).

[88] *Compare* U.S. DEP'T OF STATE, *supra* note 86, at 33, *with id.* at 36.

[89] *See id.* at 34–38; R. VAN ALSTYNE, AMERICAN DIPLOMACY IN ACTION 642 (rev. ed. 1947).

[90] *See* NATIONAL COMMITMENTS REPORT II.

[91] R. Russell, *supra* note 5, at 165–66.

[92] *Id.* at 180–82.

[93] *See* C. BERDAHL, *supra* note 14, at 65–67.

[94] *See* S. BEMIS, *supra* note 44, at 552–53.

[95] *See* R. Russell, *supra* note 5, at 186.

[96] Message to Congress, Dec. 3, 1900, in 34 CONG. REC. 4 (1900).

[97] The "army" consisted largely of 500 "bought" Colombian troops and members of the local fire department—a force which probably would have proved inadequate but for the use of American naval vessels to prevent Colombian troops from landing at Colon. *See* T. BAILEY, A DIPLOMATIC HISTORY OF THE AMERICAN PEOPLE 492 (6th ed. 1958).

[98] A collection of the correspondence including the orders sent to American ships in the area is contained in UNITED STATES SENATE, DIPLOMATIC HISTORY OF THE PANAMA CANAL, S. Doc. No. 474, 63d Cong., 2d Sess. 345–76 (1914).

[99] *See generally* T. BAILEY, *supra* note 79, at 491–94; S. BEMIS, *supra* note 44, at 513–15.

[100] *See generally* S. BEMIS, *supra* note 44, at 519–38.

[101] *See* p. 1788 *supra.*

[102] *Compare* the strict observance of neutrality in an incident mentioned in T. ROOSEVELT, AN AUTOBIOGRAPHY 549 (1913) (to protect American property both sides were instructed to do their fighting outside the town, which was then given to the victor), *with* the clearly nonneutral incident described in S. BEMIS, *supra* note 44, at 532 & n. 1 (unhappy with Nicaraguan dictatorship, the United States employed American troops to help establish a new regime; bombardment of revolutionists was prevented on the grounds that it might injure American lives and property). Two methods of "interpreting the facts" to fit the neutrality theory developed. Actions were either described as intended to protect American lives and property without interference in local struggles, or, where American troops did take sides in the fighting, the opposing forces were labeled "bandits" or "outlaws," rather than members of a political entity. *See* F. GROB, *supra* note 9, at 231; SELECT COMMITTEE ON HAITI AND SANTO DOMINGO, INQUIRY INTO OCCUPATION AND ADMINISTRATION OF HAITI AND THE DOMINICAN REPUBLIC, S. REP. No. 794, 67th Cong., 2d Sess. 10, 12–14 (1922).

[103] *See* C. BEARD, THE IDEA OF NATIONAL INTEREST 477 n. 135 (1934).

[104] *See* F. GROB, *supra* note 9, at 231; *cf.* C. BEARD, *supra* note 103, at 483–84. *But cf.* J. ROGERS, *supra* note 7, at 74–78.

[105] *See* F. GROB, *supra* note 9, at 231–35.

[106] In 1789, when the Department of War (now the Department of the Army was established, the number of military personnel on active duty totaled 718. By 1812 the number had reached over 12,000. In the nineteenth century, with the exception of the years during and immediately following the Civil War, the total never significantly exceeded 50,000 until the Spanish-American War in 1898. It then increased to 200,000. For twenty years following World War I the average remained between 250,000 and 300,000. After reaching a World War II peak of 12.1 million in 1945, the total dropped to approximately 1.5 million (1947 to 1950) and, since 1950, has remained at approximately three million. *See* BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, HISTORICAL STATISTICS OF THE UNITED STATES, COLONIAL TIMES TO 1957, at 736–37 (1960).

[107] *See* E. CORWIN, *supra* note 27, at 171.

[108] For the background to Truman's decision to enter war see Hoyt, *The United States Reaction to the Korean Attack: A Study of the Principles of the United Nations Charter as a Factor in American Policy-Making*, 55 AM. J. INT. L. 45 (1961).

[109] *See* P. SEABURY, POWER, FREEDOM, AND DIPLOMACY 216 (1963).

[110] *See generally* R. LECKIE, THE WARS OF AMERICA 850–58 (1968).

[111] *Id.* at 858.

[112] *See* U.S. Dep't of State, *Authority of the President to Repel the Attack in Korea*, 23 DEP'T STATE BULL. 173 *passim* (1950).

[113] *See* R. LECKIE, *supra* note 110, at 858.

[114] *Cf.* note 23 *supra*.

[115] *Cf.* R. LECKIE, *supra* note 110, at 858; P. SEABURY, *supra* note 109, at 208.

[116] *See* T. BAILEY, *supra* note 79, at 834–35, 844–45.

[117] *See* State by the President, July 15, 1958, in 104 CONG. REC. 13,903–04 (1958). The Middle East Resolution by its terms was limited to situations involving armed aggression by any country controlled by international communism. *See* Middle East Resolution, Pub. L. No. 85–7, § 2, 71 Stat. 5 (1957). There was, however, some suggestion by Secretary of State Dulles that the action was within the Eisenhower Doctrine, first, because the resolution did not require that the aggression be communist controlled, and second, because in any event this particular incident was communist inspired. *See* Krock, *Law and Intervention*, N.Y. Times, July 16, 1958, at 8, col. 4; *id.* at 3, col. 5.

[118] *See* Presidential Proclamation No. 3504; 27 Fed. Reg. 10,401 (1962).

[119] *Cf. id;* Statement by President Kennedy, News Conference, Sept. 13, 1962, in N.Y. Times, Sept. 14, 1962, at 12, col. 1; *Hearings on National Commitments* 19. The Cuban incident is an example—undoubtedly one of many—where the more warlike branch was not the executive but the legislative. Many members of Congress were calling for far more drastic action than the President, including the invasion of Cuba. *See N.Y. Times*, Oct. 14, 1962, at 1, col. 6.

[120] *See* N.Y. Times, Apr. 29, 1965, at 1, col. 8; *id.*, Apr. 30, at 1, col. 8.

[121] *See* Statement by the President; May 2, 1965, in N.Y. Times, May 3, 1965, at 10, col. 1.

[122] *See Memorandum*, *supra* note 1, at 484–85.

[123] *See* NATIONAL COMMITMENTS REPORT 13, 23.

[124] The statements are collected in Putney, *Executive Assumption of the War Making Power*, 7 NAT'L UNIV. L. REV. 1, 6–30 (May 1927).

[125] E. CORWIN, *supra* note 27, at 201.

[126] Since, with the exception of Korea and the Dominican Republic, congressional resolutions were involved in recent crises, presidential *practice* at least is not necessarily inconsistent with traditional recognition of congressional power to control use of the military.

[127] *See* Luftig v. McNamara, 373 F.2d 664 (D.C. Cir.), *cert. denied*, 387 U.S. 945 (1967); United States v. Mitchell, 369 F.2d 323 (2d Cir. 1966), *cert. denied*, 386 U.S. 972 (1967).

[128] *See* note 40 *supra*. For a review of some of the potential issues in such a suit see the dissenting opinions by Justices Stewart and Douglas in Mora v. McNamara, 389 U.S. 934, 934–39 (1967), *denying cert. to* No. 20,420 (D.C. Cir., Feb. 20, 1967).

[129] It is questionable whether this argument can ever achieve constitutional respectability once it is admitted that control over the decision to go to war belongs to Congress in ordinary circumstances. *Cf.* A.L.A. Schechter Poultry Corp. v. United States, 295 U.S. 495, 528 (1935) ("[e]xtraordinary conditions do not create or enlarge constitutional power"; Congress held to have exceeded its powers to regulate interstate commerce).

[130] *See* p. 1790 *supra; cf.* Osgood, *War and Policy*, in AMERICAN DEFENSE POLICY 109, 114 (1965).

[131] *See* Jones, *The President, Congress, and Foreign Relations*, 29 CALIF. L. REV. 565, 578–80 & nn.43–44 (1941); *cf.* Mathews, *supra* note 76, at 385.

[132] Mathews, *supra* note 76, at 385.

[133] Eisenhower's intervention in Lebanon, for example, was felt to have averted rather than precipitated a conflict, though at the time not even the President attempted to predict such a result. *Compare* N.Y. Times, July 24, 1958, at 5, col. 1, *with id.*, July 16, 1958, at 1, col. 8.

[134] J. ROGERS, *supra* note 7, at 80; *see* M. OFFUTT, *supra* note 32, at 4.

[135] *See* note 133, *supra*.

[136] *See* note 81, *supra*.

[137] *See* p. 1804, *infra*.

[138] *See* E. CORWIN, *supra* note 27, at 222.

[139] This is apparently the conclusion which critics of the "major conflict" theory reach. *See* Mathews, *supra* note 76, at 385.

[140] The resolution which emerged from the recent hearings in the Senate Foreign Relations Committee expresses a similar sentiment:

Resolved, That a commitment for purposes of this resolution means the use of, or promise to a foreign state or people to use, the Armed Forces of the United States either immediately or upon the happening of certain events, and

That it is the sense of the Senate that, under any circumstances which may arise in the future pertaining to situations in which the United States is not already involved, the commitment of the Armed Forces of the United States to hostilities on foreign territory for any purpose other than to repel an attack on the United States or to protect United States citizens or property properly will result from a decision made in accordance with constitutional processes, which, in addition to appropriate executive action, require affirmative action by Congress specifically intended to give rise to such commitment.

S. Res. 187, 90th Cong., 1st Sess. (1967). Although the resolution is ambiguous in crucial phases (Where is the United States "not already involved" How does the "definition" of "commitment" in the first paragraph affect the meaning of "commitment" in the second paragraph? What is "specifically intended affirmative action by Congress"?), if interpreted to reflect the sentiment that presidential use of force must be restricted to cases where employed neutrally in order to preserve Congress' power to initiate war, the resolution seems an accurate description of the constitutional responsibilities of the President and Congress and a commendable attempt to restore the proper constitutional balance.

[141] The effort to review and define the "national commitments" of the United States—the original focus of the hearings in the Senate Foreign Relations Committee, *see Hearings on National Commitments* 51—seems most relevant as a possible guide in making such a judgment.

[142] *Id.* at 3.

[143] It has been suggested that the Bay of Pigs episode is an illustration of such a case. *See* R. Russell, *supra* note 5, at 425. A precedent for secret legislative proceedings to authorize the use of force against a foreign nation was established in 1811 in a series of acts authorizing the President to occupy and hold Florida against Spain. Apparently four such "secret laws" were passed, one of which, though referred to by Adams, has yet to be found. *See* C. BERDAHL, *supra* note 14, at 46 n. 12. *See also* Parry *Legislatures and Secrecy*, 67 HARV. L. REV. 737 (1954) (examining the success of the British Parliament in handling security matters through secret session during World War II).

[144] *See* pp. 1785–87 *supra*.

[145] Geofroy v. Riggs, 133 U.S. 258, 267 (1890).

[146] *See* Feidler & Dwan, *The Extent of the Treaty-Making Power*, 28 GEO. L.J. 184, 192 (1939); McDougal & Lans, *Treaties and Congressional-Executive or Presidential Agreements: Interchangeable Instruments of National Policy*, 54 YALE L.J. 181, 306 (1945).

[147] *See* 1 W. WILLOUGHBY, THE CONSTITUTIONAL LAW OF THE UNITED STATES 549–52 (2d ed. 1929); LEGISLATIVE REFERENCE SERVICE, *supra* note 87, at 469–70; McLaughlin, *The Scope of the Treaty Power in the United States*, 42 MINN. L. REV. 709, 756–57 (1958).

[148] Arguably, a treaty is not a "bill" to raise revenues and, hence, is free from article I, section 7's requirement that such bills originate in the House of Representatives. *See* 1 W. WILLOUGHBY, *supra* note 147, at 558. *See generally* H.R. REP. No. 2680, 48th Cong., 2d Sess. (1884).

[149] *See* 1 W. WILLOUGHBY, *supra* note 147, at 559; LEGISLATIVE REFERENCE SERVICE, *supra* note 87, at 470.

[150] *See* E. CORWIN, THE PRESIDENT'S CONTROL OF FOREIGN RELATIONS 2 (1917); McDougal & Lans, *supra* note 146, at 217–18.

[151] *See* Q. WRIGHT, THE CONTROL OF AMERICAN FOREIGN RELATIONS 299, 355 n.45 (1922). An example is the Hague Convention of 1907 limiting the rights of belligerency. *See* E. CORWIN, *supra* note 27, at 425 n.23.

[152] *See* 2 M. FARRAND, THE RECORDS OF THE FEDERAL CONVENTION OF 1787, at 318–19 (rev. ed. 1937).

[153] North Atlantic Treaty, Apr. 4, 1949, art. 5, 63 Stat. 2244 (1949), T.I.A.S. No. 1964 (emphasis added).

[154] *See* D. CHEEVER & H. HAVILAND, AMERICAN FOREIGN POLICY AND THE SEPARATION OF POWERS 128 (1952); McLaughlin, *supra* note 147, at 676.

[155] Article 43 of the Charter describes the special agreements to be made by member nations in fulfilling their obligations to make armed forces available to the Security Council on certain conditions. It concludes with the provision that such agreements "shall be subject to ratification by the signatory states *in accordance with their respective constitutional processes.*" U.N. CHARTER art. 43, para. 3 (emphasis added).

The question which governmental department had the power to determine for the United States the number of troops to be placed at the dispostal of the Security Council was settled by Congress in the United Nations Participation Act, 22 U.S.C. § 287d (1964). The Act provides that any special agreement negotiated by the President respecting the number and type of armed forces to be made available must be submitted to Congress for its approval. "[T]he controlling theory of the act is that American participation in United Nations shall rest on the principle of departmental collaboration, and not on an exclusive presidential prerogative

in the diplomatic field." E. CORWIN, *supra* note 27, at 221 (emphasis deleted).

[156] Southeast Asia Collective Defense Treaty, Sept. 8, 1954, art. IV, para. 1, art IX, para. 2, [1955] 1 U.S.T. 81, T.I.A.S. No. 3170.

[157] *See Hearings on National Commitments* 96–97.

[158] *See id;* NATIONAL COMMITMENTS REPORT 15; note 67 *supra.*

[159] *See* note 6 *supra.*

[160] *See* J. ROGERS, *supra* note 7, at 83–84.

[161] *See* Lawyers Committee, *supra* note 2, at 2672–73.

[162] *See* pp. 1772–73 *supra.*

[163] Act of July 9, 1798, ch. 68, I Stat. 578; Act of May 28, 1798, ch. 48, I Stat. 561; *see* C. BERDAHL, *supra* note 14, at 83–84.

[164] *See* Bas v. Tingy, 4 U.S. (4 Dall.) 37 (1800); Talbot v. Seeman, 5 U.S. (I Cr.) I, 28 (1801) (Marshall, C.J.) ("[i]t is not denied, nor in the course of the argument, has it been denied, that Congress may authorize general hostilities").

[165] *See* Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 635–37 (1952) (concurring opinion); United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 324 (1936). The latter case has been interpreted as withdrawing "virtually all constitutional limitation upon the scope of congressional delegation of power to the President to act in the area of international relations." Jones, *The President, Congress and Foreign Relations,* 29 CALIF. L. REV. 565, 575 (1941).

[166] *Compare* Formosa Resolution. Pub. L. No. 4, ch. 4, 69 Stat. 7 (1955) ("the President . . . hereby is authorized to employ the Armed Forces of the United States"), *with* Middle East Resolution, Pub. L. No. 85–7, § 2, 71 Stat. 5 (1957) ("if the President determines the necessity thereof, the United States is prepared to use armed forces").

[167] *See* p. 1797 & note 141 *supra.*

[168] *See* N.Y. Times, March 15, 1967, at I, col. 5.

[169] Vietnam Resolution, Pub. L. No. 88–408, § I, 78 Stat. 384 (1964).

[170] *See* p. 1787 *supra.*

[171] Vietnam Resolution, Pub. L. No. 88–408, § 2, 78 Stat. 384 (1964).

[172] *See Hearings on National Commitments* 82 (testimony of N. Katzenbach, Under Sec'y of State); 110 CONG. REC. 18,403, 18,409–10 (1964).

[173] *See* 110 CONG. REC. 18,409 (1964).

[174] *See id.* at 18,403–04, 18,409–10 (1964).

[175] *See* NATIONAL COMMITMENTS REPORT 21.

[176] Message to Congress, May 4, 1965, in SENATE COMM. ON FOREIGN RELATIONS, 90TH CONG., 1ST SESS., BACKGROUND INFORMATION RELATING TO SOUTHEAST ASIA AND VIETNAM 160–63 (Comm. Print 3d rev. ed. 1967); *see* Moore & Underwood, *The Lawfulness of United States Assistance to the Republic of Viet Nam,* in 112 CONG. REC. 15,519, 15,557–58 (1966).

[177] Message to Congress, May 4, 1965, *supra* note 176, at 160.

[178] "This resolution . . . may be terminated . . . by concurrent resolution of the Congress." Vietnam Resolution, Pub. L. No. 88–408, § 3, 78 Stat. 384 (1964).

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. CHURCH. I yield.

Mr. DOLE. Just let me concur in the statement made by the Senator from Idaho in reference to that very clear and informative article, which I have read with great interest. As the Senator suggests, whatever one's position may be today, it is worth reading.

Mr. CHURCH. A scholarly piece, it was written 2 years ago, long before the Cambodian controversy. Taking the long historic view of the question before us, it has particular objectivity, and I commend it highly to each Senator before he casts his vote.

I thank the Senator from Kansas for concurring in that judgment.

VOICES FROM THE EDITORIAL PULPIT

Mr. CHURCH. Mr. President, it may be that the editorial writers of the Nation are further ahead in understanding of our Southeast Asian problem than are many policymakers here in Washington, D.C. These editorial writers do not have access to top-secret cables, daily lists of "body counts," and the unlisted phone numbers of our national security managers. Fortunately, their commonsense remains unaffected. They speak out in newspapers hundreds and thousands of miles away. I have read three editorials which reflect this commonsense and I wish to share them with my colleagues in the Senate.

In late May, the Intermountain Observer, published in Boise, Idaho, printed an editorial entitled, "The President Needs Help." In its opening paragraph the editorial states:

Whether it be through the Church-Cooper Amendment, the Hatfield-McGovern Amendment or some similar version, which may soon emerge, it is becoming increasingly apparent that only by the exercise of congressional power of the purse strings will the United States be extricated from its military imbroglio in Southeast Asia.

The editorial concludes on the same positive note with which it began:

It is also said that such measures constitute a seizing by Congress of foreign policy prerogatives which have long been exercised by the Presidency. Well, the pendulum in foreign policy has a way of swinging between the Congress and the Presidency, depending on the forces at work in the world and the country. Perhaps Congress is ready now to reassert a power which it has exercised from time to time in the past without challenge.

If it doesn't, the war is almost certain to get worse.

I now refer to an editorial in the Salt Lake, Utah, Tribune. It recommends:

If President Nixon is serious about getting Americans out of Vietnam at the earliest possible date, he should insist that his allies in Saigon bring their troops out of Cambodia, immediately.

I agree, because, as the editorial also points out:

If South Vietnam can mount and sustain extended operations in Cambodia, why can't it do more of the same within South Vietnam? Why "Vietnamize" only to have the men thus capable of defending their home ground go off to fight what amounts to an expansionist war?

Finally, the New York Times this week gave another lucid and sensible endorsement to the Cooper-Church amendment. In a lead editorial, the Times quite correctly interprets the amendment of Senator ROBERT BYRD, as an effort to nullify the Cooper-Church amendment. In summing up, the Times editorial states:

The Cooper-Church amendment is a timely and legitimate attempt by Congress to reassert its responsibilities. The Byrd amendment would pervert the amendment into another retreat from responsibility. It should be defeated.

Mr. President, I ask unanimous consent that the three editorials to which I have referred be printed in the RECORD at this point in my remarks.

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

[From the Intermountain Observer, May 23, 1970]

THE PRESIDENT NEEDS HELP

Whether it be through the Church-Cooper Amendment, the Hatfield-McGovern Amendment or some similar version which may soon emerge, it is becoming increasingly apparent that only by the exercise of the congressional power of the purse strings will the United States be extricated from its military imbroglio in southeast Asia.

A year ago, after Richard Nixon's election to the presidency, it seemed at least a possibility that the war could be ended at his initiative. The defeat of the Democratic Administration in the 1968 election had freed the presidential hands.

But when the new administration took hold it soon became clear that Nixon's policy for ending U.S. military involvement in Southeast Asia was both conditional and limited. It was conditioned upon the maintenance in South Vietnam of a non-Communist government. And it was limited to combat forces, meaning the United States would continue indefinitely the stationing of an unspecified but substantial number of support troops in South Vietnam.

Vietnamization was not a policy for withdrawing the U.S. military presence from Southeast Asia but for continuing it by other means. The military inactivity of the Viet Cong and the North Vietnamese during the first year of Nixon's term enabled him to begin the withdrawal of U.S. combat forces. But the military challenge this spring in Laos, then in Cambodia, shattered the illusion of Vietnamization and jolted the American public out of its complacency.

The White House claims that American troops were sent into Cambodia only to protect and hasten the withdrawal of U.S. forces from Vietnam. But the limited U.S. invasion of Cambodia was accompanied by an unlimited invasion by South Vietnamese forces equipped and supported by the U.S. The net effect has been an enlargement of the U.S. political commitment to cover Cambodia as well as South Vietnam.

In Laos it is the same thing. The more the President moves to shore up a deteriorating political situation, the more deeply does the United States become militarily involved. The extension of the war from South Vietnam into Cambodia and Laos makes it apparent that, far from getting out of Indochina, we are really getting in deeper. Moreover, it makes it plain that the President has lost whatever initiative or leverage he once held in the direction of de-escalation.

The power of Congress is the last resort that is left. The two measures now up for consideration would stop the war by shutting off the supply of funds in various ways. The Church-Cooper Amendment would stop payment on continuation of U.S. troops in Cambodia and on continued U.S. support for other troops in Cambodia. The Hatfield-McGovern Amendment would go further, shutting off U.S. military funds for Cambodia, terminating U.S. military assistance programs in Laos by the end of 1970 and cutting off U.S. military spending in South Vietnam by the end of 1970 except for the purpose of withdrawing of U.S. forces.

Some say such measures raise a constitutional question. This is not so. Congress has the indisputable right and power to appropriate funds and to refrain from doing so, as it chooses. The more pertinent constitutional question, if one there be, is whether the President did not long ago infringe on the power of Congress to declare war.

It is also said that such measures constitute a seizing by Congress of foreign policy prerogatives which have long been exercised by the Presidency. Well, the pendulum in foreign policy has a way of swinging between Congress and the Presidency, depend-

ing on the forces at work in the world and the country. Perhaps Congress is ready now to reassert a power which it has exercised from time to time in the past without challenge.

If it doesn't, the war is almost certain to get worse.

[From the Salt Lake Tribune, May 27, 1970]

VIETNAMIZATION THREAT

Stepped up training of South Vietnam military forces to enable them to take over the fighting as American troops withdraw is the backbone of President Nixon's Vietnamization plan for getting the U.S. out of a troublesome war.

Official statements have indicated that the Vietnamization program is progressing on schedule and just prior to the invasion of Cambodia the President promised to withdraw an additional 150,000 Americans by next April.

Less than two weeks later the Cambodia invasion was launched with South Vietnamese troops making the deepest penetrations into that once neutral country. In answer to questions at his press conference May 8, the President said all American forces would be out of Cambodia by June 30 and indicated that their South Vietnamese allies would follow.

Now the administration is reiterating that withdrawal of U.S. troops will be completed by the June 30 deadline. But at the same time it is conceding that South Vietnamese forces will stay in Cambodia much longer and that their mission also has broadened from destroying North Vietnamese sanctuaries to bolstering up the new Lon Nol regime.

Vietnamization has been a huge gamble from the start. Responsible critics said it wouldn't work and skeptics still wonder if it is going as well as the administration would have everyone believe. But even if it is taking hold at last, we fear that any gains are going to be nullified by the expenditure of so many (40,000 at last report) of those Vietnamized soldiers in Cambodia.

If South Vietnam can mount and sustain extended operations in Cambodia why can't it do more of the same within South Vietnam? Why "Vietnamize" only to have the men thus capable of defending their home ground go off to fight what amounts to an expansionist war?

If President Nixon is serious about getting Americans out of Vietnam at the earliest possible date, he should insist that his allies in Saigon bring their troops out of Cambodia immediately. They could be sent back if necessary to destroy enemy buildups but the rest of the time we feel they could be better used at home where their presence is essential if American forces are ever to be pulled out.

The Cambodian adventure has cost the administration untold, perhaps as yet unknown, troubles at home and abroad. It cannot be allowed to undermine the one hope, Vietnamization, upon which the country now pins its hopes for honorable withdrawal from a senseless war.

[From the New York Times, June 10, 1970]

ANOTHER TONKIN RESOLUTION?

The effort to curb the further spread of the Vietnam war into Cambodia and to reassert the constitutional authority of Congress in the war-making process faces a second crucial test tomorrow when the Senate is scheduled to vote on a proposal by Senator Robert C. Byrd, Democrat of West Virginia, to alter the proposed Cooper-Church amendment to the Military Sales Act.

The Cooper-Church amendment, which easily surmounted another challenge last week, would bar major American ground action in Cambodia after June 30—President Nixon's own target for the withdrawal of American forces—without the consent of Congress. It also forbids, without prior Congressional approval, the commitment of American advisers or aircraft to support the Government of Cambodia or the financing of foreign advisers or troops for that purpose.

Senator Byrd's proposal, which has the personal support of President Nixon, stipulates that the Cooper-Church amendment would not "preclude the President from taking such action as may be necessary to protect the lives of the United States forces in South Vietnam or to hasten the withdrawal of United States forces from South Vietnam." This sweeping exception would, in effect, nullify the Cooper-Church amendment. It would give the President arbitrary authority for future operations in Cambodia similar in scope to the blank check that Congress gave President Johnson in the now-regretted Tonkin Gulf Resolution of 1964.

The rapid spread of the Cambodian conflict beyond the announced border targets, the introduction of South Vietnamese and Thai troops in direct support of the Lon Nol regime and the dubious viability of this new allied political and military effort should serve as ample warnings against any broad extension of fresh authority to an Administration that has already abused its powers in the initial Cambodian intervention.

The President's supporters charge that the Cooper-Church amendment unduly restricts the President's powers as Commander in Chief. This argument is based on a distortion of the Cooper-Church proposals and an erroneous concept of the prerogatives of the Commander in Chief.

The Cooper-Church amendment does not bar limited tactical air and ground strikes to protect American forces operating near the border. It does assert that the President may not open a new war in another country without the consent of Congress. This is consistent with the aims of the framers of the Constitution, who specifically granted the powers to declare war and raise armies to Congress so that the Commander in Chief could not commit the country to war wherever and whenever he chose, as eighteenth-century European monarchs were accustomed to do.

The Cooper-Church amendment is a timely and legitimate attempt by Congress to reassert its responsibilities. The Byrd stipulation would pervert the amendment into another retreat from responsibility. It should be defeated.

A RECONSIDERATION ABOUT VIETNAM

Mr. CHURCH. Mr. President, we in public life know how difficult it becomes to acknowledge a change in position on vital issues affecting the Nation. But we can, all of us, profit from Lord Salisbury's observation:

The commonest error in politics is sticking to the carcasses of dead policies.

I am reminded of this by a letter I have recently received from William M. Capron, associate dean of the John F. Kennedy School of Government at Cambridge, Mass. As he states in his letter, Dean Capron was Assistant Director of the Bureau of the Budget during 2 years of the Johnson administration and also served in the Executive Office of the President during the Kennedy administration.

During this period, Dean Capron wrote me. and until April 30 of this year, when American troops were dispatched into Cambodia by President Nixon:

I felt very strongly that no matter how misguided particular Presidential actions might be, it was inherently wrong for the Congress to attempt by legislation to place limits and constraints on Presidential discretion, particularly in the field of national security policy.

This is no longer, however, Dean Capron's position, according to the dean himself. He further stated:

By his actions announced on April 30, the President has created a situation which holds such potential danger for this country, that I now feel that only by congressional action along the lines now being considered by the Senate (i.e. the Church-Cooper amendment) can these dangers be mitigated.

Later on in his letter, Dean Capron raises a question that has nagged at many of us here in the Senate. He expressed it in this fashion:

Despite all the words spoken by the President and by his principal associates in the Administration, the Cambodian action has not only raised real and serious questions about effective civilian control over our own military establishment and invited the creation of pressure on the President from within the United States government, but it has also increased the actual and perceived leverage of the South Vietnamese regime, which we support, over our actions.

The final sentence of the letter reads:

As I have indicated, I have come reluctantly and unhappily to the conclusion that this damage can only be repaired by affirmative Congressional action, and I urge support of measures to accomplish this purpose.

I commend to my colleagues this letter, and ask unanimous consent that its text be printed in the RECORD at this point in my remarks.

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

HARVARD UNIVERSITY,
Cambridge, Mass., June 3, 1970.

DEAR SENATOR CHURCH: The present Administration's actions in Cambodia and the grave implications those actions hold for this country's future involvement in Southeast Asia have led me to a dramatic shift in views I have held long and deeply with regard to the efficacy of Congressional action designed to restrain Presidential discretion in national security affairs.

I served in the Executive Office of the President in the administrations of Presidents Kennedy and Johnson, and in 1964–1965 was Assistant Director of the Bureau of the Budget. During that period of service in official capacity, and since then up until April 30 of this year, I felt very strongly that no matter how misguided particular Presidential actions might be, it was inherently wrong for the Congress to attempt by legislation to place limits and constraints on Presidential discretion, particularly in the field of national security policy. I was directly involved in attempting to head off such attempted Congressional incursions in several instances during the period I served in the Budget Bureau. I have therefore not come easily nor casually to my present position, which finds me in strong support of Congressional initiatives along the lines being proposed by yourself and Senators Cooper, Hatfield, and McGovern, together with many other of your associates.

By his actions announced on April 30, the President has created a situation which holds such potential danger for this country, that I now feel that only by Congressional action along the lines now being considered by the Senate can these dangers be mitigated. Prior to April 30, I was among those who felt that President Nixon had demonstrated his resolve to extricate this country from what had become a hopeless and costly misadventure.

I did not come quickly to the view that we must cease military intervention in South Vietnam, for, although I was troubled by the 1965 actions of President Johnson, I was in sympathy with the basic objectives of those actions. It was not until later that I came to understand that however good those objectives might be, this nation did not have the capability to realize them through acceptable military means.

The decision to invade Cambodia, no matter how successful in the narrow military terms by which the Administration seems to be judging that action, is bad foreign policy on a number of counts. It has escalated the war, involving another country and another people. More seriously from the point of view of United States national interests, it has brought into question the credibility of this Administration's stated policies and goals. The significance for the Cambodian people, in a situation created by our action, in which troops of their ancient enemies are now operating in their territory, is tragic by itself. But of more immediate concern to the American people are the implications for our ability and intent to extricate ourselves militarily from Southeast Asia. Despite all the words spoken by the President and by his principal associates in the Administration, the Cambodian action has not only raised real and serious questions about effective civilian control over our own military establishment and invited the creation of pressure on the President from within the United States government, but it has also increased the actual and perceived leverage of the South Vietnamese regime which we support, over our actions. If the President's own reiterated statements of intent regarding withdrawal and steady reduction in the areas involved in conflict and in levels of violence are to be believed in this country and around the world, then these intentions must be written into law. Members of the Administration have argued that Congressional action to do so will undermine confidence in the President and in the United States, both here and abroad. On the contrary, it seems to me that the crisis in confidence was created by the President's recent actions and statements, and that he is now incapable unilaterally of eliminating this crisis. I wish to emphasize once again that no matter what claims the Administration may make regarding the "success" of the Cambodian venture, the underlying damage will remain. As I have indicated, I have come reluctantly and unhappily to the conclusion that this damage can only be repaired by affirmative Congressional action, and I urge support of measures to accomplish this purpose.

Sincerely yours,

WILLIAM M. CAPRON.

NIXON DOCTRINE FLAW REVEALED

Mr. CHURCH. Mr. President, since our large-scale involvement in South Vietnam in the mid-1960's, the U.S. Government has been repeatedly warned of the danger of finding our foreign policy being shaped not by ourselves but by the military government in Saigon; in other words, the government we prop up in South Vietnam, becoming the determiner of the policies of its mammoth protector, the United States. Unhappily, these admonitions have been well founded.

Stephen S. Rosenfeld, writing in the Washington Post on May 23, 1970, thoughtfully analyzed what he calls the "soft underbelly of the Nixon Doctrine of calibrated intervention."

We are asked:

Must the United States underwrite all military initiatives, however unwise they may appear to be, which an ally considers essential to its security?

Mr. Rosenfeld says:

There is measuarable anguish among those officials (in Washington) who fear the Thieu-Ky government will drag the United States into a Cambodian quagmire, if only to rescue an overextended South Vietnamese expeditionary force.

And then Mr. Rosenfeld reports:

There is in Saigon measurable glee. "You are in it with us," President Thieu recently asserted, with what Larry Stern (of The Washington Post's Saigon Bureau) described as a "broad grin."

The apprehensions and forebodings are exacerbated, Mr. President, with each passing day of our military presence in Cambodia.

I ask unanimous consent that the article by Mr. Rosenfeld be printed in the RECORD at this point.

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

NIXON DOCTRINE FLAW REVEALED

(By Stephen S. Rosenfeld)

The Saigon government's insistence that it will fight on in Cambodia after American troops depart in June has revealed what might be called the soft underbelly of the Nixon Doctrine of calibrated intervention. Must the United States underwrite all military initiatives, however unwise they may appear to be, which an ally considers essential to its security? If not, how can Washington restrain a friend made heady by the expectation of American backing, or made desperate by fears of losing American backing, and how can Washington avoid the onus of dictating to its friend in the process?

There is, of course, historically nothing new to this dilemma. It expresses the characteristic tension between any properly nervous patron, apprehensive lest it become the dog wagged by the tail, and any understandably itchy client, aware all too well that its fate is not in its own hands. What is new is that the issue is arising significantly for the first time in an administration pledged to reorder American relations abroad.

We have it on the President's authority that this is the "central thesis" of the Nixon Doctrine: The United States will "participate" in its allies' defense and development "but America cannot and will not conceive *all* the plans, design *all* the programs, execute *all* the decisions and undertake *all* the defense of the free nations of the world" (*italics Mr. Nixon's*). This is the national for Vietnamization, the administration program to prepare Saigon to play an ever larger role in its own defense.

Clearly, the problem Mr. Nixon anticipated was in getting Saigon and other allies, to pick up that larger share. The nature of it, he specified in his State of the World message, was to be "manpower." His evident though unstated assumption was that the United States and its Asian allies would be in harmony on policy. He did not indicate how such harmony would be achieved, or what he would do in the absence of it. The image he cast was of a group of like-minded nations bravely making common cause.

The problem flowing from the Cambodian affair, however, is in getting Saigon to pick up that particular share of defense that the United States deems appropriate—and no more. Here in its first major test, the Nixon Doctrine's premise of harmonious policy is buckling. There is in Washington measurable anguish among those officials who fear the Thieu-Ky government will drag the United States into a Cambodian quagmire, if only to rescue an overextended South Vietnamese expeditionary force. There is in Saigon measurable glee. "You are in it with us," President Thieu recently asserted, with what Larry Stern described as "a broad grin."

The Thieu forcast aside, he has a point that even his dourest American critics might acknowledge. If the United States found it necessary to intervene in Cambodia to ensure the future safety of American troops, how can it advise Saigon that South Vietnam should not exercise the same prerogative for the sake of Vietnamese soldiers? To tell Saigon that American convenience comes ahead of South Vietnamese security takes no little gall.

Yet once a President declares that the United States will not "conceive *all* the plans" and once he determines to build up the military strength of a military government, then he opens himself up to precisely the bind which Saigon's fullbodied Cambodian ambitions have exposed. That is, he offers to Saigon nothing less than the opportunity to prolong or expand the war and to prevent the United States from conducting its own policy in respect to it.

It begs the question to state, as Secretary of State Rogers stated a few days ago, that Saigon's forces are "cooperating" with the Cambodian government and "we encourage that. The whole Nixon Doctrine as pronounced at Guam is that the Asians should work with each other to take care of their common problems." That answer may ease an official out of a tight spot at a press conference in Washington but it can hardly get a beleaguered nation out of a jam in Indochina. Does Mr. Rogers really want to sanction the line that any operation jointly undertaken by two or more Asian allies is a good operation, just for that reason?

It is possible—and it would perhaps be received by the administration as a deliverance—that by some combination of fudging and nudging the Pandora's box that is Cambodia can be emptied more or less of South Vietnamese soldiers and of Americans as well, at a tolerable cost in Saigon-Washington strain and in American public unrest. (This assumes, to be sure, that the President in fact intends to close down American military operations in Cambodia after June, and that his lieutenants in the military and elsewhere will faithfully implement his policy. This assumption is, one must concede, not exactly airtight.)

Nonetheless, a basic flaw in the Nixon Doctrine will remain the leverage on American policy that it offers to allies which, like Saigon, do not proceed from the same imperatives which press upon Washington. Time, consultation, pressure, maneuver, trust, realism and other political variables may help ease the administration over this particular hump. But there will quite surely be another.

Perhaps the real problem lies not in the Nixon Doctrine but in the nature of the foreign-policy goal which it was devised to serve. On this, there is a question. Is the Nixon goal in Asia to continue to project American power, as in earlier times, but with more Allied help and therefore at a lesser domestic cost? Or is it his goal to act on a more modest Asian scale in which case the Nixon Doctrine is a way to cushion and disguise an American withdrawal so as to make it as painless as possible to Americans and allies alike? We shall all know more about Mr. Nixon's answer as events unfold in Cambodia a month hence.

LAW OF THE LAND AND THE WAR POWER

Mr. CHURCH. Mr. President, it is important to know what things are not, as well as what they are. Specifically, I refer to the pending Cooper-Church

amendment designed to limit our military involvement in Cambodia.

Mr. Merlo J. Pusey, of the editorial staff of the Washington Post, has recently written a thoughtful analysis of three resolutions and amendments relating to Southeast Asia, including the amendment which the distinguished Senator from Kentucky (Mr. COOPER) and myself have introduced.

With the modification in language overwhelmingly adopted May 26, 1970, by the full Senate, Mr. Pusey suggests that "no solid ground is left for White House opposition." He said:

If the White House is alert to the gathering storm signals, it may yet embrace this mild restraint in the hope that it might become a matter for dealing with the more difficult problems ahead in regard to the war power. The Cooper-Church formula means that the Senate is not out to knife the President or take over direction of the war. It merely indicates there should be no more upsetting escalations without the knowledge and consent of Congress.

I ask unanimous consent that the article by Mr. Pusey be printed at this point in the RECORD.

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

[From the Washington Post, May 26, 1970]

LAW OF THE LAND AND THE WAR POWER

(By Merlo J. Pusey)

Much of the confusion over limiting funds for the war in Southeast Asia results from the fact that no consensus has yet emerged as to what Congress should do. There is strong sentiment behind the Cooper-Church amendment forbidding further incursions into Cambodia which comes to a vote today, but it does not fully satisfy the growing antiwar sentiment in Congress. Behind it are the McGovern-Hatfield amendment fixing a date for withdrawal of American troops from Vietnam, the Mathias resolution repealing congressional approval of the war, the Percy resolution designed to forbid future use of troops abroad without the consent of Congress and a number of others.

It seems highly probable that the Cooper-Church amendment will be adopted in some form. With the modification in language so as to indicate that the policy it would write into the laws is "in concert" with the President's announced aim of getting the troops out of Cambodia by July 1, no solid ground is left for White House opposition.

It is beside the point to say that passage of the amendment would indicate a lack of faith in the President's pledge. It would indicate only the determination of Congress to participate in the making of policies involving the lives of citizens. Equally far-fetched is the argument that the amendment might prevent the President from taking action necessary to protect American troops. The President has ample authority as Commander in Chief to repel any attack upon our armed forces, without waiting for Congress to act. The Cooper-Church amendment would say to him only that in acting to protect the troops he could not again invade Cambodia, without congressional approval.

If the White House is alert to the gathering storm signals, it may yet embrace this mind restraint in the hope that it might become a pattern for dealing with the more difficult problems ahead in regard to the war power. The Cooper-Church formula means that the Senate is not out to knife the President or take over direction of the war. It merely indicates that there should be no more upsetting escalations without the knowledge and consent of Congress.

The next challenge that the President will have to face in this area is more formidable. The amendment sponsored by Senators McGovern, Hatfield, Goodell, Hughes and Cranston would cut off funds for combat in Vietnam at the end of 1970, although funds could still be used for termination of U.S. military operations, withdrawal of U.S. troops, exchange of prisoners, aid to South Vietnam and so forth, with a proviso that all American military personnel be out by June 30, 1971. By this action Congress would impose on the administration a fixed withdrawal policy which could be altered only by a declaration of war or other congressional action.

Undoubtedly Congress has authority to take this drastic action, if it wishes, and if the war should continue indefinitely, against mountng internal protests, some last resort remedy of this sort might prove to be necessary. At present, however, it is difficult to imagine Congress taking upon itself the whole burden of liquidating the war.

Suppose that Congress should enact the December cut-off date for military combat in Vietnam and that Hanoi should launch a December offensive to strike a final crippling blow at the American forces preparing to leave. Congress would be loath to declare war or order a resumption of limited hostilities. Suppose that the enforced withdrawal in accord with an inflexible timetable should lead to a Communist sweep throughout Indochina.

The country needs to be prepared for unpleasant consequences of its retreat from Southeast Asia. Under even the best of circumstances now foreseeable, the outcome of our ill-advised venture may prove to be a bitter pill, and the bitterness would be greatly intensified if a hasty retreat were forced on a Republican President by a Democratic Congress. Incidentally, the effect might be to strengthen the hold of the President of the power to make war if a congressional venture in overriding the President should lead to disaster.

The risks of the McGovern approach may drive the Senate back to the Mathias-Mansfield proposal which would, in its original form, withdraw the blank check that Congress issued in the Tonkin Gulf resolution and endorse the announced Nixon policy of withdrawing from Vietnam. Coupled with the Cooper-Church amendment, this would put Congress on record against reheating the war in either Vietnam or Cambodia. Ways may be found to stiffen the Mathias-Mansfield mandate for withdrawal without trying to force a rigid congressional timetable upon a complex international denouncement.

The Percy resolution looks to the future and is not directly related to getting American forces out of Cambodia and Vietnam. It would express "the sense of the Senate that the President should not utilize the Armed Forces of the United States in interventions abroad for any combat activity without the express consent of the Congress except where the use of such force is necessary, pending congressional approval, to response to a clear and direct attack upon the United States, its territories or possessions, or upon forces of the United States that are lawfully deployed pursuant to a treaty or other specific congressional authorization."

This is a fair restatement of the constitutional provisions which place the war power in Congress. Why, then, did Senator Percy choose to offer only a sense-of-the-Senate resolution which the President could ignore? The policy he has stated is the law of the land, and Congress will have to find ways of getting it respected at the White House if our democracy is to be saved.

SOLID LABOR FRONT IS CRACKING UP

Mr. CHURCH. Mr. President, another major defection has occurred in the hitherto firm AFL–CIO support of American policy in Southeast Asia. I refer to an editorial in the forthcoming June–July issue of the Butcher Workman, official publication of the Amalgamated Meat Cutters & Butcher Workmen, AFL–CIO. This is the second major defection of recent days, the other being the strong criticism of our Southeast Asian involvement by Jacob Potofsky, president of the Amalgamated Clothing Workers Union.

The critical Butcher Workman editorial notes that religious groups, fraternal orders, and bankers are opposing the war. Then the editorial asks:

Is everybody out of step except the AFL–CIO?

I ask unanimous consent that the text of the Butcher Workman editorial, appearing over the name of Patrick E. Gorman, secretary-treasurer of the Meat Cutters Union, be printed in the RECORD at this point in my remarks.

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

WAR AND THE AFL–CIO

Senator Fulbright of Arkansas, in the estimation of trade union leaders, may not have the best voting record in the Senate of the United States. Time will prove, however, that he is one of the nation's best statesmen and will be remembered in history as a great humanitarian.

The Arkansas Senator had the courage to state that the AFL–CIO has become part of the military establishment of our nation. Such is a serious charge. In our opinion, however, the charge, to a great extent, is true.

We do not believe that the leader of our great American trade union family speaks for that family in supporting the President in the present war dilemma of our nation. We have never been out of the official family of labor since we received our International charter in 1897. We have never, however, followed blindly, and never will, every edict that emanates from the official headquarters in Washington, especially where war is the issue.

The AFL–CIO is not infallible, and many of us feel strongly that it is out of step with the thinking of the 13,000,000 members it represents.

No rational segment in the make-up of America puts the stamp of approval on our war involvements. Thirty-two Presidents of our nation's best-known universities are on record that our boys should be brought home from Southeast Asia. Our university students from coast to coast who feel *they* will have to fight this war have the same opinion.

Practically every church denomination in our nation believes our involvement is immoral. Fraternal orders and groups double and triple the numerical strength of the AFL have advocated the stopping of this human slaughter. Millions have marched in our streets expressing a longing for peace. And martyrs, like Martin Luther King, have died in opposition to what is going on.

Even Louis D. Lundborg, Chairman of the Board of the Bank of America, the largest bank in the United States, before our own Senate Foreign Relations Committee said that the war is bad for business. He also said that if anyone is to blame, it is peo-

ple like himself for not speaking up and speaking out sooner and asking "What goes on here?" Remember—this is a banker speaking, not a trade union leader! Is everybody out of step except the AFL–CIO?

We wonder how long the 13,000,000 trade unionists in the United States will sustain this opinion. We wonder also how many of the executive officers of the AFL–CIO down deep within their hearts share this ridiculous position. Until a more sane policy is developed, we have only to wait through the dark night for a clearer dawn while the moving finger of justice is writing indelibly across the hearts of every American that there must be freedom, peace and equality among the peoples of the world!

NUMEROUS NEWSPAPERS DECRY CAMBODIAN INCURSION

Mr. CHURCH. Mr. President, from the North, East, South, and West, Mr. President, the crescendo of criticism continues against our military involvement in Cambodia, specifically, and our policies in Southeast Asia in general.

Editorial criticism is not limited to the so-called "Eastern establishment" press, to which Vice President AGNEW is so addicted as a whipping boy.

For example, the Chattanooga, Tenn., Times states in an editorial on May 1, 1970:

Not militarily, economically or psychologically does the Cambodian operation seem to make sense.

From the Midwest, the Akron, Ohio, Beacon Journal on May 13, 1970, criticizes the ferocious destruction of Cambodian villages such as Snoul. The editorial concludes:

Perhaps the destruction of Snoul and other towns will eliminate some of the threats against our forces in South Vietnam.

But at what price to the standing of the United States in the eyes of the world?

And at what price here at home where differences of opinion on war policies are tearing us apart?

The Atlanta Constitution editorializes on May 2, 1970:

We would hope, along with most Americans, that Mr. Nixon is right in thinking this Cambodian venture will help end the war. But we fear, rather, that President Nixon has fallen into the pattern of repeating the mistakes of the past.

And in the West, the Sacramento, Calif., Bee, in an editorial on May 2, 1970, makes the judgment that when the President sent American troops into Cambodia:

The whole mess in Southeast Asia has been stunningly worsened.

I ask unanimous consent that the editorials from which I have quoted and many others—34 in all—be printed in the RECORD at this point in my remarks.

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

[From the Akron (Ohio) Beacon Journal, May 1, 1970]

NIXON RISKS MAKING AN UNPOPULAR WAR INTOLERABLE

President Nixon's decision to send thousands of American combat troops into Cambodia to wipe out the "privileged sanctuaries" of the Communists is, in our opinion, a serious mistake.

It escalates the fighting and will inevitably increase American combat deaths and casualties.

It is an invasion of a neutral nation, despite the President's assurances that U.S. and South Vietnamese troops will be withdrawn as soon as the enemy command posts and strongholds have been destroyed.

The possible effects and repercussions resulting from this action in Southeast Asia and in the United States constitute far more than any calculated risk. It could produce a disaster.

In three speeches, President Nixon had warned North Vietnam and the Viet Cong: "If I conclude increased enemy action jeopardizes our remaining forces in Vietnam, I shall not hesitate to take strong and effective measures to deal with the situation." The movement of more and more North Vietnamese troops into Cambodia and increased activities in the sanctuaries constitute, the President said, an unacceptable risk to Americans in South Vietnam and provide sufficient basis for such "strong and effective" measures.

Mr. Nixon said destruction of the Red sanctuaries in Cambodia was "indispensable" for continued withdrawal of American troops from Vietnam and was aimed not at extending the war into Cambodia but at ending the war in Vietnam more quickly.

From a purely military standpoint, the President's action to destroy the enemy where the enemy is may be acceptable. But the years of disastrous war in Vietnam are proof that this is not just a military war. It is also a political war.

The President's action assumes that the Cambodians want to be rid of the Red sanctuaries which have existed on the border for five years. It also assumes that the new government, which ousted Prince Sihanouk as chief of state, has the support of the Cambodian people. It disregards the possibility that this invasion of Cambodia by U.S. and South Vietnamese may help Sihanouk return to power.

Before taking action, did Mr. Nixon take into account the deep, centuries-old ethnic hatred of the Khmers of Cambodia for the Vietnamese, both North and South? A thousand years of wars and massacres have irrevocably divided the Cambodians and Vietnamese. Does Cambodia rejoice over Mr. Nixon's decision? Or have we created another enemy?

This escalation of the war into Cambodia also helps consolidate the Communists in what may become the war of all Indochina. Leaders of North Vietnam, the Viet Cong and the Pathet Lao met with Prince Sihanouk AND Red China's Premier Chou En-lai in an Indochina "summit" conference last week. Peking announced its support of the "united front" against the U.S. Will war in Cambodia bring Red China actively and openly into the Indochina war?

President Nixon conceded that his decision may have its greatest impact here in the United States and that he may be "a one-term President" as a result. He accepts that risk.

If the military action inside Cambodia cannot be concluded, as hoped, within the month or so before the rainy season, and if the fighting drags on and on with mounting losses and dwindling chances of success, Mr. Nixon will have transformed an unpopular war into an intolerable one.

An open clash between the Congress and the President is a distinct possibility for critics of the Vietnam war may force a showdown on whether the war can be extended to Cambodia without consent of Congress.

Mr. Nixon mentioned that great decisions concerning the fate and future of this country had been made in the room in which he spoke. There were echoes there, too, of Johnson's folly.

It could be Nixon's folly now.

CAMBODIA FORAY INFLICTS NEW SCARS ON AMERICA

If you believe what you hear from Washington, the American invasion of Cambodia is a big success.

President Nixon said at his press conference last Friday night that progress had exceeded expectations. The White House announced the next day that huge quantities of North Vietnamese arms, ammunition and other supplies had been captured.

But that doesn't tell the whole story.

What is the reaction of the Cambodians in particular and the world in general to our tactics?

From the start, there has been a feeling of shock and revulsion that the United States would and did intrude upon Cambodia. And as some of the play-by-play stories filter out from correspondents on the scene, our posture looks worse.

Daniel Southerland, a special correspondent of the Christian Science Monitor, told how a U.S. armored squadron devastated Snoul, a rubber plantation town just inside the Cambodian border.

"American television cameras recorded the destruction of the town," Southerland reported, "a town where as many as 1,500 people used to live . . . Cameras also took pictures of four civilians who were killed, probably by napalm. A little girl was among them.

"The cameras took pictures of some Americans looting what was left in the town—drinks, mirrors, clocks, shoes, suitcases. A civic action team later returned belongings taken by U.S. troops . . . but an unfortunate impression had been created."

Summing it up, the reporter said that:

"On the plus side for the Americans, they had captured two heavy machine guns and an AK47 rifle, as well as some papers and a few scattered pieces of equipment. The U.S. command claimed that 88 enemy troops were killed, 63 of them by air strikes, but this is a highly dubious estimate . . . If there had been any significant supplies in Snoul they were taken away before the Americans got there.

"On the negative side, a town was destroyed, four Cambodian civilians were killed, a dozen Americans were wounded, a rubber plantation was destined for economic ruin and 1,700 to 1,800 rubber workers were now actively engaged on the side of the North Vietnamese."

This is reminiscent of the way many of the South Vietnamese towns and villages have been "saved" from the Viet Cong and the North Vietnamese in the last several years.

Perhaps the destruction of Snoul and other towns will eliminate some of the threats against our forces in South Vietnam.

But at what price to the standing of the United States in the eyes of the world?

And at what price here at home where differences of opinion on war policies are tearing us apart?

[From the Atlanta (Ga.), Constitution, May 2, 1970]

A DANGEROUS VENTURE

President Nixon has committed thousands of American troops to a new war in Southeast Asia with his decision to invade Cambodia.

It was a reckless decision. It represents, at the very least, a major escalation on our part of the war in Vietnam.

We have invaded another country, Cambodia, with the incredible argument that since the North Vietnamese fail to respect either the sovereignty or neutrality of Cambodia . . . that, well, somehow it's all right for U.S. troops to march into that country.

It is certainly true that North Vietnamese and Viet Cong soldiers have set up bases in

Cambodia. In recent days, in fact, the Cambodian government has asked the United States for military supplies. *Supplies*, you understand, not U.S. troops. Every indication is that Cambodian officials were stunned at Mr. Nixon's sudden announcement that U.S. and South Vietnamese soldiers were launching a major attack on North Vietnamese strongholds on the Cambodian-South Vietnam border.

Mr. Nixon's own logic, as expressed in his address to the nation, seems inconsistent. He says, for example, that there have been major Communist bases in Cambodia for at least five years. We did not attack these bases, he said, "because we did not wish to violate the territory of a neutral nation."

Why is it, then, now necessary to invade this same neutral nation?

Mr. Nixon notes that North Vietnam has stepped up guerrilla actions in the past two weeks. Yet, if we are to believe Mr. Nixon's own comments on Vietnam of less than two weeks ago, the process of "Vietnamization" of the war has succeeded to the point that 150,000 more American troops can be withdrawn from Vietnam within this coming year.

What has changed so drastically that Mr. Nixon now feels it necessary to widen the war in Southeast Asia by sending combat troops into another nation? How can a new major line of battle make it possible, as Mr. Nixon suggests, to withdraw American troops even more rapidly? Or, as he also suggests, have the effect of reducing casualties?

"We will not be defeated," declared President Nixon, in announcing the invasion of Cambodia.

What does that mean? Is the next step to resume the bombing of North Vietnam? To send *more* American troops to Southeast Asia?

The decision to send American combat troops into Cambodia may, indeed, be defensible in strictly military terms. Yet, as we've learned painfully, it is not possible to "win" a guerrilla war in Vietnam in a normal military way. That knowledge has cost the lives of more than 40,000 American soldiers.

Mr. Nixon's decision to escalate the war by moving into Cambodia seems to spring from the same kind of thinking which led, years ago now, to our increasing involvement in Vietnam in the first place. We would hope, along with most Americans, that Mr. Nixon is right in thinking this Cambodian venture will help end the war. But we fear, rather, that President Nixon has fallen into the pattern of repeating the mistakes of the past.

[From the Baltimore (Md.) Evening Sun, May 1, 1970]

GAMBLE IN CAMBODIA

Temptation, naked and mocking, danced at the President's fingertips. There behind the Cambodian border crouched the elusive enemy, nightly springing forth to raid friendly supply lines, daily pushing deeper into defenseless Cambodia, constantly threatening the fragile South Vietnamese government headquartered 50 miles away in Saigon Mocking, yes, because the Cambodian border gives the Viet Cong and the North Vietnamese a protected sanctuary. But naked, too, because they are concentrated and thus vulnerable to a sudden mighty swoop by the Americans and their South Vietnamese proteges—or so, the generals told the President. Last night the President yielded and struck, and yet it was a fearful gamble.

The generals could be right. As a strictly military operation, this new thrust may well prove the quick and overwhelming success the President hopes it will be. In one stroke, perhaps, he will seriously cripple the enemy army, reassure both Cambodia and South Vietnam and, in Hanoi, make it perfectly clear that the United States is not to be trifled with. If so, well and good. Then he can put behind him the Cambodian adventure with his military rear firmly secured and, once again, pick up the withdrawal of American troops where temporarily he has laid it down. That is what the President surely intends to do.

The trouble is that among the bitterest lessons of the Vietnamese tragedy is this: military men cannot see beyond the muzzles of their guns and, too often, not even that far. They misled President Kennedy with their soft-sounding talk of military advisers; they misled President Johnson with brave-sounding talk of escalation and victory. Most of us now recognize these military concepts for military mirages which already have brought death to 40,000 American troops. Now again a President, armed with fresh military guidance, sets out on the proposition that the way to save lives and to close out the American part in the war is to make the war larger, actually to expand it into still another country—with American support.

The hazard that one more President, however sincerely, has reached out for one more mirage is painfully plain. If a quick military triumph in Cambodia is possible, so is a long and sputtering military stalemate. Following on that are the further possibilities that the North Vietnamese will increase their own military efforts, that the Chinese Communists will at last step in, that the now-promising American withdrawal will dwindle and be forced to stop. A drastic reversal of policy will have been forced upon Mr. Nixon, and the hopeful flickers from Moscow of peace talks at Geneva snuffed out.

This is the long-range danger which deeply disturbs a large number of congressmen. It cannot help but disturb ordinary Americans as well, for this newest "victory" stroke has beginnings which are by now chillingly familiar.

[From the Chattanooga (Tenn.) Times, May 1, 1970]

IN CAMBODIA: A STEP TOO FAR

Once again, and as difficult as it is to believe in the light both of past failures and present hard facts, the United States is widening its military effort in Southeast Asia. As before, it does so with the expressed hope it can thereby accomplish just the opposite: make more secure its withdrawal from South Vietnam. But on the basis of Wednesday's announcement it must be bluntly and gravely doubtful that our plans have enough probability of success; or even that many of our premises are sound.

The granting of limited arms aid to the Cambodians, who are struggling against great odds and some 40,000 or more North Vietnamese, is one thing. And we have favored it.

The dispatch of thousands of American troops north into the Parrot's Beak; American advisers to the South, down to the battalion level and at forward exposed commands; combat air, artillery and logistical support; air coordinators; all this is quite something else.

Not only are we closely supporting the South Vietnamese thrust into the Parrot's Beak of Cambodia, we have planned it in detail (one of the Vietnamese divisions involved, the 25th, has at least until recently been assessed as the worst division in the entire South Vietnamese army).

"Off the record" in Washington, the operation is being classed at temporary, possibly to last only about a week, and its purpose is described as clearing the area of enemy supply facilities. Such a move might help reduce the capability of the Communists to launch from Cambodia a new assault on Vietnam, it is reasoned, before the rains halt all military operations in late May.

Such a rationale is all but impossible of belief. We are beginning something now that involves extended commitments and, very likely, expanded consequences.

We are broadening the level of contact and the certainty of American forces in Vietnam are being steadily reduced.

And what happens if the field commanders advise us later that a similarly critical picture is shaping in Laos? Will extensions of commitment seem just as necessary there?

Even our own embassy in Saigon was, at least a short time ago, leary of the commitment we now assume. But again, the military has had its way. We share both its hopes and its frustrations. But it has persuaded Washington to an unwise course.

We do not agree with the heavy majority of the Foreign Relations Committee that there should be no help for Cambodia. But the unfortunate task of Congress now is to examine closely the need to set definite limits on such assistance. Not military, economically or psychologically does the Cambodian operation seem to make sense.

[From the Chicago (Ill.) Daily News, May 2–3, 1970]

TO CAMBODIA—AND BACK?

Mr. Nixon must have the bulwark of a united nations as he embarks on the perilous course he has set for the next several weeks. If the already visible and grave hazards were to be intensified by the aspect of an America falling apart in angrily warring factions, the nation's prospects would be needlessly worsened. The Commander-in-Chief has committed the nation; the operation is under way. That much cannot be changed.

But Mr. Nixon also told the nation that the excursion into Cambodia is a one-shot operation that he expects to last six weeks to two months. "Our purpose is not to occupy the areas. Once enemy forces are driven out of these sanctuaries and their military supplies destroyed, we will withdraw."

Such an operation should take no more than 60 days at the outside; if the end has not been achieved in that space, the President will have been proved wrong in his "one-shot" assessment. In that case, Congress and the American people should strongly demand that the venture be abandoned.

For the observers with long memories are already drawing uncomfortably apt parallels between Mr. Nixon's Thursday night assurances and the words spoken nearly six years ago by another President in other circumstances. "The United States intends no rashness and seeks no wider war," said Lyndon Johnson as he asked the Congress to put a legal base under the combat in Vietnam by adopting the Gulf of Tonkin Resolution. Almost 50,000 Americans have died in the subsequent widening of that war.

Mr. Johnson believed what he was saying then, and we do not challenge Mr. Nixon's sincerity now: You can believe that a policy he stakes his political future on is a policy he believes in. This does not excuse the almost conspiratorial secrecy that inspired the President to keep even his fellow Republicans in the Senate in the dark as to his plans on a matter so near the heart of public concern. Evidently the Pentagon persuaded him that now was the time to commit the nation first and inform it later—which lends substance to the Senate's concern over the President's ability to bypass the constitutional assignment of the warmaking authority to Congress.

But granted some evidence of tactical chicanery, we do not question that Mr. Nixon believed implicitly that he is, as he said, saving American lives in Vietnam and avoiding defeat and humiliation for the world's most powerful nation.

The major danger is not in any lack of sincerity or political courage. The major danger is that the President and his advisers do not comprehend how things have changed since a military leader could safely postulate

that if only he dropped enough bombs and spent enough lives, right—that is to say, might—would prevail. It has not been true for a long time; certainly it did not prove out when the scores were finally totaled after World War II; it has not proved true in Vietnam.

Nor does it seem likely to prove true in Cambodia. Already the enemy has begun withdrawing from the sanctuary within the area of the Parrot's Beak. It is characteristic of the enemy not to stand still, or do the expected. Surely in a decade in Vietnam we must have learned that not even the "most powerful nation on Earth" can destroy an enemy it can't find.

So there are many who wince when the President of the United States speaks of "power" and "defeat" and "victory" in the same way a Bismarck might have spoken of them—and of "humiliation" as coldly unthinkable for this majestic nation.

Perhaps humiliation is unthinkable. But when it comes to disengaging from a war that has been insatiably consuming lives and treasure, a war without visible point, a war that defies our most ingenious efforts to win or even lose gracefully, a touch of humility may become the key to whatever "success" an American President can hope to salvage. If Mr. Nixon will acknowledge this he may still have to worry about his second term, but not about his place in history.

MR. NIXON'S OBLIGATION

A Gallup poll taken after President Nixon's Thursday night speech revealed widespread bewilderment. Fifty-one per cent approved the President's "handling" of the Cambodian situation. Yet to the question, "Do you think we should send U.S. troops to help Cambodia or not?" 58 per cent voted no and only 28 per cent yes.

We take this to mean that most Americans, while dreading the possible consequences of the Cambodian foray, believe that the President of the United States must have the nation's support as he tries to lead us out of the morass of Southeast Asia. And there are stirrings in Congress, on the campuses, and in the marketplaces and Main Streets of the nation that suggest his lease on the people's faith may be a very short one in the Cambodian venture.

And not only in the United States. As Premier Kosygin intoned that this country had added to its already heavy (and guilty) responsibilities in Southeast Asia by its "aggression" against Cambodia, European capitals were viewing the invasion as the gravest matter since the Cuban crisis.

These are not concerns that can be disposed of indefinitely by progress reports from Cambodia that reflect "favorable" balances of casualties.

Even Vice President Agnew has conceded that there can be no such thing as "winning" a ground war in Cambodia (though he did not go on to state the obvious, that there *can* be such a thing as a prolonged bogdown that defies any precise resolution).

This being so, Mr. Nixon invited a major credibility gap when he proclaimed both that the Cambodia excursion was a way to end the war earlier that might otherwise be possible, and that six weeks or two months would be the span of this limited exercise. Contributing to the gap have been the elaborate secrecy that denied prior knowledge of the move even to close administration friends like Sen. Hugh Scott, and Defense Sec. Laird's declaration that the Communists in North Vietnam had better hold still or suffer a renewal of our bombing.

If Mr. Nixon is in absolute earnest about speeding withdrawal he can show it in various ways. One would be to put the Paris negotiations on a higher plane by filling the long-vacant post of ambassador-chief negotiator. Another opportunity will have been the Tuesday conference with congressional leaders. These are the men whose understanding the President must have if his policies are to prevail. If he can persuade them that his over-all strategy is likely to de-escalate rather than, as many fear, escalate the war in Southeast Asia, they may in turn be able to reassure the people.

[From the Chicago (Ill.) Sun-Times, May 3, 1970]

THE FICTION OF NEUTRAL CAMBODIA

President Nixon made it clear that the United States is not embarked on an invasion of Cambodia. He said his action in sending U.S. troops into the border areas of Cambodia was necessary to clear out Communist military forces which have occupied those border areas for the last five years in "blatant violation of Cambodia's neutrality."

However, Mr. Nixon overlooked several salient facts about Cambodia's so-called neutrality. Since 1963 Cambodia has been belligerently neutral on the side of the Communists.

In 1963, believing that the Communists had won the war in Vietnam, Prince Norodom Sihanouk, the chief of state of Cambodia, broke off relations with the United States, telling us to "go to hell." Sihanouk then turned to the Communists for economic support and accepted considerable aid from both Russia and Red China. He allowed the Communists to ship arms and supplies to their guerilla forces in South Vietnam from Cambodia, via the "Sihanouk Trail," which ran from north central Cambodia into South Vietnam.

Sihanouk gave the Communist forces sanctuary in Cambodia. On March 18 Sihanouk's comrade in arms and military commander, Gen. Lon Nol (who was also neutral on the side of the Communists) turned on Sihanouk and displaced him and took over the government. The Communist reaction to Sihanouk's overthrow was to encourage a civil war in Cambodia to restore Sihanouk to his former position as chief of state and to direct attacks against north central Cambodia with troops.

Nor did Mr. Nixon mention that Cambodian troops have slaughtered more than 3,500 Vietnamese (chiefly South Vietnamese, mostly Catholic, many of them women and children) in a bloody outburst of the deep racial and religious differences that have existed between Cambodia and its neighboring states of North and South Vietnam and Thailand. The slaughter, which was shrugged off by Cambodian officials as being of no importance "because they are only Vietnamese," is evidence that the new Cambodian government of Gen. Lon Nol is a cruel and repressive regime which has earned no right to any sacrifice of American lives or treasure.

Mr. Nixon would therefore be well advised to confine his Cambodian operations to no farther than those border areas where the Communists have established military headquarters and supply dumps with the permission of the former Cambodian government and to stay no longer than necessary. To go farther, to offer any support to Gen. Nol's government, which is threatened by the Communists from the north and east, is to risk becoming involved in a situation which could be worse than Vietnam.

THE CONSEQUENCES HERE AT HOME

Mr. Nixon has made it perfectly clear that he recognizes not only the extent of the huge military gamble he has taken in Asia but the political gamble he is taking in the United States.

If the Cambodia adventure bogs this country down into a prolonged war and delays rather than speeds withdrawal of American troops as he says it will, Mr. Nixon acknowledges he may become a one-term President.

The American people want out of the war in Vietnam. They want an end to the squandering of men, money and the nation's morale in a war that can't be won in a traditional and conventional sense.

Mr. Nixon acknowledged this when he justified his new policy on the ground that it is necessary to allow him to make good on his promise to bring 150,000 more soldiers home by next Spring.

If all goes well, Mr. Nixon's popularity undoubtedly will soar. But if the months go by and the nation becomes bogged down in Cambodia as well as Vietnam, Mr. Nixon may find himself in the same position Lyndon Johnson did in 1968.

So long as America is involved deeply in war in Asia, domestic problems will multiply. Dissent with America's war policy and frustration over the continuing involvement in Vietnam extends to all elements in American society. The demonstrations on college campuses against the war are matched by statements of men of commerce and industry deploring the effect of the war on the American economy. The war against inflation cannot be truly effective until there is an end of the bleeding of American resources in Vietnam.

The cost of living has gone up in the United States 21.6 per cent in the five years American men have been fighting in Vietnam. In the previous five years, prices went up only 6.5 per cent.

A nation must remain economically strong if it is to be a leader in accomplishment for its own people as well as a world leader. And it cannot remain economically strong if it is torn by internal strife caused by living conditions and weakened by the deterioration of its money system.

Mr. Nixon expresses concern about the United States image if it must "accept the first defeat in its proud 190-year history."

This is a military concept. There are times when diplomatic and economic considerations must modify a nation's attitude on what constitutes defeat.

Other nations have adjusted to the need for changing such attitudes. France's withdrawal from Algeria may have been termed a defeat of sorts but it was an action in the national interest.

Americans have long since adjusted their ideas about what constitutes "victory" in Vietnam. The national interest demands more than old-fashioned military shibboleths. It demands a disengagement and a carrying out of the policy Mr. Nixon enunciated at Guam last July: The United States must avoid that kind of policy that will make countries in Asia so dependent upon us that we are dragged into conflicts such as the one in Vietnam. We can only hope that Mr. Nixon is right, that our involvement will speed the day of American liberation rather than mire us down anew.

[From the Los Angeles Times, May 3, 1970]

NIXON'S DANGEROUS GAMBIT

ISSUE: How does one weigh the risks attached to Mr. Nixon's new decisions on Cambodia against the chances for success?

President Nixon has made his fateful decision to move American troops into Cambodia.

We hope ardently that his gambit succeeds, and that the war is brought, as he implicitly argued it would be, to a swifter and more acceptable conclusion.

But we believe he risked too much for too little. We believe the hazards outweigh the possible gains. As much as we wish to support the President on the grave decision for which he asked the support of the whole country, we believe he has made a serious mistake.

It is quite true, as the President said, that the supply lines and sanctuaries in Cambodia across the border from Vietnam have enabled the North Vietnamese to prosecute the war in South Vietnam.

This has been so for about five years. Military men in Vietnam have wished for a long time to mount spoiling attacks across the border. Now the change of government in Phnom Penh has given the President the opportunity—and he took it.

At best, the results of the President's gamble would look something like this:

The ability of the North Vietnamese to carry on the war in South Vietnam would be seriously impeded. Their capacity to launch the "massive attacks" of which Mr. Nixon spoke would be severely retarded. In the meantime the South Vietnamese would have more time to improve their own situation.

If, as is argued by some responsible men, the North Vietnamese are now, really, stretched to the breaking point, this new evidence of American resolve might induce them to reach an agreement on the future of South Vietnam acceptable to the United States. The Soviet Union might be persuaded to bring about an international conference to settle the whole matter of Indochina.

In other parts of the world, most particularly in the dangerous Middle East, where the Russians have disturbingly raised tensions by sending their pilots to fly Egyptian warplanes, a show of American determination in Indochina might have a stabilizing, cautionary influence.

These considerations cannot be lightly dismissed. If such are indeed the results of the President's risky decision, it will turn out to have been the correct decision. We are certain the whole country hopes the President has made the right choice.

But the danger is that the President's decision will get the United States deeper into the war, and keep us there longer.

The whole experience of the war to date has been that there is never, at any time, an easy military solution. Suppose the North Vietnamese are able to draw back and avoid the brunt of trans-border attacks? Suppose their determination to carry on the war is not weakened, but strengthened, by the attacks? Suppose the American troops disrupt the border sanctuaries and withdraw, only to find that in several months the North Vietnamese have returned and the situation is basically the same as it is now? These are not idle suppositions. They are based on the history of the whole long war.

That history has shown us that the war is not a definable thing with fixed military boundaries, but an open-ended war, with all Indochina as the potential battlefield.

The North Vietnamese recently increased their pressure on northern Laos. Suppose they respond to the American action in Cambodia by trying to capture northern Laos? Does the United States then feel challenged to defend it?

We realize that the President spoke explicitly of confining American action in Cambodia to the border sanctuaries.

The risks of deeper involvement inescapably arise however, because of the rhetorical context in which he put his decision. He spoke, repeatedly, of the situation as a "challenge" to American will, American credibility, American power in the world. Dangerously, deplorably, he laid the prestige of this country on the line in Indochina in a way he had not done before, and a way President Johnson did not do after his decision to stop the bombing of North Vietnam.

We believe that American credibility abroad is better served by disengaging from Indochina—doing it carefully, not too fast, doing it very much as Mr. Nixon had been doing it—than by committing the nation more deeply in Indochina.

We believe that the people of this country simply will not sustain a deeper commitment.

We do not know what the future will bring. On balance, we believe that the chances for failure in the President's decision are substantially greater than the chances of success. But, like all Americans, we very much hope we are proven wrong, and he, right.

[From the Denver (Colo.) Post, May 1, 1970]

CAMBODIA—A BLEAK PROSPECT

Richard Nixon admittedly laid his future as President on the line in his televised address Thursday night, but we would suggest that most Americans were less concerned with his political boldness than they were with his announcement of the extent of the new U.S. involvement in the Indochina war.

We were prepared for the argument and the rationalization in support of stepped-up military aid to Cambodia, an operation that has been officially under way for several days. Skeptical of its nature and worried about its potential, we nevertheless looked for no more than an explanation of its extent and purpose and perhaps a pledge of its limitation.

What we also got was the bleak news that "thousands" of American combat troops had joined with South Vietnamese forces in a joint attack on Communist strongholds across the Cambodian border, northwest of Saigon, and a pledge only that the troops would be withdrawn when those strongholds were secured from the enemy.

We find this revelation infinitely discouraging, no less so because the President attempted to justify this major military escalation and new territorial commitment in terms that have become all too familiar to Americans jaded by their country's involvement in a bloody and costly conflict that began as long ago as 1954.

It is the intransigence of the enemy, he said, that is prolonging that involvement today, and it is the "unacceptable risk" the enemy represents to our remaining troops that now has led to this further extension of that involvement. The President gave a blunt, aggressive impression in his brief address, using a map to explain his fateful decision to augment military aid to Cambodia with massive ground forces.

It is not to be considered an invasion, he said, but rather a move that is "indispensable for the continuing success" of the withdrawal of American troops from South Vietnam. When the Communist sanctuaries across the border have been cleaned out, the forces will be withdrawn.

If we concede some strategic military logic in the attempt to "clean out" enemy concentrations, the more pressing questions would seem to concern the amount of risk we are assuming in pursuing the enemy into another country and committing untold thousands of American troops to the operation.

If the goal is still to bring the boys home, as the President maintains, it seems like stretching logic to the breaking point to permit ourselves to be sucked into another widening of the war. And the fact that our will and character are being threatened, as the President put it, and not our power, scarcely strengthens that logic.

We appreciate the reality of President Nixon's political courage, that he would rather, as he said, be a one-term president who turned out to be right in his decisions than a two-term president who let his country down.

In sum, we must be highly skeptical of this new extension of our military involvement in Southeast Asia. But like all Americans we will hope for the best. We pray that the new endeavors are as limited in scope as the President expects and that they will protect and speed our withdrawal from South Vietnam.

While waiting for the results of this stroke, we would hope it could be received with a minimum of political partisanship and a maximum of the national unity that has brought this country through such storms before.

[From the Miami (Fla.) Herald, May 2, 1970]

RERUN OF A BAD DREAM—THIS TIME IN CAMBODIA

First the arms . . . next the military advisers . . . then the troops.

The script in Cambodia shockingly is the same as the story in Vietnam in the days of Kennedy and Johnson. We can hear Lyndon Johnson asking Congress for $700 million in 1965 (this year the war will cost $17 billion) when there were 30,000 Americans in the jungles and paddy fields and saying: "We have no desire to expand the conflict."

Reading yesterday of the loss of the first GI on official duty in Cambodia we can recall the days of 1963 when the death of a single American was a news event and the toll mounted alarmingly to eighty.

Then as now the host government opposed American involvement at first. The Vietnam government urged the withdrawal of American advisers. Cambodia, never consulted before 8,000 U.S. ground troops crossed its borders, "will protest."

So a nation that cannot realize its mistakes is condemned to repeat them. This, we regret to say, is what President Nixon has done in escalating the war in Southeast Asia.

The intrusion of Cambodia, alongside Vietnamese troops only lately regarded as shaky, is described as temporary—to clean out North Vietnamese and Viet Cong command posts before the monsoon season begins later in May.

But large bases are under construction. This makes a mockery of the national policy of withdrawal from the Vietnam war.

The credibility of Nixon policy also must fall in question. Cambodia has been a neutral. It wishes to remain a neutral. The North Vietnamese and the Viet Cong have violated that neutrality. So, over the border, to help Cambodia "defend its neutrality."

To give Mr. Nixon his due, he is taking a military gamble which has enormous risks. If it fails he may indeed become "a one-term President." If it succeeds (whatever success in this instance really means) he will have spent more blood and treasure in the Asian morass.

For most of Congress, and, we believe, most Americans are opposed to any more military ventures in Asia. Neither Congress nor the people were consulted. American troops are engaged in yet another foreign country without a declaration of war against anybody.

"I promised to end the war," said President Nixon Thursday night. "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."

We have heard it all before—endless times. Sadly, it is not just a bad dream: it is reality in all its folly.

[From the New York Post]

THE NEW CASUALTY LIST

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.—President Nixon, April 30.

It was unclear at the time the President made that declaration how expanding a war could reduce casualties and it is even more questionable now. Last week more American combat soldiers were killed in Southeast Asia that at any time in the past eight months.

The figure given by the U.S. Command was 168 men lost. Assuming that the sudden

increase in casualties was due both to Cambodia and to related counterattacks in Vietnam—and no more reasonable explanations are at hand—the President's chief justification for the invasion is fading fast.

"To protect our men" was the stated objective. The superficial rationale is that some sacrifice now will avert more casualties later. But, in truth, there is no objective way of judging how many men are being "protected."

The President also recalled his pledge to withdraw troops and asserted firmly that "they are coming home." But that is in question as well. Actually, no troops are shipping out at the moment—as the Pentagon acknowledges—and there are 3200 more men in Vietnam than there were a month ago. The Administration is committed to withdrawing 150,000 over the next year, but that promise was made before Cambodia, and what it is worth now is painfully uncertain. The figures that have immediate meaning are the casualty statistics—endless, and intolerable. There is surely no solace in the news that South Vietnamese casualties were also grimly large.

ECHOES OF THE CAMBODIAN ADVENTURE

1. BACK TO "TOTAL VICTORY"

Now "Operation Total Victory" in Cambodia has been accompanied by the renewal of U.S. bombing of North Vietnam. Raids more extensive than any undertaken since the air war was largely suspended in November, 1968, are under way, officially described as "protective reactions" in behalf of reconnaisance missions. In short, when the North Vietnamese fire at planes surveying their territory, the wraps are off. Who knows what other semantic ingenuities may be devised to camouflage President Nixon's desperate gamble for a military decision?

Vice President Agnew, asked yesterday on CBS' Face the Nation why the great bulk of troops participating in the Cambodian expedition were American rather than South Vietnamese, replied solemnly that this was consistent with our effort to "keep the casualties down." He also said we must concede that we cannot win a "ground war" in Asia. Next question?

We are living in a nightmare interval in which truth may be a major casualty each hour of each day. Mr. Agnew said confidently yesterday that the North Vietnamese are "quite debilitated and decimated." At the moment the evidence must be described as no more convincing than it was when the same characterization was used one, two and three years ago by those pressing for an investment of additional manpower and muscle.

All that is clear is that the Nixon "peace plan" has proved to be the old blueprint of the Pentagon and its front-men in Saigon.

It is based on the premise that we can impose a negotiated surrender on Hanoi without provoking any dangerous escalation by Peking or Moscow. To describe so hazardous an enterprise as a "minimal" or "limited" adventure is to play cruel games with reality.

2. THE PROPAGANDA MINISTRY

Herbert G. Klein, President Nixon's communications director, professes to hear only overwhelmingly favorable sounds in response to the Cambodian expedition. He says a "private poll" ran three to one in the President's favor and that mail, telegram and telephone have brought wonderfully affirmative messages. On Capitol Hill there are wholly different reports, with the Senate Foreign Relations Committee, for example, disclosing that it had received an unprecedented outpouring of wires with an 8–1 ratio condemning the U.S. moves.

Success, John F. Kennedy once remarked, has many fathers, and failure is an orphan. No public opinion verdict can be decisive at this juncture. But there is no visible dancing in the streets and there are many evidences of deep apprehension. In this connection it is noteworthy that a Harris poll, taken shortly before Mr. Nixon acted, and released today, showed 59 per cent opposed to any broader involvement in Cambodia or Laos under any circumstances. Were the fears and war-weariness expressed in that survey overcome by the President's speech, as a CBS telephone poll—the least reliable technique—now partially purports to find?

Meanwhile, Republican Senate leader Hugh Scott, whose own credibility has been badly undermined in recent days by his insistence that no bombing expansion was contemplated, is lashing out against the media for giving too much "free publicity" to "loudmouths" critical of the President. Does he mean Senator Aiken (R-Vt.), whose break with the Administration has received widest attention? Should Sen. Fulbright be required to buy time? Is there a new drive under way to make the networks organs of government policy?

[From the New York Times, May 2, 1970]

CAMBODIAN QUAGMIRE

President Nixon's shocking decision to send American troops into Cambodia immediately raises the question: Can they get out?

Withdrawal from South Vietnam as well as Cambodia is cited by the President, as the chief reason for plunging deeper into Indochina. The President's own rhetoric is once again ambiguous. He describes the American military move as a decision "to go to the heart of the trouble . . . cleaning out major North Vietnamese and Vietcong-occupied territories, these sanctuaries which serve as bases for attacks on both Cambodia and American and South Vietnamese forces in South Vietnam."

This is hardly a limited objective. The sanctuary areas now being used by Vietnamese Communist troops in Cambodia are far more widespread than the Fishhook and Parrot's Beak areas currently under allied attack. Talk of a six to eight-week operation, combined with Presidential language that indicates an effort to close out the Communist sanctuaries entirely, strongly suggests that more is intended than simply to shore up the Pnompenh regime and deter further Communist moves against it.

There is little reason to believe that the Vietnam war can be won by military operations in Cambodia, which cannot affect infiltration by sea, through Laos and across the demilitarized zone. There is little reason, furthermore, to believe that the Cambodian sanctuary can be closed. Similar bases have been cleaned out repeatedly within South Vietnam only to resume activity once allied troops withdrew; such operations are rarely attempted now in South Vietnam.

To pursue the objective of closing down Cambodia as a sanctuary assures a prolonged involvement of American troops and their likely entrapment in a quagmire as dangerous as that in South Vietnam, if Hanoi responds by escalating its own involvement there. The quicker the American action is terminated, the more likely it is that it can be terminated at a time of American, rather than Communist, choosing.

COMPULSIVE ESCALATION

With terrifying speed all the tragic errors of escalation are being repeated in Southeast Asia. Once again a President elected on a pledge of extricating the United States from the Vietnamese morass is embarked on a delusive quest for peace through widening the war. And each plunge down that road to disaster is followed posthaste by another and still another in a dismal replay of the futility ushered in by the initial escalation after Pleiku in February 1965.

The large-scale air attack on North Vietnam by American fighter-bombers this weekend did more than shatter the bombing halt ordered by President Johnson eighteen months ago. Coming just two days after the assignment of American troops to combat duty in Cambodia, the raid made it plain that the Pentagon is finding a receptive ear at the White House for its long campaign to strike at the enemy wherever its bases and supply lines may be.

This is a "domino" theory in reverse involving limitless risk and no discernible hope of success—a course rejected as to unpromising even at the height of the Johnson military expansion.

Unquestionably, the Nixon Administration is encouraged by the conviction that the Soviet Union and Communist China are so busy with their mutual animosities that they will refrain from stepped-up action in support of Hanoi and the other Communist elements in Indochina.

Yet the history of all past escalation in this area has been that it stiffens the Communist will to resist, pushes up the death toll, brings no serious move toward the peace table and drives both Moscow and Peking into more vituperative anti-American positions.

This is a two-way process of gambling with human destiny. Much of the inspiration for the President's stance in Cambodia obviously derived from concern that Moscow's increasing aggressiveness in the Mideast stemmed from a belief that the United States was a paper tiger.

What makes the current escalation doubly dismaying is its panicky pace. On April 20, from the relaxed setting of his ocean-front refuge at San Clemente, President Nixon gave the nation a reassuring report on the progress of Vietnamization and pacification. He was able to "say with confidence" that both processes were succeeding so well that another 150,000 American troops could be brought home.

Ten days later a much grimmer President was on television with a warning that the United States was in danger of battlefield humiliation that could topple it into the status of a second-rate power. Since then the area and extent of United States involvement have broadened so rapidly that even the defenders of the Administration's course have been left tongue-tied.

The first embarrassment was the disclosure that the Government Washington seeks to prop up in Cambodia was among the last to learn that American forces were en route to mop up Communist sanctuaries there. Comparable was the plight of such Administration stalwarts as Senate Minority Leader Hugh Scott cut adrift with White House-inspired statements that renewed bombing of the North was a remote contingency at the very time a hundred American planes were dropping bombs across the demilitarized zone.

The defeat in the Texas Democratic primary of Senator Ralph Yarborough, a Vietnam dove, will no doubt be taken by many around the President as evidence of popular approval of his new tough line. Mr. Nixon, by characterizing far-out elements among his campus critics as "bums," already has provided additional fodder for fear that much of this sudden militancy in Vietnam stems from a desire to divert attention from inflation, unemployment and other difficulties as the Congressional election moves into high gear.

The need in the conferences the President plans to hold tomorrow with four key Congressional committees is to get the focus back on deceleration of a war that, as Vice President Agnew acknowledged yesterday, the United States cannot hope to win and that makes impossible the attainment of urgent national goals. Making the war bigger is a formula for calamity, not extrication.

CAUTION IN CAMBODIA

Under the pressure of student and other protests, Congressional criticism and a worldwide clamor, President Nixon now has given the nation new assurances that his Cambodian incursion will remain limited in duration and character and, most important, will not be repeated later. His news conference commitments cannot undo all the disastrous consequences at home and abroad of this ill-considered adventure, but they do open the possibility of limiting the damage.

Mr. Nixon has promised categorically now to start withdrawing American troops from Cambodia this week and to get the great majority out by mid-June. By the end of June, he is pledged to remove all the rest, including the American advisers, air support and logistical aid provided the South Vietnamese forces in Cambodia. As a result, he expects the South Vietnamese forces to withdraw at approximately the same time.

Mr. Nixon acknowledged the North Vietnamese could re-establish their sanctuaries in six or eight months, but he indicated that the South Vietnamese Army then would have to deal with the problem alone. Earlier, Mr. Nixon assured Congress that American troops would not penetrate more than nineteen miles into Cambodia without Congressional approval.

All these assurances are designed to counter the country's fear of becoming bogged down in an expanded war that would impede and perhaps reverse disengagement from Vietnam. That fear is not limited to Mr. Nixon's critics. Some of his highest advisers opposed the Cambodian decision. Secretary of State Rogers, on April 23, told a Congressional subcommittee in closed session: "We recognize that if we escalate and we get involved in Cambodia with our ground troops, that our whole program [of Vietnamization and American withdrawal] is defeated. . . ."

Despite such advice, Mr. Nixon evidently decided to invade Cambodia and to bomb North Vietnam to respond to what he considered a Communist test of American "will and character" in the Middle East as well as Southeast Asia. But Indochina is a poor place for such demonstrations, as the sorry history of Vietnam has shown.

Instead of reinforcing American "credibility" in the world, the escalating Vietnam involvement undermined it by arousing a tide of anti-war and neo-isolationist sentiment in the United States. Cambodia promises to do the same.

The course of wisdom now, in addition to terminating the invasion quickly, is to resume vigorous efforts to negotiate a solution in Paris or elsewhere. Neither Moscow nor Hanoi has rejected outright the French proposal of a new Geneva conference.

President Nixon himself signaled last month that he was prepared to accept limited Communist use of the Cambodian sanctuary in preference to a wider war. A return to this policy might facilitate the reactivation of negotiations in one of the several areas the President mentioned during his Friday night press conference.

Meanwhile, reassertion by Congress of its responsible role in the war-making process would help restore public confidence in the American constitutional system and reinforce President Nixon's pledges of disengagement.

[From the St. Louis Post-Dispatch, May 14, 1970]

AND NOW CAMBODIANIZATION?

Vice President Nguyen Cao Ky of South Vietnam has never been lacking in gall, but he outdid himself in dropping into Cambodia to announce that his army expects to stay there a long time. Wearing a black flying suit adorned with silver stars, Ky held forth about the Saigon military's plans to remain in Cambodia until the feeble Lon Nol government has the strength to fight the Viet Cong and North Vietnamese by itself. This means never.

The Vietnamese (all of them) and the Cambodians have been deadly enemies for centuries, and even now the Cambodians are driving Vietnamese civilian residents out of the country; many, who have lived in Cambodia for years, have been slaughtered. The Cambodian army has just about enough strength to do this sort of job. It is said that as many as 500,000 Vietnamese may be expelled.

The South Vietnamese military were swept into Cambodia by the American troops who suddenly invaded the country two weeks ago. President Nixon says all Americans will be out by the end of June. Ky's troops can easily manage the ludicrous Cambodian army if it should try to cause trouble, so it appears that the Americans have handed over Cambodians to their ancient enemies, the Vietnamese. Of course, there are also North Vietnamese and Viet Cong troops in Cambodia, and it remains to be seen whether Ky's followers can stand up to them.

An interesting situation may be developing. Not long ago President Thieu of South Vietnam said it would take the Communists only a few months after the American departure to regain all the ground they have lost in Cambodia due to the American invasion, So what does this mean for Ky's occupation force (or was Ky only talking through his black baseball cap)? Ky's talk means Cambodianization, and it will not work any more than Mr. Nixon's Vietnamization will work. And if, say in July, the South Vietnamese start to take a licking in Cambodia, will the Americans run back in to save them?

Not if Congress denies the Administration funds for military operations in Cambodia; it is a powerful argument for passage of the cut-off resolution pending in the Senate.

[From the Sacramento (Calif.) Bee, May 2, 1970]

NIXON TRIES BUT FAILS TO JUSTIFY HIS ESCALATION OF THE WAR IN SOUTHEAST ASIA

President Richard Nixon was more emotional than logical in his nationwide defense of his indefensible expansion of American military involvement in Cambodia.

His arguments were specious, flag-waving and nothing can obscure the fact Nixon has escalated the Vietnam war, that he has compounded the folly of South Vietnam, that he has taken an action directly contrary to the whole implication of his campaign promises.

Manifestly the generals have made Nixon a captive, albeit a willing one, who from the beginning, has been hawkish toward the war. Nixon completely disregarded the lessons which he should have learned from the escalation of the Vietnamese war.

In a guerrilla war, the enemy merely falls back when moved against, disperses and regroups again. This undoubtedly will be the response of the Communists to American invasion of Cambodia, unless it is the intention of the United States to stay in its enlarged battlefield indefinitely.

America now has two nations from which to withdraw. Moreover, Nixon recognized the danger of his action when he warned any power which came to the aid of the Reds that America stood ready to retaliate with proper responses. This was a warning to Red China and proved Nixon is reapplying the old theme of brinkmanship so closely related to the name of the late Secretary of State John Foster Dulles.

With star-spangled rhetoric Nixon sought to invest this nation's Southeast Asian misadventure with a high moral content it never has had. He donned the toga of self-righteousness when he said he would rather be a one-time president than let American soldiers and morality be forfeited.

Emphasizing this theme, Nixon likened the American move in Cambodia to the two world wars and to the Korean War. The fact is, America's involvement in Southeast Asia almost uniquely departs from its roles in the wars he mentioned. It lacks the legitimacy of congressional sanction; it is not a war for principle, unless one equates the autocratic government in Saigon with democracy; it does not further American interests and safety, just the opposite.

Nixon merely defended discredited brinkmanship and escalation.

The whole mess in Southeast Asia has been stunningly worsened.

[From the Washington Post, Apr. 30, 1970]

THE NEW "LOW PROFILE" APPROACH IN CAMBODIA

From the very beginning of our effort in Vietnam we have rested our case on the sanctity of frontiers; North Vietnam had *invaded* South Vietnam, we argued, so it was aggression pure and simple. From this flowed our right to come to Saigon's aid, and bomb the North and all the rest. When North Vietnamese troops began in recent weeks to menace the new government in Cambodia, the refrain was the same; the White House wasted no time calling it "a foreign invasion" and never mind that the presence of large numbers of North Vietnamese troops in Cambodia had been a fact of life which we had accepted, without doing anything about it, for several years.

So now, because we don't like the turn of events in Cambodia, we have lent ourselves, with combat support and moral backing, to a *South Vietnamese* invasion of that country, without the slightest evidence that this support has been requested by Pnom Penh.

This is a stupefying development, which makes you wonder where in the world this Nixon crowd was when we were working our was insidiously into the Vietam War? Does nobody in this administration remember how that scenario went: first, try it with the South Vietnamese Army (ARVN), with American advisers and American equipment and American encouragement, and then if it doesn't do it, throw in air support, and then, if that doesn't work, American combat troops. Call it temporary, of course, something quick and surgical to buy time until our allies can pull themselves together and go it alone. If this administration can't remember how it went before, it ought to consider the possibility that a lot of people do—that we have been conned, once, by experts and that there are a lot of people, as the reaction in the Senate yesterday plainly suggests, who are in no mood to be conned again.

It may be, of course, that there is something to this that we haven't been told in the communique from the Saigon government, announcing the ARVN drive into Cambodia, and also the American collaboration in it, with military advisers, helicopters and air support. The President will have an opportunity to explain tonight in his television address just what there is about this adventure which distinguishes it from the follies of the past. For it is difficult, on the basis of what Saigon has said, and what the Pentagon has confirmed, to find any quarrel with Senator Mansfield's assessment: "Cambodia is a whole new ball game. If we become involved directly or indirectly, it becomes a general Indochina war."

Since we obviously *have* become involved, not only indirectly but directly, it certainly gives every appearance of being a step toward a "general Indochina war." And the hard questions come immediately to mind. Why, and why now, of all times, when we are supposed to be paring commitments and scaling down involvements and concentrating on Vietnamizing Vietnam? The obvious

argument is that this will remove a great thorn in our Vietnam effort and thereby hasten our exit from the scene—or at least prevent it from being delayed. That is what we were told about the bombing of North Vietnam, and it is no more believable in this instance. For one thing, we would need far better evidence than anybody has offered in advance of this decision that the South Vietnamese can clear out the Cambodian sanctuary; still less is there any evidence that they can keep it cleared out. Even if they could, what is to stop the North Vietnamese, in the meantime, from turning around and giving their full attention to the subjugation of Cambodia? And where does this end, if not in an ever-increasing effort to make good on Mr. Ronald Ziegler's ambiguous implication that we suddenly have an obligation to keep Cambodia neutral and out of Communist control?

Frankly it did not occur to us, when the President first announced his new, "low profile" approach to foreign policy that its first real application would come in the form of active American collaboration in a South Vietnamese invasion of Cambodia. But we are, perhaps, getting ahead of things; we await the President's explanation tonight of what is new, let alone even remotely promising, about this policy.

[From the Washington Post, May 15, 1970]

CAMBODIA AFTER JUNE

Some of the blurred edges of Mr. Nixon's pledge to take "all Americans of all kinds, including advisers . . . out of (Cambodia) by the end of June" are beginning to come into focus. The clearer view is not entirely reassuring. Essentially, what Mr. Rogers and Mr. Laird have said this week in amplification of the President's withdrawal commitment is that, while ground troops will be removed from Cambodia by the set deadline, the United States maintains the option of using its own air and naval arms there and of supporting later forays by military units of South Vietnam.

One can appreciate why the administration would not wish to tell Hanoi and the Vietcong, from the rooftops as it were, that if only they will keep their heads down in Cambodia for six more weeks, they will never be bothered again. Ambiguity has an obvious military utility. Yet at a certain point in the American people's rising ferment, the reasons for keeping the enemy guessing but against the claims of Americans to be informed and reassured about their own government's policy. After everything that has happened in the last few weeks, is there still an argument about where the priority lies?

Perhaps these simple things should be said about the Cambodian intervention. First, it involves combat in another sovereign state, a fact not altered by the use of airplanes or ships or allies rather than ground troops. Second, the criticality of further operations in Cambodia, as opposed to their convenience, remains to be demonstrated, the more so as the current intervention is claimed to be a success. Third, such further operations confirm precisely the fears of those who suspected from the start that intervention in Cambodia could not be swift and "surgical." That is just what "a wider war" means.

Saigon's policy is especially disturbing. The Thieu-Ky leadership is broadcasting loudly that it intends to fight on in Cambodia after June 30; Mr. Ky speaks wistfully of recapturing a town fully 80 miles beyond Phnom Penh. But observers on the scene wonder how long a rekindling of traditional Vietnamese-Cambodian animosities can be avoided, if Saigon's strikes go on. Another worry is that South Vietnamese units, if deprived after June 30 of their customary extensive American support, may get into trouble so deep that pressure on the United States to rescue them will overwhelm the discretion evident now. The administration's commitment to the Thieu-Ky government is large. It is by building up its military prowess that Mr. Nixon hopes to allow troop withdrawals from Vietnam to go forward. Yet surely that commitment does not require the administration to license Saigon to fight a proxy war in a third country.

With some apprehension, we note reports that a good part of the Nixon policy in Cambodia is being based on estimates of what the American public will stand for. Use of airplanes, ships and South Vietnamese, it is suggested, may not make outrage brim over, the way the use of ground troops did. This is, in our view, a very chancy basis for policy-making. It literally asks for policy to be made in the streets. If students and others dismayed by the war come to believe that mass protest is the only deterrent Mr. Nixon will honor, then the evidence of the last three weeks plainly is that the protesters will accept that challenge. Domestic peace as well as international sense argues for limiting the intervention in Cambodia, before June 30 and after.

CAMBODIA: HOME TRUTH AND FIRST PRINCIPLES

"I know it is not the intention of the sponsors to aid the enemy," Senator Griffin said the other day and, in that gentle way politicians have of sticking a shiv into each other, he went on: "Of course, it is not. But it does aid the enemy when we tie the it does, and so here we go again, with the hands of the Commander in Chief." Well so same pious, specious arguments, reflecting the same (presumed) innocence of the kind of struggle we have been engaged in for five years, the same unwillingness to face the implications of what we have come to call *limited war,* and the consequent incapacity to talk about it in honest terms.

We begin by calling it limited and then when an effort is made to define a limit we call that "aiding the enemy" or worse—we are told that this or that inhibition will endanger American lives. Of course it will; that risk is inherent in a limited war; if economy of life had been our paramount concern, we would have fought this war in a far different, faster, and more efficient way, and at the risk of a far wider conflict—or not fought it at all. It is therefore tempting to write this off to ignorance or the rhetoric of political debate, to leave Senator Griffin at Valley Forge, as it were, with General Washington—except for the fact that the nature of limtied war is central to the current Senate effort to exert greater influence over war policy. On the off chance of illuminating the on-going debate, let us return to a few easily forgotten home truths and first principles:

The word limited, as applied to our Vietnam mission, means just that: "confined within limits; characterized by enforceable limitations upon the scope or exercise of powers." It modifies, it this instance, not just the manner in which a war is conducted but the objectives—the realistic outcome and the predictable gains—which can reasonably be expected, *as a result* of the limitations on the way it has been waged, unless you believe that a reduced investment can produce the same return.

Thus, we have *always* fought this war with our hands tied. We have not invaded or tried to conquer North Vietnam. We did not try to flatten that country with one swift and terrible bombing blow, although presumably we could have. Neither did we attack Hanoi's chief suppliers, Russia and China; it was not thought to be worth the risk of World War III. So we have always fought the hard way and taken and tolerated more casualties than we would have otherwise, and while this is not a pleasant thought, it is a fact. President Johnson used to say that a bombing halt would tie one hand behind his back—until he saw a purpose in halting the bombing and, understandably, stopped talking that way. He did not sweep into Laos or across the DMZ or into Cambodia.

Mr. Nixon, of course, has swept Cambodia; but in the process he has produced such a political trauma at home that, for all practical purposes, he has foreclosed his doing it again. He has tied his hands, or one hand, or another hand (you will perceive how grotesque this image can become) and this time the knots look permanent; as McGeorge Bundy observed last week "the appeal to the escalator has been ended by the mass reaction of Americans in (the) last fortnight."

And yet, the administration continues to threaten the sternest measures if the enemy does anything to interfere with "Vietnamization" and our orderly withdrawal, and those in the Senate who would merely ratify the President's public eschewal of further Cambodian incursions are being told by the Republican leadership that they are "aiding the enemy." The President, meanwhile, promises withdrawal, on the one hand, while continuing to project the prospect of a "just peace" as our fixed objective while up in the Senate, his critics draft a timetable for our departure and call it "an amendment to *end* the war."

What the Senate sponsors of this particular measure really mean, of course, is an end to *our participation in the war;* they can promise no more. What the President really means . . . who knows?—we do not yet have the habit of plain talk about this war. And because we are not likely to work our way out of it until we do begin to talk about it in real terms, there is a strong argument for passage of the Cooper-Church amendment, in a form satisfactory to the White House as well as the Senate. Our most urgent need now is not so much a prohibition imposed upon the President as a start towards a common understanding of *all* the limits imposed upon all concerned by a strategy of limited war.

[From the Washington Post, May 24, 1970]

THE VIETNAMIZATION OF CAMBODIA

The Nixon administration's plan to Vietnamize Cambodia—to support ongoing ground warfare there by South Vietnamese and other Asians after American troops leave next month—is risky and wrongheaded. Far from it being a "mistake" to set a timetable for the South Vietnamese, as Defense Secretary Laird said Friday, it is a mistake for the United States to grant Saigon what sounds too much like an unrestricted hunting license in a foreign country. This is the essence of a wider war, all the more disturbing for coming at a time when the setting of limits should be the key to policy.

Whatever can be said for Saigon's right to make occasional raids against Cambodian water sanctuaries, nothing can be said for a continuing presence. Such a presence invites Saigon to get in over its head and then to cry for an American rescue. It will surely tempt the Communists to make as much trouble as they can in vacated areas back in South Vietnam, with one likely consequence being a slowdown in American troop withdrawals. It encourages Saigon to assert what many Cambodians fear are its traditional ethnic and territorial ambitions or, at least, to draw Washington more deeply into the Cambodian whirlpool. If one accepts the administration's own claims of the great success of its Cambodian venture, in terms of supplies captured and sanctuaries spoiled, then the justification for a continuing Vietnamese presence reduces to nearly zero.

But that the administration supposedly is encouraging other Asians, such as Thais and Indonesians, to join military operations in Cambodia is a development with several puzzling aspects. Troubled as we are by the Cambodian intervention, we ordinarily would welcome Asian initiatives to come to Saigon's aid. The more the Asian governments cooperate with each other the better the

chances of the United States' withdrawing and of the region's moving forward on its own. Yet for such an operation to have the best opportunity for success, it must be seen as an Asian one. The United States may help an Asian regional defense effort and entertain hope for it. But as soon as Washington invests its own prestige in that effort and takes on responsibility for its effectiveness, then the whole dreary cycle of American over-reaction and Asian under-performance will have begun again. For the administration to insist that every Asian exercise in collective security represents an unfolding of the "Nixon Doctrine" is gratuitous and probably harmful too.

If the sanctuaries in Cambodia really have been spoiled so spectacularly as administration spokesmen say, then the United States has no further appropriate business there; not in supporting the Lon Nol government, not in sponsoring Saigon's or Bangkok's designs on Cambodia, not in doing anything which makes that unhappy land more of a military and political cockpit than it already is. The United States has no obligations to Cambodia, nor should it take any on. Cambodia is the wrong place for the United States to be investing its own military or diplomatic resources, and this is the wrong time.

The American purpose ought to be to return its and its allies' focus to Vietnam. Presumably this was Mr. Nixon's intention on May 8 when he declared, "I would expect that the South Vietnamese would come out approximately at the same time that we do, because when we come out our logistical support and air support will come out with them." The President was offering himself good advice.

THE FLOOD OF MAIL AGAINST THE WAR

Mr. CHURCH. Mr. President, since President Nixon dispatched American troops into Cambodia in late April, I have received tens of thousands of letters and telegrams against our military involvement in Southeast Asia in general and Vietnam in particular. Some of these communications reflect anger against our mindless military involvements in far-off places. Others reflect sadness at the tarnishing of our Nation's reputation as a result of the war. Others reflect a poignant personal feeling of despair that the Nation will ever right itself. But all are written with a determination that every effort ought to be made to end the war in that spirit which Senator Carl Schurz captured in the 19th Century when he said:

Our country, right or wrong. When right, to be kept right; when wrong, to be put right.

These letters and telegrams to which I refer came from all sections of the United States. I wish to share some with my colleagues, that I have received from Idaho. I withhold the names, because I have not had time to obtain the consent of the writers to place their letters in the RECORD.

A 15-year-old boy, in writing me, expresses an analysis of the Southeast Asia war that adults would do well to emulate. He wrote:

On the (TV) show, you stated many young boys will soon be old enough to fight, he writes. I'm 15, which makes me one of them. I know how it feels to hear so many men were killed today, thinking, soon it could be me. It is not dying I'm afraid of, but knowing I died in vain. There is no real cause to die for. In World War II, it was different, for Japan had bombed our soil. Then there was Hitler in Germany and the death of so many Jews. But in Viet-Nam? Nothing. No real outstanding cause.

A second correspondent writes:

All of Soda Springs would like to see the war in Cambodia ended. Bring all the boys home.

Still a third urges:

Please put every effort possible into leading our country into complete withdrawal from Viet-Nam and Cambodia so that peace can become a reality. All-out war is not desirable, but neither is slow military withdrawal which leaves many soldiers on active duty with little protection, or the closure of our colleges, interrupted educations, or deaths on campus.

A young man writes:

Being of the younger generation (23) I feel that you do represent the younger generation in our stand in the current crisis in the Indo-China War as it is now always called.

A high-school student at Mountain Home, shares my view when he states:

I have a great fear that the Cambodia situation will end up just like Vietnam. I feel we shouldn't be there, but I know demonstrations will be of no use. So I write to you. . . . All that is coming of the war is many grieving families . . .

And from another:

Apparently our executive branch has forgotten about government of, by and for the people. To cut off their funds must be the only language the Administration understands. At least the voice of the people has no effect in ending this madness.

The impact of the war on our young has gravely concerned me and still another Idaho correspondent agrees:

It frightens me when I see young Americans so disillusioned about their country. We must remember that in a very few years these young people will be part of the majority, but it is highly unlikely that they will be "silent," if their government ignores them now . . . I salute those of you who have put your political careers on the line in an attempt to end this fiasco. You are the true American patriots.

Finally, I want to share one more letter written by an Idahoan who remembers that President Charles de Gaulle braved fierce controversy bordering on insurrection in order to withdraw his beloved France from a wrong commitment in Algeria. This correspondent writes:

France withdrew and as someone said, "She didn't fall into the sea."

I ask that the text of the letters from which I have quoted be printed in the RECORD at this point.

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

DEAR SENATOR CHURCH: Two years ago I campaigned for you for the U.S. Senate. After watching you tonite on "To End the War", I know every minute of campaigning was worth it. I support your views entirely.

On the show, you stated many young boys will soon be old enough to fight. I'm 15, which makes me one of them. I know how it feels to hear so many men were killed today, thinking, soon it could be me. It is not dying I'm afraid of, but knowing I died in vain. There is no real cause to die for. In World War II, it was different, for Japan had bombed our soil. Then there was Hitler in Germany and the death of so many Jews. But in Viet-Nam? Nothing. No real outstanding cause. Men don't leave for Viet-Nam with a pat on the back and full support, but division and hatred to send them off. Those same men cannot say they will die so N. Viet-Nam will not invade Southeast Asia, for we don't know what they will or would do. And how about the P.O.W.'s. Instead of saving our men in North Viet-Nam, we are sending more men into Cambodia. Is this the road to peace? Certainly not.

This is more of an emotional letter than a logical one. But our country is emotionally divided, and the war certainly is not a logical one. I am sending a dollar to help you. I thank you, Senator for speaking out. It's about time. In a joint effort of the people and the Congress, we can end this war. We must end it or our country may not be around to celebrate its 200th birthday.

DEAR FRANK: We have no way to adequately express to you and the other great leaders in the Senate for your leadership in trying to end the war in Asia. The television program was impressive and I believe that it will make a tremendous impact on public opinion. We are sending a contribution to Support the Amendment to End the War in Vietnam.

Senator FRANK CHURCH: All of Soda Springs would like to see the war in Cambodia ended. Bring all the boys home. I had three grandsons over there. They should put this important question to a vote from all the people. We are not gaining, only losing.

DEAR SIR: With deep feeling we write to you regarding America's involvement in Viet Nam and Cambodia. As parents of two daughters and a son on two college campuses, we feel we have a great deal at stake and must express ourselves accordingly.

The deaths of those four students at Kent University is a direct result of this military action. How much longer can we ignore the advice of military leaders but listen to political leaders in the Indochina confrontation?

Please put every effort possible into leading our country into complete withdrawal from Viet Nam and Cambodia so that peace can become a reality. All out war is not desirable, but neither is slow military withdrawal which leaves many soldiers on active duty with little protection, or the closure of our colleges, interrupted education, or deaths on campus.

It seems that our world must learn to love persons enough to say, "I will not harm you just to get what I want." Our country could become the initiators of this movement by learning to communicate through careful listening and intelligent speaking, by caring for one another enough to eliminate wars, both foreign and domestic. Sound like the Golden Rule? We meant it so.

DEAR SENATOR CHURCH: On one of the local television stations last night, I had the opportunity to see you speak along with 4 other senators. This was an extremely effective and informative way to present your case for this proposed amendment.

You have my support completely in your work, as you have had for all the time you have served Idaho. I feel strongly that we here in the sparsely populated state of Idaho are fortunate to have such a mature and effective voice in Idaho. Being of the younger generation (23) I feel that you do represent the younger generation in our stand in the current crisis in the Indo-China War as it is now always called.

Again, keep up the good work and be assured that the young people of Idaho along with the older folks are behind you!

DEAR SIR: I am a student at Mountain Home High School, and I feel it is better to write to you than to riot or to burn build-

ings. I am worried about the situation in Vietnam and Cambodia. I have several relatives over there, and I don't want them killed or disabled for life. I don't claim I know what we should do, but I don't feel we should be over there. I am writing to you in hopes that maybe you can do something.

I have a great fear that the Cambodia situation will end up just like Vietnam. I feel we shouldn't be there, but I know demonstrations will be of no use. So I write to you in hopes that you will understand my feeling of leaving or having a military victory. All that is coming of the war now is many grieving families. All I know is we shouldn't be there. Can't something be done?

NEWSPAPER EDITORIALS OPPOSE OUR CAMBODIAN INTRUSION

Mr. CHURCH. Mr. President, throughout the Nation, many newspapers have endorsed the Cooper-Church amendment designed to terminate our direct military involvement in Cambodia. In so doing, the decision to send American troops into Cambodia is challenged.

I ask unanimous consent to have a few of these editorials printed in the RECORD at this point.

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

[From the Baltimore (Md.) Evening Sun, May 12, 1970]

NO NEW CAMBODIAS

The United States commitment to the present Cambodian operation is accepted, however reluctantly, by the Senate Foreign Relations Committee. But the committee has now said, in startlingly concrete language, that there should be no new Cambodias. This is the gist of the amendment approved yesterday that would prohibit the following activities for the future: retention of United States forces (not only ground combat forces) in Cambodia, presumably after the projected pull-out date of June 30; the use of American advisers and instructors in that country; American support for mercenaries there; air support of Cambodian forces.

Whether the amendment will survive in the full Senate, or be accepted by the House (which had previously declined to adopt any such restrictions) is far from clear. Indeed, the whole question of operations in Cambodia, as opposed to South Vietnam, has surfaced so quickly it has not received the kind of thorough debate and consideration it deserves. Thus the State Department raises doubts about the constitutionality of such prohibitions and these have not been resolved. The President's right as Commander in Chief to "protect" American forces in South Vietnam—which he claims is one of the major objectives of the present operation—remains murky under terms of the amendment, although its sponsors claim no such restriction is intended. And the use of air power to support, say, South Vietnamese military action would apparently be permitted.

Even so, the intention of the amendment is clear and for the first time the initial, formal step has been taken to exercise congressional power over the purse strings to restrain the executive. This, as much as any demonstrations on the Ellipse or the nation's campuses, should provide pause for the White House and the Pentagon. We do not insist that the amendment in its present form is precisely the right way to go about the matter. The questions and doubts need to be examined further in senate debate later this week than they were by the committee. But the great cry across the country for Congress to reassert its authority has obviously been heard and produced a response, as salutary a development as there has been in the Capitol for a long, long time.

The Nixon Administration, in keeping with its benign neglect policy toward Latin America, is trying to defuse the controversy. Plans are being drafted to drastically reduce the size of the military missions in Latin America. That was the recommendation contained in Governor Rockefeller's report. Also, it seems, Pentagon planners have concluded independently that the larger missions should be scaled down. They are unnecessarily expensive and are often identified with undemocratic elements in the host countries.

This is a step in the right direction. The administration might also look to some of the larger embassies throughout Latin America, with the view toward cutting some unessential non-military personnel. Smaller embassy staffs would serve the dual purpose of lowering the United States profile in Latin America and providing fewer potential victims for would be political kidnapers.

[From the Boston Globe, May 13, 1970]

HOW TO TURN OFF THE WAR

The Senate Foreign Relations Committee has moved to deny funds for unauthorized war operations. The bipartisan Cooper-Church amendment to the foreign military sales bill specifically seeks to prevent U.S. forces from becoming involved in a war for Cambodia and to insure that U.S. forces presently in Cambodia will be out by July 1 and be kept out.

The administration protests that this language imposes limitations on the President's authority as commander-in-chief, especially concerning his responsibility to protect American forces "within" South Vietnam.

This is the same argument presented two weeks ago to justify the invasion of Cambodian territory. Since congressional approval was neither sought nor deemed necessary by the Nixon administration, congressional opponents are left only with their unquestionable power to appropriate funds for the war machine.

Last week some 135 members of the House, including all of the Massachusetts delegation except Speaker John McCormack, supported unsuccessful moves to deny funds without congressional consent for incursions into Cambodia. This week each senator will have to vote publicly for wider war or withdrawal on whatever schedule.

Some suggest this will be an exercise in futility. But at least it means a significant reversal of the long-standing practice of automatically voting military appropriations. Between now and July 1 there will be numerous opportunities to attach identical amendments to all pertinent military appropriation bills. These votes will establish the record on which all congressmen and 35 senators must seek reelection. This is what the new student lobbyists need either to persuade congressmen to their peace views or to garner support for peace candidates.

There is also a chance that the Senate will approve the restrictions. The amendment is being supported by the Senate's two most distinguished Republicans, George D. Aiken of Vermont and John Sherman Cooper of Kentucky, as well as Senate Leader Mike Mansfield (D-Mont.).

Sen. Hugh Scott (R-Pa.), speaking for the administration, says the amendment will not get any "more than 30 votes." Sen. Frank Church, an Idaho Democrat and sponsor, counts "more than 40" supporters now and foresees a majority by Thursday's vote time. One hopes that Sen. Edward W. Brooke will support the amendment. Republican votes especially are needed and should represent no embarrassment to the President if we are to believe his statement that "all U.S. troops would be out (of Cambodia) by June 30." That is all the amendment asks.

The administration's ambiguity on the Church-Cooper amendment is typical of the credibility gap, once a hallmark of Johnson days, now apparent in Washington. It was never more evident than after the session Monday with the nation's governors. The meeting was designed to explore ways to communicate better with students. We are told a presidential "telethon" is being considered to start a dialogue with youth. There is no need for any such staged production. Actions will speak clearer than words.

A return to withdrawal and disengagement from Vietnam, reform of the draft, approval for the 18-year-old vote, and greater efforts to reduce military spending—rather than floating trial balloons about the need for more taxes—are all better ways to woo the young.

The suggestion of MIT professors to contribute a day's salary toward a $15 million peace candidates fund also has great merit. Their announcement said "we must ensure that the coming elections will create a Congress that will be committed to peace, the withdrawal of American military presence from Indochina and the prevention of other Vietnams." That is a worthwhile program, not only for university professors, but also for the students and all wage earners who want to turn off the war.

[From the Detroit Free Press, May 15, 1970]

CONGRESSIONAL DUTY IN WAR IS FINALLY BEING ASSERTED

Had something like the Church-Cooper amendment now before the Senate been enacted half a dozen years ago, we wouldn't be stuck where we are today in Indochina.

The resolution would cut off funds for future American military activities in Cambodia, unless they were initiated with congressional approval. It would not affect the current operation there, but would hold the President to his deadline for pulling U.S. forces out of that country.

One reason we became so hopelessly entrenched in Vietnam is because from 1961, when the buildup of American advisers began, until last year, no one took any specific, concrete steps to stem the widening of the war.

What if two, three or four years ago, Congress had said to the President, "Look, we're not going to pay for any more than 50,000 or 100,000 troops in Vietnam"? No one can say for sure, of course, but the strong possibility is that "Vietnamization" would have begun much faster.

Instead, the executive was allowed to choose, decision by decision, to expand the conflict until the war we shouldn't have fought with 50,000 men has become the war we shouldn't have fought with 500,000.

The President has already announced he has no intention of staying in Cambodia. Why should he object to this congressional reinforcement of his own position? He did not oppose similar resolutions a few weeks ago forbidding use of U.S. combat troops in Laos or Thailand.

The amendment does not prevent Congress from changing its mind, should the politics or military situation of Southeast Asia require it. The swiftness with which the Tonkin resolution was passed shows how quickly Congress hands sweeping powers to the president in an emergency—and how easily a president can convince it that an emergency exists.

The State Department argues that the amendment restricts the President's "fundamental powers" as commander-in-chief, an argument that the executive branch is fond of making. The President has chosen to regard every opposition to his policies as a usurpation of his powers, as though opposition is automatically unconstitutional, illegal and somehow even un-American. That only encourages the kind of "patriotism" that beats up peaceful demonstrators, provokes more violent dissent and applauds the shooting of students.

The President, after all, is not the only one with constitutional duties and preroga-

tives. Congress has the constitutional duty to declare war, to control expenditures and in a fundamental way to act as a check upon the executive. We are currently fighting an undeclared war at horrible expense in which two presidents have had unusual freedom of action. Church-Cooper is just an attempt to reverse a balance that for too many years has been weighted all in the other direction.

For many months, the only serious anti-war arena has been in the streets. Frustrated in their attempts to alter the course of the war and frequently goaded by the well-advertised indifference of the administration, those who oppose the war turned to marches, rallies, pickets, even—and we condemn it—violence. Church-Cooper is a big step toward moving the action back to the political arena, toward making American institutions seem viable and responsive again. We hope it will work.

[From the New York Post]

REVOLT ON CAPITOL HILL

A great many bills have been sent up to Congress by the Nixon Administration, but it must be especially anxious now about prompt attention to the bills for the Indochina war. There may be some delay; an increasing number of legislators seem reluctant to pay with a blank check.

In fact, it appears that at least 41 Senators support the legislation just reported out by the Senate Foreign Relations Committee, which would amount to a stop-payment order on funds for any U.S. military activity in Cambodia after June 30, and the House Democratic caucus will meet in an unusual session tomorrow—at the request of 54 members—to vote on a resolution introduced by Rep. Ryan (D-N.Y.) opposing the Cambodia invasion.

The Administration is apparently apprehensive about these developments. A State Dept. protest about "statutory" curbs on the powers of the Commander-in-Chief was hastily followed up yesterday by Secretary of Defense Laird with announcements of troop pullbacks from Cambodia and promises that "major" operations will cease by June 15.

It is doubtful that responsible critics will be satisfied by such countermeasures—or by official cheerleading about alleged triumphs in Cambodia even as unrest mounts in Saigon.

The Senate legislation, actually an amendment to the foreign military sales bill, and the Ryan resolution are both expressions and assertions of Congressional responsibility and leadership. There will be debate later on the proposed repeal of the Gulf of Tonkin resolution and on the even more stringent measure sponsored by Sens. Hatfield (R-Ore.) and McGovern (D-S.D.), intended to force withdrawal of American forces from Vietnam and Laos by the end of the year. In other words, neither the Pentagon nor the President can be calmly assured of unlimited funding for wider war in Indochina by demanding that Congress routinely pass the buck.

[From the New York Times, May 14, 1970]

CAMBODIAN WITHDRAWAL

The debate that has opened on the Cooper-Church amendment now gives the Senate a chance to vote a proposal that would bind President Nixon to his promise of withdrawing American troops from Cambodia. It would also make sure that he did not send them back without Congressional consent.

These reasonable objectives deserve reasoned discussion, not the "stab in the back" and "jubilization in Moscow" rhetoric employed in an attempt to discredit the amendment yesterday by some Administration supporters.

Administration arguments that the measure would hamper the President in his constitutional responsibility to take action to protect American troops merely confuse the issue. Nothing in the proposal would keep the President from carrying out the present Cambodian operation, all the more so since repeated statements by Mr. Nixon and Defense Secretary Laird assert that the operation is ahead of schedule and proceeding successfully. Mr. Laird, in fact, has publicly dismissed as unnecessary military pleas for more time to search for Communist arms in the sanctuary bases.

What the Cooper-Church amendment would do is cut off funds to retain American troops in Cambodia after the current operation is completed on June 30. It would also prohibit American advisers or air support for Cambodian forces.

However, the sponsors of the proposal have not attempted to bar limited arms aid for Cambodia nor American air interdiction of Communist supply lines through Cambodia to South Vietnam. Neither is there any attempt to rule out American air support to South Vietnamese forces should they return to Cambodia at a future date, although President Nixon has said that air support for the current South Vietnamese operation would halt by the end of next month.

The importance of the Cooper-Church amendment is twofold. It gives the Senate an opportunity to put on record the strong opposition within that body to a prolongation of military operations in Cambodia. And it would announce the Senate's determination to reassert Congressional prerogatives in foreign policy and defense, areas marked in recent decades by Presidential dominance—and tragic errors.

The real constitutional issue differs from the one the Administration is trying to make. The Constitution vests control over the nation's warmaking power in both the President and the Congress. No one can doubt the need for Presidential decision-making when split-second questions of nuclear war or peace may be involved. But there never has been such urgency in the Presidential decisions on Vietnam and Cambodia, now under challenge.

By adopting the Cooper-Church amendment and thus reasserting its right to be consulted before the country is taken into war again, Congress will strengthen not weaken the American position in the world. What Vietnam has shown is that it is a war undertaken without popular consent that undermines American credibility abroad, not the opposite.

[From the New York Times, May 17, 1970]

CAMBODIAN BALANCE SHEET

Desperately eager to head off a long-overdue reassertion of Congressional restraints over the President's warmaking powers, the Nixon Administration strove last week to put the best possible face on what it insists will be only a limited extension of the Vietnam war into Cambodia. It remains too early to tell how much or how little military success will attend the two-week-old Cambodian escalation, but it is already plain that it is a political disaster.

Administration sources cite a count of more than 7,000 reported enemy dead and an impressive list of weapons and other booty captured as evidence that the thrust into border sanctuaries has proved its worth. But even Defense Secretary Laird appears skeptical of the body count and nobody doubts that the seized supplies will be replaced in time.

Meanwhile, the main body of enemy forces has not been touched. The Communists continue to extend their grip over northern Cambodia and southern Laos, beyond the self-imposed limits of American penetration. Still a phantom is the central Communist headquarters that President Nixon has said was the principal target of the allied attack.

On the global political front Secretary of State Rogers has conceded that foreign reaction has been largely negative. Instead of inducing the other side to negotiate, President Nixon's get-tough policy appears to have stiffened Hanoi's resolve and strengthened North Vietnam's ties with its Communist allies. It has exacerbated Soviet-American relations at a critical time in the SALT talks and in Middle East negotiations; it even appears to have cooled the quarrel between Moscow and Peking.

But the heaviest price for President Nixon's Cambodian misadventure has been paid at home where bitter division and bloodshed have torn American society. Less than a month ago, Mr. Nixon was boasting that the Communists had made "their most fatal calculation" when they "thought they could win politically in the United States." Now it is the President who has misjudged the depth of American aversion to the war. This opposition has exploded not only on the campuses but within his own Cabinet, in the usually mute State Department bureaucracy and among such solid citizens as 1,000 "establishment" lawyers who plan to travel from New York to Washington this week to urge "immediate withdrawal from Indochina."

Henry Kissinger, the White House foreign policy adviser, yesterday said that the President's July 1 timetable of withdrawal would be fulfilled and that the South Vietnamese would pull out their combat forces about the same time. His statement is made speculative because they have gone far beyond the border sanctuaries and become deeply involved in Cambodia's internal affairs. In any case, it is difficult to believe that the Saigon forces, incapable thus far of mastering their own country, can save the inept rulers of a neighboring nation whose people are ancient enemies of the Vietnamese.

Equally unsettling is the reiteration by an American spokesman in Paris last week of the President's earlier warning that, if the Communists remain intransigent in negotiations and aggressive on the battlefield, "we will react accordingly."

Congress can help restore confidence at home and abroad on the direction of American foreign policy by beginning to reassert its own constitutional powers through adoption of the Cooper-Church amendment. Its goal of cutting off funds for future military involvement in Cambodia would not imperil the troops or undermine Presidential authority to carry out all of Mr. Nixon's stated objectives in the current drive there. Rather it would enable Congress to share with the Chief Executive, as it should, responsibility for ending a war that already has cost the United States far more than it could ever be worth.

[From the New York Times, May 19, 1970]

NO MORE CAMBODIAS

The firmness with which Senators of both parties are resisting efforts to kill or cripple the Cooper-Church amendment on Cambodia is encouraging evidence of a new determination in Congress to restore the constitutional balance in reaching vital decisions on war and peace.

The proposal to bar funding of American troops in Cambodia after June 30 does not infringe on the President's constitutional power to command the armed forces in the nation's defense. It does reassert the long-eroded constitutional prerogatives of Congress to participate in foreign policy and defense decisions, which President Nixon ignored when he unilaterally ordered American troops into Cambodia.

An aroused public opinion, to which Congress is at last responding, already has prompted the President to make an open commitment to terminate his Cambodian adventure by June 30. The Cooper-Church amendment would enable Congress to share

responsibility for this important decision, as it should under the American constitutional system, and would give it the reassuring force of law.

The measure does not interfere with the military operations now under way. Nor does it bar any important actions in the future that the President himself has not already foreclosed. It does not prohibit limited arms aid to the Cambodian forces nor air interdiction of Communist supply lines through Cambodia to South Vietnam. Nor—despite some Congressional misgivings on this point—does it rule out future American air and logistical support to South Vietnamese units in Cambodia, although Mr. Nixon has pledged himself to halt the current support operations by June 30.

There is no need, despite Administration urging, for the amendment to re-state the President's power to take action to protect American forces in the field should they be in imminent danger of attack. Congress cannot restrict this power. What Congress seeks to prevent is the use of this power as a pretext for military operations of wider scope undertaken without consultation with the nation's elected legislators.

Essentially, the Cooper-Church proposal is a warning shot across the bows that says: "No More Cambodias!" It does not create a constitutional crisis, but implies that the President could precipitate one—if he again widens the war or reverses American disengagement from Vietnam without Congressional agreement. The Administration argument that the amendment would impair the President's credibility in dealing with the Communists is unpersuasive. The way to assure Presidential credibility is to gain Congressional support by treating Congress as a partner in decisions on peace and war. Acceptance of the Cooper-Church amendment would be a useful step in that direction. But whether the Administration accepts it or not, the Senate can best serve the national interest now by pressing ahead with its enactment.

[From the St. Louis (Mo.) Post-Dispatch, May 13, 1970]

BLOCKING FUNDS FOR CAMBODIA

The Administration cannot very well make a substantive objection to the Senate resolution designed to limit the United States invasion of Cambodia, since President Nixon has promised that "all Americans of all kinds" will be out of the country by the end of June. So it may be presumed the White House pressure that brought about defeat of a similar proposal in the House last week will not come into play.

Irrespective of Administration wishes and pledges, the bipartisan measure that would cut off funds for retaining American forces in Cambodia beyond the end of next month ought to be enacted. It cleared the Senate Foreign Relations Committee by a 9-to-4 vote on Monday and deserves overwhelming Senate approval; later this month or in early June, when the matter comes up for a vote, the Senate should also approve the broader antiwar resolution requiring military withdrawal from Southeast Asia.

The need for congressional restraints is underscored by considerable evidence that Mr. Nixon acted impulsively in sending American troops in Cambodia, and contrary to the advice of high-level civilian advisers. There was no immediate or compelling military reason to invade Cambodia and the expedition has proved pretty much of a fiasco despite the intensive effort of Pentagon propagandists to claim significant results.

The United States can be counted fortunate, thus far, in that there has been no major retaliation by the enemy. Mr. Nixon pictured the invasion as a means of cleaning out North Vietnamese and Viet Cong sanctuaries and protecting U.S. troops in Vietnam. But supposing the gamble had been followed by a disastrous Communist response elsewhere (something that still may occur)?

There are at least two sides in a fight, a situation Mr. Nixon seems sometimes to overlook. One side does not know how the other side will react, and herein lies a particular danger in the Indochina involvement. The problem of the sanctuaries is an old one, and who is to say that if sanctuaries are denied one place they will not appear in another?

The possibility has already been raised among Senators that the North Vietnamese may retaliate by attacking United States military installations in Thailand, an American sanctuary for the big U.S. bombers that issue forth to raid targets in Laos and Vietnam. There has never been a serious attack on the American bases in Thailand. Could an enlargement of the war into Thailand be the next possible step?

What might be called the theory of the falling sanctuaries points inexorably toward an enlarged war unless an irrevocable contraction begins. The ultimate sanctuary is China; there have been military men in the capital for years who have believed in the desirability of attacking China. Containing Peking is presumably the goal of the entire Southeast Asian operation. Only yesterday retired Lt. Gen. James Gavin, a notable opponent of Vietnam escalation, said he feared the risk of war with China was increased by the Cambodian invasion.

Unless the escalation is stopped the catastrophe of a war with 800,000,000 Chinese is possible, and indeed, may be inevitable. So Congress is obliged, in the light of the Cambodian enlargement, to take nothing for granted, to put up restraints to the Executive even while hoping they will not be necessary. We presume Mr. Nixon intends to honor his pledge to get out of Cambodia by the end of June, but a congressional funds cut-off would be a strong signal to the hawks pushing for a larger war.

[From the San Francisco Chronicle, May 13, 1970]

A VOTE AGAINST MORE CAMBODIAS

The vote of the Senate Foreign Relations Committee to cut off funds for any future U.S. military action in Cambodia is probably unprecedented in wartime.

The words "in wartime" are the key words here, because it is the fact that the Vietnam war is constitutionally undeclared which underlies the Foreign Relations Committee's quarrel with the State and Defense Departments and the White House.

In a declared war, a vote by Congress in support of legislation to cut off all operational funds in a war theater would be unthinkable—even were it a newly entered and dubiously accepted theater like Cambodia. So that explains why no one has been able to recall a precedent for what happened Monday in Senator J. William Fulbright's committee.

Specifically, this rebuke to the Cambodian venture came up as an amendment to a bill authorizing the sales of foreign military goods. It was rushed through the committee on one day's discussion (just as the now reviled 1964 Gulf of Tonkin resolution was). Its bipartisan sponsors, Senators John Sherman Cooper and Frank Church said the force of their amendment would not keep the President from carrying out his present operation in Cambodia—which he has said he will definitely end by July—but could keep him from a future Cambodian operation without the express approval of Congress.

Apparently the issue may come to debate in the Senate as early as tomorrow, and this debate, like the vote of the committee, will undoubtedly emphasize the mood of dismay, doubt and disillusionment among many Senators and Congressmen in the Capitol.

Observers in Washington who write a newsletter for businessmen and who never express themselves in hyperbole say that rarely have government officials and members of Congress appeared so angered and confused over a presidential decision as over this one.

We don't think that that decision is going to be reversed by this vote or that it will unduly alarm or hamstring the President, because Congress can't conceivably intend to deny funds to operations already under way. But Congress has expressed its opposition by resolution to the President's sending combat forces into Laos and Thailand, and to deny him funds for a second Cambodia would be just a stronger assertion of the same view.

[From the St. Louis Post-Dispatch, May 16, 1970]

THE AMENDMENT ON CAMBODIA

The Administration is moving in strength to block Senate proposals aimed at limiting the American involvement in Cambodia, but its arguments thus far are not persuasive and there is no indication a great many Senators are impressed. The target of Administration lobbying is the so-called Church-Cooper amendment that would bar funds for retaining troops in Cambodia after July 1; it would allow no money after that for American advisers or U.S. air support.

A weakness in the Administration position is that President Nixon promised unequivocally over television on May 8 that "all Americans, of all kinds, including advisers, will be out of Cambodia by the end of June." The amendment at issue does no more than put a congressional seal on Mr. Nixon's pledge.

Senator Griffin of Michigan, the assistant Republican leader in the Senate, says passage of the measure "would suggest the President doesn't mean what he says and that the Senate doesn't believe him." The record shows that Mr. Nixon has made confusing and contradictory statements on the matter, so the Senate has a reason for putting its own convictions on record in the form of specific legislation.

And credibility aside, there is another aspect of the situation. Since Mr. Nixon was obviously under pressure from the military brass to invade Cambodia, the Church-Cooper resolution should actually be helpful to him in fulfilling his withdrawal pledge, since the hawks would be given to understand they could get no more money. It might be said that the resolution is aimed more at the military men who want to enlarge the war than at Mr. Nixon himself.

There are indications the debate may center around the President's powers to protect American troops whether Congress restricts funds or not, an emotional issue that seems to us more or less irrelevant in the context. No one would advocate steps that would jeopardize the safety of American soldiers. But it would seem that the quicker and further the troops were withdrawn the less risk there would be.

Mr. Nixon said of the thrust into Cambodia that it was "indispensable" to the success of the Vietnamization program and necessary to protect American lives, though as he himself made clear the "threat" has existed in Cambodia for the last five years. Certainly the threat from Cambodia was less than the hazards to which United States troops may be exposed if things do not now go well.

It is quite possible that the Americans could come up against a powerful force of aggrieved Cambodians, North Vietnamese, South Vietnamese, Viet Cong and Laotians. The Thieu-Ky regime in Saigon says it plans to keep South Vietnamese troops in Cambodia after the promised American withdrawal, and if experience is a guide that government will try to keep the Americans in Cambodia as they have been kept in Vietnam.

Perhaps most ominous of all, Mr. Nixon's action has prompted an unusual show of Russian-Chinese co-operation; Russia has proposed to China a joint Indochina policy to press for American withdrawal from Southeast Asia.

So it is conceivable the Cambodian thrust poses the risk of far deeper entanglement than Mr. Nixon envisioned. That is why so many Senators want to make prompt withdrawal from Cambodia as certain as possible, and why they want to make sure money will not automatically be available for a re-entry if some new crisis arises.

The Senate's duty is clear. In the interest of withdrawal and peace in Indochina it should cut off funds for Cambodia.

THE POWERS OF THE PRESIDENT

Mr. DOLE. Mr. President, as we continue to debate the President's power to exercise his constitutional duty as Commander in Chief, it is important that we consider the feelings of our fighting men in Southeast Asia. Often, the President's critics forget what the men who are doing the fighting think about the conduct of the war.

If we examine the broad cross-section of America, at home and in the combat zone, we discover strong and solid majority support for the President's conduct of Southeast Asia operations. There is little doubt, in fact, that the vast majority of the soldiers in the war zone support the President's decision to protect their lives by sending American forces into Cambodia. It is vital that none of us forget that these Americans in Southeast Asia do have faith in their Commander in Chief.

While some editors and others sit in the safety of their homes in America and condemn the President, I would remind my colleagues again that it is President Nixon who deescalated the war in Southeast Asia, that it is President Nixon who reduced our troop level by 115,500 men.

If we read the newspapers and listen to the commentators, they refer to certain Members of this body as "antiwar Senators." I assume that must mean those who support the President are "prowar Senators."

Of course, nothing could be further from the truth.

I know of no Member of this body who is not an antiwar Senator.

I know of no Member of this body who wants war as opposed to peace.

In fact, I know of no Member of this body who does not want peace at the earliest possible time in Southeast Asia, in the Middle East, and in every other trouble spot in the world.

Accordingly, I would say to those who coin the phrases, that the facts do not support their conclusions.

Mr. President, recently I noted a letter published in the Ashland, Kans., newspaper, the Clark County Clipper, written by Lt. Col. Roy Dickey, who is in the Air Force.

Let me read that part of his letter that deals with Cambodia. He is not writing from the safety of an office. He is not an editor, he is not a commentator, he is not a Member of this body, he is not a student, but, he is concerned about America.

This is what he writes:

You commented on the President's decision to launch the recent Cambodian operation. I would also like to make a few comments and say that I admire the President for having the personal and political courage to make such a move. The action was long overdue. Our news media, protestors, and indignant dissenters seem to purposely ignore that the North Vietnamese are trying to impose their will by force on the South Vietnamese. Trying to, they have for years! They have forgotten that Laos belongs to the Laotians and not to North Vietnam. They have forgotten that Cambodia, too, is an independent country with the right to conduct its own internal affairs and to be free from interference and occupation by a vicious foreign power. The North Vietnamese are not. Cambodians. Why should they be permitted to use Laos and Cambodia as they see fit? This has in the past been called aggression and was not condoned by world powers, such as the invasion of Poland in WW II. Do we now condone this kind of thing by the North Vietnamese because Cambodia, Laos and South Vietnam are at various degrees of helplessness? Some say the government of South Vietnam is corrupt and does not have the support of its own people. Should we then turn the country over to the Communists who methodically killed and terrorized South Vietnam into virtual anarchy and forced us to start the large military buildup in 1965? Look how long it took the South to recover after the Civil War. They were in much better shape after the Civil War than the South Vietnamese were in 1965, but less than five years later it appears that South Vietnam is rapidly getting on its feet.

Don't we as Americans have a national conscience? Don't we have enough smarts to realize that the world communist structure is solidly behind North Vietnam and absolutely delighted to see Americans do it to themselves?

We have every moral right, the moral responsibility to protect our soldiers in South Vietnam. I feel that we have the very definite moral responsibility to protect innocent people in nations less fortunate than us, particularly when these countries are so openly attacked or occupied as Cambodia, Laos, and South Vietnam have been. I could go on and on and discuss the absolute idiocy of permitting the enemy, encouraging the enemy, to have flourishing sanctuaries; but I won't bore you. Yes, President Nixon did the right thing; and I think you should write him, your Congressman, and Senators to let them know that sensible Americans are behind him.

Mr. President, yesterday I also received a letter from a young lieutenant in California, who raises, a pertinent question. I shall not mention his name in the RECORD because I do not have his consent to do so, but let me read his letter:

JUNE 4, 1970.

DEAR SENATOR: I am departing shortly for my fifth tour of duty in Southeast Asia. I did not volunteer for any of these assignments, but I have not tried to snivel out or shirk my responsibilities to my country either, because I am certain that the President's policies on Southeast Asia are correct.

Casualties have always been higher than they should have been since the enemy has enjoyed privileged sanctuaries. The enemy was careful not to make his sanctuaries too attractive as he was not sure we would not destroy them, therefore we had something of a psychological advantage. The Cooper-Church amendment would guarantee the enemy safe sanctuaries from which to stage troops and supplies.

The Cooper-Church amendment would guarantee protection for the enemy. What guarantees are being provided for U.S. troops? I need to know since I have a wife and two daughters who want to know. Don't tell me withdrawal because we need protection to avoid being killed while withdrawing.

Very respectfully,

_____.

Mr. President, let me say again that perhaps, from time to time, we lose sight of the men who are doing the fighting in Southeast Asia, of the American men in uniform who are asked to take the risks, and in some cases, to make the supreme sacrifice.

But more important, let me underscore again to those who so freely criticize the present President, that this is not President Nixon's war. The war was well on its way by January 20, 1969, when he assumed the high office of the Presidency.

Let me underscore that he has not escalated the war since that time. He has not sent more troops. He has withdrawn 115,500 men. He has not increased the bombing. He has reduced the bombing. There has been a reduction in casualties. The President has announced that another 50,000 men will be withdrawn by October 15 of this year and that by next spring, next May 1, an additional 100,000 men—which will mean, if I computed the total correctly, about 80 percent of all our combat troops in South Vietnam—will have been withdrawn because of the Vietnamization program.

Thus, I say, Mr. President, as we consider all the facts in the final hours before voting on the Byrd amendment, we should keep in mind this letter from the young lieutenant and the one from Lieutenant Colonel Dickey. They are on the firing line. They are not residing in a place of safety and criticizing the President or finding fault with his policies.

I do not know the politics of these two men and am not concerned about that. They are concerned about their safety, and the safety of their fellow men in Southeast Asia.

I happen to believe, as indicated yesterday, that we strengthen the Cooper-Church amendment by adoption of the Byrd amendment.

It would serve notice that we have a shared responsibility. I would hope that, when the vote comes tomorrow, the Senate in its wisdom will adopt the Byrd amendment by a wide margin.

Now, Mr. President, I wish to take a brief moment to welcome back those Senators, Governors, and Members of the House who have taken time to go to Southeast Asia, South Vietnam, and Cambodia, to find out for themselves just what is happening. Particularly I refer to the Members of this body, the distinguished Senator from Texas (Mr. TOWER), the distinguished Senator from California (Mr. MURPHY), and two intrepid Democrats, the distinguished Senator from New Hampshire (Mr. MCINTYRE), and the distinguished Senator from Nevada (Mr. CANNON)—who is a man familiar with those who are willing to take a gamble.

There were others from the House and from the executive branch, such as Bryce Harlow and the President's director of communications, Mr. Herbert Klein.

There were 13 gentlemen who had the courage, the interest, and the opportunity to take the long arduous flight to

South Vietnam, and to risk the possibility of death or capture, to see firsthand the result of the President's successful gamble in Cambodia.

Mr. President, I do not speak lightly when I talk of risking death or capture. When you are fighting guerrilla warfare; when there are no front lines, when the enemy has the capability of firing rockets and mortars into our bases at any time he is willing to risk his own life, then no American is completely safe.

I am certain, however, that the gentlemen who participated in this inspection trip found life much safer than it was before May 1. You cannot kill 9,000 of the enemy, you cannot capture 11 million rounds of small arms ammunition and 15,000 weapons; you cannot destroy his bases and his caches and disrupt his supply lines without making life a little safer for those on our side.

Mr. President, I recognize there are some divergent views on the value of this inspection trip, but one learns more in the field than by reading the newspapers, or by listening to commentators, or by listening to debate in this Chamber.

Mr. President, it is easy to criticize from a place of safety. But it is a little more difficult to take a look first hand. One can learn more in the field than by reading the papers or by listening to the debate that goes on in this safest of all sanctuaries—the Senate Chamber.

So, regardless of their individual views upon their return, whatever they may be, I commend my colleagues in the Senate who have taken the time to determine firsthand whether the Cambodian incursion was successful, to determine whether the pacification program in South Vietnam is successful, to determine whether the Vietnamization program is successful.

I would guess there are divergent views and that some may reach different conclusions. But whatever conclusion they reach, we owe them a debt of gratitude for their willingness and their courage to take this trip and to report to us.

LABOR LEADERS SUPPORT THE AMENDMENT TO END THE WAR

Mr. CRANSTON. Mr. President, yesterday a group of labor leaders representing unions with a total membership of 3.5 million in the United States met in Washington with the Senator from South Dakota (Mr. McGOVERN), the Senator from Oregon (Mr. HATFIELD), and me, to discuss the efforts in Congress to find a way to end our participation in the war in Southeast Asia. Following that gathering, an announcement was made of the formation of a National Labor Committee To End the War.

I ask unanimous consent to have printed in the RECORD at this point the statement accompanying that announcement, which covers the position of these leaders of labor regarding the war in Southeast Asia generally, regarding the amendment to end the war, and regarding the Cooper-Church amendment.

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

STATEMENT BY THOMAS E. BOYLE

(NOTE.—Mr. Boyle is president of the International Chemical Workers Union and temporary chairman of the National Labor Committee To End the War.)

Eleven top officers and leaders of A.F.L.–C.I.O., A.L.A., and independent unions, with a total membership of 3½ million, met in Washington Tuesday (June 9) to plan labor activities in support of the Amendment To End the War.

We requested a meeting with the five original sponsors of the Amendment, and Senators Cranston, McGovern and Hatfield joined us during our deliberations, along with a representative of Senator Hughes. The group formed an *ad hoc* national labor committee to end the war and scheduled a second session on June 17, when a permanent committee and the names of the participating union leaders will be announced.

We want to demonstrate to the American people and to our government that millions of patriotic American workers want the War brought to an early end according to the rules of the Constitution. Those of us who join in supporting the Amendment declare that no group of workers in any one city can or should speak for the entire American labor movement.

Many of our members are veterans. We share the pride of all Americans in our flag. We shall carry and show it to demonstrate that pride.

We love our country. We feel that it has assumed an unnecessary burden by becoming shackled by the War. Inflation has been one of the results of that War. Our workers pay the price of inflation every day and our members who are on pension suffer. Unemployment, resulting from inflation, threatens the entire labor movement. Only by ending the War can inflation be ended.

Therefore we support the Amendment To End the War. In addition, we support a sound program of economic conversion designed to provide jobs as our economy shifts from war to peace. We also support the Church-Cooper Amendment and oppose any modification of it.

The PRESIDING OFFICER (Mr. TALMADGE). What is the pleasure of the Senate?

The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I have no prepared remarks. However, I do want to make a few comments on this matter.

I would like to say that the Senator from Kansas has been very assiduous and faithful in his duty as a Member of this body, and in his participation in this debate. I have enjoyed listening to him and I have paid attention to the issues that he has raised.

I agree with his statement that President Nixon has reversed the policy of the preceding administrations. The President has said that he seeks to secure an end to the war in Vietnam either by negotiation or by the policy of Vietnamization, I support that purpose.

The Secretary of State has said on numerous occasions that the President's policy is irreversible. I believe that it is irreversible unless by some chance, or because of unforeseen events, our country may be led into a widening of the war.

This is the real issue and that is the reason we are advocating the adoption of the amendment offered on behalf of the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MANSFIELD), the Senator from Vermont (Mr. AIKEN), and myself.

I would agree also that the men who fight in Vietnam deserve the support of the Congress and of the people. Some of those who fight are regulars. Many of them are volunteers, and many have been drafted. They have obeyed the orders of their Government.

I believe that nearly every Senator has served in the military service and has served in wartime. I suppose that none of us looked forward with the greatest pleasure at the prospect of entering the military service in wartime. Nevertheless, we did so. We went. And that is true of those who have gone to Vietnam. They have not burned their draft cards. They have not evaded the draft. They have gone to Vietnam and they serve.

Many of these men—and I know it is true of a number from my State—have volunteered for a second tour of duty in Vietnam.

Our amendment will not in any way compromise the safety of these men, who serve in Cambodia, in Vietnam, and any place in Southeast Asia. Our view is that it will offer them the opportunity of a larger safety through the confinement of the war to Vietnam, and hope for an earlier end of the war.

The issue before the Senate is really not a difficult one to understand, although it has been misinterpreted.

Cambodia was invaded by the North Vietnamese and the Vietcong. Laos was invaded. South Vietnam was invaded.

I agree with the Senator from Kansas that many seem to forget that it was the North Vietnamese and the Vietcong who invaded these countries. The United States is not the aggressor. In Vietnam, whether or not it has been declared by the Congress or recognized by a resolution to be a state of war, it has been declared that our course is withdrawal from the war.

The United States owes no obligation to Cambodia. It owes no obligation by treaty. It owes no obligation because of any resolution of the Congress to authorize the use of our forces in Cambodia for Cambodia.

And I certainly assume that there is no executive agreement which would promise the use of our forces in Cambodia.

We have come to a point where our forces are engaged in Cambodia. The President has said that they will be withdrawn by June 30. I believe that statement to be correct. Our amendment, if it is agreed to, would then become effective. It would regulate the activities of our Armed Forces in Vietnam after that date, in the sense that I shall define.

We have no obligation to Cambodia.

The amendment provides that from July 1, we shall not become engaged in a war for Cambodia or in a war in Cambodia, without the consent of Congress.

I believe our amendment has sound constitutional authority.

It has been argued that the constitutional authority of the President to protect our forces would override the constitutional authority of the Congress to provide that we shall not become engaged in a war without the authority of Congress.

There is an area in which it is difficult to delineate the line between the powers of the President and the Congress. But there is a line.

I have read the debate of the Founding Fathers and recent briefs prepared upon the authority and war powers of

the Commander in Chief, including his authority to protect the troops from the beginning, and most of the authorities spoke of the President's authority as one to repel sudden attack and to defend the troops against attack.

Gradually throughout the years, Presidents have extended this power beyond that concept. Throughout the years Presidents have sent troops into other countries to protect American lives and American property. But as the writers have said, the fact that such action has been taken beyond its proper scope does not make such action of continuing propriety either by law or by the Constitution. By legislative enactment, Congress can assert its authority.

I have read the questions asked yesterday by the distinguished Senator from Virginia (Mr. SPONG), who is present on the floor, regarding the constitutional power of the President.

It has been interpreted as the power to repel sudden attack. I believe it would include the authority of "hot pursuit." If an emergency should arise near or upon the border between Cambodia and South Vietnam which should cause the President, as Commander in Chief, to think it necessary to take limited action to protect troops, I would agree that he could and should protect our men.

Our amendment provides in subsection 4, in effect, that the Air Force of the United States can be used to interdict the enemy and supplies from North Vietnam, or South Vietnam, or Cambodia, attempting to attack our forces in South Vietnam. Similarly, artillery and rockets could be used to protect our men and destroy sanctuaries.

Commonsense and judgment determine those situations where the Commander in Chief is using his authority to protect his men. Commonsense and judgment also lead us, I think, to believe if that authority is used beyond the necessity for the immediate protection of the Armed Forces, to engage our forces in situations in support of Cambodia, or for the retention of our forces in Cambodia on a more or less permanent basis I believe commonsense between Congress and the Executive, and agreement between them, would indicate that the Executive had moved beyond the concept of protection of the troops, and has entered the military-political field which is within the authority of the President and also of Congress.

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

Mr. COOPER. I shall yield in just a moment.

What we are really saying—and I think it should be simply stated—is that we are not condemning the action in Cambodia. We say nothing about it in the amendment. People have different judgments about it. It created uncertainty in this country but in a military way it has been helpful.

We are not attempting to encroach upon the President's constitutional powers.

The amendment intends that, if it should become necessary to protect Cambodia or become permanently involved in Cambodia as a part of the war in Vietnam, you are entering a field in which Congress has a right to enter into that judgment.

Mr. President, I yield to the Senator from Virginia.

Mr. SPONG. Earlier the Senator from Kentucky made reference to the questions I propounded yesterday to the Senator from West Virginia (Mr. BYRD), the sponsor of the pending amendment.

Mr. COOPER. The Senator is correct.

Mr. SPONG. I wonder if the Senator from Kentucky would comment on these questions in addition to what he has already said with regard to his understanding of the independent powers already possessed by the President as Commander in Chief. The questions appear on page 18957 of the RECORD of yesterday, June 9, 1970.

Would the Senator care to comment or give an opinion as to the independent powers presently held by the President as Commander in Chief with regard to the situations outlined in the questions?

Mr. COOPER. I will start with the question the Senator asked first.

Mr. SPONG. Yes.

Mr. COOPER. Without trying to define an area in terms of 2 or 3 miles, I would say the President has that authority.

Second, concerning his question "To destroy enemy supplies, staging areas, headquarters, and so forth, in a relatively narrow zone along the Cambodian-South Vietnamese border," "approximately 20 miles in width," I have already pointed out under subsection 4 of our amendment, the Air Force of the United States could attack such areas and artillery could be used and rockets could be used. As to the question whether there is continuing authority to enter Cambodia in a zone 20 miles in width, I would say our amendment does not recognize such authority. That is my judgment. But if an emergency situation should arise where our troops were in danger, I think the President, in his good judgment, would have the power to defend our troops against attack.

I cannot set out a line in terms of miles. I am trying to base the authority on steps against a sudden attack, repelling sudden attack, or in case of an emergency, such action as is necessary to protect the troops. I am trying to distinguish between such direct authority and the authority the Byrd-Griffin amendment would give to take any action that may be determined it is unlimited.

(At this point the Acting President pro tempore assumed the chair.)

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

Mr. COOPER. I yield to the Senator from Idaho, who is cosponsor of the amendment.

Mr. CHURCH. Mr. President, I wish to add an afterthought along the lines of the Senator's comment.

The key word in the Cooper-Church amendment is "retaining." Subsection 1 of the amendment prohibits the retention of American forces in Cambodia after June 30. I agree with the Senator from Kentucky that our amendment is intended to prohibit a permanent or quasi-permanent occupation of a buffer zone within Cambodia for an extended period of time.

However, if it were to happen that the enemy suddenly utilized a staging area, and there was a concentration of enemy troops and equipment obviously intended to be used against South Vietnam beyond the border, we would agree that the President, as Commander in Chief, has the constitutional authority to order his field officers to strike at and destroy such a base to protect American troops in South Vietnam. This would, however, be in the nature of a sudden strike and withdrawal operation.

I further agree with the Senator from Kentucky when he says that the adoption of the Byrd amendment would open up an exception so large that it honestly renders the Cooper-Church amendment meaningless.

The President could invoke the justification of acting for the purpose of defending American troops to cover almost any future operation that he himself might decide upon. That would be extremely unfortunate. That would permit our amendment to become another Tonkin Gulf resolution—if not even broader in conception—if the President were to decide later to use it for that purpose.

Mr. SPONG. Mr. President, will the Senator from Kentucky further yield?

Mr. COOPER. I yield.

Mr. SPONG. I address this question either to the Senator from Kentucky or the Senator from Idaho. They are both in the same boat.

Mr. COOPER. It is a good boat.

Mr. SPONG. I, of course, am interested in what Senator BYRD's reply will be to the questions I have propounded; but I should like the opinion of either of the sponsors of the Cooper-Church amendment whether they believe that under the language of the Byrd amendment the President would be granted tacit authority to order his military commanders in the field to do all these things.

Mr. CHURCH. My answer would be "Yes."

Mr. COOPER. The Senator from Virginia asked about the Byrd amendment. Let me read it. I should like to place it in the RECORD. It reads as follows:

> On page 5, line 7, before the semicolon insert a comma and the following: "except that the foregoing provision of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam".

The amendment has great appeal, because it speaks of protecting the lives of U.S. forces in South Vietnam. It will be argued and has been argued that Senators who vote against the amendment are not taking care to protect the U.S. forces in South Vietnam.

The Byrd-Griffin amendment cannot give the President any larger powers than the constitutional authority that he enjoys. What it would do, if it should be adopted by Congress, would be to approve in advance any action the President may want to take. His determination alone would justify it.

I want to make it clear that I am not talking in personal terms of the Executive who is President Nixon. He is my President. I am a member of his party. I have supported him in his program for ending the war in Vietnam. But we have been through this procedure before, the procedure of giving authority to the President, who did not intend, I am sure, to extend the authority which is given him beyond that as expressed at the time, but which was extended.

This amendment is broader in its scope than the Tonkin Gulf resolution, so far as the protection of troops is concerned.

The Tonkin Gulf resolution has two parts, one dealing with protection of the troops, and the other dealing with protection of the freedom of the protocol states. The Tonkin Gulf resolution gave the President authority—I recall it because I read it just a short time ago—to protect troops, to repel an attack upon the troops, and to defend them. It was defensive—to repel an attack on our troops and defend them. This amendment is like the old, familiar barn door—wide open.

If some situation should occur, if the Thais go into Cambodia—and the South Vietnamese evidently like Cambodia—and we find ourselves under some obligation to go into Cambodia and protect Cambodians or the Thais, I believe the commonsense and judgment of the Members of this body would be that the authority to do so would be the joint authority of the President and the Congress.

We do not take away from the President the opportunity to employ any course of action he wants to employ, but if the situation is beyond the defense of the Armed Forces let us say, "It is a joint responsibility and let us reason together and let us determine whether action should be taken." I do not see anything wrong with that.

Mr. SPONG. I thank the Senator from Kentucky.

Does the Senator from Kentucky believe that the Cooper-Church amendment would be harmed if in that amendment the independent powers of the President, as Commander in Chief, which the Senator believes to be already held by the President of the United States, were spelled out?

Mr. COOPER. I doubt if we could spell out precisely what they are. I have indicated some, through reading the authorities that I have found, that have been characterized as being his powers.

Mr. SPONG. What we have before us, as the Senator from Kentucky has ably pointed out, is appealing language, in which we are speaking in terms of the protection of the troops and aiding our disengagement from South Vietnam. Within that framework, which is the common objective of all of us, it is my judgment that if the Senate in some way should work its will to express clearly those independent powers which the President possesses as Commander in Chief, the amendment would be strengthened.

Mr. COOPER. I am not foreclosing the possibility that it may done, but we are now talking about the Byrd amendment.

I would like to read from the Tonkin Gulf resolution relating to the subject we are now discussing:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

It is more limited in its terms than the Byrd amendment.

Mr. CHURCH. Mr. President, would the Senator permit me to make an observation at this point? The Senator from Virginia placed in the RECORD yesterday five very specific hypotheses. I think the difficulty of trying legislatively to define the President's constitutional authority is in a way underscored by reference to the hypotheses that the Senator has offered. Let us take them one by one.

The first reads as follows:

To prevent enemy forces from crossing the border into South Vietnam and to pursue and destroy such forces as they attempt to leave South Vietnam for Cambodia? This contemplates a distance into Cambodia of no more than two or three miles.

Here is an example that falls within the area where the President's constitutional powers as Commander in Chief are being exercised. This is frequently referred to as a case of hot pursuit. I think without doubt the President has the power of hot pursuit in the protection of American forces, even though the hot pursuit carries our troops over the Cambodian border.

The second hypothesis reads as follows:

To destroy enemy supplies, staging area, headquarters, and so forth, in a relatively narrow zone along the Cambodian-South Vietnamese border? This contemplates a zone into Cambodia of approximately 20 miles in width.

The answer to this question depends upon the method used and upon the time frame. Without doubt, the President could invoke his powers as Commander in Chief to order aerial or artillery strikes against bases of this kind. In fact, the precedents would carry still further: That he could launch a ground strike of limited duration for the purpose of destroying an enemy staging area that constituted an immediate threat to American troops.

Mr. SPONG. If I may interrupt, the Senator from Idaho is, of course, speaking of the powers the President has now?

Mr. CHURCH. Right.

Mr. SPONG. Exclusive of the Byrd amendment?

Mr. CHURCH. This is exactly so; he now has those powers under the Constitution.

Now, moving on to the third hypothesis:

To attempt to find and engage any enemy troops within the zone just described, irrespective of whether they are on the verge of entering South Vietnam or whether they are just returning from it?

If the Senator means by that the power to go into Cambodia and to seek out the enemy, even though enemy activity there is not posing an immediate threat to our troops on the other side of the border, then we have probably crossed that line.

Mr. SPONG. Would the Senator from Idaho call this a gray area?

Mr. CHURCH. It is an exceedingly gray area; the precedents are not clear. If the Senate adopts the Byrd amendment, however, there is no doubt in my mind that the amendment can be construed as giving advance congressional consent to the President to undertake that kind of activity, if it is done in the name of protecting American forces in South Vietnam.

Now, the fourth illustration:

To attempt to occupy and hold the zone in question, thus denying it to the enemy?

Here the Senator from Virginia contemplates a quasi-permanent occupation of a buffer zone within Cambodia. That goes beyond the precedents defining the President's inherent constitutional authority. But again I say to the Senator that if the Byrd amendment is adopted, it could readily be interpreted as conferring advance consent to a permanent occupation of a buffer zone by American forces. The next hypothesis:

Fifth. To engage in any or all of the types of activity described in questions 2, 3, and 4, but to do so throughout all of Cambodia, or at least in parts of it beyond the 20-mile zone near the border?

This, of course, takes the wraps off entirely. Although none of us expects that the President would make such a decision in the future, I remind the Senator that we have been surprised before; presidential policy has been changed before. If President Nixon were to change his policy, he could refer to the Byrd language in much the same manner as President Johnson came to refer to the Gulf of Tonkin language, thus justifying any military activity in Cambodia, no matter how far it extends or how permanent it becomes, as long as he undertakes it in the name of protecting American forces in South Vietnam.

These are the best answers I can give to the distinguished Senator from Virginia.

Mr. COOPER. Mr. President, I agree with the interpretation of the Senator from Idaho.

Mr. SPONG. I appreciate the answers of both the Senator from Idaho and the Senator from Kentucky. I agree with the Senator from Kentucky that it would be extremely difficult to define language that spelled out the President's independent powers as Commander in Chief. Nevertheless, if such terms as "repel an attack" could be employed, I suggest it would be helpful——

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. SPONG. After I finish my sentence—helpful within the framework that the Senate presently finds itself working.

The Senator from Kentucky has the floor.

Mr. COOPER. I would just say one thing: The Senator is absolutely correct

when he says it is very difficult to define these powers.

Let us see if we can find out why it is difficult.

It is difficult, in my view, because it is of an emergency nature, dependent upon the circumstances. Who can say what the circumstances will be in the case of a sudden attack or an emergency situation? The situations would differ in every case. This, it seems to me, is the reason it is difficult to spell out the powers of the President.

But it is not difficult to think of situations where the Executive should not act alone, without consent of the Congress—those which are unrelated to the immediate defense of the troops. There must be situations in which Congress also has joint constitutional authority.

Mr. DOLE. Will the Senator from Kentucky yield?

Mr. COOPER. I yield.

Mr. DOLE. I might suggest to the Senator from Virginia that a section might be added as No. 5, to the Church-Cooper amendment, which would say, in effect, that "nothing herein contained shall impair the President's constitutional powers as Commander in Chief." That is a recognition of the President's powers, but not an effort to spell out every power the President might have and every right he might have. This is somewhat different from the suggested Byrd amendment.

Second, in reviewing the questions raised by the distinguished Senator from Virginia, it appears that the first, second, third, and fifth questions could be achieved with the Church-Cooper amendment, without adoption of the Byrd amendment, as long as the action was not in support of Cambodian forces. The only one I see that might be precluded by the adoption of the Church-Cooper resolution would be No. 4, "To attempt to occupy and hold the zone in question, thus denying it to the enemy."

That would violate clause 1, with respect to retaining U.S. forces in Cambodia. But the other three sections of the Church-Cooper resolution are directed at support of the Cambodian forces; so I fail to see that the Church-Cooper resolution is a prohibition against consideration of points one, two, three, or five raised by the Senator from Virginia, whether or not the amendment offered by the Senator from West Virginia (Mr. BYRD), is adopted.

Mr. SPONG. The Senator from Kansas has demonstrated the varying interpretations this language is subject to.

In a preface to posing the questions, I expressed the opinion that the Senate has a responsibility to try to work its will with the most specific language possible, if it wishes to participate in the formulation of policy with regard to Cambodia in the future.

What I conceive the Cooper-Church amendment to be attempting, in part, to do is to redefine the military theater.

I do not believe, as long as the Senators acknowledge what the Commander in Chief's powers are, that the Senate would be trying to tell the Commander how to operate the war, although I am not certain that at the present time that the amendment is not open to that interpretation.

I believe what is sought to be accomplished is a redefining of the theater of war—saying, in part, that the Senate does not want a new war beyond a certain point without consultation with Congress.

Mr. COOPER. We say that in subsections 2 and 3. I might say that the Senator has obviously given this matter a great deal of thought, because the questions are searching, and go to nearly all the points that we have thought about.

We consider that subsections 2 and 3 concern themselves with the issue of a new war for Cambodia, in which we are under no obligation, and subsection 1 would be designed to prevent the extension of the war into Cambodia beyond the actual powers of the Commander in Chief.

Mr. SPONG. I thank the Senator from Kentucky.

Mr. BAYH. Mr. President, as might have been expected, the fall of the neutralist Sihanouk government in Cambodia in early March of this year immediately raised the question of American assistance to the anti-Communist Lon Nol regime. Administration officials stated publicly that a request for military aid was being reviewed, but went further in saying that no American troops would be involved in Cambodia in accord with the President's Guam doctrine, which, as we know, was designed to try to shift security responsibility onto the nations of a given region.

Testifying before a House Appropriations Subcommittee on April 23, Secretary of State Rogers was asked about the extent to which the United States might be drawn into Cambodia. I think it is significant, in light of this discussion, to review his remarks. He said directly:

> We have no incentive to escalate. Our whole incentive is to de-escalate. We recognize that if we escalate and get involved in Cambodia with our ground troops, that our whole program (Vietnamization) is defeated.

The Secretary later restated the case against our involvement in Cambodia in much the same language before the Senate Foreign Relations Committee.

At the very same time the Secretary of State was cautioning against a wider war in Asia, we know now that contingency plans for U.S. military operations in Cambodia were being studied by the Secretary of Defense, the National Security Council, General Abrams, and the President himself. In fact, it appears that at the time President Nixon made his April 20 statement announcing the possible withdrawal of 150,000 troops during the next year, he had reviewed the Cambodian plans but tentatively deferred a decision.

The President's April 30 decision to invade Cambodia—taken after consultation within the executive but without so much as a passing nod to any congressional leaders—was a dangerous and irresponsible course of action. I must say, at the risk of sounding as if I am personally piqued at not being consulted, that this is not what I mean by a passing nod to anyone in the legislative branch. I would not expect the President of the United States to consult on this matter with the junior Senator from Indiana, nor—at the risk of being disrespectful—with our distinguished Presiding Officer, the senior Senator from Ohio (Mr. YOUNG). It seems to me that he could have consulted with the leadership of his own party and with the leadership of the relevant committees. But, as the record now shows, this did not happen.

Recent accounts of the decisionmaking process that led the President to authorize the Cambodian adventure serve only to confirm this view. It seems that President Nixon gambled that by suddenly widening the war into Cambodia, his toughness would impress the North Vietnamese and the rest of the Communist world that the United States can act vigorously, swiftly, and unpredictably.

If this was the message the President hoped to convey, it obviously was lost on the North Vietnamese, who indicated no greater willingness to discuss a negotiated settlement in the absence of a Presidential envoy at the Paris talks, and on the Russians, who continue to expand their military and political influence in the strategic Middle East.

In an aside, let me suggest that I hope the administration is giving increasing attention to the need to find a prestigious envoy to represent us at the peace talks. The Senator from Indiana is not so naive as to believe that this is automatically going to bring a successful culmination of the negotiation session, that peace will automatically descend with the appointment of a prestigious Presidential envoy. But it is fair to say that at least our chances of success are greater if, indeed, we do have someone of significant prestige representing the President there personally. In addition, I think it is fair to say that from the standpoint of the world forum, the view that others have of the United States will be significantly different if they see that we are making a maximum effort at the peace table to negotiate a settlement. Apparently, that is not the case now.

It appears to me that by committing the United States even further into this Asian quagmire the President, contrary to his own plan, has inadvertently restricted our options in other, more important areas of the world.

President Nixon's claim that the Cambodian operation was necessary because Vietnamization was threatened by a recent buildup in the border area sanctuaries sounds plausible, but when one examines the facts and the history of the situation as it actually unfolded, the President's explanation is not acceptable. Did these sanctuaries suddenly present an increased military threat to our men in Vietnam between April 20, when the President told the Nation that all was going well, and April 30, when the Cambodian attack was announced?

The reverse appears to be closer to the fact. Around mid-April, following the consolidation of the Lon Nol regime, the military situation in Cambodia forced the Communists to turn westward, away from Saigon and toward Phnompenh in order to protect their vital supply lines. In a little noticed statement of May 14, Secretary of Defense Laird seemed to substantiate this when he pointed out, for example, that nearly one-third of all Communist forces in Cambodia were now "facing the other direction and moving away from the sanctuary areas."

By the end of April, the size of the Communist force in the Cambodian sanctuary areas was greatly reduced and the risks involved in a search-and-destroy move across the border were thus greatly diminished. Our military urged that we take advantage of the situation. As Secretary Laird explained, "this was the time to hit them."

That the military had made a similar pleas during the Johnson administration for cleaning out the Cambodian sanctuaries—and had been rebuffed—is now clear. As Paul Warnke, former Assistant Secretary of Defense for International Security Affairs, said, these proposals were always rejected because "the political price was too high for the relatively minor military gain." That the military gains from search-and-destroy missions have been temporary at best—and expensive—is a lesson we should have learned by now.

Too often in the past we have asked our troops to take a so-called strategic emplacement, at great cost to us in lives, and military materiel, only to abandon it and to have to take the same place later. Are the Cambodian sanctuaries to become a new Hamburger Hill? I think it is a fair question for us to ask and for the people to ask.

Despite the success claimed for it, I doubt that the Cambodian operation will have any really lasting significance from a long-term military standpoint. "Any military gains," as former Secretary of Defense Clark Clifford has said, "will be temporary and inconsequential." The former Secretary of Defense went on to say:

> This is not an idle prognostication upon my part but is an opinion derived from past experience. Time and again in South Vietnam the recommendation was made that a sweep be conducted through the Ashau Valley on the grounds that a vital blow could be struck against enemy forces. Time and again, thousands of American troops would sweep through the valley and find practically no enemy soldiers. The same will happen in Cambodia.
>
> After the adventure is concluded and our troops have been pulled back to South Vietnam, I predict the enemy will quickly reoccupy the areas that we have cleared. Even if the decision were made to remain in Cambodia, then I predict the enemy will develop new bases and staging areas just outside the perimeter of the area we occupy in Cambodia. In either event, the military effect is negligible and not worth the effort.

Our temporary military advantage in Cambodia notwithstanding, I believe that the political price—both at home and abroad—is still too high to justify such a reckless adventure.

Mr. President early in 1968, I spent 3 weeks in that part of the world. In fact, I landed back in the United States the first day the Tet offensive exploded in South Vietnam. We were in all corners of Vietnam and tried to explore as thoroughly as we could, on a non-VIP basis, without the red carpet treatment, what was going on. It gave me a better understanding of some of the complexities of Vietnam, although I hasten to add that it certainly did not make me an expert. I must admit, though, that of all the questions asked me by American military personnel, the most difficult one to answer—and I pose it only because I think it bears some significance on the discussion of whether the adventure in Cambodia was wise or unwise—the question which was asked me repeatedly by GI's was:

"Senator, tell me, did it make sense to have my outfit take that hill, that hamlet, or that village 3 months ago, where I saw two of my buddies fall, only to have to go back next week and retake the same territory once again?"

That is the operational effect of search and destroy missions—and that is we are involved in Cambodia, and have been involved in unsuccessfully in South Vietnam over a period of years. This type of operation has not been successful earlier and I personally see little reason to expect any greater success in the future.

That the President's action has escalated and widened the ill-fated Vietnam war already is apparent. The stepped-up Communist activity around Phnompenh, the heavy fighting in Laos, and the widespread and coordinated attacks within Vietnam itself are early but clear signs of an impending confrontation throughout Indochina. The Vietnam war is fast becoming an Indochina war.

I noticed yesterday, in one of the Washington newspapers, a reevaluation of earlier intelligence data relative to North Vietnam and Vietcong forces, particularly North Vietnam forces. The first estimates of enemy troop strength were in the neighborhood of about 50,000 to 52,000 troops. Because of the increased activity following Cambodia, however, a recent reappraisal has been made which leads one to believe that their forces are now almost twice that number—that more than 90,000 North Vietnamese forces are presently in South Vietnam.

Thus, I think it would be a serious error for us to underestimate the forces of the enemy remaining in Vietnam, at the same time the scope of battle seems to be widening throughout all of Indochina.

And now a more disturbing note. Writing in the New York Times of May 26, Harrison Salisbury reported that:

> Information . . . from sources close to Communist leaders in Asia suggests that the United States move into Cambodia has transformed the Indochina situation more radically than originally estimated.

An all-for-one and one-for-all agreement, apparently has been reached, according to this report, between the North Vietnamese, the Vietcong, Prince Sihanouk, and the Pathet Lao—with the full backing of Communist China.

What this means, in effect, is that there is almost no prospect for a political settlement of Vietnam alone. A negotiated settlement would now have to cover Cambodia and Laos as well. On the basis of the snail-like pace of the Paris talks, such a settlement is not likely to emerge in the near future, and seems less likely now than prior to the Cambodian invasion.

I am deeply concerned then that this Cambodian adventure will prolong the war and our unfortunate involvement in it. That it undermines the President's already fragile Vietnamization policy—as Secretary of State Rogers suggested—is clear. The withdrawal of American combat troops from South Vietnam, even under the most favorable military and political conditions, will place a heavy burden on the Saigon government and its troops.

That the repressive Thieu-Ky regime is not going to be blessed with a favorable political climate is predictable on the basis of widespread antigovernment sentiment, sentiment that is likely to increase as Thieu continues to stifle legitimate dissent. That the North Vietnamese and the Vietcong will not slacken their activity to accommodate U.S. withdrawals is also predictable. The recent attack on Dalat, for example, was simply a sign to Saigon that the enemy can—and will—attack when it so chooses.

What can we reasonably expect, if as Vice President Ky and Ambassador Bunker have indicated, the South Vietnamese continue to involve themselves militarily in the Cambodian civil war after the United States has pulled out? The prospects for Vietnamization, with 40,000 South Vietnamese fighting in Cambodia, are not encouraging. The critical need, if the President's withdrawal schedule is to be met, will be in South Vietnam—not in Cambodia. Indeed, if South Vietnamese forces are to broaden the scope of their involvement, it seems to me likely to lessen their effectiveness in pacifying the countryside in South Vietnam.

The President has failed to recognize the contradiction in a policy that seeks to Vietnamize the war in South Vietnam while it Americanizes the war in Cambodia.

The implications of the President's rash action for the whole of Southeast Asia are, however, only a part of my concern. The most important consequences of this reckless gamble are being felt here at home.

I think it is imperative that all of us assess the Vietnam war or, the Indochinese confrontation, on the basis of the facts as they exist today. It would be a tragedy, indeed, if today's decisions or tomorrow's decisions were based on yesterday's actions or yesterday's mistakes. The future of such policies would not only be disastrous but would, indeed, compound yesterday's errors.

Thus, I find myself looking differently at the Vietnam situation today than I did 5 years ago or as I did 12 months ago. During the early months of this administration, the Senator from Indiana, although not agreeing fully with administration policy, nevertheless felt obliged to give the President sufficient time to implement the plan he had for disengaging this country from the quagmire of South Vietnam.

I can no longer stand mute, Mr. President (Mr. Moss), not only because of a change in direction in our policy in South Vietnam but also because of the dangerous consequences of this new course on the domestic front.

The tragic deaths at Kent State—an outgrowth of protest against the President's sudden widening of the conflict—are a grim reminder of what this war is doing to America. Even before Cam-

bodia, it was no exaggeration to say that the war in Vietnam was tearing at the very fabric of our society, a war that has cost 43,000 American lives; 275,000 American wounded; 100 billion American dollars.

And for what—to prop up the Thieu-Ky regime? All of this while American cities decay, while unemployment and inflation worsen, while social tensions are heightened and the unfinished business of America remains unfinished.

The war, in addition to the tragic human toil it takes, is the major source of our present economic ills—an unhealthy mixture of inflation and recession.

Just how we achieved this worst of both worlds economy is certainly no mystery. Around the middle of 1965, as was pointed out in the 1968 annual report of the Council of Economic Advisers:

> The growth of demand for industrial products suddenly accelerated as the direct and indirect consequences of the enlarged commitment of U.S. forces in Vietnam . . .
>
> Prices of consumer services began to accelerate, as service firms found it more difficult to obtain workers. With rising food and service prices and stronger demands for labor, upward pressures on wages intensified in both the organized and unorganized sectors. In the industrial area, the impact of demand on prices was strongest in the defense-related and capital goods sectors, where shortages of both capacity and skilled manpower were most pronounced. But prices also advanced in many other areas.
>
> The upward pressures on prices and wages in this period reflected both the speed of the advance and the high level of resource utilization which the economy achieved. These pressures tripped off a price-wage spiral.

Largely as the result of our deepening involvement in Vietnam, in the 2-year period from mid-1965 to mid-1967, the value of resources devoted to national defense rose 50 percent. In an economy operating at near capacity, this buildup generated tremendous inflationary pressures. In January, 1969, when President Nixon took office, these pressures were still very much alive—as was our involvement in Southeast Asia. A year and a half later and little has changed, except that the President is now set upon a course that deliberately seeks to increase unemployment in order to combat this Vietnam-generated inflation. The American people have already paid a very dear price for our Vietnamese adventure. To ask this Nation to bear an intolerable rate of unemployment—now at 5 percent and rising—to further pay for this seemingly endless and senseless war is to ask too much in my judgment.

And now Cambodia. A nation that had been promised an early end to the war by a presidential candidate with a foolproof plan, now finds itself faced with a great difference between what was said and what was delivered, and is once again treated to double-talk. The President has told us that in order to shorten the war in Vietnam we must widen it into Cambodia. The logic of this Cambodian adventure, I must admit, escapes me.

What America needs—and needs desperately—is not a wider war or a shorter war, but a conclusive end to the war.

Still the war goes on. It appears that not only is there no effective means for fulfilling the campaign promises of peace, but that there is no way of preventing an even wider war. The war seems to have taken on a life and logic all of its own. It has captured President Nixon in much the same way it imprisoned President Johnson.

The history of our involvement in Vietnam reveals that too often Government officials have become the victims of their own rhetoric. Only now it is captured arms and rice tonnage instead of body counts that may lead us into self-delusion.

The bizarre logic of recent events, as one might reasonably have predicted, is producing a growing sense of frustration and impotence both publicly and within the Congress itself. The President's reckless gamble has precipitated a crisis of confidence. And well it might have, with the Cambodian invasion coming only 10 days after the President's report to the Nation on Vietnam with its rosy predictions for cutting back on American involvement.

Mr. President, I think it is important that we not delude ourselves into the false hopes of some that these feelings are confined to the young and the campus. They are not. This sense of frustration is shared by millions of Americans of all ages. I think that most Members of the Senate feel it. Certainly, I feel it.

For 16 months I have said little about the war. To be sure, I was deeply concerned about its continuation. I did not agree totally with the Nixon policy for ending the conflict. However, as long as we were disengaging from the conflict I was determined to cooperate with the President. But now I must admit that the President's action has led me to despair about the prospects for liquidating our involvement in Vietnam. I am not ready to concede, however, that our system of government cannot respond. It can—but only if the Senate of the United States is prepared to exercise its constitutional authority and accept responsibility for limiting American participation in the Vietnamese quagmire.

This responsibility should not be taken lightly. Certainly, I do not look on it as a small responsibility. And I am sure that no other Senator does either. But today the Senate stands as the last hope against any further escalation of the war. Passage of the Cooper-Church amendment would not only restore the faith of millions of Americans in our system of government, but it would also restore the Congress to its rightful place within our constitutional framework—as the only body empowered to declare war, to raise and support armies, and to make rules for the governing and regulations of these forces.

I have weighed these salutary effects against the argument, advanced by opponents of the amendment, that it would be a "slap in the face" for the President and undermine his credibility abroad. The "slap in the face" theory, it seems to me, is both specious and irrelevant. It is specious because there is little the Senate could do to undermine the President's credibility abroad any more than he himself has done by expanding our misadventure or damage that could be done if the President failed to live up to his own timetable in Cambodia. It is irrelevant because it avoids the issue of whether American troops should become involved in Cambodia without congressional sanction and authorization.

This brings me to the two most basic questions of all in this debate. First, does Congress have the power to deny funds for the use of future military operations in Cambodia? Second, should Congress exercise that power if they have it?

On the first point, the Constitution is clear. Congress does have the power to act. The framers of the Constitution wisely anticipated the difficulty of maintaining effective civilian control over military policy, and thus they provided the specific means for exercising such control.

In order to avoid concentrating authority in any one body, the war power was divided between the President and the Congress. The Congress—not the President—was empowered to declare war, to raise and support an army and a navy, and to make rules for the Government and regulation of these forces. The President, who was also viewed as a symbol of civilian authority—but one more susceptible to the blandishments of the military—was made Commander in Chief.

The President, as Commander in Chief, is responsible for the conduct of military activities once war has been declared, and clearly he also has the power to repel any attacks on the United States. As Commander in Chief, the President alone is responsible for implementing military policy. In much the same way, the President alone is responsible for seeing that "the laws be faithfully executed."

But the President's power as Commander in Chief no more warrants the conclusion that he alone has the power to formulate military policy than does his obligation to enforce the law imply that he alone can make laws. As Justice Black pointed out in the steel seizure case:

> The Constitution is neither silent nor equivocal about who shall make laws which the President is to execute . . . The Constitution does not subject this lawmaking power of Congress to presidential or military supervision or control . . . The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good times and bad. *Youngstown Sheet and Tube Co. v. Sawyer*, 343 US 587 (1952)

I believe the lawmaking powers of Congress extend to the formulation of military policy as well, as is so clearly spelled out in article I, section 8. And it was upon that grant of authority, I want to remind my colleagues, that Congress acted so wisely last year to prohibit the use of funds for the introduction of American forces into Laos.

The introduction of American forces into a country where they have previously been restricted from venturing for fear of widening the war, despite the pleas of the military, is clearly a major policy decision. At the very least, it seems to me, the Constitution requires that such a decision should have been shared by the people's representatives in Congress.

The concern of the framers of the Constitution, moreover, was not simply

limited to dividing the war power between the Congress and the President. They specifically provided that congressional authority was to be insulated from Presidential encroachment by a constitutional requirement that military appropriations could not be for longer than 2 years. Alexander Hamilton, himself an ardent advocate of a strong executive, explained the importance of the 2-year limitation in Federalist Paper No. 26:

> The legislature of the United States will be obliged by this provision, once at least in every two years, to deliberate upon the propriety of keeping a military force on foot; to come to a new resolution on the point; and to declare their sense of the matter by a formal vote in the face of their constituents. They are not at liberty to vest in the executive department permanent funds for the support of an army, if they were even incautious enough to be willing to repose in it so improper a confidence.

The specific purpose of the 2-year limitation was to act as a brake on the growth of a standing army, which at that time was considered the major threat to constitutional processes. The larger import of the appropriations limitation, however, is that Congress is required to fully review and pass on our military posture before the expenditure of additional money. The congressional appropriations power as it relates to military policy, therefore, was clearly intended as an important constitutional check on both the President and the Armed Forces.

That Congress, after many years of simply acquiescing to executive leadership in military and foreign affairs, has recently chosen to exercise its constitutional powers, seems to have startled some people. That Congress has not acted so forcefully for so long, of course, in no way affected its authority to act last year in regard to Laos and similarly does not affect its authority for acting now to prohibit American combat troops from fighting in Cambodia after July 1, 1970. As Justice Black said in the Youngstown case, "The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good times and bad." That Congress retains this power today is obvious.

That Congress should exercise this power to limit future American military operations in Cambodia, of course, is a different and more delicate question. And I want to re-emphasize the term "to limit future American military operations in Cambodia." I did not say "to limit the President." For, contrary to the message opponents of the amendment are intent upon conveying, it is not designed to—nor could it—limit the President's powers as Commander in Chief. These powers are constitutional and Congress cannot legislate away or infringe upon the President's constitutional authority.

But Congress can—and should—exercise its own constitutional authority to legislate the limits of American military policy in Southeast Asia. Rejecting the view that the Commander in Chief clause supports "any Presidential action, internal or external, involving the use of force," Justice Robert Jackson wrote:

> Congress alone controls the raising of revenues and their appropriations and may determine in what manner and by what means they shall be spent for military and naval procurement.

And in further attempting to define the precarious constitutional balance between the President as Commander in Chief and the Congress' lawmaking power, Justice Jackson pointed out:

> Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress . . . When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb . . . Courts can sustain exclusive presidential control in such a case only by disabling the Congress from acting on the subject. Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution, for, what is at stake, is the equilibrium established by our constitutional system.

Precisely, what is at stake is the integrity of our constitutional process. And because the stakes are so high, it is necessary for Congress to act. As the New Yorker magazine has said, in explaining the larger implications of this breakdown in our governmental system:

> If the United States government fails to honor the freedom of its own people, who are protected by the American Constitution, it will not honor the freedom of any people. This is the true relationship between the invasion of Cambodia and the survival of the free institutions that President Nixon mentioned in his speech, and for this reason the invasion of Cambodia and its consequences within America are the urgent concern not only of Americans but of all mankind.

Mr. President, passage of the Cooper-Church amendment would mark the beginning step in Congress' long journey back to a position of responsibility and leadership. I am confident Congress will take this step because it is both necessary and right that it do so.

Mr. President, I must confess that I had begun work on this statement long before President Nixon's June 3 interim report. After carefully studying the President's statement I saw no need, however, to alter the text of my remarks in support of the Cooper-Church amendment. After hearing the President recite those statistics on captured arms and rice and announce a troop withdrawal of 50,000 men within the next 6 months, I am even more certain today that expanding the war into Cambodia was ill-advised and shortsighted than I was on April 30 when the decision was announced.

Before Cambodia, Mr. President, the Nixon policy of Vietnamization was pulling Americans out of Vietnam at the rate of about 11,000 per month. Now, after an operation in which the President has told us that "all of our major military objectives have been achieved," and an operation he has described as the greatest victory in the long history of the war—the withdrawal rate for the next 6 months is down about 2,000 per month. To be sure, it is conceivable that we could double this amount in the following 6 months. It seems rather strange to the Senator from Indiana, however, that if this mission had been such an overall success why his withdrawal rate for the next 6 months is significantly less than the last 6 months.

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

Mr. BAYH. Mr. President, I shall be no more than another minute and then I will be happy to yield to the Senator from Florida for questions or yield the floor. I appreciate his tolerance, and I will be glad to discuss this matter with him.

As for the seemingly vast inventory of captured weapons and food, its significance can only be measured in terms of North Vietnam's total resources and its ability to replenish the losses. While the Cambodian booty may be greater than caches uncovered as the result of operations Junction City and Cedar Falls, for example, it appears that in the past these missions have had little long-term significance.

No one knows for sure what the true, long-range impact of the capturing of these supplies will be. Certainly I would rather have them in our hands than in the hands of the enemy. But if anyone is looking at this adventure as a panacea for ending the war, history, I believe, will show he is relying on a false hope. In the past the enemy has shown an amazing ability to replenish his lines of communication and supplies, and, unfortunately, to continue the war at a steady pace.

It struck me, Mr. President, that what was noticeably absent from President Nixon's June 3 report was any reference to COSVN, the Communist control center located in Cambodia. In his April 30 statement announcing his decision to expand the war into Cambodia, President Nixon seemed to indicate that we would be striking a telling, perhaps even fatal, blow to the command center for all Communist operations in South Vietnam. The President's failure to even mention this aspect of the operation could only mean there is no COSVN—or we failed to uncover it. One wonders.

In the past, we have found that even though we had been able to capture Communist control centers, it was only a short time until new control centers sprung up. The amazing absence of enemy troops and casualties in that area leads us to believe that the major Communist forces had escaped.

Mr. President, one final thought on the amendment offered by the Senator from West Virginia (Mr. BYRD). The Byrd exception to the Cooper-Church amendment provides that the amendment shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of U.S. forces from South Vietnam.

If this is simply a restatement of the President's constitutional powers as Commander in Chief, then it is unnecessary. As I pointed out earlier in my statement, just as Congress cannot legislate restrictions on the President's constitutional authority as Commander in Chief, it cannot expand those powers by statute. I recognize the President's responsibility to protect our forces in the field, but I do not believe he needs Congressional approval for this.

I believe he has the constitutional authority, in the first place. It is interest-

ing to note, Mr. President, that the amendment adopted last year restricting our operations in Laos and Thailand carried no such exception. And yet for years, we have known that the Ho Chi Minh Trail, running down through one corner of Laos, has been a major supply route and sanctuary.

On the other hand, if the Byrd exception is another Gulf of Tonkin resolution—a blank check from Congress approving in advance any actions the President may take—then it is dangerous.

Such a gesture by the Congress can only serve to widen the war and continue our unfortunate involvement.

All of us are concerned about protecting American fighting men. It just seems to the Senator from Indiana, after a long period of patience, that the best way to protect our American fighting men is to end the war.

I yield to the Senator from Florida.

Mr. GURNEY. There were some aspects of the Senator's presentation that I wanted to question him on. Going back to the first question, about troop withdrawal, it was my impression that the President announced, about a year ago, his Vietnamization process, his planned troop withdrawal, and the approximate figures during the first year were about 100,000. It is now about 115,000, but during the first year the goal was about 100,000.

Then, of course, in April—I think April 20, to be exact—the President announced a further planned withdrawal of 150,000. The Senator from Indiana made the point that troop withdrawal was slowing up. I did not understand that. Would he further explain?

Mr. BAYH. If the Senator from Florida would reexamine the figures on the rate of withdrawal and compare those, not with the 150,000 figure over the next year as announced on April 20, but with the 50,000 figure that is to take place between October 15 and the present date, I think his arithmetic would lead the Senator from Florida to the same conclusion reached by the Senator from Indiana.

Mr. GURNEY. Well, how many troops have been withdrawn to date?

Mr. BAYH. About 110,000. I am sure the Senator fom Florida has ready access to those figures.

Mr. GURNEY. That was about the same figure I had, or about 100,000, as the President planned during the first year. But is it not also a fact that he has scheduled 150,000 to be withdrawn during the next year, and is not that a greater figure than 100,000?

Mr. BAYH. I am well aware of the announcement, I am also well aware of the fact that I watched on television the Commander in Chief of the U.S. Armed Forces characterize the Cambodian operation as the greatest military victory in the Vietnam war. Then he suggested that for 6 months following that great victory our troop withdrawal is going to be less than the previous 6 months. That does not make sense to me. Perhaps the Senator from Florida can explain its inconsistency.

Mr. GURNEY. Let me ask the Senator if he can recall any announcement or pronouncement the Commander in Chief, the President of the United States, has made, on the war in Vietnam which he has not fulfilled so far.

Mr. BAYH. Yes. I can remember hearing certain of our colleagues on the floor of the Senate bring to the attention of the Senate the fact that after the initial announcement of withdrawals, in fact, there was a significant period of time when, instead of fewer troops in Vietnam, there were more troops in Vietnam. I am pleased to answer the questions of the Senator from Florida, but can he, in turn, explain the inconsistency pointed out by the Senator from Indiana?

Mr. GURNEY. Why does not the Senator answer my question?

Mr. BAYH. I did.

Mr. GURNEY. The question was, on any pronouncement or announcement by the President of what he intends to do in Vietnam, where has he failed the people of the United States? I think the Senator has not answered it.

Mr. BAYH. I think the Senator from Indiana looks at the problem from a little different perspective than the Senator from Florida, because we believe the course of action in Cambodia will accomplish different things. Frankly, I say, not as a Democrat or as a Senator, but as a citizen of this country, I hope the judgment of the Senator from Florida is right. But I think history will show, if we can judge the future by the past, that it is not going to prove consequential in the long history of the war, and that it has increased tensions within this country.

Mr. GURNEY. Since the Senator from Indiana has not answered the question——

Mr. BAYH. I have answered the question. The RECORD will show that I have answered the question.

Mr. CHURCH. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. BAYH. Mr. President, if the Senator from Florida wants me to mouth and repeat his assessments, he is not going to get me to do that. If he wants me to give good faith replies to his questions, I will stand here until the sun falls.

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

Mr. BAYH. I yield.

Mr. GURNEY. During his presentation, the Senator from Indiana made the statement that the incursion into Cambodia would prolong the war. Would he explain that further? In what way is it going to prolong the war?

Mr. BAYH. Mr. President, I know there are other Senators who want to speak. I would be glad to give the Senator a copy of my speech. Perhaps if he had read it or listened to it in total, he would know that I had answered that in a significant way.

Mr. GURNEY. I listened to it at length, but I did not hear anything beyond the statement itself.

Mr. BAYH. Well, here again I respect the good faith and the sincerity of my friend from Florida; but I fear that after I have answered the question, it is not going to be answered the way he wants it to be answered, and so he may feel that I have not answered it. But, having given this advance warning, I shall try.

It is difficult for the Senator from Indiana to see how we can be consistent in a policy that Vietnamizes the war in Vietnam and Americanizes it in Cambodia, without suggesting we are broadening the scope of the war. If we are taking South Vietnamese troops from the main scene of battle in South Vietnam, and dissipating their impact by spreading them into Cambodia, the Senator from Indiana cannot see how Vietnamization will proceed apace. In fact, it is rather interesting to me to note—and I am sure the Senator from Florida heard the remarks that I read of the Secretary of State relative to Vietnamization—that we have a considerable amount of inconsistency. The Senator from Indiana believes that the Cambodian adventure is not going to do anything to shorten the war. I hope I am wrong. But if we look at what happened in the Ashau Valley and what happened in the Iron Triangle, and we were shown pictures in our newspapers and on our television screens of captured supplies and weapons, we know that these missions accomplished little. I would much rather we had these weapons than they did; but the cold, cruel facts have shown that despite such captures in the past the enemy has been resupplied and the war has not stopped.

Several Senators addressed the Chair.

Mr. BAYH. I yield to the Senator from Idaho. If the Senator will permit me, I do not want to cut off this colloquy. I will be happy to continue it, but I thought it appropriate to yield to the floor manager of the bill.

Mr. CHURCH. Mr. President, I commend the Senator on his very able address.

In regard to the war's extension, is it not true that since the borders of Cambodia were breached, a number of events have occurred, suggesting that the war is being broadened, and, indeed, could be lengthened?

Mr. BAYH. Mr. President, I think this would be a good time to place in the RECORD a statement from the Washington Post on June 7, 1970, entitled "Broad Red Offensive," written by Robert G. Kaiser. I am sure the Senator from Florida, as well as other Senators, will be interested in it. I ask unanimous consent that it be printed in the RECORD at this point.

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

BROAD RED OFFENSIVE

(By Robert G. Kaiser)

PHNOM PENH, June 6.—This morning's Vietcong attack on Siem Reap, near the historic temples of Angkor, is the most striking symbol of a worsening military situation in Cambodia.

Siem Reap in northwestern Cambodia is more than 200 miles from the Vietcong's old sanctuaries along the Vietnamese border. It is a strange target for the Communists unless they have serious plans to open a broad Cambodian offensive.

According to a number of observers here, such an offensive may be just what the Communists are planning. Several of Phnom Penh's most experienced diplomats and mili-

tary attaches now share the opinion that Hanoi may have shifted its strategy in the last three months, making Cambodia its primary target in Indochina.

Even the Americans, who speak more optimistically about the military situation and the strength of the Lon Nol government than any other Western diplomats here, are concerned by the possibility of a new Communist strategy.

[Gunfire broke out here for nearly an hour tonight, UPI reported. Flares illuminated the sky as bursts of shots were heard in the vicinity of the rail yards. No explanation was given.]

"The big mystery," an American diplomat said, "is why they (the Vietcong) are going so far west."

These diplomats and observers here do not expect Cambodia to disappear suddenly down the Indochinese drain. The consensus is that whatever happens will happen at a deliberate, Southeast Asian pace.

There is also general agreement that the Communists have big problems to solve before they can effectively conduct a political and military offensive in Cambodia.

But almost the only optimists in Phnom Penh are the Cambodians themselves, who seem to live in a very private world. "They're a self-confident people, alas," sighed one Westerner who makes his living trying to follow their affairs.

A popular theory here is that the Vietcong may launch some military action just before or just after June 30, to try to force President Nixon either to keep American forces in this country beyond his deadline, or to bring them back in right after it passes.

From Phnom Penh, Mr. Nixon's current positino looks very difficult. "Why was President Nixon's speech (on June 3) so optimistic?" one diplomat asked. This experienced official doubted whether Hanoi would let the United States walk out of Indochina.

The "salvation government" of Lon Nol reveals only self-confidence to the outside world. It claims to be following a foreign policy of neutrality. This must be the only neutral country in the world whose government-run newspaper can print a front-page cartoon in which Richard Nixon is depicted as an angel, as he was in Friday's "Courrier Phnompenhois."

In fact, the Cambodians find themselves utterly dependent on the United States, South Vietnam and probably Thailand. They are talking of recognizing Chiang Kai-Shek, and have sent a delegation to Seoul. They are counting heavily on President Nixon, whose political problems they apparently don't understand.

"They think Nixon is another Sihanouk," one diplomat said. "If he says yes, then everything is yes."

A Frenchman long in Phnom Penh said Sihanouk himself encouraged people here to count on large American aid. This source said the Cambodians looked to Laos—a country of only two million that has received millions of American dollars—as a model for what they would expect from Washington.

By almost all accounts, the government is woefully weak and not getting any stronger.

An American diplomat said of Lon Nol and his colleagues, "I think they're doing pretty well." But others who have been in Phnom Penh much longer take a different view. "They will exist as long as someone from outside will support them," said one. The government has developed no civil or military plans since taking office, another old hand said.

And yet there has been no challenge to Lon Nol that observers here think is significant. "There is no other group capable of mounting a government," said one diplomat—except Sihanouk. And there is no evidence here that Sihanouk's unpopularity has lessened since the coup, at least in Phnom Penh.

In fact, those who seem most pessimistic about this current government are often the most insistent that Sihanouk has lost whatever claim he ever had on Cambodian allegiance and affection.

But the government's strength is apparently not an indicator of wide popularity. Lon Nol is not a charismatic figure—that comment is made so often here it is now a stock joke.

The consequences of the government's policies—a war on Cambodian soil, the presence of thousands of unpopular South Vietnamese, etc.—are certainly unpopular.

While the Cambodian government moves gingerly, if at all, the Vietcong are moving boldly (or desparately) virtually all over the country.

They have attacked 10 of Cambodia's 19 province capitals since the coup. Two and perhaps three of them were reportedly the scenes of active fighting today. Most of these 10 were in eastern Cambodia, but the Communists have fought major engagements on all four sides of Phnom Penh.

They control most of northeastern Cambodia, and appear now to be seeking control of a kind over the whole northern half of the country. They have also been active in the south, along the Gulf of Siam, but apparent decision to disperse South Vietnamese troops in that area have either forced them out or compelled them to lie low.

As one diplomat here noted, the Communists' apparent decision to disperse all over the country can be interpreted either as a defensive or an offensive maneuver. Either way it can be effective, if the Vietcong and North Vietnamese troops can get the supplies and food they need.

Whether they can is one of the two most puzzling questions in Cambodia at the moment. There are credible reports here that the Communists began moving supplies out of their old sanctuaries in March or April at the latest, long before U.S. and South Vietnamese forces attacked the sanctuaries.

There are also unconfirmed reports that the new Communist supply line down the Sekong and Mekong Rivers is already in use. Whether these means or some other will provide what the Communist need is, simply, a mystery.

The fact that pessimism is the dominant mood here reveals the common assumption that the Vietcong will get supplies. They have already had some success capturing Cambodian supplies from provincial depots and warehouses.

The second great mystery is how the Communist will proceed through this next stage of the Indochina war. If they have not made Cambodia their number one target, what are they up to in Cambodia now? Vice President Ky said today he thought they were merely beating a disorderly retreat.

If the Communists have more deliberate intentions here, how will they pursue them? It is widely assumed in Phnom Penh that the Vietcong missed their best opportunity to seize this capital in April.

But perhaps, one diplomat suggested, they will ignore Phnom Penh, and try for domination of the entire countryside, following the dicta of guerrilla doctrine.

There is very little evidence to help solve this mystery. One source who knows Cambodia well says that in almost all areas of the country, the Vietcong have stopped pretending to be agents of Sihanouk, whom they have found to be unpopular.

The Vietcong have written off the local Cambodian Communists, the Khmer Rouge, who are trying to build their organization around little-known local leaders. There is no reason to think it will be easy to build an indigenous revolutionary movement among the apolotical, easy-going Cambodians.

But some observers here think the Communists will have certain advantages in the future, including popular hostility for South Vietnamese troops—who have apparently misbehaved in Cambodia—and anger toward the government that brought the country war, uncertainty, and what is likely soon to be a bad economic situation.

Meanwhile, if they can get the supplies they need, the Communists can maintain a large, dispersed military force in Cambodia. "They can take any city in the country any time they like," one old resident of Phnom Penh said. Military men here generally accept that judgement.

In recent weeks, the Lon Nol government's biggest short-term asset has been the South Vietnamese army—which many here believe will turn out to be a long-term liability. There is no question that South Vietnam forces in Cambodia have seriously disrupted the Communists, thus relieving much of the pressure on Cambodian forces.

But in the process, the South Vietnam soldiers have apparently ravaged parts of the countryside, looting, shooting indiscriminately and sometimes raping women. Their wayward ways are common gossip in Phnom Penh—as they are in Saigon. Public feeling against the South Vietnamese is strong here and, it is presumed, in the countryside too.

The South Vietnamese and Cambodian leaders seem to be natural allies—they need each other. The question asked often here is whether ordinary people of both countries can overcome natural hostility for the sake of a cause many of them know nothing about.

In the meantime, the Americans in Phnom Penh are the most up-beat Westerners in town. In three days of hearing people describe the Lon Nol government as utterly dependent on foreign help, one U.S. Army man said, "These people have the capability of pulling themselves out of this danger without any help from anybody else."

He described one of the leading Cambodian generals as an "exceptionally well-educated officer," and a good fighter. Another source who has lived here for more than a dozen years described the same general differently: "He's a clown. He dances well."

Mr. CHURCH. There is a stubborn inclination by certain observers to look at the Cambodian operation in the most limited possible frame—we have struck at certain border sanctuaries, and that we will withdraw from Cambodia within the time limitation set by the President.

I assume this to be the case. However, that is not the full picture of the Cambodian situation. Since the operation commenced, the situation in that part of Southeast Asia has become very complex.

The President, at a press conference on May 8, in response to a question, said he anticipated that the South Vietnamese would come out of Cambodia when we came out. He based this assumption on the fact that we furnished them with their logistics and their supplies.

Several days later, Vice President Ky, responding to a question relating to coming out of Cambodia, replied that that was a silly argument of silly people, apparently his reference being the President and the Vice President of the United States.

Since then, we have learned that South Vietnam is not coming out when we come out. Since then, the administration's policy has shifted. The administration now says that while we are coming out, we will continue to support the South

Vietnamese in the decisions that they make with reference to staying.

This is a significant development. It extends beyond the narrow framework imposed upon the American operations in Cambodia.

Furthermore, we are now told that Thai troops—who were not in Cambodia prior to this operation—are going to Cambodia. We do not know, as yet, how many. Their purpose is to join in the new front in Cambodia, presumably to support the Lon Nol regime. I consider this, especially when we remember that we have treaty obligations to Thailand, is a very significant development. It relates directly to the broadening of the war.

These, plus the Nixon doctrine, could involve the United States, in many ways, in the defense of Cambodia, unless the Church-Cooper amendment becomes a part of the law.

The Senator from Indiana has plenty of evidence already presented in the course of the few short weeks that have elapsed since the Cambodia borders were breached to suggest that indeed the war has been complicated, widened, and perhaps lengthened.

I commend the Senator for having made so forceful an argument on this floor today.

Mr. BAYH. I thank the Senator from Idaho for his observations. I might pose just one question, inasmuch as the Senator has been a distinguished member of the Committee on Foreign Relations.

The Senator pointed out that Thai troops were being sent in and Cambodian forces were being armed. From what source do these troops get their sustenance?

Mr. CHURCH. The Thai armed forces are being financed by the United States. Our generosity is hardly a secret.

Under similar attitudes and circumstances, Cambodian forces could also receive generous financing, as well as weapons, ammunition, equipment and supplies that they need to conduct their battle operations.

Alas, the government holding the moneybags, the financier of military operations in Cambodia by all friendly parties will, undoubtedly, be the United States.

Mr. BAYH. I thank the Senator from Idaho.

I ask unanimous consent to have printed in the RECORD at this point an article published in the Washington Post on June 8, 1970, written by the distinguished columnist Chalmers Roberts. Significantly enough, the title of this article is "Thai Troops Cost the United States $200 millon."

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

THAI TROOPS COST THE UNITED STATES $200 MILLION

(By Chalmers M. Roberts)

The United States has paid more than $200 million to Thailand for the support of its forces now in South Vietnam, according to Senate hearings released on American involvement in Thailand.

The extensively censored transcript of closed-door Senate Foreign Relations Committee hearings held last Nov. 11–17 was made public by Sen. Stuart Symington (D-Mo.), the subcommittee chairman. He also released a letter asking Secretary of State William P. Rogers for details of the American role in last week's announcement by Thailand that it will send "volunteers" to Cambodia.

Symington asked Rogers for details on when negotiations on the "volunteers" began, what the United States is to provide, what it will cost, the Thai role in supporting the Cambodian regime of Lon Nol and which country can bring about withdrawal of, Thai units from Cambodia.

Both the hearing and the letter are part of the effort by senators opposed to the Indochina war to force full disclosure of what the United States has been and is doing. The senators hope to increase pressure on President Nixon to end the conflict.

Despite more than 3,000 pages of transcript, the hearings, as censored, produced only a few nuggets of new information. Much of the hearings consisted of repetitious rival contentions between the senators, especially Symington and Sen. J. William Fulbright (D-Ark.), on the one hand, and the administration on the other about the nature of the American commitment to Thailand. Symington repeatedly castigated administration witnesses for excessive executive branch secrecy on matters he contended the Congress and the public had a right to know.

The $200 million figure was supplied by the administration. A submitted statement said American "support to Thai forces" had averaged about $50 million a year, or $200 million since their arrival in South Vietnam in 1966.

Fulbright put into the record a table showing that a Thai lieutenant general received $370 a month base pay, paid by Thailand, plus $450 a month in overseas allowance, paid by the United States. The scale ran down to a private whose base pay was $26 a month from his own country plus $39 a month from the United States.

In addition, the United States pays $2,500 for death and disability benefits for Thai enlisted men, $3,500 for noncommissioned officers and $5,500 for officers. A mustering out bonus, also paid by the United States, is $400 per volunteer. While in South Vietnam, the United States also pays for quarters, rations, transport and ammunition for the Thais. About 11,000 Thai troops are now there.

American Ambassador to Thailand Leonard Unger provided figures showing that in the period 1949–69 the United States had given Thailand $2,190,900,000 in all forms of economic and military assistance and for military expenditures. He also estimated that the American contribution of all sorts to the Thai economy was about $200 million a year in 1967 and 1968 and about $170 million in 1969.

Graham Martin, now Ambassador to Italy and former Ambassador to Thailand, said at one point that he thought the Thais had sent the troops to Vietnam "because they were requested to by the government of Vietnam and by the United States. I think they made that decision in the full realization that it was increasingly uncomfortable for the United States to have the massive deployment of U.S. troops with far less contingents from the other partners in the SEATO alliance."

The nature of the Southeast Asia Treaty Organization (SEATO) commitment by the United States, and how it was affected by the Rusk-Thanat statement, was much argued over during the hearings by the new agreement between senators and administration witnesses.

The Rusk-Thanat statement of March 6, 1962, signed by then Secretary of State Dean Rusk and Thai Foreign Minister Thanat Khoman, was defended by Unger as not "in any sense altering or extending our commitment under SEATO." The statement, in State's view, simply made clear that the United States could come to Thailand's aid on its own initiative wtihout the agreement of all the SEATO nations.

Fulbright, however, contended that the statement had created "a bilateral agreement" and had done so "without reference to Congress." But the most the administration witnesses would concede was that the statement had been an added assurance to Thailand at a moment of peril.

The peak of American military manpower, chiefly Air Force, in Thailand was 48,000, with 42,000 the ceiling for June of this year, a Pentagon statement said. Included are 290 men in the Special Forces.

Despite suspicions raised by senators and by subcommittee counsel Roland A. Paul that the Special Forces might have some role other than training, administration military and diplomatic officials denied it.

The issue of the Thai-American contingency plan, as the administration calls it, also figured in the transcript. Fulbright brought out that it was updated last August but he never got what he considered a satisfactory explanation as to how the two governments "agreed" to do so.

Symington indicated he considers the contingency plan issue, first made public last year, as moot after Secretary of Defense Melvin R. Laird publicly repudiated its applicability.

When Fulbright demanded of Unger his "authority" for the Nov. 19, 1967, agreement "in which you apparently committed our country to equip and supply the Thai forces in South Vietnam," the ambassador cited "instructions from the Department of State" based on the SEATO treaty.

An administration supplied "summary" of that secret agreement said that because the Thais "were concerned that the dispatch of this force could weaken their security position at home," the United States had agreed to provide an additional $30 million in aid to modernize the Thai forces, including provision of a battery of Hawk anti-aircraft missiles. The rest of the administration document was deleted from the transcript.

Much of the hearing related to Laos, the subject of another subcommittee hearing the transcript of which already has been released.

At one point it was disclosed that American planes in 1968 flew 67,000 sorties over Laos but the 1969 figure was censored. This sortie figure covered raids both on Northern Laos, in support of the Royal Government of Souvanna Phouma, and against the North Vietnamese on the Ho Chi Minh trail.

Walter Pincus, the subcommittee's chief consultant, read newsmen sortie figures for raids in North Laos alone, increasing for 20 in the year 1964 to 32 per day by September, 1968, to "over 100" per day in 1969.

Maj. Gen. Robert L. Petit, deputy commander of an Air Force unit at Udorn, one of the American bases in Thailand, testified that American Ambassador to Laos G. McMurtrie Godley "maintains a very tight control" over the sorties "going into North Laos."

All references to reports that Thai troops have been serving in Laos were deleted except for a newspaper report that 5,000 had been sent "disguised in the uniform of the Royal Laotian Army."

The hearings produced much wrangling about the American "interest" in Thailand and the nature of the Chinese and North Vietnamese threat but no agreement between the senators and the administration witnesses. About the only favorable senatorial comment came from Sen. Jacob K. Javits (R-N.Y.). He called Thailand "a bastion of the kind of order and stability and justice that we are trying so hard to attain."

Early in the hearings witnesses refused to discuss American post-Vietnam planning for Thailand but later on it was described as

"merely proposals" without any decisions having been made. Witnesses refused to disclose any of the proposals although the committee implied the United States really intends to keep bases and forces in Thailand indefinitely.

The committee also made much of American payments to the Thai-run Express Transport Organization, with documentation to show that handling of American cargo had produced what the committee concluded was a profit of 35 to 40 per cent based on expenditures.

Mr. BAYH. Mr. President, I should like to repeat, since the Senator from Idaho is here now and had been called off the floor for other duties as I began my remarks, the reference to Secretary of State Rogers' statement to the House Appropriations Committee about not getting involved in Cambodia.

It is my understanding that he shortly thereafter testified before the committee of the Senator from Idaho, the Senate Committee on Foreign Relations, to the same effect. But I think it is interesting to note what the Secretary of State said to the House committee, and I suggest to my distinguished colleague from Florida that I would think that the Secretary would speak for the President of the United States on matters such as this. He said:

We have no incentive to escalate—

This was 7 days before the Cambodian invasion—

Our whole incentive is to deescalate. We recognize that if we escalate and get involved in Cambodia with ground troops, that our whole Vietnamization program is defeated.

It seems to me that perhaps by this statement the Secretary of State has answered the very pertinent question raised earlier by the Senator from Florida.

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

Mr. BAYH. I am happy to yield.

Mr. GURNEY. Commenting on that specific point—and I hope we can get back to expanding on the other point, because that is what we had been discussing, but this point was raised earlier, and it is certainly fair to talk about it—of course, the word "escalation" means one thing to one Senator, and another thing to another Senator. To me, the word "escalation" means broadening the war, stepping up the war, further involving the United States of America, prolonging the war, sending more troops in, doing more of a whole lot of things.

The word "deescalation" means taking those steps, particularly those tactical steps, in Southeast Asia, which may very well lead to a shortening of the war, if it hurts the enemy and seriously sets him back, and of course that is what this debate during the last several weeks has been all about. I am well aware that some Senators have one viewpoint, and other Senators have another.

Speaking to the words of the Secretary of State, in the sense of this Senator, deescalation, in the light of the Cambodian incidents, means that when the President, the Commander in Chief, has taken a tactical step that has wiped out Communist sanctuaries, that has destroyed supplies, that has weakened the enemy's ability to wage war, this is indeed an escalation.

I realize that we have differences of viewpoint on that.

Mr. BAYH. We can describe "escalation" and "deescalation" in different terms, but it seems to me that we have to interpret it the way the Secretary of State described it. Although we might differ as to what "escalation" and "deescalation" mean, can we really say that there is much dispute about what he meant when he said that if we escalate and get involved in Cambodia with ground troops, our whole program is defeated?

Mr. GURNEY. I think that what the Secretary was talking about is that if we went permanently into Cambodia——

Mr. BAYH. He did not say that.

Mr. GURNEY (continuing). Supported the present Government of Cambodia, and shored it up and kept troops in there permanently, that, indeed, would be an escalation and a broadening of the war. Obviously, he did not mean that.

As a matter of fact, the Secretary of State spoke very eloquently on one of the television programs—I believe it was "Face the Nation," on CBS last Sunday—and answered a great many of the questions posed by the Senator from Indiana.

But to get back to prolonging the war——

Mr. BAYH. Before the Senator proceeds, let me suggest that I was not fortunate enough to hear what the Secretary of State had to say after the invasion. But I am insistent that we recognize what he said before the invasion. I think it is interesting to compare what he said then with what happened just 1 week later. It seems to me that there is a bit of inconsistency there. But the Senator from Florida and I can disagree and still pursue this colloquy.

Mr. GURNEY. We can. But, to get back to the prolonging of the war—because I think it is a most important point—I think there is a great deal of evidence on that subject, that the Cambodian incursion, with the destruction of the supplies that has resulted from this military operation, has indeed not prolonged the war in any sense, but, if anything, has shortened the war.

I cite, for example, an authority on Southeast Asia—perhaps an authority who is second to none—on how these people fight over there, their method of military operations, and that is Sir Robert Thompson, a Britisher, who masterminded the defense of Malaysia against communism and was successful in defeating communism there and rescuing Malaysia from falling into the hands of the Communists. He has said, for example, that the Communists have been set back anywhere from 9 months to a year by this operation into Cambodia. The enemy has been hurt previously, and because he has, our program of Vietnamization and our ability to withdraw our troops has been enhanced.

To me, that represents not only a very authoritative opinion but also an opinion of a great many people who follow the war in Southeast Asia.

This is why I was interested in pursuing the talk about prolonging the war.

Mr. BAYH. I explained that in my remarks earlier. I would be glad to reiterate what I said, hoping that the Senator from Indiana is wrong and the Senator from Florida is right and that the President of the United States is right. The one thing which we have in common is that we want to end that war.

Mr. GURNEY. I agree.

Mr. BAYH. The question is how we can best accomplish this purpose. It seems to me that we have to recognize some very hard facts. Analyzing the South Vietnam conflict is not easy.

The facts of the matter are, as I see them—and if the Senator from Florida has other facts, I shall be more than happy to hear them—that prior to the Cambodian invasion there were no South Vietnamese troops in Cambodia; prior to the Cambodian invasion, there were no Thai troops in Cambodia; prior to the Cambodian invasion, there were no U.S. troops in Cambodia. Now there are Thai, South Vietnamese, and American troops in Cambodia.

On the other hand, we have a joint statement of "all for one and one for all" from the Pathet Lao, from Sihanouk, from the Vietcong—everybody involved, backed by China.

If that does not mean an escalation, if it does not mean we are going to have to get a broader settlement, involving more territory and more nations, then the Senator from Indiana is misinterpreting these events. But I do not think so.

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

Mr. BAYH. I yield.

Mr. GURNEY. It seems to me that the confusion arises from the terms "broadening" and "prolonging."

I might say to the Senator from Indiana that I suppose the invasion of Sicily and Italy during World War II and the invasion of France on the beaches of Normandy was a broadening of the war. I suppose it was. It also was the shortening of the war, in that these attacks led to the final defeat of Germany. The terms are quite confusing.

Mr. BAYH. Does the Senator suggest that those areas, from the standpoint of involvement and occupation by an enemy force, are analogous?

Mr. GURNEY. Was not Cambodia occupied by the North Vietnamese and the Vietcong?

Mr. BAYH. I am not arguing the complexity of the Southeast Asia situation; but for the Senator from Florida to suggest that there is a comparison between the two, is difficult for the Senator from Indiana to comprehend.

Mr. GURNEY. Does the Senator from Indiana suggest that the Communist sanctuaries in Cambodia were not occupied by North Vietnamese and Vietcong troops—the enemy?

Mr. BAYH. They were occupied—there is no question about that. They were occupied on the date that the Secretary of State said that to escalate and to go into Cambodia would ruin the Vietnamization program.

Mr. GURNEY. The parallel is exact between that and Italy and France.

Let us turn to another question.

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

Mr. BAYH. I yield to the Senator from Idaho.

Mr. CHURCH. The comparison of the Vietnamese war with the Second World War goes so far beyond the facts of the current situation that it should not go unchallenged.

The Second World War was an unlimited war; our stated objective was the unconditional surrender of the enemy. It was a war declared by Congress. It differed in character and in all its particulars from the present war, including the fact that the continuing conflict in Indochina is an undeclared war.

President Nixon has said repeatedly, as have his predecessors, President Johnson and President Kennedy, that this was a limited war for limited objectives. If it were not so, I am certain that long ago we would have invaded, occupied, and conquered all of Southeast Asia. That has not been our purpose. That was not the reason why we went there. All these Presidents have reiterated that this is a limited engagement.

To make these rash analogies between our situation in Southeast Asia today and our situation in the Second World War, such as when we went into Italy, seems to me to fly in the face of everything we know about our involvement in Southeast Asia and the declared, unlimited war for unconditional surrender that we fought in the days of the Second World War.

The essential purpose of the Church-Cooper amendment is to assume legislative responsibility in defining the theater of this limited war. That is its whole purpose. It seems to us that after so many years of inconclusive fighting, the time has come for Congress to assume responsibility in joining with the President in setting the outer limits of American involvement in Southeast Asia. In the Cooper-Church amendment, we are setting those limits precisely where the President has set them.

Mr. BAYH. In essence.

Mr. CHURCH. Yes; we have said, "If you are going to go beyond those limits in this limited war, then come back to Congress and let Congress share, as the Constitution intended, in any decision which opens up or expands the theater of American involvement." I reject the analogies based upon our experience in the Second World War.

Mr. BAYH. The Senator from Idaho knows well, and the whole country knows well, the nature of the guerrilla war in Southeast Asia. This was not involved in Western Europe in World War II. So that I think the comparison falls on its face.

Before returning to the discussion with the distinguished Senator from Florida. I want to emphasize that what this amendment does is not slap the President in the face but indicates a willingness and desire on the part of Congress to accept some of the responsibility. It gives the President an easier "out," to keep it from being just his war, and thus, hopefully to join him in ending the war.

Mr. CHURCH. The Senator is eminently correct. It seems to me that if we are going to come out of this morass in Southeast Asia, we must find a way to come out of it together. Otherwise, the frightful political recriminations, about which the President worries, will become reality. All of us will face them because there will not be a pleasant, popular ending to this war. Everyone knows that. We are presently withdrawing, which is the President's policy. This ending will not be the kind the American people have been accustomed to. There is, already, danger that serious political recriminations could devastate and divide our own country.

Looking ahead, I think that the best course for the country is for Congress to begin—now—to share a joint responsibility with the President for extricating the United States from this interminable and inconclusive war in Southeast Asia.

The Cooper-Church amendment is a first step in that direction. It assumes a legislative responsibility to define the outer limits of the American penetration into Cambodia, the exact place where the President himself has stated it. Thus, it is an offer to the President to join him in an orderly extrication of this country from the quicksands on the Southeast Asian mainland.

The persistence by some in attempting to construe the amendment as something else baffles me. The attempt to characterize our amendments as some kind of slap at the President of the United States is patently absurd.

The distinguished Republicans who have joined in supporting the amendment, such outstanding, acknowledged statesmen as JOHN SHERMAN COOPER, of Kentucky; GEORGE AIKEN, of Vermont: JACOB JAVITS, of New York; and many others, would have no part of any legislative attempt if its purpose was to embarrass or discredit the President. To insist upon interpreting the amendment in this fashion, is not only unfortunate, but utterly unsupportable.

Mr. BAYH. I appreciate the Senator's clarification, and salute him for his initiative in this area.

Now I am happy to yield to the Senator from Florida.

Mr. GURNEY. I thank the Senator.

I should like to go back and discuss a little bit the remarks just made by the distinguished Senator from Idaho. He feels deeply about this matter, as do all of us. So, to pooh-pooh the idea that there is any analogy between one war and another, I think, if he went over to South Vietnam or even to Cambodia right now and talked to the GI's over there and tried to reassure them that they were fighting a small war, not a big conflict like the Second World War was, that our objectives and aims are different now, and all the other arguments we have just heard, I think the reaction of the GI's might be, "The shot and shell are flying thick at me, just as they did in World War II. All the other things that are happening here happened in World War II."

One war is like another so far as the young men are concerned whose lives are being laid out on the line. So that I believe we should do the things that will not prolong the war but will shorten it.

An interesting thing on that score. I am sure that other Senators have had the same experience I have had, concerning letters written to me personally from Vietnam in recent days and also sent to me by parents who have received letters from their boys in Vietnam and Cambodia in recent days. The letters say, "Dear Senator" or to the parent, as the case may be, "Thank heaven, we have finally done something which will hit the enemy and hurt the enemy and shorten the war."

That is what they say, the soldiers in the field.

Now let us turn to another point the Senator from Indiana mentioned in his remarks, that I think is important, too.

He spoke about the political price that was being paid here at home. I guess part of the point was that there is so much uproar here at home that the President and the administration is losing the backing it had, or may have had, as far as Vietnam policy is concerned.

I think it is interesting to note the polls which have been made since President Nixon moved troops into Cambodia. One is from Newsweek and supports the President in the Cambodian action by a rather substantial majority. The most recent poll is even more interesting, and that is the Gallup Poll which was made just a few days ago, and shows actually that during the time the President sent troops into Cambodia, his popularity as President has risen.

I do not know what political price the Senator from Indiana is talking about but if he is talking about the administration's political price apparently the country backs up the President and backs up his Vietnam policy, and not only approves of what he is doing but also the popularity of the President has increased.

Perhaps the Senator could go into the political price he is talking about a little more.

Mr. BAYH. I must say, with all respect to my friend from Florida, that is a very poor reason, indeed, to invade Cambodia—in order to improve the President's standing in a Gallup poll.

Mr. GURNEY. Of course, the Senator from Indiana knows that is not why I made that argument at all——

Mr. BAYH. What the Senator from Indiana said—I will answer the question—what the Senator from Indiana said had nothing to do with popularity on the political scale. If anyone here is the least observant, and certainly my friend from Florida is most observant, any of us would have to come to the assessment that there is considerably more turmoil, agitation, confusion, and frustration in the country today, at almost any level, than there was before the Cambodian invasion. Just take a good look at the stock market. Read what the experts say this did to the confidence of the business community.

Mr. GURNEY. I thought the stock market was going up. Has not the Senator from Indiana read the stock market reports lately?

Mr. BAYH. I have no money, so I cannot be investing in the stock market.

Mr. GURNEY. The stock market is

going up, in case the Senator did not know.

Mr. BAYH. Well, if the Senator would read some of the statements coming from eminent, qualified members of the business community, they would give him an idea of the tremendous shock and jolt the invasion of Cambodia gave to the business community.

Mr. GURNEY. The business community is backing up the President. The poll made by the Research Institute of America shows that 80 percent of the business community is behind the President.

Mr. BAYH. It seems to me that the best poll, as far as support from the business community is concerned, if the Senator from Florida has to have some sort of poll——

Mr. GURNEY. I do not need a poll. You do.

Mr. BAYH. The Senator is the one who brought it up. If the Senator has to have some poll, I have had more businessmen suggest that the best barometer of the attitude of the business community is to see which way the stock market is going. If we compare where it is today and where it was before Cambodia—I think that answers the——

Mr. GURNEY. The stock market has been going down for month after month because it was too high. But let us turn to something else, the question of turmoil. The Senator mentioned Kent State as an example of the great turmoil now going on in the country. The Senator from Indiana should read the report of the Senate Internal Security Committee that warned the Senate 2 years ago of all kinds of trouble brewing at Kent State, and that was long before Cambodia.

Mr. BAYH. Now, does the Senator from Florida—I want to make sure we have all the facts on the record here—does the Senator believe that the unfortunate incident at Kent State was directly the result of the factors contained in the report to which he referred?

Mr. GURNEY. Mr. President, what I am saying is that trouble was brewing on the campus of Kent State University for 2 long years.

Mr. BAYH. Mr. President, is the answer to the question I posed to the Senator from Florida "Yes"? I want to make sure we get that into the RECORD.

Mr. GURNEY. What was the question?

Mr. BAYH. Mr. President, I would like to know if the Senator from Florida believes that the confrontation which occurred at Kent State University—a most unfortunate incident—was directly related solely to the conditions described in the report of the Internal Security Committee which was mentioned earlier by the Senator from Florida.

Mr. GURNEY. Mr. President, it certainly is due in part to the conditions revealed by the Senate Internal Security Subcommittee.

I also point out that trouble and turmoil has been going on on the Kent State campus for months and months. It has been a continual process, as it has been on many other college and university campuses throughout the country.

The point I am trying to make is that the trouble and turmoil on the campuses has been going on for a long time.

The trouble that was caused on the campuses by Cambodia is only one part of the whole campus picture.

The point that the Senator from Indiana was trying to make, it appeared to me, was that the trouble at Kent State University and all other campuses is the fault of the President of the United States because of the Cambodian incursion. And I do not think that is true.

Mr. BAYH. Mr. President, I will send to the periodical room for a copy of yesterday's Washington Post, which contains an article describing how the President had sent five of his young assistants to the various college and university campuses throughout the country.

I do not know whether the President sent anyone to the campus of Kent State University. We have had these investigations up one side and down the other.

These young men, members of the President's party, went all over the country. They came back with dramatic expressions of concern, saying that they themselves, as young men, were surprised to find the tremendous alarm that existed all over this country.

I do not for a moment want the RECORD to show, or my friend, the Senator from Florida, to get the idea, or anyone else that might read the RECORD, to get the idea that the Senator from Indiana believes that violent dissent because of the Vietnam war has any place on the campus or any place else.

I think when they get to the place of burning down banks, destroying institutions of higher learning, and doing physical damage to other citizens that this matter has gone beyond the point of legitimate dissent.

It has gone to the point addressed by former Justice Holmes long ago when he said, "The first amendment does not give anybody the right to cry 'Fire' in a crowded theater."

It has been my belief over the past few weeks that most of the dissent and the deep concern that has been expressed has been in a nonviolent way. It has been expressed not just by students, but also by mothers and fathers, by automobile workers and by steel workers.

My mail has increased astronomically. And all of this mail is not from students.

Mr. GURNEY. Mr. President, is the Senator speaking of the hard-hat demonstrations in New York a couple of weeks ago? Is that one of the examples the Senator is referring to?

Mr. BAYH. I must say that when a fellow, whether he is wearing a hard hat or not, tells me he is against obscenity, four-letter words, desecrating the flag, and burning down bank buildings, I say: "me too." And I do not think that has anything to do with the war in Vietnam or with the stock market.

Mr. GURNEY. Mr. President, I think they were backing the President's efforts in Vietnam.

Mr. BAYH. Mr. President, I think the President will have a rude awakening if he feels that the fathers and mothers of these boys and girls are not deeply concerned over this war in Vietnam. This is a matter that transcends occupational lines. It should transcend class lines.

Mr. GURNEY. Mr. President, I agree wholeheartedly with the Senator. But people all over the country are concerned over the disturbances going on on the college campuses, if that is the point the Senator was making.

Mr. BAYH. That was not the point I was making.

Mr. GURNEY. Mr. President, all I am saying is that there are many other fundamental factors involved in the campus dissent than Cambodia.

I pointed out two of the most notable examples of campus dissent. One was on the campus of Columbia University. I feel that the disturbances really began in the East. This was about 2 years ago.

One involved a piece of property which Columbia University was contemplating building on in the ghetto area. That was what that was all about.

I recall the disturbance at Cornell University when certain students came out of the administration building with guns and rifles in their hands.

I do not feel that those incidents had anything to do with Cambodia.

I agree that we do have much turmoil on college campuses. But I feel that this trouble and turmoil started long before the Cambodian incursion.

Mr. BAYH. Mr. President, before the Senator leaves this subject, I will just read into the RECORD part of this article to which I have referred.

Mr. GURNEY. I remember reading the article.

Mr. BAYH. Mr. President, since the Senator from Florida has read the article, I will not bother to take up the time to read the article now.

Mr. President, I ask unanimous consent that the article entitled "Young Aides Tell Nixon of Youth Unrest," written by Carroll Kilpatrick, and published in the Washington Post of June 9, 1970, be printed in the RECORD.

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

YOUNG AIDES TELL NIXON OF YOUTH UNREST

(By Carroll Kilpatrick)

Eight youthful White House staff members reported to President Nixon yesterday that the Cambodian operation seriously damaged his support on the campuses and drove many moderate students into the arms of radicals.

The President met for more than an hour with eight White House staff members he dispatched last month to sample opinion on some 30 university campuses.

Chancellor Alexander Heard of Vanderbilt University, the President's temporary adviser on campus activities and thinking, was present for the meeting in the cabinet room.

The eight staff members, all under 30, were described as shocked by what they discovered on the campuses. They reportedly told the President that the extreme opposition to the Cambodian operation and the Vietnam war was not a fringe phenomenon but a widespread condition in the universities.

The staff members' reports generally bore out what others previously have found about the extent of student and faculty opposition to the administration's Southeast Asian policies.

The eight reported their findings earlier to senior staff members at the White House and in writing. The President invited them to give an oral report to him yesterday.

He now fully recognizes the extent of the campus opposition to him and his policies and is "very sensitive" to the problem, one informant said.

Hugh Sloan, 29, who visited Princeton, Columbia, Rutgers, Connecticut College, the Coast Guard Academy and New York University, said after visiting Columbia that "the depth of feeling is considerably stronger than I personally imagined."

He met at Low Library on the Columbia campus last month with a series of student and faculty groups. Prof. Charles Frankel of the philosophy department, a former assistant secretary of state for cultural affairs, said after meeting Sloan that the Cambodian operation was a blow to moderates on campus.

Students "felt betrayed," Frankel said at the time. Dean Carl Hovde of Columbia college, who also met with Sloan, told reporters that "patience has snapped over the (war) issue."

White House press secretary Ronald L. Ziegler said the eight staff members spent three or four days each visiting different campuses. Ziegler discounted one report that the eight were stunned by the opposition sentiment they encountered.

Other officials said it was true the eight had been shocked by the extent to which conservative and moderate students had turned against the administration because of Cambodia.

Ziegler said the staff members "talked to students, administrators and faculty to get their views—primarily to assess their feelings for the specific purpose of communicating their views to the President."

The staff members reported that a major target of campus criticism was Vice President Agnew.

The White House aides who made the survey for Mr. Nixon were, in addition to Sloan:

John L. Campbell, 26, he visited Duke, North Carolina Central College and the University of North Carolina.

William Casselman, 28, visited Claremont College and the University of California at San Diego.

Christopher DeMuth, 23, Harvard, University of Massachusetts, Boston College, and Northeastern University.

Jeffrey Donfeld, 26, University of California at Berkeley, University of Texas and the Los Angeles Valley Junior College.

Chester F. Finn, 25, Reed College, University of Washington and Montana State University.

Lee Huebner, 29, Northwestern, Ohio State and Bowling Green College in Ohio.

Don Murdock, 28, University of Wisconsin, Edgewood College in Madison, Wis., and Madison Area Technical and Vocational College.

Mr. BAYH. Mr. President, I must say that the Senator from Florida seemed determined to relate the student unrest over Cambodia and the militant violence on other campuses of 2 years ago.

I thought perhaps the Senator had not read the article.

I think the RECORD should show conclusively that there was deep concern, deep unrest, and deep division in this country as a direct result of the Cambodian invasion. That has nothing to do with politics.

I find myself as a member of the loyal opposition hoping and praying that the President can be successful, knowing that if he is successful, it will be the biggest political thing that he will have going for him.

We cannot ignore the fact that today there is unrest in this country. After a period of 15 or 16 months of planned disengagement—slowly, steadily, and surely—many of us in the opposition party who had gone along with the President on this matter, suddenly find that the situation has turned around and gone the other way.

This is what shocked the business community. This is what shocked the students. This is what shocked the country. That is why I am concerned. And I think the RECORD should show that.

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

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

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

Mr. BAYH. Mr. President, to let my friend, the Senator from Florida, get his breath, I yield now to the Senator from New York.

Mr. JAVITS. Mr. President, I have some prepared remarks concerning the Byrd amendment which I would like to deal with first. Then I would like to make some remarks concerning the colloquy I have just heard between my distinguished colleagues.

BYRD AMENDMENT BEGS THE QUESTION

The amendment offered by the Senator from West Virginia (Mr. BYRD) only begs the question raised by the Cooper-Church amendment and settles nothing. For the President, according to his own declaration of his reasons for sending U.S. Forces into Cambodia, has already, in the words of the Byrd amendment, taken "such action as may be necessary to protect the lives of U.S. Forces in South Vietnam or to hasten withdrawal of U.S. Forces from South Vietnam."

But, the question now is—and it is raised by the Cooper-Church amendment—whether the Congress can place a limit on the exercise by the President of his power as Commander in Chief by restricting his authority to use appropriations in the support of forces carrying out his orders in Cambodia. This, I feel, the Congress has an absolute right to do. The President may choose not to use an appropriation on these conditions, but if he does use it, he cannot at the same time negate its purpose or its restriction.

What Senator BYRD tries to do is to turn the clock back to the time preceding the Cambodian decision and to disregard the fact of the decision or its implications. I believe the Cooper-Church amendment is not only a proper, but a wise, exercise of the congressional authority. For, the Senate, is dealing in the Cooper-Church amendment with the question of extending the theatre of war beyond Vietnam as a matter of basic policy. The Cooper-Church amendment seeks to restrain the President from using his Commander in Chief authority with respect to the security of our forces in Vietnam beyond the very limited involvement which he himself has specified as essential for that security.

It is proper to state that nothing the Senate can do, including the Cooper-Church amendment, can deprive the President of his Constitutional authority as Commander in Chief. All the Congress is asked to do by the Cooper-Church amendment is to limit broader-scale involvement in Cambodia which would intrude upon the warmaking powers of the Congress itself.

Indeed, the issue of liquidating the Vietnam war is now wholly a question of tactics and timetable. This is true of the Cooper-Church amendment and even of the much broader McGovern-Hatfield-Goodell-Cranston-Hughes amendment. The basic issue with which we still must come to grips is a definition of the war powers of the Congress and, therefore, by implication, of the President under contemporary circumstances. I do not say this in criticism of the Cooper-Church amendment, which strongly favor and in the drafting of which I participated as a member of the Foreign Relations Committee—but rather because it makes no such claim for itself.

What needs to be defined is how the Congress is to exercise its policymaking power with respect to war which is explicitly reserved to it in the Constitution in consonance with the President's executive or command authority as Commander in Chief. The Constitution defines this executive capacity of the President only to "take care that the laws be faithfully executed." The President certainly enjoys discretionary authority but it is the discretionary authority of an executive. He does not have discretionary authority with respect to warmaking in a policy sense. This is a power granted to the Congress under the system of checks and balances in the Constitution.

But, the adoption by the Senate of the Cooper-Church amendment—an important piece in an emerging mosaic—would be a significant historical milestone in asserting this authority of the Congress. Its historic significance may be further enhanced by the President's open endorsement of the Byrd amendment.

Under these circumstances I see the Byrd amendment, in its effect, as an effort to table the Senate's effort to reassert and to define the constitutional responsibilities of the Congress as specified in section 1, article 8, of the Constitution. If the Byrd amendment is adopted, it will set back a vital historic process—the assertion of the responsibilities of the Congress in warmaking. Also it will give new momentum to a phenomenon which has aroused such grave concern in our Nation in recent years—the exercise by the President of the warmaking power in the name of his authority as Commander in Chief. Since the first rumblings of World War II, we have seen this constantly expanding power of the President often due to abdication by the Congress of its warmaking powers. Throughout the past decade, this trend has gained an ominous momentum.

It has reached the point where any effort just to check the expansion of Presidential power is regarded by some defenders of the Presidency as an encroachment on the Office of the President. Many advocates of Presidential prerogative in the field of war and foreign policy seem at times to be arguing that the President's "powers" as Commander in Chief are what the President alone defines them to be.

I believe that passage of the Byrd amendment would amount to Senate acquiescence in this position—that is, the President enjoys such powers as Commander in Chief as he defines them to be. I believe that this could undermine

our whole constitutional system and lead the Nation into grave new crises at home and abroad.

What is most needed, in my judgment, is a new policy codification of rules to be followed in circumstances where military hostilities must be undertaken in the absence of a declaration of war. There are two categories of such circumstances: First, those on which a declaration of war is not justified or desirable because of the total consequences of a declaration of war; second, when the suddenness of events does not permit the prior enactment of a declaration of war.

In the nuclear age, hostilities are likely to continue to take the form of "limited" and even "clandestine" wars. Such wars require a response adapted to the circumstances and those circumstances do not seem to be adequately encompassed in the 18th century concept of a "declared" war, which is specified in the Constitution.

The Congress has done little or nothing, in my judgment, to adapt its constitutionally specified "declaration-of-war" power to 20th century circumstances. At the same time, our Presidents have shown great vigor and ingenuity in adapting and expanding the Commander in Chief powers to deal with limited and clandestine wars. The process of atrophy of congressional power and unilateral expansion of Presidential power in warmaking has now reached dangerous limits.

There is an urgent need for enactment of a law which codifies historical practice as it has evolved in a prudent manner harmonious with the Constitution. The Congress has ample powers to this under article 1, section 8, of the Constitution. I have been working on such legislation for some time and I intend to introduce a bill to this effect shortly.

Now, I would like to make two observations respecting the previous colloquy. One concerns the matter of the business community which the Senator from Florida has been discussing. It is a fact, as the Senator has said, that the stock market has made a slight recovery from its very deep low point. I hope that we will not be confused by that fact. The fact is that the stock market was at its lowest point for 4 or 5 years. However, it has made a slight recovery. I hope that it recovers more.

Inflation makes it impossible to finance the efforts of such a major corporation as the Penn Central Railroad.

There is a deep erosion of confidence, as shown by the plans for acquisition or for other business improvements.

We are beginning to see a marked erosion of confidence and a decrease in buying by consumers and continuing inflation.

The Vietnam war and the fact that there is in the minds of many people of the United States the suggestion of an expansion of the war because of the Cambodian move are very major contributing factors. Many very outstanding business leaders have expressed themselves on that score.

Business exigencies are now pressing also, as are so many social problems in our country, for some way to bring this war to a close, and not to proceed again, as unhappily Cambodia did, to devastate a large segment of the community because they saw an expansion rather than a contraction of our war efforts.

I hope very much the Senate will face this issue which is being so eloquently debated by Senators. It is essentially a constitutional issue.

Mr. BAYH. I appreciate the contribution of the Senator.

Mr. President, I apologize for the length of the debate. The Senator from Florida has been anxious to pursue some interrogation of the Senator from Indiana, and that is the reason we have been proceeding here.

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

Mr. BAYH. I yield.

Mr. JAVITS. I want to say also that I appreciate the courtesy of the Senator from Florida (Mr. GURNEY) because if he had not allowed me to be yielded to and make these expressions, I would not have been able to do so.

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

Mr. BAYH. I yield.

Mr. CHURCH. Mr. President, throughout much of the debate, opponents of the Cooper-Church amendment have spoken as though they are for our servicemen and that our servicemen are for them. On the other hand, those who support the amendment presumably have no such support among the servicemen who are on the battle line in Vietnam. Of course, that is not so. I am sure the Senator from Indiana has received, as I have, a great many letters from servicemen in Vietnam who wholeheartedly support the effort we are making here.

One such letter arrived today. The letter is addressed to the Senator from Arkansas (Mr. FULBRIGHT), the chairman of the Committee on Foreign Relations. It is so pertinent, I believe it should be printed in the RECORD.

The letter is from one of our fighting men who has been in Vietnam for 10 months and who has been involved in the Cambodian operation. The letter is an indictment of both our presence in South Vietnam—which he labels as a "travesty of reason"—and our invasion of Cambodia—which he claims "was designed to fool the American public."

Mr. President, the soldier writing this letter concludes it with the following plea:

> Senator, I beseech you to listen to those dissenters our Vice President has been criticizing, for they are concerned about me and their country. They certainly seem more alarmed than either the President or his "silent majority."

I say "Amen" to these comments, and I hope that my colleagues will show their concern for this young soldier and the thousands like him by rejecting any attempt to water down the Church-Cooper amendment. We can do no less and still meet our responsibility to these young men.

Mr. President, I ask unanimous consent that this letter be printed in its entirety at this point in the RECORD.

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

MAY 23, 1970.

Senator J. WILLIAM FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SIR: My purpose in writing you is twofold. First, I wish to add to the influx of mail demonstrating opposition to the Cambodian drive. As a soldier in Viet Nam for ten months, I am already appalled by the travesty of reason my country is perpetrating here; the push into yet another foreign territory shocks and frightens me.

Secondly, I hope to bring to your attention the extent to which the military officials "planned" the Cambodian campaign, a campaign which was supposed to save American lives and shorten the war.

My artillery unit, part of the 2nd Brigade, of the Fourth Division, was sent into Cambodia with absolutely no building materials, and inadequate water. We didn't receive sandbags, a necessity on any firebase, for three days, and when we did receive them, there were only ten bundles where we needed 160.

Never in Viet Nam did we have to do without materials necessary to provide protection from mortars and rockets. But in Cambodia, where the enemy has artillery pieces, we weren't supplied.

The official explanation was a shortage of logistical equipment, such as the 2½ ton trucks which moved our battery's ammunition and supplies. If that was the case, then why did our battalion commander use one of the few trucks allocated to my battery to move his personal privy and shower to Plei Djereng (Viet Nam), when we needed a truck for sandbags and water?

On our last night in Cambodia, we received enemy mortars and rockets. A friend of mine died, and many were injured: we do not have overhead coverage. I submit that what happened to us, and others, such as the 101st Airborne Infantry, who suffered badly, was the result of something other than a carefully planned maneuver designed to foreshorten the war and save lives. I submit that the campaign, which purportedly captured huge caches and killed many enemy—where the numbers of weapons, supplies, and enemy dead published in both dubious and captious—actually was designed to fool the American public and benefit a small group of people.

Senator, I beseech you to listen to those dissenters our Vice President has been criticizing, for they are concerned about me and their country. They certainly seem more alarmed than either the President or his "silent majority."

Sincerely yours,

———— ————.

Mr. CHURCH. Mr. President, again I commend the distinguished and able Senator from Indiana for the fine contribution he has made to the debate today.

Mr. BAYH. Mr. President, I appreciate the comments of the distinguished Senator from Idaho.

I feel I have occupied the floor for too lengthy a period of time. I see the Senator from Florida is no longer in the Chamber, so perhaps he has no further questions. I yield the floor, Mr. President.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 4204) to amend section 6 of the War Claims Act

of 1948 to include prisoners of war captured during the Vietnam conflict, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11102) to amend the Public Health Service Act to revise, extend, and improve the program established by title VI of such act, and for other purposes.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 12858) to provide for the disposition of certain funds awarded to the Tlingit and Haida Indians of Alaska by a judgment entered by the Court of Claims against the United States; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HALEY, Mr. EDMONDSON, Mr. TAYLOR, Mr. SAYLOR, and Mr. BERRY were appointed managers on the part of the House at the conference.

The message also announced that the House had passed a bill (H.R. 17923) making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1971, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 17923) making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1971, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. BYRD of Virginia. Mr. President, I rise to discuss the Cooper-Church amendment to the Military Sales Act and simultaneously the amendment offered by my distinguished colleague from West Virginia, Senator ROBERT BYRD.

The Cooper-Church amendment provides, among other things, that "in order to avoid the involvement of the United States in a wider war in Indochina and expedite the withdrawal of American forces from Vietnam," no funds may be expended after June 30 for retention of U.S. ground forces in Cambodia, or for conducting any air combat activity over Cambodia other than to interdict the movement of enemy supplies into South Vietnam. This, in essence, is the intent of the amendment.

This amendment has given me a great deal of concern as to just how I should cast my vote.

I favor the objective of the Cooper-Church amendment. I do not want to see the United States become bogged down in a ground war in Cambodia.

Mr. President, 3 years ago, upon my return from Southeast Asia, I made a report on the floor of the Senate.

On April 11, 1967, I said that while public attention was focused on Vietnam, sooner or later, if the war continued, the problem would be widened and our Nation would be faced with grave decisions regarding Laos and Cambodia.

I want to read at this point a few paragraphs of my speech of 3 years ago:

Our involvement in Asia does not stop with Vietnam.

In order to help the war effort there, we have negotiated with Thailand and have constructed, or are in the process of constructing, four huge military bases there, each of which I visited.

These bases are of great importance to the American military effort in Vietnam.

For example, our giant B-52 bombers heretofore all flown from Guam—a 12-hour round trip to target—will, beginning this month, be operated partially, from Thailand—a 4-hour round trip flight to target.

But our presence in Thailand further commits us in Asia, and it commits us to protect the Kingdom of Thailand.

Visualize, if you will, the map. Vietnam is separated from Thailand by both Laos and Cambodia. In other words, Laos and Cambodia lie between the two countries in which we are currently militarily involved.

The ultimate fate of Laos and Cambodia hangs in doubt with Communist pressure at a high point.

A part of Laos is now an important military base for the Vietcong yet, another part of Laos is cooperating with the United States.

Cambodia claims to be neutral and will not permit the United States to overfly it when U.S. planes go from Thailand to Vietnam. Yet, Cambodia is also a sanctuary for the Vietcong.

Sooner or later, our nation may be faced with grave decisions regarding Laos and Cambodia.

If such is the case and we decide to intervene, we will then have assumed the responsibility for all of what was French Indochina, plus its neighbor, the Kingdom of Thailand. If we conclude not to intervene in Laos and Cambodia, either or both could become another Communist-dominated North Vietnam.

That was my comment in 1967. Today, we are faced with precisely the kind of decision that I foresaw 3 years ago.

The decision is no easier now than it would have been 3 years ago. In some ways it is more difficult, because Communist aggression has spread.

From the very beginning, I have said that the commitment of American ground troops in a land war in Asia was a grave error of judgment.

I have also maintained that the error was compounded by the way in which the war has been conducted. President Johnson and Secretary of Defense McNamara tried to run it out of Washington—with unrealistic reins on the military commanders in the field. It took quite a while before the McNamara concept of a so-called limited war was proved a farce. It prolonged the war and increased the casualties.

The 2 million Americans who have participated in the Vietnam war for the most part did not ask to go there. They were sent there by their Government, most of them having been drafted, taken from their families, homes, and communities and sent to a far-off land to fight.

We now have in Vietnam some 425,000 Americans.

Whether it was wise or unwise to have become involved in Vietnam is not the question now. We must deal with the situation that exists today.

Our Nation is unified, I believe, in the desire to get out of Vietnam. Our Nation is divided, however, on how best this can be accomplished.

This brings me to Cambodia and to the Church-Cooper amendment.

In late April, there were indications that President Nixon might be called upon to make a decision with regard to going to the aid of the Cambodian Government following the ouster of Prince Norodom Sihanouk.

The President announced that he would address the American people on this subject the night of April 30.

That afternoon in the Senate prior to the President's speech, I urged him not to send American ground troops to fight in Cambodia. I expressed the hope that if aid were to be given in the form of air support, advisers or arms, that it be made clear ot the Cambodian Government—and to the American people—that this would not lead to involvement of U.S. combat forces.

I added:

There must be a limit to American involvement in Asia. The United States cannot unilaterally assume the responsibility for the security of all of what was French Indochina.

That evening, the President announced his decision to attack North Vietnamese and Vietcong sanctuaries along the Cambodian-South Vietnamese border—and he sent American troops to accomplish this purpose.

I withheld judgment on the President's decision until I had the opportunity to obtain additional information.

At a White House meeting with the President the following Tuesday, May 5, I was assured, along with other members of the Armed Services Committee, that the President's action was a temporary military tactic for a specific military purpose.

The President stated categorically that no commitments had been made by our Government to guarantee the security of the Cambodian Government. He asserted, too, that all American troops would be withdrawn from Cambodia prior to June 30, and that he had no idea of our becoming bogged down in a ground war in Cambodia.

The President's action, as he explained it, did not contemplate the use of ground forces to fight for Cambodia. The invasion into Cambodia was, he said, for the limited, specific purpose of destroying enemy sanctuaries as a means of protecting U.S. soldiers in South Vietnam. These sanctuaries are within 20 miles of the Vietnamese-Cambodian border.

The invasion of a country with which we are not at war normally is clearly a matter on which the Congress of the United States should be consulted. But the President's action in regard to Cambodia is not a clear-cut example.

It is, to use the President's words, a temporary military tactic for the purpose of protecting American troops in the area adjacent to the enemy sanctuaries.

Nor can Cambodia be considered a neutral nation. The North Vietnamese

and Vietcong have been using Cambodian territory without hindrance.

So I am of two minds in regard to the Cooper-Church proposal:

We already have too many commitments in Asia. I do not want the United States to assume the responsibility of protecting the Government of Cambodia; but I do not want our Commander in Chief to be prevented by legislation from taking reasonable temporary military steps to protect American troops still in Vietnam.

We have a prime obligation to those Americans our Government has sent to Vietnam. They are entitled to full protection.

This brings me to the amendment offered by the Senator from West Virginia (Mr. BYRD). The Byrd amendment would state in effect that while U.S. forces could not be used to protect the Government of Cambodia, they may be used to protect the lives of U.S. forces in South Vietnam, or to expedite the withdrawal of American troops from Vietnam.

If the Byrd amendment were approved by the Senate, then the Cooper-Church proposal, as amended by Mr. BYRD, would say to the President: "We do not want U.S. forces to be used for the protection of the Cambodian Government, but they may be used in Cambodia as a temporary military tactic, if the President deems it necessary to protect American troops in Vietnam, or to facilitate the ending of the Vietnam war."

As stated earlier, I long have been opposed to U.S. involvement in a ground war in Asia. Somehow, that war must be brought to an end.

But, as I see it, there is—at this late date—no good solution.

President Nixon, I am convinced, is making a sincere effort to achieve a solution—and, indeed, already has withdrawn 115,000 U.S. troops. He is pledged to withdraw 150,000 more by next April—50,000 of these by October 15 of this year.

So he is making progress toward reducing American involvement.

If one believes the President is sincere in his desire to bring the war to a reasonable conclusion, is not acting through the Commander in Chief the most effective way to achieve the desired results?

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

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

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the previous order of June 5, 1970, requiring the running of the time for debate to begin immediately "after the disposition of the Journal" on tomorrow, be changed to "after approval of the Journal."

The PRESIDING OFFICER (Mr. BENNETT). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MODIFICATION OF AMENDMENT NO. 667

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I be permitted to modify my amendment 667 star print to read as follows:

On page 5, line 7, before the semicolon insert a comma and the following: "except that the foregoing provisions of this clause shall not preclude the President from taking only such action as is necessary in the exercise of his constitutional powers and duties as Commander in Chief, to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam; and the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam;"

Mr. President, the specific changes which I would thus be making in amendment 667, if I am permitted to modify my amendment, would be as follows. I would suggest that Senators may wish to read the star print which is on their desks as I attempt to make the precise suggested changes clear.

I would modify amendment 667 to insert the word "only" after the word "taking" on line 3; to delete the words "may be" and insert in lieu thereof the word "is" on line 4; after the word "necessary" on line 4, insert a comma and the following language: "in the exercise of his constitutional powers and duties as Commander in Chief,"; and at the end of the present language on line 6 of amendment 667 delete the quotation marks and the period, insert a semicolon and add the following language:

And the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander-in-Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam;"

Mr. President, that concludes the modification which I propose.

My modification, when taken together with paragraph (1) of the Cooper-Church amendment and language from the preamble of that amendment beginning with the word "unless" on line 3 of page 5, would then read as follows:

Unless specifically authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of—

(1) retaining United States forces in Cambodia except that the foregoing provisions of this clause shall not preclude the President from taking only such action as is necessary, in the exercise of his constitutional powers and duties as Commander in Chief, to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam; and the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Comamnder in Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam;

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

Mr. BYRD of West Virginia. If I may proceed for 30 seconds, I will then yield to the Senator from Vermont.

I have asked the able majority leader if he had any objection to my asking that my amendment now be modified—and unanimous consent is required in view of the fact that the Senate has already entered into an agreement to vote on amendment 667 star print as it was written at the time the request was granted. The majority leader has no objection to my offering this modification.

I have talked with the able Senator from Kentucky (Mr. COOPER) and the able Senator from Idaho (Mr. CHURCH), cosponsors of the Cooper-Church amendment, to see if they would have any objection to such unanimous-consent request. They, in turn, have discussed the matter with the able senior Senator from Vermont (Mr. AIKEN).

I have also discussed it with as many of the cosponsors of my amendment on my side of the aisle as I could contact, and I have also discussed it with the able Republican assistant leader (Mr. GRIFFIN), who is a cosponsor on the other side of the aisle.

None of these Senators objects to my offering this modification.

I yield to the able Senator from Vermont.

Mr. AIKEN. Mr. President, my question is: The Senator from West Virginia understands that our troops are now in Cambodia and were sent into Cambodia solely on the basis of the President's constitutional authority and not on the basis of any legislative authority, does he not?

Mr. BYRD of West Virginia. I understand that the President, in taking the action he took on April 30, did so in the proper exercise of his constitutional authority, powers, and duties. I must be frank to say to the able Senator—and this is my own opinion purely—that I believe the Gulf of Tonkin Joint Resolution, which is now Public Law 88-408, gave him additional legal authority under which he could have acted. But the Gulf of Tonkin Resolution notwithstanding, I think the President acted in the proper exercise of his constitutional powers and duties in moving into Cambodia to protect the lives of our men in South Vietnam.

Mr. AIKEN. I think the executive de-

partment has made it plain they do not rely on the Gulf of Tonkin resolution and have no objection to it being repealed.

Mr. BYRD of West Virginia. Exactly. I understand the President did not rely on that law.

Mr. AIKEN. And has no objection to it being repealed.

Mr. BYRD of West Virginia. I cannot say that.

Mr. AIKEN. I think our Committee on Foreign Relations has been given that understanding. Therefore, it is purely on constitutional grounds, and personally I think he is on much safer ground relying on constitutional authority rather than on interpretation or misinterpretation of any legislative action.

Mr. BYRD of West Virginia. I think I would have to agree to that.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia to modify his amendment No. 667?

Mr. COOPER. Mr. President, reserving the right to object and I will not object to the Senator seeking to secure the best amendment he can present—I think it is a worthy effort. I shall not object to the modification—I would like to follow the question of the Senator from Vermont, that I may have a better understanding of the purpose of the modification. The change may be an improvement. The original amendment No. 667, which the Senator introduced together with other cosponsors, has somewhat the same language. The amendment No. 667 reads in part:

Except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary—

And the modification would read—

shall not preclude the President from taking only such action as is necessary.

Then the Senator has added these words:

In the exercise of his constitutional powers and duties as Commander in Chief, to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam.

Am I correct in saying that in the Senator's judgment he considers the addition of the words "in the exercise of his constitutional powers and duties as Commander in Chief" as an important change?

Mr. BYRD of West Virginia. I do. I think it ties his "action" clearly to the President's authority, duty, and power under the Constitution without any regard whatever to any legal authority he might have under laws enacted by Congress.

Mr. COOPER. The sponsors of the Cooper-Church amendment have stated that it is their view that we cannot confer on the President any of his constitutional powers. Would the Senator agree to that statement?

Mr. BYRD of West Virginia. Yes. I agree that Congress cannot grant additional constitutional powers to the President.

On the other hand, we cannot diminish them.

Mr. COOPER. Would the Senator agree, that being true, that the addition of the words "in the exercise of his constitutional powers and duties as Commander in Chief" approves in advance such determination as he may make?

Mr. BYRD of West Virginia. My amendment does not approve or authorize anything. My amendment simply attempts to preclude what I view as an attempt by paragraph 1 of the Cooper-Church amendment to restrict the constitutional powers of the President of the United States. That is my view.

My amendment does not add any powers. It does not authorize anything. It is merely a limitation upon paragraph 1 of the Cooper-Church language taken in combination with certain words in the preamble.

Mr. COOPER. As I said earlier, I am not trying to argue that the President may make an improper decision. I am talking about the effect of the amendment.

As the language is written in the modified amendment, is it not correct that its effect would be that if the President made a determination, no one could challenge it?

Mr. BYRD of West Virginia. I think he has certain constitutional authority now; my amendment does not and could not add anything to the constitutional authority of the President.

Mr. COOPER. But by adopting this modification, would not Congress be saying, "Whatever the President determines, we approve?"

Mr. BYRD of West Virginia. I think the language in my amendment merely recognizes and tries to preclude the Cooper-Church amendment from attempting to alter the status quo, the constitutional powers of the President, acting as Commander in Chief. I think that the language of the Cooper-Church amendment in paragraph 1 cannot amend the powers and authority of the President under the Constitution, but I think it attempts to restrict his authority by indirection, through a cutoff of funds. I say this, of course, without any reflection upon the authors of the amendment. But my amendment does not give approval to anything. It adds nothing. It authorizes nothing new. It merely insists upon the status quo with respect to the constitutional powers of the President acting as Commander in Chief, where the safety of American forces in South Vietnam is concerned.

Mr. COOPER. Just one or two more questions.

There is nothing in your modification, is there, that provides for joint action between the Congress and the President?

Mr. BYRD of West Virginia. There is nothing in my amendment that requires any joint action between the Congress and the President.

Mr. COOPER. That is a distinction between the Cooper-Church amendment and the Senator's amendment. The amendment of the Senator from West Virginia leaves every determination wholly open to the President, with no requirement at all for joint action by the Congress.

Mr. BYRD of West Virginia. Only when he acts within the total universe of his constitutional power.

Mr. COOPER. Only he can make that determination.

Mr. BYRD of West Virginia. But he can do that now, without the Cooper-Church amendment and without the Byrd amendment.

Mr. COOPER. Under the clause, "and the President is requested to consult with congressional leaders prior to using any U.S. forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of U.S. forces in South Vietnam or to facilitate the withdrawal of U.S. forces from South Vietnam," the modification provides only for consultation. I ask, if the President should determine that a situation in Cambodia were dangerous to the security of our forces or the security of the United States, and he should decide to send in large forces of the United States, occupy large territories in Cambodia, commence the support of the Cambodian Government, join forces with the Thais, would he only have to consult with congressional leaders?

Mr. BYRD of West Virginia. Mr. President, I cannot——

Mr. COOPER. I have taken a case that is extreme, but we have to look at all possibilities, and I have presented a case which might occur.

Mr. BYRD of West Virginia. It might occur.

Mr. COOPER. Would the modifications require the President to come to Congress, or would he just be required to advise with congressional leaders?

Mr. BYRD of West Virginia. In the first place, let me say that my amendment does not touch paragraphs (2), (3), and (4) of the Cooper-Church language. Those paragraphs, as far as I am concerned, are meritorious. I think there are some loopholes in them, as I shall attempt to demonstrate in a little while; but I think that paragraphs (2), (3), and (4) are calculated and designed to avoid American manpower participation and involvement in a new war, for Cambodia, against Cambodia, or in support of any Cambodian government.

Paragraph (1) is all that my amendment affects. Paragraph (1), as I have previously stated, in essence states that unless hereafter enacted by law, no funds authorized or appropriated in this act or any other law may be expended for the retention of U.S. forces in Cambodia. I think that that language as it exists, left untouched, if enacted, would attempt to preclude the President from properly exercising his constitutional powers as Commander in Chief if he thought it necessary to use U.S. troops in Cambodia for the protection of the lives of U.S. troops in South Vietnam. So my amendment is directed to perfecting what I view as a flaw, a weakness, and a mistake in that language.

But conceding that my amendment may be adopted, it adds nothing, it could add nothing, to the constitutional powers of the President of the United States as Commander in Chief. If he can do what

the Senator says he may do with my language enacted into law, it is only because he can do it now, in recognition of his authority and powers under the Constitution of the United States. It would not be through any additional powers, authority, legal or otherwise, granted by my amendment. Some persons may even interpret it as a limitation.

Mr. COOPER. I say, with great respect, it is a limitation only in the respect that the President is asked to talk with the leaders.

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

Mr. COOPER. I yield.

Mr. BYRD of West Virginia. I view it as a limitation in this respect: Without any language at all, without Cooper-Church, without the Byrd amendment, but under the Constitution as it is presently written, the President is Commander in Chief of the Army and Navy. I think that he may use U.S. forces in Cambodia if he deems it necessary, now, to protect the lives of American forces in South Vietnam, and I do not believe that he is confined to that constitutional predicate for the use of U.S. Armed Forces in Cambodia. I think he has additional legal authority under the Gulf of Tonkin language to so act.

But under my language, he would be confined to the constitutional predicate insofar as we would express our sentiments here. We cannot cut off or reduce his constitutional authority.

Mr. COOPER. Mr. President, I do not want to drag out the discussion, I do not condemn or criticize the military operation; it is done. But the explanation given was that a situation existed which could endanger our forces, not immediately, but in a period of the next few months.

Assume that the President is informed of a situation in Cambodia which he considers may be so dangerous to our troops or to the security of this country that he considers it necessary to move into Cambodia with large forces, to assure their protection; perhaps to join with the Cambodian troops and support the Cambodian government; to provide instructors and supplies to the Cambodian forces, and to South Vietnamese forces in Cambodia.

Does not the Senator consider that is a fairly large order, that it would be a new course in the policy of the war? Does he not consider that that would be a situation where there should be a joint determination by Congress and the President, when so much of our manpower and our future resources would be required?

But under the Senator's amendment, there is no requirement for joint action. In fact, on the contrary, if it does not require it, in effect, it would make none of those determinations ever come to Congress.

Mr. BYRD of West Virginia. No. If under my amendment it is not required, it is because under the Constitution of the United States it is not required. My amendment does not give the President any additional authority, period. I agree that the President, if we are going to attempt to enter into any new commitment, ought to come to Congress and get its approval for such a new commitment. But if we view what has been said by the President and the experiences that have developed since April 30 in the context of the conditions that caused the President to take the action that he did on April 30, I believe that we will have to recognize, first, that that was not a new commitment, that it was the same war, that we were fighting the same enemy, and that under the principles of international law, we were not, indeed, invading a neutral territory—we were just going over into another part of the war zone temporarily.

Second, I believe that in view of these things, if the President is acting in good faith—and we have got to have some faith in the President, regardless of what his name is or what his political party may be—I have faith that before he would attempt anything like such a new commitment, he certainly would come before Congress and request approval.

Third, I think that paragraphs (2), (3), and (4) of the Cooper-Church amendment, which I intend to support if this language which I have offered is adopted, go a long way toward expressing the clear sentiment of Congress, if they are enacted into law, against any involvement of American manpower in any "new commitment," in any "new war," in any war "for" Cambodia or "against" Cambodia or for or against any other country in Southeast Asia. I think they go a long way, if I may say so to the Senator from Kentucky, toward achieving what he hopes to achieve and what we all want to achieve.

But I fear that paragraph (1) could, to the extent that funds would be cut off, do indirectly that which Congress cannot do directly, and that is to inhibit or infringe upon, contravene or diminish, the powers of the President of the United States as Commander in Chief. Finally, may I say that the President's action in such a hypothetical situation would derive from his constitutional powers—not from any new authority emanating from my amendment, because there is none.

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

Mr. BYRD of West Virginia. I yield to the Senator from Arkansas.

Mr. FULBRIGHT. What bothers me about the Senator's argument is an assumption that he seems to make, which he feels is self-evident, about the extent of the President's legitimate constitutional powers as Commander in Chief.

This theory, that, as Commander in Chief, he has vague and unlimited powers to involve us in a war in other countries, is a brand new one, which I never heard of before. Even Mr. Katzenbach, in his most extreme statement before the committee, did not dwell upon the President's powers as Commander in Chief. Before the Cambodian incident, I do not think it has ever been considered that the Commander in Chief's power meant any more than taking care of the needs of the Army—in other words, give them food, drink, and shelter, and look after them—while it is in a battlefield that has been authorized by Congress. It was never before interpreted to mean that this gives the President the capacity to attack or to enter or to invade other countries, on the theory that to do so might protect the lives of our troops.

I think this is a new theory, and I do not think it is a sound constitutional assumption. I think such an interpretation flies in the face of the Constitution.

I would return, first and foremost, to statements made by Alexander Hamilton in this regard. They are a good authority; at least I think they are. Being a strict constructionist, I still like to return to those who wrote the document and see what their interpretation was. I should like very much to read just one short excerpt from Federalist No. 69, written by Alexander Hamilton, who was, as the Senator knows, a strong advocate of an executive authority. He believed in a strong executive. But this is what he said:

> The president is to be commander in chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the confederacy; while that of the British king extends to the *declaring* of war; and to the *raising* and *regulating* of fleets and armies; all which, by the constitution under consideration, would appertain to the legislature.

Moreover, the very language of the Constitution, it seems to me, is revealing, and I wish to emphasis it. This is article II, section 2:

> The President shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States.

In other words, if I read that correctly, the President is not Commander in Chief at any time he so chooses, but rather when the Armed Forces are called into service by the Congress.

I grant that, by neglect and acquiescence, there have been some instances in which this has not been strictly followed, and of course we all admit that in the case of an emergency, an attack upon this country, it has always been interpreted that the President has the right to take appropriate action.

What the significance of this is, and what bothers me about the amendment of the Senator from West Virginia to the Cooper-Church amendment is that, it would negate this amendment, and as he has said—I think he has said it; others certainly have said it—there is a very remote possibility that the Cooper-Church amendment could be entered into law.

If the President opposed it, and I am sure he would, his veto could be overridden, but that is very doubtful. I am under no illusion. But this is still a very significant follow-on to the commitments resolution. What is joined here is the interpretation of the Congress' authority versus the President's. The same issue was involved in the commitments resolution. I am interested in restoring a reasonable participation by the legislative branch in the making of foreign policy.

To illustrate what I mean, I want to read from a questions and answers pamphlet of the Bureau of Public Affairs, number 12, on page 5, an official document of this administration, the Department of State, May 1970. I want to read from it to illustrate what I think the issue is.

QUESTION. What is the legal basis for the President's decision to commit American lives and materials in Cambodia?

ANSWER. The President was acting under his constitutional authority as Commander-in-Chief of the Armed Forces of the United States. Also, as Chief Executive, he has the supreme responsibility for determining and directing our foreign policy.

I say this is not so. I think that any reasonable interpretation or any reasonable reading of the Constitution does not support that. The President does not have supreme responsibility under the Constitution. If we wish to give up our authority and delegate it to him, we do not change the Constitution. We simply abnegate, we abdicate, any responsibility for discharging our responsibility under the Constitution. We cannot change it. But we can neglect it.

I think the basic assumption of the Senator's amendment is incorrect constitutionally, and it would put the Senate in the position, if we approved it, of agreeing to his interpretation, which I think is a departure from the Constitution. I do not want to be part of a further weakening of the influence of the Senate in the making and carrying out of foreign policy. That is the main reason why I support the Cooper-Church amendment. It is very unlikely to be enacted, but it is an expression of the attitude of the Senate. It is similar in effect to the commitments resolution of last year, which I think was a very healthy step toward restoring the role of the Senate in our foreign policy.

This is simply based upon the general idea that discussion and participation by the Senate is a healthy thing, as opposed to allowing one man to make the kind of decision that has taken us into Cambodia—which was done without consultation with the Senate.

As a matter of fact, so far as the Committee on Foreign Relations is concerned, only 3 days before that took place, the Secretary of State appeared before the committee and in a sense disarmed us from any suspicion, because of his failure to mention the pending invasion or anything closely resembling it. Not only was the committee not told, but also, due to the fact that I had not the vaguest idea such an action was contemplated. I was completely taken by surprise when the decision was announced.

So I think this issue goes to the heart of our constitutional system. Congress, especially the Senate, is given a very special role in the area of foreign policy; it has responsibilities with regard to treaties, ambassadors, the confirmation of appointees, and so forth.

As a Senator, I find it very difficult to justify being here and not at least giving the country an opportunity to know what is going on in foreign policy.

With all deference—and I do not attribute all of this to this administration, because most of the things I am talking about arose in the previous administration—we were not told about Cambodia. Not only were we not told about the Cambodian decision but also, we have been deliberately and consciously deceived in the past with regard to such things as the cost of the Thai troops whom we were paying over $200 million and the amount we were paying to the Philippines for sending in their troops to Vietnam. Many of these arrangements that were made by the previous administration were not told to anybody. We just now, as a result of the Symington subcommittee, are finding out about them, after great and difficult troubles. Much of this has not been revealed to the public.

That is my objection to the Senator's amendment. I do not think there is anything in our history to justify this interpretation of the Commander in Chief's powers. It is a new theory. The only thing comparable to it that I know of is a statement about the President's powers by Dean Acheson, when he was in the State Department, back in 1951.

I know of no cases or anything of that nature that would support this new theory. I regret that I do not agree with the Senator from West Virginia on this, but I feel that the Senate has a role to play, and I want to see it play its proper role. I think the country would have been better off under the previous administration and it would be better off under this one if there were genuine consultation with the Senate.

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

Mr. BYRD of West Virginia. I thank the able Senator.

If I may just respond, the Senator from Arkansas refers to "this interpretation of the Commander in Chief's powers." The Byrd-Griffin language makes no attempt whatsoever to interpret the President's powers. It does not add to those powers. It does not take away from them. It does not define them. It does not say what they are. It merely precludes the language in paragraph 1, when combined with language in the preamble of Cooper-Church, from attempting to circumvent or restrict or diminish the President's powers under the Constitution, whatever they are.

I do not attempt to say in the language of this amendment what the President's powers are. We do not attempt to interpret the President's powers. They are what they are, not by what we say in this amendment but by what the Constitution says they are.

Mr. FULBRIGHT. I did not make myself clear. I did not say the language of the amendment says that. I said that the argument the Senator is making assumes that.

Mr. BYRD of West Virginia. I have not made any argument.

Mr. FULBRIGHT. It was in the colloquy of the Senator from West Virginia with the Senator from Kentucky. It seems to me that the Senator from West Virginia assumes that the President, as Commander in Chief, has these powers to go into Cambodia. I thought he said that in his exchange with the Senator from Kentucky. I was not saying that the Senator from West Virginia said that in his amendment. I thought that in his exchange with the Senator from Kentucky he was assuming that the President has the power to do almost anything he likes as Commander in Chief, even so far as going into another country, such as Cambodia.

Mr. BYRD of West Virginia. I did not say, and I did not mean to say—if I did say—that the President may do whatever he wants "or almost anything he likes" in going into Cambodia. I simply said that I thought the action he took on April 30 was taken not on the basis of any legal authority which Congress may have given to him by statute but that he acted under his constitutional powers as Commander in Chief.

Even the cosponsors of the amendment—if I have not read incorrectly and do not recall incorrectly—have conceded that the President, in taking the actions he took on April 30 in ordering an incursion into Cambodia, acted within his constitutional powers. I do not believe I am misstating the position of the Senator from Kentucky. I have read the RECORD, and I think I am stating correctly, in essence, what he said. I believe the Senator from Kentucky has not found fault with the President's actions, so far as their being within the ambit of the proper exercise of his Presidential powers as Commander in Chief is concerned.

Mr. COOPER. I have said that in our amendment we do not speak about military operations. Our amendment is prospective, beginning July 1. I have not tried to talk about what happened in Cambodia.

I think everyone is concerned with the operation. There was great uncertainty in the country. But I am not here to speak against the President. We are talking about the powers of the Executive, and I am concerned about the future exercise of those powers without any effort to come to Congress, even when that exercise of power could lead to another new war.

Mr. BYRD of West Virginia. I know of the Senator's concern.

Mr. COOPER. It is a matter of great concern. It is not a derogation of President Nixon. We are trying to determine the rights of Congress.

Mr. BYRD of West Virginia. I think the able Senator may have misunderstood my reference to him. I was merely trying to respond to the distinguished Senator from Arkansas who had indicated that he thought, according to his understanding of what I had said, that I assumed the action in Cambodia, which was announced by the President on April 30——

Mr. FULBRIGHT. Yes.

Mr. BYRD of West Virginia (continuing). Was within his constitutional powers——

Mr. FULBRIGHT. That is what you said.

Mr. BYRD of West Virginia (continuing). And my response to that was that I thought even the cosponsors of the Cooper-Church amendment had conceded that——

Mr. FULBRIGHT. In other words, you had assumed that, is that right?

Mr. BYRD of West Virginia. Yes, I had assumed that from a reading of the RECORD.

I said, also, that there is no argument with the able Senator from Kentucky and the able Senator from Idaho——

Mr. FULBRIGHT. Well, the Senator means that——

Mr. BYRD of West Virginia. If I might continue with my sentence—I do not think that they disagree, if I have read their statements correctly in the CONGRESSIONAL RECORD, and I do not think they question the constitutional power and authority of the President in ordering the Cambodian operation.

Mr. FULBRIGHT. Maybe I have not made it clear. First, I want to distinguish between constitutional "power" and "authority." The President may often do things by power and by virtue of his office which are in accordance with the Constitution. I make the distinction between power and authority, which is something authorized under a legal interpretation. Power is something that the President has because others are willing to follow his orders. We all know that that sort of power is something quite different from the President's constitutional authority.

Mr. BYRD of West Virginia. There is a great distinction.

Mr. FULBRIGHT. I agree with the Senator from Kentucky that we are not trying to undo the invasion of Cambodia. That is not what the Senator from Kentucky wants to do. We all know that we cannot undo that. It is done. I am interested in the future, and I was making the point simply because I do not want to subscribe to any Senate action which will be interpreted as a recognition that as Commander in Chief the President can move troops into any country when he alone believes it is necessary. If you subscribe to this new theory, there is no limit to the President's authority. If he feels that the activities of the Russian Government are inimical to the safety of our troops, under this interpretation, there is no reason he cannot bomb Moscow tomorrow. It is an untenable theory. It is a new theory. Maybe history will prove there is substance to it. At the moment, I do not believe that is the case. I do not believe this theory will stand a close constitutional examination; the fact that the President has the power to issue orders and to get the troops to follow does not make the act constitutional or in accordance with the letter and spirit of the Constitution.

I agree with the Senator from Kentucky. That is not the issue in his amendment, but it is the issue in the Byrd amendment. And passage of it would run the risk of putting the Senate on record as having this interpretation of denigrating what I believe to be the proper role of the Senate.

I agree further with the Senator from Kentucky. I am certainly not trying to criticize this President. My major criticism was voiced long before this President came into office. It was directed to his predecessor. But I am very anxious to do two things: One, stop the war in Vietnam and, two, restore the proper role of the Senate in our constitutional system.

I can think of no greater safeguard to the safety of this country than participation by the Senate—real participation by the Senate—in decisions involving the lives and fortunes of our people. I think it is very important that the Senate have a role, and I do not mean by that that the Senate is smarter than anyone else. It is simply that the procedures undertaken by 100 men in the Senate, elected from the various States, are, I think, a healthy way in which to refine the issues and bring to light any faults in them.

I believe in the Senate as a body which, given the opportunity to discuss matters, and given a reasonable amount of information, can make a contribution. That is all I am saying. If we proceed along the line of accepting the language of the State Department that the President has supreme responsibility, then we might as well fold up shop and make this a purely honorable position, for life, as in the House of Lords. If we wish to abdicate our responsibility, we should not have to run for office but should be appointed, so that we would not have to be bothered by running for office. The Senate would thus be reduced to a ceremonial body, like the House of Lords. However, I am not about to contribute to that, if I can help it.

Mr. BYRD of West Virginia. Mr. President, I do not intend to belabor the distinction between powers and authorities under the Constitution. I did use words, perhaps, interchangeably. I hope I did not misquote the Senator, but I think the transcript will show that he, too, used the word "power" a time or so when he may have meant "authority." Whether we are talking about power or authority, my amendment, as cosponsored by 10 to 12 other Senators, does not, to use the Senator's words, put "the Senate on record" as having approved of any particular "interpretation" of the authority of the President under the Constitution.

My language does not attempt to interpret. It does not add to the President's powers or authority. It does not take away from them; it does not attempt to define them. It merely says that whatever they are, the President shall not be inhibited, by cutting off funds, from exercising such constitutional power and authority if necessary to protect the lives of our troops in South Vietnam.

Mr. FULBRIGHT. I was referring to the language of the Senator, in debate, a moment ago with the Senator from Kentucky, and his words are part of the legislative history as to the meaning of this amendment. The Senator from West Virginia stated—I thought, unequivocally—that there is no question in the Senator's mind, or in the mind of the Senator from Kentucky but that the President acted within his constitutional authority.

I say that is not an issue and would not be a proper issue in considering the Cooper-Church amendment. It is an issue in considering yours, if that interpretation is allowed to stand. You have already made it in the legislative history of your amendment, in the arguments you presented.

Mr. BYRD of West Virginia. In essence, the Senator is expressing his viewpoint. He differs with me, and he has a perfect right to disagree with me, as to whether the President acted within his constitutional authority in ordering the Cambodian incursion. I think even the sponsors of the Cooper-Church amendment have said that the President acted within his constitutional powers in that action. But this language here does not go to that action. It has nothing to do with what he did on April 30. It does not touch that at all. It takes over after June 30.

The Cooper-Church language says that after June 30 no more funds can be utilized for retaining U.S. Armed Forces in Cambodia unless hereafter specifically enacted by law. The language that I have offered would simply say, "except" when the President himself determines that it is necessary to act, in order to protect our troops in South Vietnam, and so forth, and so forth.

Mr. FULBRIGHT. I do not see how the Senator can say that a recognition of what the President may do or want to do in the future is automatically constitutional, that there is authority for it in his role as Commander in Chief. I do not believe it is a fact. I do not believe there is any support for it. Adoption of the Senator's amendment will be taken as a precedent that the Senate has so abdicated its foreign policy role as in effect to be saying that the President may do as he pleases.

There certainly would no longer be any need for a declaration of war, because all the President would need to do as Commander in Chief is say, "I think we ought to move into Mexico. These people are threatening our troops." The Senator's amendment would result in a complete distortion and abdication of the role of the Senate.

Mr. BYRD of West Virginia. What the Senator from Arkansas has just said, if I understood him correctly, would be a complete distortion of the meaning of my amendment.

Mr. FULBRIGHT. Mr. President, it seems to me that this is what the Senator has said. We seem to have trouble with semantics. I think I have interpreted correctly the Senator's remarks.

Mr. SPONG. Mr. President, will the Senator from West Virginia yield for the purpose of clarifying the parliamentary situation?

Mr. BYRD of West Virginia. Mr. President, I yield to the able Senator from Virginia for that purpose.

Mr. SPONG. Mr. President, the Senator from West Virginia has asked for unanimous consent to modify his own amendment. His amendment is before the Senate pursuant to a unanimous-consent agreement, thereby precluding, as the Senator from Virginia understands it, any amendment to his amendment or any substitute for his amendment.

My question is—and I do this for the record—if the unanimous-consent agreement asked for by the Senator from

West Virginia is granted, the language he is presenting this afternoon would then take the place of his previous language and would not be subject to any subsequent amendment or any substitute before the vote at 1 o'clock tomorrow except by unanimous consent.

The PRESIDING OFFICER (Mr. HUGHES). The Senator from Virginia is correct.

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

Mr. BYRD of West Virginia. Mr. President, would the Senator allow me to make an observation?

Mr. SPONG. Certainly.

Mr. BYRD of West Virginia. Mr. President, even without this new modification, is it not true, Mr. President, that amendment No. 667, star print, which I offered some days ago, constituted an amendment in the second degree and that it therefore could not be amended, entirely aside from this new modification which I have offered today.

The PRESIDING OFFICER (Mr. HUGHES). The Senator from West Virginia is correct.

Mr. SPONG. Mr. President, reserving the right to object—and the Senator from Virginia certainly does not want to be in the position of preventing the sponsor of an amendment to modify his own amendment, especially when the modification, to some degree, helps his amendment—I would only ask that we proceed with the debate in order that certain other legislative history might be established. It may be that in the course of this debate there will be some changes suggested which would be acceptable to the Senator from West Virginia.

I do not now that there would be significant changes, but there might be changes in language that the Senator from West Virginia, as well as others, would later like to include but be precluded from doing so if we consent to his request at this moment.

Mr. BYRD of West Virginia. Mr. President, as I understand the parliamentary procedures in the Senate, approval of my unanimous-consent request at this time would not preclude me from asking unanimous consent that my language be further modified.

Mr. SPONG. Mr. President, I have made it clear that I have no desire to stop the Senator from modifying his amendment. But I would observe that from some of the language that has been discussed in the moments that we have been debating the matter, it might be that there is preferable language, preferable even to the Senator from West Virginia. I merely made my previous inquiry because I think the record should show the parliamentary situation as of this time.

In the course of his remarks, it might also occur to the Senator from West Virginia and others that there could be further changes he might wish to make.

Mr. BYRD of West Virginia. Mr. President, I feel that I need to respond to the statement of the able Senator from Virginia. I recognize his sincerity of purpose here. But I have to say that I have spent many hours in attempting to perfect and improve my amendment, taking into consideration the legitimate concerns that have been expressed to me by the able Senator from Virginia and by other Senators whom I could name.

To say now that we ought not to grant unanimous consent today, but should continue to debate the matter in the hope that tomorrow perhaps there might be other language suggested, I hope is really not within the cards here.

I have worked at least 2 days on this language. And I have touched base with the majority leader and with the sponsors of the Cooper-Church amendment, and with the able assistant leader on the minority side, and they have interposed no objections.

We are boxed in now, if this unanimous-consent request is not granted, with amendment No. 667, the star print. We will have to either vote it up or down.

This is an attempt to improve that language and to meet the legitimate concerns on the part of many Senators.

I think most everyone agrees that this is an improvement.

I do not want to delay this or to put it off. I want to secure unanimous consent within a reasonable time or I may withdraw my unanimous consent request. And I do not mean to say that disrespectfully.

Mr. SPONG. Mr. President, the Senator from Virginia had no intent of asking for any delay until tomorrow. I understood that the Senator from West Virginia came to the floor prepared to make some additional remarks in support of the Byrd-Griffin amendment, and of the changes thereto.

I only suggested that there be a reasonable period of time during which a discussion take place, because there is a possibility that changes would occur to the Senator from West Virginia.

For that reason, I suggested that we defer acceptance of the modification for a short time, but not with any idea of delaying it until tomorrow. I would like to make that clear.

Mr. BYRD of West Virginia. Mr. President, I misunderstood the able Senator. I think his suggestion is well considered.

I do not say that I will not agree to any proposed changes in the language of my modification. As I say, this language was not taken off the top of my head. It was worked on, hammered out, and then rehammered and discussed with cosponsors, legislative counsel, and so on. But I am perfectly willing to discuss the language for a while yet this afternoon.

Mr. SPONG. Mr. President, I thank the Senator.

Mr. BYRD of West Virginia. Mr. President, I compliment the Senator on his suggestion.

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

Mr. BYRD of West Virginia. Mr. President, I yield to the Senator from Idaho.

Mr. CHURCH. Mr. President, in light of the language, I can understand what has been troubling the Senator from Virginia. In the last few minutes of discussion, for example, a question came up concerning the term "authority" as opposed to the term "power."

The Senator from West Virginia correctly observed that there is a difference between "authority" and "power."

Mr. BYRD of West Virginia. The Senator from Arkansas quite correctly observed it.

Mr. CHURCH. And in the modified amendment which the Senator is offering, there are the words, "powers and duties." It reads:

. . . in the exercise of his constitutional powers and duties as Commander in Chief.

I personally think that language could be improved, replacing "powers and duties" with "constitutional authority as Commander in Chief."

That term better represents, I believe, what the Senator from West Virginia has in mind.

I hope that the Senator will not foreclose the possibility of any alteration which might perfect the amendment and thus do harm to what he is trying to achieve in offering the modified language.

Mr. BYRD of West Virginia. Mr. President, I quite agree. There is always room for improvement. And perhaps we can improve it. But I must say that it has not been easy to work out the modifying language I have suggested here.

Mr. CHURCH. Mr. President, I appreciate that.

Mr. BYRD of West Virginia. Mr. President, if I may, after yielding to other Senators that I had already promised to yield to, I will then proceed with my statement.

The PRESIDING OFFICER (Mr. HUGHES). Is there objection?

Mr. BYRD of West Virginia. Mr. President, I do not think the Senators are ready to consent to my request yet.

Mr. FULBRIGHT. Mr. President, I am not ready.

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

Mr. BYRD of West Virginia. Yes, I yield to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I have been sitting here for some time, and one or two of the items I wanted to discuss occurred far back in the line of discussion.

However, one or two of the remarks of the chairman of the Committee on Foreign Relations in his colloquy with the Senator from West Virginia bother me. It may be that with the confusion I did not understand him. I want to have straightened out the question as to whether or not the President is Commander in Chief of the Army and Navy of the United States. He is the actual Commander in Chief of the Army and Navy of the United States whether we are at war or not—at all times. Does the Senator agree with that statement or not?

Mr. FULBRIGHT. Mr. President, will the Senator from West Virginia yield so that I may reply?

Mr. BYRD of West Virginia. Mr. President, I yield for that purpose.

Mr. FULBRIGHT. I think it ties in with what I call the strict construction and the proper construction of the Constitution, which I read again:

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual service of the United States.

What does the "when" mean, read together with the other provisions of the Constitution that Congress is the one to declare war and make regulations concerning an Army and Navy, and Congress is the one, and the only one, that raises and supports an Army and a Navy? These are the responsibilities of the Congress, not the President. That is what I said a moment ago.

Mr. ALLOTT. Mr. President, will the Senator from West Virginia yield further?

Mr. BYRD of West Virginia. I yield.

Mr. ALLOTT. I thank the Senator for yielding.

I did understand the Senator correctly. I want to make my position clear on this matter, and I think the Constitution is perfectly clear on it. It refers to the President as Commander in Chief of the Army and Navy of the United States "and of the militia of the several States when called into the actual service of the United States;".

When a man enters the service of the Army or Navy he is already in the service of the United States. When he raises his hand, he takes an oath to support and defend the Constitution of the United States. So the portion that the Senator from Arkansas is referring to, "when called into the actual service of the United States," can only possibly refer to the militia; and it is obvious from a reading of the language that that is what is intended.

There has been much debate about the difference between the words "authority" and "power." I think that if I do something with authority it is because I also have the power. I find a differentiation without distinction.

I had hoped to be able to discuss this matter at some length this afternoon. I have in my hand a very learned paper written by Prof. Robert Sciglianno, of the State University of New York at Buffalo, on exactly this matter. In it, he discusses at great length the formulation of the Constitution and the positions taken by various persons at that time.

Among other things, he points out that some people at that time wanted to make a distinction and did make a distinction between the power of making war and the power of declaring war. I cannot come to any other conclusion myself, and I must disagree with the chairman of the Committee on Foreign Relations. I think the primary and basic responsibility of the Government in foreign relations does lie within the President. This does not mean he should not advise with Congress.

I found myself in the previous administration a Member of the minority; yet apparently I was privy to advice in committee. That was really the only advice, because neither the President, the Secretary of State, nor the Secretary of Defense ever took me into their offices and confided in me; but the information which was adduced in two places—on two or three occasions when I appeared at the White House with numerous other Senators, perhaps 15, 20, or 40 Senators, and in the Subcommittee on Defense of the Committee on Appropriations—apparently did not come to the attention of others at that time.

I feel that this is a basic matter. The Constitution specifically gives Congress the power to advise and consent in certain instances of appointments, and it gives us the power for the ratification of treaties. In addition—and this is very significant and important—there was considerable debate at that time as to whether Congress would have to be talked to, referred to, for advice and consent not only when the President would declare war, but also when the President would make peace. So all these things are highly significant.

Mr. FULBRIGHT addressed the Chair.

Mr. BYRD of West Virginia. Mr. President, have I the floor?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. FULBRIGHT. Mr. President, I do not want the floor.

Is the unanimous-consent request pending?

Mr. BYRD of West Virginia. Yes.

Mr. FULBRIGHT. I do not want to be contentious. I did not realize that the Senator's proposal was pending until I came to the Chamber a moment ago. I am not going to consent to it at the moment, certainly. I think that by inserting the additional language we have been discussing, including the request for consultation, which I consider is the President's constitutional duty in any case, the amendment becomes complicated. Of course, the Senator from West Virginia knows that I am opposed to his offering his proposal, although as between the two versions, this one has graver implications and, I think, needs further debate. This proposal provides additional language, and it is possible to assume from it a greater abdication by the Senate than the original language—if it is adopted. It may be adopted. I do not deny that the Senator from West Virginia has great influence in this body, and his proposal might very well be adopted. At the moment, I would not want to say that I would not agree to it at a later date. But the amendment has additional implications, as I stated a moment ago, or assumptions with regard to the President's authority as Commander in Chief.

If the Senator from West Virginia will allow me to do so, particularly in view of the remarks of the Senator from Colorado (Mr. ALLOTT), I should like to quote from a statement which might appeal to him. It was made by a well known man, Abraham Lincoln. When he was a Representative from Illinois, he made this statement in 1846:

> Allow the President to invade a neighboring nation whenever *he* shall deem it necessary to repel an invasion, and you allow him to do so, *Whenever he may choose to say* he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix *any limit* to his power in this respect, after you have given him so much as you propose.
>
> The provision of the Constitution giving the war-making power to Congress, was dictated, as I understand it, by the following reasons. Kings have always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our convention understood to be the most oppressive of all kingly oppressions; and they resolved to frame the Constitution that *no one man* should hold the power of bringing this oppression upon us.

Mr. ALLOTT. Mr. President, will the Senator yield for a moment?

Mr. BYRD of West Virginia. I yield to the Senator from Colorado.

Mr. ALLOTT. It must be noted—and this a very important distinction in the remarks of Abraham Lincoln—that he said "that no one man should hold the power of making war." I believe that was the quotation the Senator from Arkansas made.

Mr. FULBRIGHT. Lincoln said:

> Allow the President to invade a neighboring nation——

Mr. ALLOTT. No; there was another sentence.

Mr. FULBRIGHT. He said:

> Whenever he shall deem it necessary—

The word "he" is underlined, apparently for emphasis—

> Whenever he shall deem it necessary to repel an invasion and you allow him to do so—

And that language is underlined—

> Whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure.

Mr. ALLOTT. That is the phrase:

> And you allow him to make war at pleasure.

But we do not have that situation now, because the war has already been made. It was made as a result of the Gulf of Tonkin resolution, or it was made, perhaps, without any authority at all. But that is not pertinent at this time; the war has already been made. It is in existence. The President is the Commander in Chief of the Army and Navy. There are no troops from the other groups; so far as I am aware, no units of the militia are engaged. If units of the militia are engaged, they are incorporated in the Army, Navy, Marine Corps, and Air Force.

So therefore, they are at all times under the command of the President.

So we are talking about making war here. The war has already been made. At a subsequent time I would be glad to explore with the Senator the situation of what we do in these modern times, in this greatly changed world. Maybe we will have to approach this problem sometime. If, on the radar blip some night NORAD sees 40 or 50 or 100 or 200 missiles coming over the horizon from the direction of one of the other countries in this world—surely I think it is our responsibility and we ought to be looking at what our responsibility is in that kind of condition—I do not think in a few seconds anybody is going to have time to consult Congress. This is another aspect of the problem that I hope will be discussed on the floors of the Houses of Congress. But the war has been made and the President is Commander in Chief.

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

Mr. BYRD of West Virginia. I yield.

Mr. FULBRIGHT. I think it worth mentioning with respect to the Gulf of Tonkin resolution, the administration itself, in a letter to the committee con-

cerning the repeal of the Gulf of Tonkin resolution, wrote that it is not relying on the Gulf of Tonkin resolution and it has no objection to its repeal. The preceding President, President Johnson, said, after it had been passed, that he could have done what he did without the Tonkin Gulf resolution, and that he could have done it from a constitutional point of view.

The Senator is anticipating a speech I was going to make a little later. Of course, the President at that time used it to try to neutralize possible opposition. He was wanting to get Republicans and any dissident Democrats disarmed before he took action. That was the real purpose of the Tonkin Gulf resolution. It was not to get any additional constitutional authority he did not have. He assumed he had it. He said later he had it and could do anything he wanted with it.

I disagree with Acheson's interpretation of Presidential powers and Johnson's interpretation. I said a moment ago it comes to the question of the role of the Senate, and I think it is an important one——

Mr. BYRD of West Virginia. Is the Senator talking about Presidential power or Presidential authority?

Mr. FULBRIGHT. Presidential constitutional authority; what he should do, if we have a reasonable interpretation of his role under the Constitution. If a man wishes to go beyond that and violate his constitutional oath, he may do it, if people will respond to it.

Lastly, in response to the Senator from Colorado's theory, if we accept that theory the President could go into China or go into Russia or go anywhere else he likes. I think the Senator's theory is basically faulty and very dangerous if he says the President can do that. He admits possibly there was no authority, because he does not defend the Gulf of Tonkin resolution. I hope he will not defend it, because, in my view, it was obtained by fraud and misrepresentation; and even if it had been a grant of authority, having been obtained under such false pretenses, it was not valid, any more than a contract obtained by fraud is valid. But I do not think the theory that, as Commander in Chief, the President can expand the war into additional countries, without any consultation or approval by Congress, is an acceptable one.

I grant that that is not what the Cooper-Church amendment is trying to get at, and that this has merely arisen in the course of the debate. What I am afraid of is that the amendment of the Senator from West Virginia raises this problem. It injects into the issue the extent of the Commander in Chief's authority.

I would very earnestly hope that we would not do anything further to weaken the role of the Senate, weaken it by acceptance of language which seems to endorse unlimited powers for the President as Commander in Chief.

I realize that the Constitution is not self-executing and that Presidents depend to a great extent on the respect of the people and of Senators. If we wish to ignore our role and turn it all over to the President, there is no other authority to fill the constitutional role assigned to this body. I think it is essentially a political matter and it depends on the commonsense of the Senate and the people as to how the Constitution is binding.

My only comment on that is that last year, by its vote on the commitments resolution, the Senate voted—and I shared the concern expressed then—that we had not been as careful about exercising our responsibility as we should have been, especially in the Gulf of Tonkin matter, and that we should try to play a meaningful role in the foreign policy area.

This is my main objection to the amendment of the Senator from West Virginia: I believe it would weaken the Senate's effort to reestablish its role.

Mr. ALLOTT. Mr. President, will the Senator yield to me for two very brief comments?

Mr. BYRD of West Virginia. I yield.

Mr. ALLOTT. First, I find, in talking with people, that they are willing to read things into my thoughts that I never thought of. I do not contend the President has a right to make war on China, but I agree entirely with the Senator from West Virginia that this is not a new war. It is not a new country.

It is, in fact, not even an area that is controlled by a new country. It has not been for 5 years. I think that is the first and greatest distinction.

Then I would like to add this: Since I was a Member of the Senate at the time of the Gulf of Tonkin resolution—the Senator from Arkansas prefers that term, rather than Tonkin Gulf; technically I presume he may be right, or it is another distinction without meaning—it may have been procured by fraud, I do not know; but I was a Member of the Senate at that time, and I just want to make it clear that the Senator from Colorado was not a party to the fraud, and I am sure the Senator from Arkansas would agree with that.

Mr. FULBRIGHT. Mr. President, I want to make it clear that I was hoodwinked. I was guilty, if Senators want to call it that—though certainly innocently—of representing to the Senate the same facts that were told to me by the Secretary of Defense and the Secretary of State. I repeated on the floor what they had said to me in committee. I was a vehicle, a conduit. Certainly I did not have any firsthand knowledge of what did or did not take place in the Gulf of Tonkin.

I did not suspect at the time that we were misled. I think subsequent developments have clearly proved that we were. Not only the committee hearings, but a recent book which goes much further into the matter, including interviews with practically every member of the crew of the *Maddox*, clearly establishes that we were hoodwinked.

All I am saying is that the Senator from Colorado, without any blame whatever, was entitled to believe what I believed and what I said, as well as what the other members of the committee said; and the Senator from Colorado had no other knowledge, either. I am not trying to assess blame to him. I do assess a great deal of blame to both the Secretary of Defense and the then Secretry of State, and to the Chairman of the Joint Chiefs, who came in and told us these stories which were not true.

But that is beside the point here. I do not think that the Gulf of Tonkin resolution is a valid grant of authority, if the President had the constitutional right to do that. I do not think he did. I think it was a denigration of the Constitution, and an infringement of the right of the Senate to play a role in this matter, and of Congress to declare war.

Mr. BYRD of West Virginia. Mr. President, the able Senator from Arkansas states that the amendment offered by myself and others "injects the question of the Commander in Chief's authority," or words to that effect.

Mr. President, the language which I am seeking now to utilize does make reference to the constitutional power of the President as Commander in Chief. The Senator from Arkansas will, of course, vote against my amendment, because he feels quite sincerely that it injects the question of the authority of the Commander in Chief.

I think that paragraph (1) of the Cooper-Church amendment injects the question of the authority of the Commander in Chief. It does not do so in so many words, admittedly, but I think that the authority of the Commander in Chief under the Constitution is sought to be inhibited—at least the attempt is being made to inhibit, proscribe, circumvent, or diminish it by that language.

So I do not concede at all, I do not agree at all, that the question with respect to the authority of the Commander in Chief has been injected by the Byrd amendment. Not at all. That question was implicitly injected when paragraph (1) of the Cooper-Church amendment was made a part of the bill before us.

As I say, the Senator from Arkansas will vote against my amendment, because he feels that way about it.

Mr. FULBRIGHT. Could I make——

Mr. BYRD of West Virginia. May I add that although my original amendment, as modified, did not use the words "in the exercise of his constitutional powers and duties as Commander in Chief," that meaning was meant to be implied.

The PRESIDING OFFICER (Mr. HUGHES). Is there objection to the request of the Senator from West Virginia?

Mr. FULBRIGHT. Yes, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FULBRIGHT. At least right at the moment I must object, because I must leave the Senate Chamber for the time being.

Mr. BYRD of West Virginia. Mr. President, the modification that I am seeking to bring about today attempts to further nail down any actions by the President in sending forces into Cambodia, which he may deem to be necessary, and anchor such actions clearly in his constitutional powers, authority, and duties as Commander in Chief, whereas the original amendment which I offered—and which will be voted on up or down, unless I am permitted to offer this additional modification—simply says "except that the foregoing provisions of this clause shall

not preclude the President from taking such action as is necessary." It does not say anything about the "constitutional" powers of the Commander in Chief. It could be interpreted to mean his authority and power under the Tonkin Gulf resolution. But I am trying to get entirely away from that in my modification of today, and refer only to his authority, powers, and duties under the Constitution.

This modification, it seems to me, is an improvement even from the standpoint of the Senator from Arkansas, if I may say so.

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

Mr. BYRD of West Virginia. It seems to me to be an improvement on my original language.

I yield to the Senator from Idaho.

Mr. CHURCH. First, I also regard the modification that the Senator now proposes as an improvement over the original modification. That is not to say that I endorse or support the new modification; I hope to explain my reasons during the course of the debate. I would like to ask certain questions for the record, so that we may clearly understand just what it is that the Senator from West Virginia has in mind in proposing this new language.

He said earlier—and this is the basic trouble with any amendment of this sort—that it is neither within our power to add or detract from such authority as the President, as Commander in Chief, may have under the Constitution. Is that not correct?

Mr. BYRD of West Virginia. Essentially that is correct. And it is also correct that the Senator from Idaho has said the same thing.

Mr. CHURCH. Yes. We are in agreement on that proposition.

If it is true that it is not within the power of Congress, regardless of what language we adopt—either to add to or detract from the constitutional powers of the President as Commander in Chief—why is it necessary to write an exception into this amendment at all?

Mr. BYRD of West Virginia. The Senator asks a good question. If it is true that we, by statute, can neither enlarge nor contract the President's powers, authority, and duties under the Constitution as Commander in Chief—and we both agree that we cannot—then why will the Senator not accept my amendment? It does not add to or enlarge, it does not increase—and could not—the constitutional authority, powers, or duties of the President. So why does the Senator not just accept it? That is a rhetorical question.

Mr. CHURCH. Yes; the Senator answers my question by asking his own. However, I am prepared to answer the Senator's question. It is just a matter of who goes first.

Mr. BYRD of West Virginia. All right; let the Senator from West Virginia try to answer the first question. The Senator from Idaho asked the first question.

Mr. CHURCH. All right.

Mr. BYRD of West Virginia. He asks, why do we put this exception in?

Mr. President, I thought I had answered the question when I made my statement on June 3.

The language in paragraph (1) of the Cooper-Church amendment, in connection with certain language in the preamble, in my judgment, would seek to restrict the President and inhibit, or would seek to prevent him from duly exercising his authority, his powers, and his duties under the Constitution to protect American troops in South Vietnam if it became necessary to do so by retaining U.S. Armed Forces in Cambodia. The Cooper-Church language seeks to do that by cutting off funds.

The U.S. Government has sent many American boys to South Vietnam. Over 400,000 of them are there now. They did not ask to go. Most of them are there through no choice of their own, and I feel that it is the duty of the Government to do everything it possibly can to protect their lives while they are there.

I can envision a time, on down the road beyond June 30, when the President, because of the exigencies of the moment, might have to take action by sending American forces back into Cambodia in order to protect the lives of American servicemen in South Vietnam. I do not wish to tie his hands in such an event, and this is why I have offered the amendment to paragraph (1).

That is the only paragraph which my language would attempt to perfect. So that the Cooper-Church amendment, as modified, would then read to the effect that hereinafter no funds shall be expended through this act or any other law for the retention of U.S. Armed Forces in Cambodia, except and only if the President determined it to be necessary for the protection of U.S. troops in South Vietnam.

So I seek by this amendment to make clear that the Cooper-Church language will not preclude the President, through a cutoff of funds, from taking action necessary to protect our men in South Vietnam—acting always, of course, within the ambit of this constitutional authority, powers, and duties.

I have been concerned about the Cooper-Church amendment since it was first brought to the floor. I see a great deal of good in it. I think it reflects a concern which we all share in the Senate. I think we all want to see American servicemen withdrawn from all of Southeast Asia as soon as it is possible to do so. I think we all want to avoid American manpower involvement in another war, in a new war, in a war against Cambodia, in a war for Cambodia, in a war in support of any Cambodian government. But I think we all also want to do everything to protect our servicemen who are in South Vietnam. It does not make any difference how they got there or who put them there. They are there, and I think we all agree that we want to do everything we possibly can to protect them and get them home.

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

Mr. BYRD of West Virginia. Not yet. I will be glad to yield in a moment. I am attempting to answer the question of the Senator from Idaho.

So it was as a result of a very deep concern on my part that I sought to devise some language which would assure both our own fighting men in South Vietnam and the enemy that the President's constitutional authority, powers, and duties are not going to be contracted or diminished by any cutting off of funds as long as he determines it to be necessary to take action to protect our men in South Vietnam.

As I have said, I want to vote for the Cooper-Church amendment. It has much in it that is good. It is calculated and designed to keep us from becoming involved in another Vietnam. But I am afraid of paragraph (1). It is for these reasons I have introduced the language if I may say so, in answer to the question by the distinguished Senator from Idaho.

Mr. CHURCH. Mr. President, the Senator from West Virginia has given a very thorough answer. I understand his motive, and I respect his point of view.

We are agreed on at least two very important premises. The first is that it is not within the power of Congress to abridge the President's constitutional authority as Commander in Chief to protect American forces in the field, whatever that authority may be. Second, we do not want to place American troops in the field in any added jeopardy by legislation.

Since we are in full agreement on those two propositions, I think we can find the language which will make it possible for us to converge on the same course.

I want to tell the Senator why I worry—though I concede that the new language is more acceptable to me than the former language—why I still feel so strongly that we could make a serious mistake in affixing an amendment of this kind to the Cooper-Church proposal. That mistake would have nothing to do with the purposes sought to be served by the Senator from West Virginia. However, if we adopt the Cooper-Church amendment in its present form, without making any congressional reference whatever to the constitutional authority that the President may possess as Commander in Chief, and if he decides later to order American forces back into Cambodia, he will have to justify that action to Congress and to the American people, as a legitimate exercise of his own authority. That is proper. The President would be less likely to order a return to Cambodia in force for any lengthy period of time, if he had to rest his case upon his sole authority as Commander in Chief to protect the troops. In other words, the action he would take under that authority would be circumscribed, it would have to be reasonably and directly related to the needs of our troops in the field.

But, on the other hand, if we adopt this language, then we assume the risk that, at some later date, the President may point to it as having somehow conferred in advance congressional consent upon whatever he decides to do in Cambodia, as long as he acts in the name of protecting American troops in the field.

There is a very good reason for us to be concerned, having behind us the Tonkin Gulf resolution experience. We passed

that resolution because we thought we were giving our approval to a reprisal against certain torpedo boats that we were told had attacked an American destroyer at sea. Concurrently, the President was assuring Congress and the country that he had no intention of sending any Americans into combat in Vietnam. A few months later, however, the President changed his mind and ordered a huge expeditionary force into Vietnam, committing us to war on the Asian mainland. Congressional approval, the President said, had been given by the Gulf of Tonkin resolution.

As proof that Congress had authorized his action, how many times were we shown that resolution?

This is the reason why we are extremely wary of writing into this bill anything which might later be interpreted as constituting prior consent on the part of Congress to whatever action the President may take in the name of protecting American forces in the field.

That is the basis of the difference between us. Yet, when the Senator confines his exception to the constitutional authority the President may have as Commander in Chief, he does improve upon the language, in my judgment.

Mr. BYRD of West Virginia. The Senator from Idaho made reference to that future exigency which would cause the President to come back to Congress under this bill, as not modified by the Byrd amendment. The Senator from Idaho said that the President would then have to justify to Congress his actions in sending men into Cambodia for the protection of American troops in South Vietnam.

What the Senator is saying, if I may interpret in my own way, most respectfully, is that he would have the President come to Congress, and justify his constitutional authority. That is what, in essence, it would amount to.

Mr. CHURCH. What I had intended to convey was this: If we make no reference in this amendment to the President's constitutional authority as Commander in Chief, leaving the Cooper-Church amendment in its present form, then the President, later on would have to base a return to Cambodia on his own authority as Commander in Chief and demonstrate that his action stemmed directly from a need to protect our forces in the field. Under these circumstances, he would be much more careful to take only those actions that could be reasonably justified. If we add the Senator's language to the Cooper-Church amendment, however, we may later have the President interpreting it as having given him advance congressional consent for much larger operations, in effect, for expanding his authority, as long as they are taken in the name of protecting our troops in the field. That is the distinction I am trying to draw.

Mr. BYRD of West Virginia. The Senator has a right to interpret the Byrd amendment in that way, but I do not interpret it as in any way giving the President, or attempting to give the President, or claiming to give the President, or assuming to give the President any authority that he does not already have under the Constitution of the United States. I think that what the Senator from Idaho is saying is that implicit in the words of the Byrd amendment is some new authority. Mr. President, there is no new authority and none can reasonably be read into the Byrd amendment.

As I view the respective constitutional authority of the President, as against that of the Congress, under the Constitution, each operates in its own sphere. I think each is supreme in its own sphere. It seems to me that what the Cooper-Church amendment would say, in paragraph 1, if not amended, would be that each is supreme in its own sphere, but before the President can properly act to carry out his constitutional authority, within his own sphere, he must come over into our sphere and get our approval, else he cannot properly exercise his authority within his own sphere to act as Commander in Chief.

Of course, Congress has the power over the purse. It can cut off funds for the military or for anything else. If it does that, it is restricting the power of the President as Commander in Chief under the Constitution and just as effectively, in my judgment, as if Congress had passed a constitutional amendment doing that—which it cannot do—which only the people of the United States can do.

Mr. FULBRIGHT. Mr. President, will the Senator from West Virginia yield for clarification?

Mr. BYRD of West Virginia. I yield.

Mr. FULBRIGHT. Is he suggesting that it is unconstitutional to cut off funds?

Mr. BYRD of West Virginia. No.

Mr. FULBRIGHT. I do not think that I get the significance of that last remark the Senator made, "as effectively as if we had passed a constitutional amendment"——

Mr. BYRD of West Virginia. Yes, yes.

Mr. FULBRIGHT. What is the meaning of that?

Mr. BYRD of West Virginia. What I meant was——

Mr. FULBRIGHT. It leaves the implication that we are in some way, without justification, impinging upon his right as Commander in Chief.

Mr. BYRD of West Virginia. I think we would be in this instance.

Mr. FULBRIGHT. I do not think we are at all.

Mr. BYRD of West Virginia. I think there is a twilight zone here.

Mr. FULBRIGHT. I do not quite understand that concept. Take the passage of a law——

Mr. BYRD of West Virginia. One question at a time, please. The Senator from Arkansas is a very skillful debater. He asks a question, and before his opponent can attempt to answer the question, he asks a second question and then a third question, and then gives a lecture; and by that time, of course, his opponent has forgotten what the first question was all about.

Mr. FULBRIGHT. Not the Senator from West Virginia. He has the best memory of any man in this body, and in more ways than one. I have seen demonstrations of it.

Mr. BYRD of West Virginia. I thank the able Senator. He is always most courteous and overly generous. But, Mr. President, what I am attempting to say is that the Constitution can only be amended through procedures as outlined in article V of the Constitution.

Mr. FULBRIGHT. That I agree with.

Mr. BYRD of West Virginia. And that the President, under article II of the Constitution, has certain powers and duties.

Mr. FULBRIGHT. They are uncertain, according to this debate.

Mr. BYRD of West Virginia. They are uncertain. But—assuming just for the sake of argument— that he had the constitutional authority and duty to send men to Cambodia on a temporary basis——

Mr. FULBRIGHT. Well now——

Mr. BYRD of West Virginia. If the Senator will allow me to assume this, just for the sake of my argument, I am assuming that the President acted within his constitutional authority and duty in doing what he did. There are other Senators here, opposed to my amendment, who do not argue with that. The Senator from Arkansas will.

Mr. FULBRIGHT. Yes, that is quite right. I do.

Mr. BYRD of West Virginia. I am assuming that the President can do it again, if confronted with the same set of circumstances, and that he would be acting properly within the ambit of his constitutional authority and duty. But, to do that, even for the purpose of protecting the lives of our men in South Vietnam, he has to have money.

We cannot here amend the Constitution to say that the President has more authority or that we will take away from him certain constitutional authority. We cannot do that. But we can say there will be no money. And we shall have just as effectively, if we do that, prevented him from carrying out his constitutional authority and his duty, as if we had taken a stroke of the pen and amend the Constitution. It takes money to "retain troops." And that is precisely what paragraph (1) of the Cooper-Church amendment is getting at. It is getting at the milk in the coconut, the money.

Mr. FULBRIGHT. Mr. President, does the Senator mean by that that we are not justified in using that power if we choose to do so, if our judgment is that he is exercising his power—rather than authority—in a way that is inimicable to the interest of our country.

Mr. BYRD of West Virginia. The Senator from West Virginia is saying that Congress can cut off the money. It has the power of the purse. The Senator from West Virginia is saying that he thinks it would be unwise in the midst of a shooting war when the lives of our soldiers are in danger in South Vietnam to cut off funds for the President to use in the exercise of what he sees as his proper constitutional authority and duty; namely, the protection of American forces in South Vietnam.

Mr. FULBRIGHT. Mr. President, the Senator has now shifted, and I think properly so, to the question of the wisdom of the action, rather than constitutional authority.

Does not the Senator feel that if he

is really interested—and I know he is, as I am—in protecting the lives of the soldiers, that he should bring them home instead of putting them in Cambodia?

This is where we have difficulty.

Mr. BYRD of West Virginia. Mr. President, may I answer the question before the Senator goes on to another one?

Mr. FULBRIGHT. Yes.

Mr. BYRD of West Virginia. Mr. President, I have heard it said that a military withdrawal is one of the most difficult of all maneuvers.

Yes, I would like to see our men brought home. I would like to see them come home tonight, tomorrow, or next week. But I do not believe that they can be brought home instantly, and as long as they are there I think that the President has a duty under the Constitution to do whatever he can do to protect their lives while they are in the process of withdrawal, however gradual. But if he does not have the money to perform his duty and authority and to do what he feels is necessary in order to protect American lives, then he is prevented from doing so just as effectively as if his authority under the Constitution had been abrogated by constitutional amendment. What good is authority if it cannot be used when needed?

Mr. FULBRIGHT. Mr. President, if the Senator would allow me to interrupt, as to this business of retreat, and so on, no one is suggesting that our troops leave instantaneously. But on the other hand there is no great mystery about how to end the war. The French ended a similar war in 1954. In the course of approximately 2 months after they had made up their minds that it was not in the interest of France to continue with that war, they liquidated the war and got a cease-fire and all of the killing of their soldiers stopped. The withdrawal took some time. But there was no further killing of their soldiers. It went off in a most orderly way.

This is the alternative I was suggesting if the President is interested in protecting the lives of his soldiers, rather than in procuring a military victory. What bothers me is what the President actually does, as opposed to what he says. His actions are designed to achieve a military victory.

This is the kind of policy that the Senate ought to be consulted about. We ought to be told and we ought to be asked in the form of a declaration of war whether or not that is a good policy for the country.

I submit that it is an absolutely false doctrine to say that as Commander in Chief, and because he inherited a war, he has the unlimited power to go into Cambodia or into any other country.

He says he is not relying on the Gulf of Tonkin joint resolution. I was told in committee hearings that he is using his authority to bring the soldiers home. And the country accepted that until he moved into Cambodia.

The Senator knows that the reaction of the country to that move was an interpretation that he is expanding the war. This changes the whole character of the war.

The Senator now wants to change the amendment to have the effect of saying that the President's authority as Commander in Chief authorizes him to do anything he pleases.

The Senator has already said in the debate that the two sponsors of the Cooper-Church amendment admit that he has the power as Commander in Chief to move into Cambodia. I reject that.

The President himself recognizes some limits. Why did he say, "I will go only 21 miles." The Constitution does not say that. He recognized that there was a different situation there, or he would not make a speech and say, "I will go only 21 miles."

Now he is beginning to expand this. Every time a new speech comes along, there is a change in the circumstances.

If one accepts the theory that as Commander in Chief he can do anything that, to him, seems appropriate, there would be no limit. It is exactly what Abraham Lincoln said, that there would be no limit. We would have a scrapping of the Constitution.

The purpose of the Constitution is not to restrict anyone. But it does require a sharing of responsibility.

I think it is a sound principle.

I think it would be a great tragedy if the Senate gave up its responsibility to debate subjects which involve the lives and property of the people.

This is the whole issue: Should the Senate abdicate its responsibility and say that as Commander in Chief the President can do as he pleases any time he can say that it is to protect the troops? Under the Byrd amendment, that would be all that he would need to say.

This is an absolutely new doctrine. I never ran across this when I was in school. I never ran across the matter of the powers of the President being such that he could invade a country if he says it is to protect the troops—a country with which we had not heretofore been at war. I do not think it is sound at all.

I think it would be a great mistake to put the Byrd language in the Cooper-Church amendment. The Senator may very well have the votes. If he is going to put something in the amendment, I would much prefer that he put in the language which does not go to the constitutional issue.

The Senator's amendment guts the Cooper-Church proposal.

It waffles around with these constitutional responsibilities and duties and leaves greater uncertainty. It is a very dangerous thing.

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

Mr. BYRD of West Virginia. Mr. President, if I may respond to the Senator from Arkansas, I will then yield to the Senator from Kentucky.

First of all, the Senator makes reference to the President wanting a military victory. I do not believe that the President is expecting to achieve a military victory. But my amendment has nothing to do with a military victory in South Vietnam. I do not think that the President expects to achieve that. I do not think that any of us expect it.

Mr. FULBRIGHT. Mr. President, may I ask a question?

Mr. BYRD of West Virginia. In a moment. Second, the able Senator would have us believe that the Byrd amendment recognizes possession by the President of "unlimited power to go into Cambodia or into any other country."

This amendment does not attempt to identify or to define or to interpret the powers of the President. And, of course, the President does not have unlimited power to go into Cambodia.

His powers are not infinite under the Constitution. They would have to be infinite if they were unlimited. There is a limitation on his powers.

The President cannot do anything which to him seems appropriate under this amendment?

Mr. FULBRIGHT. Why not? I do not understand why not.

Mr. BYRD of West Virginia. Because the President is not the judge himself.

Mr. FULBRIGHT. Who is? Who does judge?

Mr. BYRD of West Virginia. The President is not the sole judge of where the constitutional line is drawn. The Supreme Court has been known to declare a President's acts unconstitutional.

Mr. FULBRIGHT. If he does not judge what is necessary to protect the lives of soldiers, who does judge? With the language of your amendment, we do not.

Mr. BYRD of West Virginia. The amendment which I have offered does not attempt to interpret or define where the Constitutional line is. It simply states he shall not be inhibited in his constitutional authority to protect our troops in South Vietnam.

Mr. FULBRIGHT. It leaves it up to him.

Mr. BYRD of West Virginia. Then, who is to be the judge under the Constitution? Will 100 Senators act as Commander in Chief?

Mr. FULBRIGHT. That is what the Senator is saying; that the President as Commander in Chief is the judge. It is a new theory.

Mr. BYRD of West Virginia. The Senator opened up an entirely new vista of discussion here when he said he would rather vote on my first amendment than on the modification because the first version would gut the Cooper-Church amendment.

Mr. FULBRIGHT. That is correct.

Mr. BYRD of West Virginia. The Senator surely does not want the Cooper-Church amendment gutted.

Mr. FULBRIGHT. No, I would oppose that.

Mr. BYRD of West Virginia. Then why the preference for my first amendment if it would gut Cooper-Church? I do not want to gut the Cooper-Church amendment; I want to improve it.

Mr. FULBRIGHT. I am against both of them. As long as you are going to gut it, do it correctly, where it is obvious to everyone; do not fuzz it up. The second one is more insidious because it uses language about constitutional authority and the Commander in Chief and asks that he consult with us. They consulted with us before and they did not tell the truth.

Mr. BYRD of West Virginia. What the Senator is saying is that the Senator from Idaho, who is a cosponsor of the Cooper-Church amendment, in stat-

ing the second amendment is an improvement on the first amendment, although it is more "insidious" and "fuzzy."

Mr. FULBRIGHT. That is right.

Mr. BYRD of West Virginia. The modification guts it, but it is not as "clear" in gutting it—even though the Idaho Senator says it is an improvement.

Mr. FULBRIGHT. It fuzzes it up.

Mr. BYRD of West Virginia. The Senator is calling into question the stated position of the Senator from Idaho.

Mr. FULBRIGHT. I have been here longer and I am more skeptical than he is. He has more faith than I. I have been here twice as long as he has been here, and I have been through a number of these things before, and I know how this kind of language can be brought up later on and thrown in your face.

To say it is up to the President to say what he may do at any time, anywhere, is a new concept. I do not want to be a part of that history making. I played a part in the Gulf of Tonkin resolution. I did not have the skepticism then. I did not believe the President would misrepresent the facts to a committee, but I have learned better.

I do not want to leave the wrong impression. I am just as strongly against the proposed amendment as I am against the modification. If the Senator is going to prevail, which he may because of his influence in this body, I would want him to prevail on his original amendment and not the modified amendment. Then, the matter would be clearcut. If this language goes in, we will never know and we will be confronted with a continuing interpretation of the powers of the Commander in Chief. This is such a new concept, used in this context, that I do not believe it would be wise at all. The more I think of it the more I think we should have a vote on the original amendment.

There is one other matter the Senator mentioned.

Mr. BYRD of West Virginia. Mr. President, before the Senator goes on, if the Senator wishes us to vote on the original amendment he has the power to decide. The Senator would simply object to the unanimous-consent request that I modify my amendment.

Mr. FULBRIGHT. I thought I did object.

Mr. BYRD of West Virginia. Then, we could vote on the original.

I have acted in good faith in trying to develop language which would meet the legitimate concerns of several Members of this body. I have sought to improve the amendment and in some way bring us at least part way toward the position that has been taken by the sponsors of the Cooper-Church amendment. I have tried to tighten up the original language of my amendment by tying it clearly to the constitutional authority, powers, and duties of the President—leaving aside entirely any legal authority which he may or may not have.

If the Senator feels that he would like to object to my unanimous-consent request I shall have to stay with the old language, and the Senate can vote on it.

Mr. COOPER. Mr. President, will the Senator yield to me for one moment on this point?

Mr. BYRD of West Virginia. I yield.

Mr. FULBRIGHT. Surely.

Mr. COOPER. Mr. President, I think we have argued for 2 or 3 days in a circular way the question of the authority of the President as Commander in Chief to protect our forces.

All agree he has that authority; that the Congress cannot take it from him or give it to him. The question is then asked, "Why cannot it be written in the amendment?"

The obvious answer is that we do not need to write it into law it is his constitutional authority. But if we write it into law, then Congress accepts all of its consequences.

Earlier today the distinguished Senator from New York (Mr. JAVITS) spoke on the floor of the Senate about the first Byrd amendment, and I wish to read to the Senate two of his sentences that I think apply to this matter:

> I believe that passage of the Byrd Amendment would amount to Senate acquiescence in this position—that is, the President enjoys such powers as Commander-in-Chief as he defines them to be. I believe that this could undermine our whole constitutional system and lead the nation into grave new crisis at home and abroad.

I believe the Cooper-Church, or Church-Cooper amendment, and the amendment of the Senator from West Virginia have different purposes. Our purpose is to place some check upon the power of the President with respect to Cambodia. In subsection 1 it states that forces shall not be retained in Cambodia after July 1. We do not mention the President's constitutional powers.

If, in fact, our forces should come under sudden attack in Cambodia, the President would have the same power. We say, that absent that kind of situation U.S. forces should not be retained in Cambodia without coming to Congress.

Also in sections 2 and 3——

Mr. BYRD of West Virginia. The Senator cannot have it both ways.

Mr. COOPER. I believe we can. Either we will give up every bit of authority in the warmaking field, at minimum, we should assert that in some cases Congress has joint authority.

The Senator has worked very hard on this matter. I know that he is an able lawyer and thorough student. We have talked about this matter many times. However, I think if some limits are not asserted we will end up finding there is no limit.

Mr. FULBRIGHT. Will the Senator yield?

Mr. COOPER. We are urging, in line with the President's policy to end the war in Vietnam, to put the brakes on so we will not become embedded in Southeast Asia.

Mr. BYRD of West Virginia. Mr. President, most respectfully I interpret what the Senator says as having the best of two possible worlds. He says the President could, in an emergency, even in the face of the enactment of the Cooper-Church amendment, utilize the "same power" as he did on April 30.

Mr. COOPER. No.

Mr. BYRD of West Virginia. The Senator did not say that?

Mr. COOPER. No. I said if they were in Cambodia and came under sudden attack on June 30, of course he would have the power.

Mr. BYRD of West Virginia. Yes.

Mr. COOPER. Once out of Cambodia, I do not believe he should go back.

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

Mr. BYRD of West Virginia. I yield.

Mr. CHURCH. Mr. President, the key word is "retaining." That word was used advisedly. The amendment provides that funds are not available to retain American forces in Cambodia after the end of June.

Mr. BYRD of West Virginia. Is the Senator saying that if this bill is still being debated on July 1, he is willing to drop the paragraph (1) if all the troops are out? There would then be no troops in Cambodia to "retain." Would the Senator then be willing to delete that language?

Mr. CHURCH. The word "retain," as the debate has clarified, was used to serve two objectives: First, to make it clear that the Congress believed American troops should not stay in Cambodia after the end of June; and, second, to allow for those particular occasions that might arise where the President, in the exercise of his constitutional authority as Commander in Chief, might have to make a sudden strike into Cambodia in order to effectively protect American troops near the border. That is why we used the word "retain." We meant for it to cover both situations.

Mr. BYRD of West Virginia. What does the Senator mean by a "sudden strike"? Could not a "sudden strike" be one which would take us into Cambodia and "retained" there for 2 weeks, 4 weeks, 6 weeks, or 3 months? It would have been "sudden strike" and armed forces would have to be "retained" in Cambodia—without funds for their retention.

Mr. CHURCH. No. What I meant by "sudden strike" was an occasion where an enemy staging area, for example, was being utilized to concentrate troops and materiel for an imminent attack on American troops across the border. Under circumstances of that kind, in order to protect effectively our forces across the border, it might well fall within the President's authority to strike the sanctuary, clean it out, and withdraw again. That is why we used the word "retain". We felt that if the President decided later to go into Cambodia in force, with the intention of staying, that would be a decision so significant that it would redefine the theater of war. Properly, the President should come before Congress, make his case, and secure congressional consent.

Mr. BYRD of West Virginia. My amendment does not say he could go back into Cambodia.

Mr. FULBRIGHT. But the language does not say he could not, either.

Mr. BYRD of West Virginia. It says paragraph (1) shall be effective except when the President determines it neces-

sary to protect the lives of American troops in South Vietnam.

Mr. CHURCH. Paragraph (1) is a prohibition against retaining troops in Cambodia. The Senator's language goes on to say, in effect, except where the President, acting as Commander in Chief, decides to remain in Cambodia in order to protect American troops in South Vietnam.

His language, even his modified language, would create an opening in the Cooper-Church amendment that could conceivably be cited to authorize a return to Cambodia for an extended period of time.

Mr. BYRD of West Virginia. My language does not authorize anything that the President is not already authorized to do. It merely prevents the Cooper-Church language from attempting to preclude the proper exercise of his constitutional authority. It does not authorize anything new.

Mr. CHURCH. In a legal sense, the Senator is quite correct; it does not confer any new or added power to the President. We are involved here in a question of political power. If the modified language of the Senator's amendment is adopted, we will have given the President a political tool to justify future action. If we do not pass it and leave the bill silent, then he will have to base any future action upon inherent power, in which case he will have to make certain that the action is directly and intimately related to the protection of our troops in the field.

From the political standpoint, I am fearful this language will be seized upon as giving prior consent to whatever he does. In view of our experience with the Gulf of Tonkin resolution, there is solid basis for my fears.

Mr. BYRD of West Virginia. The real political tool lies in the exercise of congressional power over the purse. The Appropriations Committees, for example, are the only committees in the Senate and in the House which have real power. The power of the purse is the real political tool.

Paragraph (1) of the Cooper-Church amendment, as written, and if unamended, would seek to use this real, raw political tool—the power of the purse—to contract, to diminish, the constitutional authority and power of the President of the United States, acting as Commander in Chief, to take necessary action to protect the lives of American servicemen in South Vietnam. It would say, "You may do this or that, but first of all, you have to go back to the money bag."

Let us lay this right out on the table and bare it to the scrutiny of everyone's eyes. The language in paragraph (1) of the Cooper-Church amendment says, "Mr. President, you may retain troops in Cambodia after June 30 only if you come back to Congress and, through the enactment of a new law, get appropriations with which to pay those troops." In essence, that is what it says. It does not matter that an emergency may require quick action to protect American lives in South Vietnam.

We all know the circuitous route by which an appropriation bill becomes law. The President could be confronted with an emergency situation. He might have to act, and it would be his duty to act, as Commander in Chief under the Constitution, to protect our men. But the action that he would have to take might require him to go back into Cambodia. There could be the same set of circumstances under which he went in on April 30 to protect our troops. Our troops might stay 60 days again the next time. But he has to first go to Congress under paragraph (1) of the Cooper-Church amendment. First, there has to be a budget estimate. Then there has to be a hearing on the appropriation bill. Then there has to be a discussion by the committee during the markup of the appropriation bill. Then, if the bill is reported, it has to run the risk and the gauntlet of the 3-day rule. Then it has to be debated on the floor of the Senate.

It seems to me that what we are saying to the President is, "You just can't do it," because the enemy would have had ample time to fold up its tents, remove its men, weaponry, military materiel, and ammunition, and move out, or it would have had ample time, if it chose to do so, in which strike and attack our men while all of this discussion and all of this debate was going on as to whether or not we should appropriate the funds. We are not cutting off his authority, the sponsors of the Cooper-Church Amendment say—no, but we are cutting off the money. What is a more effective "political tool" than money?

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

Mr. BYRD of West Virginia. I yield.

Mr. PERCY. I, first of all, want to make clear that I have no objection to the modification of the language the Senator from West Virginia would like to introduce, and I hope he will be permitted this evening to modify the language in accordance with his own wishes, to improve and modify his original intention.

Second, I have been concerned somewhat about subparagraph (1). I think there can and should be an exception made.

I have an amendment which would not affect our vote tomorrow, but which I would like to send to the desk this evening for consideration of our colleagues should the distinguished Senator's amendment fail tomorrow. I would need about 60 seconds to submit it, and would very much appreciate knowing about when it might be appropriate for me to do that this evening.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may yield to the Senator from Illinois for the purpose which he has outlined, and that he may be recognized for not to exceed 3 minutes.

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

Mr. PERCY. I thank my distinguished colleague very much indeed.

AMENDMENT NO. 686

Mr. President, in this debate on the Cooper-Church amendment and the Byrd amendment, we confront a variety of important considerations. These considerations include the desire of the President and the American people to shorten, rather than expand the war; the question of the related responsibilities of the President and the Congress in the war-making process; and the concern of everyone in the executive branch, the Congress, and the country for the safety of our forces in Vietnam.

It is my own feeling that we should not expand the geographic scope of the war, and that the President's promised total American withdrawal from Cambodia as of June 30, 1970, should be endorsed by Congress.

This is the time for such an endorsement. It is also the time for Congress to reassert its constitutional prerogatives to share with the President in war-making decisions.

These objectives—endorsing the President's plan for withdrawal from Cambodia by June 30 and reasserting the constitutional prerogatives of the Congress in war-making can be achieved by an amendment to the Foreign Military Sales Act which will take into full consideration the safety of our forces in Vietnam.

I now send to the desk an amendment which would disallow the commitment of U.S. forces to Cambodia unless it were necessary to respond to a clear and direct attack upon forces of the United States from Cambodia.

It is my hope that the language of this amendment would be satisfactory to the Senator from Kentucky (Mr. COOPER), to the Senator from Idaho (Mr. CHURCH), and to the President, who share our concern for peace, for constitutional balance, and for the safety of our American men in Southeast Asia.

The amendment reads simply as follows:

On page 5, line 7, strike the words "(1) retaining United States forces in Cambodia" and insert the words "(1) having United States force in Cambodia except where the use of such forces is necessary, pending Congressional approval, to respond to a clear and direct attack upon forces of the United States from Cambodia."

Its purpose is simply to insure that we send a direct and definite message from the Congress of the United States and from the President to the North Vietnamese that, should they go back in and use these sanctuaries for the purpose of launching an attack upon us, we in Congress, forthwith and in advance approve the President's moving in to protect our forces and the program of withdrawal from Vietnam, but that the President, after he responded to that, would come back to Congress for our assent to or disapproval of the action that is taken, and for whatever debate would be required.

Clearly I have certainly been influenced by the eloquent discussions by the distinguished Senator from West Virginia that there should be some exception in this case, and the exception we are trying to provide and protect the country and our forces against is the use of those areas for an attack upon us. That is as simple and clear as I can make it.

Mr. BYRD of West Virginia. Exactly.

Mr. PERCY. I thank my distinguished colleague.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. BYRD of West Virginia. I yield to the Senator from Virginia.

Mr. SPONG. Mr. President, I thank the Senator from West Virginia.

I think it is important that we establish legislative history here. I shall try to phrase this question so that it applies to either the amendment or modifications that the Senator from West Virginia has submitted—both to the amendment he submitted on last Wednesday and the modification he submitted today.

The Senator from West Virginia has said that neither of his proposals adds anything to the constitutional authority of the President of the United States. I would be interested in the views of the Senator from West Virginia as to the constitutional authority of the President of the United States at the present time, specifically with regard to situations that I outlined in a series of questions on yesterday. These questions are five in number. They are printed on pages 18956 and 18957 of the June 9 RECORD.

I might say to the Senator from West Virginia that earlier in the day both the Senator from Kentucky (Mr. COOPER) and the Senator from Idaho (Mr. CHURCH) gave their views on these five situations.

I believe that, whether or not any of the pending amendments are adopted, we would do well to have in the RECORD the answers to the questions from the sponsor of all the amendments.

Mr. BYRD of West Virginia. Very well. Would the Senator like to restate the questions?

Mr. SPONG. I would be pleased to do that.

I should like to know if the language of the Byrd modification contemplates the President's right—and rather than "right" I will substitute "authority," in view of our discussion earlier—authority, as Commander in Chief, to do the following, under the language of the amendments, or if the Senator feels that the President already has that authority under the Constitution: First. To prevent enemy forces from crossing the border into South Vietnam and to pursue and destroy such forces as they attempt to leave South Vietnam for Cambodia? This contemplates a distance into Cambodia of no more than 2 or 3 miles.

Mr. BYRD of West Virginia. Mr. President, first I emphasize again the premise which the able Senator from Virginia has already recognized—to wit, that the Byrd amendment, whether we are talking about the modification before the Senate or about the modification which, under the previous order, is to be voted on tomorrow, authorizes nothing new. It adds nothing new. Whatever the President may do in the future, in the event either modification is accepted, he could have done just as well without the enactment of either.

This brings me to this method of attempting to answer the Senator's question: I am saying, in answer to all four or five questions, that my amendment really has no bearing on them, because it does not add any authority to what the President already has as Commander in Chief under the Constitution.

Mr. SPONG. I would respectfully disagree with the Senator from West Virginia. I believe that what the Senator is adding is language that could be subject to interpretation, and that in both his first modification and his second modification there is language which, should the Cooper-Church amendment be enacted by the Senate, could give the impression of additional discretionary authority to the President of the United States.

Mr. BYRD of West Virginia. Mr. President, of course all of this language is subject to definition. The language in the Cooper-Church amendment is, likewise, subject to definition and interpretation. The lawyers will interpret it. They will argue about it. They will disagree with respect to the language in the Cooper-Church amendment. So, indeed, any language that we put in, call it the Byrd amendment or anyone else's amendment, is going to be subject to definition by someone, subject to interpretation, and subject to disagreement among the authorities.

But, Mr. President, my amendment does not authorize anything. Take, for example, the Formosa resolution. It was a joint resolution "authorizing" the President to do something. Take, for a further example, the Middle East resolution. It was a resolution that the President "be and hereby is authorized" to do something.

My amendment does not "authorize" the President to do anything. It merely makes an exception in the thrust of paragraph (1) of the Cooper-Church language and defines as well as it can the circumstances in which that exception will be made. The President, acting under the Cooper-Church language, as amended by my amendment, would be acting within his constitutional powers as Commander in Chief, not through any authority granted by my amendment.

Mr. SPONG. May I ask the Senator from West Virginia this: If no additional authority is granted by the language, as the Senator says, would the Senator give me his present interpretation of the constitutional authority of the President of the United States with regard to any of these five situations? I will refer specifically to the third one.

Mr. BYRD of West Virginia. May I respond to the first one?

Mr. SPONG. Yes.

Mr. BYRD of West Virginia. The first one was as follows, as the Senator included in yesterday's RECORD:

> To prevent enemy forces from crossing the border into South Vietnam and to pursue and destroy such forces as they attempt to leave South Vietnam for Cambodia? This contemplates a distance into Cambodia of no more than 2 or 3 miles.

I think the President has that authority and is exercising it now. I think that this is already being done. It seems to me that one of the cosponsors of the Cooper-Church amendment—I believe the Senator from Kentucky—indicated that the President can do this now, that we can send men across the border in hot pursuit, that we can do this in Laos, that we can do it in Cambodia. This can be done and has been done without the Byrd amendment.

Mr. SPONG. The second one is as follows:

> To destroy enemy supplies, staging area, headquarters, and so forth, in a relatively narrow zone along the Cambodian-South Vietnamese border? This contemplates a zone into Cambodia of approximately 20 miles in width.

Mr. BYRD of West Virginia. This contemplates a set of circumstances similar to those in which the President ordered troops into Cambodia on April 30. He did so in that instance, in my judgment, through the proper exercise of his constitutional powers, and I think the cosponsors of the Cooper-Church amendment have agreed. So, the President, having done it then, in the proper exercise of his constitutional authority, he can do it again. And he can do it entirely without the language which is in my amendment, and which gives him no new authority. Insofar as his authority is concerned, it would be derived from the Constitution; and whether he would have the money to exercise his authority depends on what we do about paragraph (1) of the Cooper-Church amendment.

Mr. SPONG. Would he have the authority to do it under the Cooper-Church language without the Byrd amendment?

Mr. BYRD of West Virginia. The Cooper-Church language does not add to nor take away any of the constitutional authority that the President possesses. But indirectly—and I think quite effectively—it could inhibit his exercise of that authority if it cuts off the funds. To that extent I think the Cooper-Church amendment could in some hypothetical situation prevent him from the proper exercise of his constitutional authority.

Mr. SPONG. Does the Senator from West Virginia believe that his modification would remove that inhibition from the present language of the Cooper-Church amendment?

Mr. BYRD of West Virginia. Yes, I do.

Mr. SPONG. Would the Senator address himself to the third question: "To attempt to find and engage any enemy troops within the zone just described, irrespective of whether they are on the verge of entering South Vietnam or whether they are just returning from it"?

Mr. BYRD of West Virginia. I think all of these questions were asked in the context of the Byrd amendment: If the Byrd language is adopted, can he do this and can he do that, and can he do something else?

Mr. SPONG. Yes, that is true.

Mr. BYRD of West Virginia. The answer to the third question would be that he can do only that which he determines to be necessary for the protection of American troops in South Vietnam; and he has the constitutional duty and authority, it seems to me, to do this regardless of the Byrd language. So if he determines that this set of circumstances, which the Senator has outlined, presents a clear and present and immediate danger to the lives of American troops in South Vietnam, it seems to me that, entirely aside from the Byrd language, the President has the constitutional author-

ity and the duty to take whatever action is necessary to remove that danger to our troops and to protect the lives of our troops.

I simply think that the Cooper-Church language, through this requirement for enactment of a bill appropriating moneys, would, to that extent, place a limitation on the President's authority. My amendment seeks to remove that limitation.

Mr. SPONG. I take it, then, that the Senator's answer to the third question would also apply to questions 4 and 5.

Mr. BYRD of West Virginia. In an extremely exaggerated and unlikely hypothetical situation, I suppose it could, but not by virtue of the Byrd amendment—by virtue only of the President's constitutional authority, which was given to him by the makers of the Constitution.

I cannot envision a situation in which the circumstances described in questions 4 and 5—particularly 5—would arise, if we are to believe what the President says, if we are to have faith in his expressed intentions. But if it were to arise, he could only act in the proper exercise of his constitutional authority to protect the lives of American troops in South Vietnam.

Mr. SPONG. I would say, first, to the Senator from West Virginia that I do not believe the President contemplates any activity such as is described under questions 4 and 5. But when we consider either of the Senator's modifications, we must do so within the context of the Cooper-Church amendment. I am of the opinion that the addition of the Senator's language to the Cooper-Church enactment could be interpreted as giving authority for any of the situations I have hypothetically described, 1 through 5.

I am most appreciative of the time the Senator from West Virginia has taken in answering these questions. I thought I should ask these questions before he made any further reply.

Mr. BYRD of West Virginia. I thank the Senator from Virginia. His questions are incisive. But I use his words "giving authority" in such a hypothetical situation. The Byrd language gives no new authority. It simply attempts to prevent the Cooper-Church language in paragraph (1) from building a fence, as it were, around the President's constitutional authority and saying he may go only thus far or that far and, then, only if he can get the moneys with which to do so.

My amendment tries to make an exception as to where that line shall be drawn, that exception being where American lives are in danger in South Vietnam. The President already has constitutional authority to act in such a case. But he has to have money.

Let us say the hypothetical situation is brought into existence. If the Cooper-Church language is adopted without the Byrd amendment, it could very well mean that, as a result of the lack of funds, the President could not exercise his constitutional authority as Commander in Chief to protect the lives of American boys in South Vietnam, because, again, there would be those who would interpret the language this way and those who would interpret it another way. The Cooper-Church language is subject to definition.

So while Congress argues about interpretation of the language and argues about appropriating money, the hypothetical situation gets out of hand, and American boys in South Vietnam are attacked and their lives imperiled. That is what the Byrd amendment seeks to avoid.

Mr. SPONG. I think the Senator from West Virginia, the Senator from Kentucky, and the Senator from Idaho are striving in many ways toward the same objective. I think what the proposed legislation seeks to do is to spell out the collective will of the Senate in redefining the geographic area within which the presidential power or authority might be applied in the exercise of the President's position, under the Constitution, as Commander in Chief.

I am seeking, in these exchanges, to focus on the clearest language we might agree upon consistent with both legislative and presidential prerogatives. I might say to the Senator from West Virginia that the situation he has described, where we could become tied up in appropriations snarls while some decision is to be made, is not envisioned by the sponsors of the Cooper-Church amendment, if I understood them correctly this morning.

Certainly, not in the situation described in question one, probably not in No. 2, and all concede that No. 3 is a gray area; but I seek—a specific recital—and this is difficult to determine—of what the presidential authority is.

In short, I believe that the Senate does not wish to tell the President how he should function as Commander in Chief, but to say, for the time being, where he should function as Commander in Chief until there is further consultation with the Senate.

Mr. BYRD of West Virginia. If the lives of American servicemen were not involved, it might be an easier question to dispose of. But I do not think that we can say, here and now, that the President may go 20 miles, but that he may not go 21 miles. I do not think that we can say he is properly exercising his constitutional authority if he goes 20 miles, but that if he goes 2 kilometers farther, he is not acting in the proper exercise of his constitutional authority.

I do not think that we can delineate this constitutional authority in such a nice way. We must really look at what is before us. The Cooper-Church language says this, "unless specifically authorized by law."

I do not know what the cosponsors of the amendment said earlier today. I was not here. I can read it overnight. I am referring to the Senator's having alluded to what they said.

Mr. SPONG. That is my interpretation. Of course the Senator from Idaho is here.

Mr. CHURCH. Mr. President, may I be heard?

Mr. BYRD of West Virginia. I do not know what was said, but I look at the language of their proposal and it reads thusly, "unless specifically authorized by law hereafter enacted." Those words are clearly understood: "unless specifically authorized by law hereafter enacted, no funds"—that means not 50 cents, not $1—"no funds authorized or appropriated pursuant to this act or any other law may be expended for the purpose of retaining U.S. forces in Cambodia."

Taking the hypothetical situation discussed earlier, if it is necessary for the President to act to protect the lives of American servicemen in South Vietnam, he has to have money. Tactical operations in Cambodia cost money even when executed for the protection of American servicemen in South Vietnam. But this language says, "No funds authorized or appropriated pursuant to this act or any other law may be expended for the purpose of retaining U.S. forces in Cambodia," period. And regardless of whether forces are retained in Cambodia for the protection of the lives of American servicemen in South Vietnam. The Byrd language simply attempts to hammer out one exception to that prohibitive language. It does so in an effort to deal with that situation in which the lives of American servicemen might be endangered.

Mr. SPONG. I thank the Senator from West Virginia. I think there should be an exception, and I appreciate his efforts in that direction. I happen to believe, as I have expressed to the Senator, that the exception should be more specific, if we are to have it.

Mr. BYRD of West Virginia. I respect the viewpoint of the able Senator from Virginia. When we attempt to deal with specifics, then we are in another quagmire. One Senator wants this specific and another wants that item specificated. I think the best we can do is not to authorize any new authority nor attempt to be so specific as to say it will be 20 miles but not 21 miles; we should simply make the exception, so that the President is clearly not precluded from exercising his power under the Constitution for the protection of our servicemen in South Vietnam.

I am fearful that if the Cooper-Church language is adopted as written, the enemy will get the wrong message, or perhaps, it will be the right message—to wit, he can come back into those sanctuaries and before the President can order a man across that border, the President will have to come back to Capitol Hill and go through all of those circuitous labyrinths of exercises that must be executed before moneys can be appropriated. In the meantime, the enemy will have ample opportunity to attack or withdraw.

Mr. CHURCH. Mr. President, will the Senator from West Virginia yield?

Mr. DOLE. Mr. President, will the Senator from West Virginia yield?

Mr. BYRD of West Virginia. I yield now to the Senator from Idaho, and then I shall be happy to yield to the Senator from Kansas.

Mr. CHURCH. The fundamental difficulty stems from the fact that we are engaged today, and have been for many years, in a limited war in Southeast Asia. Our purpose has not been to invade or conquer North Vietnam. Our purpose has

been to protect the Government of South Vietnam against the attempt of the Vietcong and the North Vietnamese to overthrow it. Thus, from the beginning, both the President and Congress have been faced with the dilemma of where to draw the line.

Up until now, Congress has left that determination entirely to the President, and those who support the Cooper-Church amendment believe that the time has come for Congress to share with the President the responsibility of drawing outer limits to this limited war.

We want to leave Cambodia outside those limits, doing this in a way that conforms to the President's own expressed intention to withdraw American troops from Cambodia by the end of June.

After June 30 has passed, we recognize there might be occasions when the President, in the proper exercise of his Constitutional authority as Commander in Chief, might have to take an action that would breach the Cambodian borders temporarily to protect American forces in the field.

We do not, however, want to fix a limit, and then write into that limitation an exception which would later be used as constituting prior congressional consent to a large or prolonged military return on our part to Cambodia.

I am unable to see why the purposes of the Senator from West Virginia—who is concerned about American troops in Vietnam, but no more so than the Senator from Idaho—could not be served by simply writing a proviso at the end of this Cooper-Church language to the effect that nothing in it does what we cannot do anyway, which is to impair the constitutional authority of the President as Commander in Chief.

Mr. BYRD of West Virginia. Mr. President, I think that is what my amendment does. It is perhaps a question of semantics. It does precisely that. It says that nothing in the Cooper-Church language impairs the constitutional authority of the President as Commander in Chief to act under certain circumstances—to whit, when our men are endangered in South Vietnam.

Mr. CHURCH. But the Senator goes further. I want to question him about some of his other language. For example, he says in the modified version of his proposed amendment:

> And the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam.

First of all, it strikes me as being demeaning to Congress to write into law a request that the President come to consult with Congress. Second, who are the congressional leaders with whom the President should consult? Third, when is the consultation to take place?

Is it to take place at a time that would be meaningful, so that the advice of these leaders could be taken into consideration by the President. Or will consultation occur at the very moment of decision, when it would be nothing more than a method for conveying to the congressional leaders that new action is underway?

All of this is left unanswered by the language of the Byrd amendment. And for the record, I think answers should be supplied.

Questions of this kind, however, suggest that there is a cleaner way to achieve the Senator's purpose, such as adding a proviso at the end of the Cooper-Church language to the effect that nothing in the amendment impairs the constitutional authority of the President as Commander in Chief.

Mr. BYRD of West Virginia. Then the Senator would raise hobgoblins and ghosts with respect to everything that went before the proviso, which would not only include paragraph (1), but also paragraphs (2), (3), and (4). And the same question as to the hows, whys, and whens would be applied to the proviso.

Mr. CHURCH. The language I suggested would relate to subparagraph 1, and not to the other subparagraphs of the amendment.

Mr. BYRD of West Virginia. Mr. President, I thought the Senator said the proviso should be at the end of the Cooper-Church language.

Mr. CHURCH. The Senator is right. I meant, however, at the end of subparagraph 1.

Mr. BYRD of West Virginia. Mr. President, the Senator says that for the President to be requested to consult with congressional leaders would be demeaning to the President.

Mr. President, this is precisely what much of the argument has been about all along—the sponsors of the Cooper-Church amendment want the President to consult with Congress.

Of course, I want him to consult with Congress. He made a mistake in not consulting with Congress about his April 30 action. That was a tactical legislative blunder.

He should consult the Congress when the circumstances permit him to do so.

There could be a hypothetical situation in which he could not consult with Congress. Perhaps he would have time only to press a button. I do not envision this with respect to South Vietnam, however. We were talking about having the President consult with Congress. I added this language in response to the legitimate concern expressed by at least two Senators who felt that there ought to be something in this amendment which would deal with consultation. So it was included.

I do not consider it to be demeaning. It does not require him to consult. It is not mandatory. It is only permissive. I think that he would do it without the language, certainly in the face of his experience following his April 30 action.

I see nothing demeaning about requesting that this be done. This is terminology that is often used in Federal statutes, that so and so is requested to do so and so, to make such and such a report.

I do not consider that to be demeaning.

As to the identity of the congressional leaders, that would be up to the President. If I were to attempt to define the congressional leaders, I would certainly include the majority and minority leaders of both houses. Whether the President would want to go beyond that would be up to his discretion. But this would help to cure the situation.

Mr. CHURCH. Mr. President, would the Senator include the chairman of the Committee on Foreign Relations?

Mr. BYRD of West Virginia. Mr. President, the President could include him. When I start to include him in the amendment, why should I not include the chairman of the Appropriations Committee?

Mr. CHURCH. Or the chairman of the Committee on Armed Services?

Mr. BYRD of West Virginia. Or the chairman of the Committee on Interior and Insular Affairs, or the chairman of the Committee on Commerce. Where do we stop?

We should leave it to the discretion of the President. Certainly when the President talks to Senators MANSFIELD and SCOTT and with the leaders of the House, he has talked with the congressional leaders. If the President wants to broaden this, and I think he would want to do that in many situations, he would do it.

When should he do it? We cannot say he should do it 1 week, 3 weeks, or 6 weeks before. When we say prior, he has to use his discretion and good judgment based upon the circumstances which confront him.

I hope that helps at least to explain my interpretation of the language.

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

Mr. BYRD of West Virginia. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I have listened with great interest to the discussion. I think it points up what many of us hope can be accomplished at this late hour, and that is an accommodation between the sponsors of the Church-Cooper amendment and other Senators who would like to find some accommodation.

I have participated in much debate in the past 2 or 3 weeks and I recall that the basic question has been: What are the rights and powers of the President vis-a-vis the rights and powers of Congress? I think we have all determined that we can list all the rights and powers of the President. We had one recitation after another of the historical powers from the days of George Washington to the present time, and we had suggestions on what the rights and powers of any President might be and what the rights and powers of Congress might be, and the specific powers delineated in the Constitution.

It appears to me this discussion may lead us one step further to some accommodation. I mentioned earlier in colloquy with the distinguished Senator from Virginia (Mr. SPONG) that perhaps we could add a section referred to by the distinguished Senator from Idaho (Mr. CHURCH); perhaps we could modify the Byrd amendment by saying that "Nothing contained in this section shall be deemed or construed to impugn the President's powers as Commander in Chief."

Since we have been unable to delineate the powers of the Commander in Chief and since every Senator has stated the

Commander in Chief has the right to protect American forces, it appears to me that is what the argument is all about. There has been recognition that he has that right and power, and it seems to me the Senator from West Virginia perhaps between now and tomorrow at 11 a.m. might work out some further modification of the Byrd amendment and have a recognition by Congress that we do nothing in the Church-Cooper amendment that impugns the President's constitutional power as Commander in Chief.

Everyone has indicated we seek to do nothing to impinge his constitutional power and with that accommodation I would feel the Church-Cooper amendment might be acceptable to many on both sides of the aisle. It does in effect what the Senator from West Virginia suggested. It does recognize, as we all recognize in any event, that we can do nothing to add or detract from the constitutional power of the Chief Executive to be Commander in Chief. So I would hope there is still a possibility of some accommodation.

It does appear to me that if we require the President to consult with congressional leaders, I recognize the President could and should probably do that, but there is nothing binding. In any event it really appears we are for the first time reaching some area of accommodation. I hope it can be accomplished between now and 1 o'clock tomorrow.

I commend the Senator from West Virginia for discussing the possibilities and his modification this evening.

Mr. BYRD of West Virginia. Mr. President, I appreciate the remarks by the able Senator from Kansas. I offered this amendment in good faith in an effort to bridge some of the gap that seems to exist between some of us and not only in an effort to do that but also in an effort to satisfy my own conscience.

If objection is to be made we will just have to vote on the original modification. I can withdraw the unanimous consent request if anyone wishes to object. Then, of course, we can just have a vote up and down on amendment No. 667, star print.

In a few moments I would like to have the Chair again present my unanimous-consent request. At this time, I will proceed with the speech I have prepared for delivery on the floor this afternoon.

Mr. President, the able and distinguished senior Senator from Idaho (Mr. CHURCH) yesterday referred to my amendment as a "blank check" and said:

> It could readily become a second Gulf of Tonkin Resolution, an open invitation to the President to do what he wills in Cambodia, without the further approval of the Congress—as long as he does it in the name of protecting our forces in Vietnam.

Mr. President, my position regarding any involvement of U.S. Armed Forces in Cambodia is a matter of record. I am opposed as much as is any other Senator to the sending of any Americans to fight additional land wars in Asia. Moreover, I want to see our American military forces withdrawn from Cambodia. I want them withdrawn from South Vietnam as soon as it is possible to do so in an orderly way which will not reward Communist aggression. Time and again, I have said that the Asians should carry the manpower burden of keeping Asia free.

In a Senate floor speech on April 4, I stated:

> The United States should not become involved in the fighting in Cambodia. The new rulers of Cambodia have been hinting that they may seek American help in fighting the communists. For too long now, American troops and the American people have shouldered a heavy burden in fighting in Southeast Asia. To fight in Cambodia would only add to that burden.

Again, on June 3, when I submitted my perfecting amendment to the Cooper-Church amendment, I said:

> The United States should not become involved in fighting in Cambodia for Cambodia, or in support of any Cambodian Government.

As I emphasized in my June 3 Senate floor speech, I have no objections to paragraphs 2, 3, and 4 in the Cooper-Church amendment, and if my amendment to paragraph 1 is adopted, I expect to vote for the Cooper-Church amendment as it would then be amended. Of course, paragraphs 2, 3, and 4 could undoubtedly be improved, but I do not personally intend to offer any amendment to change the verbiage therein.

My amendment, No. 667, star print, was introduced by me to make clear that the President's authority—in the fulfillment of his duty as Commander in Chief—to protect the lives of American troops stationed in South Vietnam, remains clear and uncompromised. My amendment reads as follows:

> On page 5, line 7, before the semicolon insert a comma and the following: "except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam."

Mr. President, I again want to state beyond reasonable doubt that the purpose of my amendment is to recognize the President's authority, power, and duty to take such action as may be necessary to protect the lives of U.S. forces in South Vietnam, and that it is definitely not to be misconstrued, misinterpreted or misunderstood to open any doors or loopholes for the use of American troops in Cambodia to support any Cambodian Government or to fight a war for Cambodia.

The Senator from Idaho erred in saying that the Byrd amendment is a "blank check." Is it a "blank check" to recognize the President's authority and duty, as Commander in Chief, under the Constitution, to take such action as may be necessary to protect the lives of U.S. forces in South Vietnam? Is it a "blank check" to recognize his authority and duty to take such action as may be necessary to facilitate the withdrawal of our forces from South Vietnam? I am not a military man, but I have always understood that the withdrawal of an army can constitute one of the most difficult of military maneuvers under certain conditions.

A careful reading of the plain language of my amendment, together with the statements that have been made in support of it, should convince anyone that the amendment is no "blank check" and that authorization is not being given for the use of American troops to prop up any Cambodian Government. The amendment does not give the President any power or authority that he does not already have under the Constitution and under the Gulf of Tonkin joint resolution which was enacted into law in 1964.

How, then, could the Byrd amendment be a "blank check" to the President? He sent American ground troops into Cambodia on April 30. My amendment was nonexistent then. Yet, most Senators do not question the President's constitutional authority in taking the action which he took.

Congress can pass no law diminishing the constitutional authority of the President. Why, then, does he need my amendment as a "blank check" if, in the future, he should deem it necessary to again attack sanctuaries in Cambodia in order to protect our military forces in Vietnam? My amendment would not give him any additional power or authority over what he already has. What he did on April 30 without my amendment he could do in the future without my amendment. I would not accuse my friend, the able senior Senator from Idaho of resorting to the use of a scare word, but he has referred to my amendment as a "blank check." I would no more consider giving the President a "blank check" than would the Senator. I want, as much as does the Senator from Idaho, to get out of Cambodia and to stay out of Cambodia. I, too, want to get out of South Vietnam, as I have said repeatedly, but I do not think that this is something that can be done overnight. Our men are in South Vietnam.

They were sent there by our Government—most of them through no choice of their own—and our Government has a duty to do whatever it can to protect their lives while they are there. That is what my amendment is all about.

The question of the constitutional allocation of powers between the executive and legislative branches, certainly, may be an issue of such great dimensions as to justify debate completely independent from the wisdom or the unwisdom of Vietnam. I say, however, with all the earnestness at my command that the President's actions in moving into Cambodia did not, in fact, usurp the constitutional powers of Congress. I do, however, question the constitutional validity of congressional action which, in effect, would seek to limit the President's constitutional authority to take actions necessary to protect the lives of our fighting men in South Vietnam.

If, as seems clearly beyond doubt, Cambodia has been used as a sanctuary from which military operations against U.S. forces have been undertaken, surely the President's order to clean out those sanctuaries was a tactical decision and within his exclusive power and authority as Commander in Chief. If it were necessary to repeat the same action 6 months from now, in the interest of protecting our forces in South Vietnam, it would

again be a tactical decision and within the President's powers and authority to implement as Commander in Chief. What justification is there for congressional action now to cut off funds from U.S. Armed Forces which may have to be utilized in Cambodia 6 months from now in carrying out the same kind of tactical action as was begun on April 30 by the Commander in Chief for the purpose of protecting American lives in South Vietnam?

I question any congressional action which serves to restrict the constitutional authority of any President to protect American troops by cutting off funds. The able Senator from Idaho said yesterday that the Cooper-Church amendment "does not deny the President's constitutional power as Commander in Chief to protect the safety of American forces," and that "the President has a responsibility to protect U.S. forces in Vietnam." The Senator went on to say that the President "does not need a mandate from the Congress for this purpose."

Mr. President, the President, indeed, does not need a "mandate" from the Congress to protect U.S. troops in Vietnam, but he does need money to do so. Tactical maneuvers—even for the protection of American servicemen—cannot be executed without funds. Over and over we have heard that the Cooper-Church amendment does not prohibit the use of U.S. Armed Forces in Cambodia in the future to protect American lives in South Vietnam. In so many words, perhaps it does not. But it does say that, except by law hereafter enacted, no funds shall be authorized or appropriated for the retention of U.S. forces in Cambodia after June 30. What could be plainer than that?

No, the President does not need a mandate. He needs funds, and here is where the Cooper-Church amendment would do by indirection that which it cannot do by direction—namely, to restrict or negative the President's power to fulfill his duty, as Commander in Chief, to act for the protection of our forces in South Vietnam.

Congress undoubtedly has the power and the authority to cut off funds for military operations of any kind—there is no question about this. But in so doing, it can negate the constitutional power of the President as Commander in Chief to implement certain necessary tactical decisions which are within the universe of his authority rather than within the ambit of legislative authority. Why would Congress do this?

We are not faced with a situation in which the President wishes to pursue a war indefinitely and Congress wishes to terminate it. Rather, we are faced with a situation in which both the President and the Congress have expressed a policy determination to end American manpower involvement in Southeast Asian conflict as rapidly as competing considerations will allow. Ergo, the question before us is not one of reversing Presidential policy but rather that of drastically limiting the President's discretion and flexibility in carrying out a policy, in which we of the Congress agree.

It is really a question of delineating or at least recognizing the fine line of separation between Presidential and congressional powers under the Constitution. As a matter of fact, it deals with such a twilight zone of competing powers so delicately balanced that they appear at times, and in some situations, to overlap.

It is said by the worthy opponents of my amendment that, if future emergencies should require a reintroduction of ground forces into Cambodia for the protection of American troops in South Vietnam, the President need only come up to the Congress and request the funds and Congress will appropriate the moneys.

We all know, however, that the enactment of a law appropriating funds takes time. There first must be a budget estimate prepared. Congressional hearings are then required. Committee discussions are time consuming at the subsequent markup session. Any appropriation bill reported to the Senate must then run the gauntlet of the 3-day rule. Debate can go on ad infinitum. By this time, the enemy can have folded its tents and quietly moved away, taking its ammunition, its weapons, its military materiel and men, and the enemy will have been spared simply through the fortuitous process of congressional delay. Or, the enemy could, under the protecting cover of congressional indecision and delay, proceed to launch an attack upon our forces in South Vietnam.

In other words, if the President should be given intelligence reports which indicated that the enemy was heavily massing for an attack from Cambodian sanctuaries 6 months from today—at a time when our forces in South Vietnam will have been reduced from 30,000 to 380,000 men—the President would be unable to attack the enemy with American ground forces until such time as he could go before Congress and get a bill passed providing funds for the implementation of such protective action. By the time the money was appropriated, it could be too late. What Senator would want to take a chance on imperiling the lives of American servicemen in South Vietnam by fettering the President's hands where such a tactical operation might be clearly justified and required and where time and speed may be of the essence?

When the enemy masses in such Cambodian sanctuaries, those sanctuaries are not "neutral" territory, but, in reality, they are part of the war zone, and no attack upon them in any sense can be construed as a "new war." It is the same war and the same enemy. The Cooper-Church amendment would, in effect, however make the Cambodian-South Vietnamese border a more formidable Maginot line than was ever embraced in the concrete fortifications outflanked by the Germans 30 years ago. The enemy would be free to attack at will from the Cambodian side and would be immune from ground attack by American ground forces who would be allowed to pursue only to the border where they would have to stop.

No, the President does not need a "mandate" from Congress to protect the lives of American troops in South Vietnam against privileged enemy sanctuaries in Cambodia. The Constitution gives him this mandate, and the Gulf of Tonkin resolution expressed prior congressional approval of such a mandate. But he does have to have funds to carry out this constitutional mandate, and the first paragraph of the Cooper-Church amendment, as it is now written, would, if it were ever enacted into law, accomplish indirectly what the Congress—as I have said—cannot do directly, namely, infringe upon the constitutional powers of the Commander in Chief. The cutting off of funds by Congress is just as effective as would be the cutting off of Presidential powers by constitutional amendment—which is beyond the purview of Congress in the final analysis. Both end in the same result.

I again refer to the able Senator from Idaho, not through disrespect or with any ill feeling—I respect, admire, and love him as a friend—but I again refer to him only because he stated that—

> The Byrd proposal could readily become a second Gulf of Tonkin resolution, an open invitation to the President to do what he wills in Cambodia without the further approval of Congress—as long as he does it in the name of protecting our forces in Vietnam.

Mr. President, I did not offer my amendment as an open invitation to President Nixon or to any other President "to do what he wills in Cambodia." I do not believe that the President desires to involve—deviously, covertly or overtly—American ground troops in the support of the Cambodian Government. The President has stated time and time again that he intends to bring our men out of Cambodia, and he is doing this. He has already reduced our forces in South Vietnam by 115,000 men, and he has promised to bring 50,000 more men home by October and an additional 100,000 by next spring. Surely the Senator from Idaho—and I do not intend to put words in his mouth, and he would not let me if I tried to do so—does not imply that the President is attempting intentionally to delude the American people. Surely the Senator from Idaho does not mean to imply that the President wants really to involve America in a war in Cambodia for Cambodia, a war which would require sending more men to Southeast Asia rather than returning more American servicemen home from Southeast Asia.

Surely the Senator from Idaho does not mean to imply by the words, "an open invitation to the President to do his will in Cambodia," that the President wants to prolong the bloodshed or that the President nurses some secret and evil scheme to enlarge American manpower involvement in Cambodia—a scheme which he would not dare reveal to the American people. Do we not trust the President? Is this what the Senator from Idaho is saying? Will not the American people hold the President responsible if he does not fulfill his promises to bring Americans home from Southeast Asia? The President surely knows this, and I am confident that his is a burden which none of us bears.

The truth of the matter is, Mr. Presi-

dent, that my amendment limits the President's use of any American troops in Cambodia to a very well defined and clearly stated purpose, namely, the protection of American troops in South Vietnam. In doing this, my amendment gives the President no new authority. He already has this authority. My amendment simply makes clear that the Cooper-Church amendment, as now written, would not interfere with his clear duty and authority to act to protect our men in South Vietnam.

The able Senator from Idaho says that the Byrd amendment "could readily become a second Gulf of Tonkin resolution." Mr. President, let none of us labor under any illusions as to what we are doing here. The Cooper-Church amendment, as now written, will not likely become law; although I believe that if my amendment were to be adopted, the chances of acceptance by the other body would be enhanced. I feel that the chances of getting the approval of the President's signature to the Cooper-Church amendment would be enhanced. But, if the Cooper-Church amendment is not perfected by my language—or by somebody's language—I feel that passage of the amendment by the Senate would mean no more than a closely divided expression of Senate sentiment.

I do not think that such would represent the sentiment of the majority of Americans. But I do believe that Senate acceptance of the Cooper-Church amendment would be misconstrued by the enemy, and I feel that it would encourage the enemy to believe that henceforth it could operate just across the Cambodian border from Vietnam with immunity.

I am constrained to take issue with the Senator's statement that my amendment "could readily become a second Gulf of Tonkin resolution." There is no need for a second Gulf of Tonkin resolution even if any of us wanted such. The Gulf of Tonkin joint resolution was enacted into law in 1964, and that law has never been amended, repealed or ruled unconstitutional. It is on the books today and has been for 6 years. It clearly states congressional approval and support of "the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression." To what enemy does the Gulf of Tonkin resolution refer when it alludes to "armed attack against the forces of the United States"? It refers to "the Communist regime in North Vietnam," as set forth in the preamble of the joint resolution, which was enacted into Public Law 88–408.

"The Communist regime in North Vietnam," I repeat. That is the same enemy against which the incursions into Cambodian sanctuaries were made on April 30 by U.S. Armed Forces. That is the same enemy against which I seek to preserve protection for our American servicemen in South Vietnam through the wording of my amendment. But no "second Gulf of Tonkin resolution" is required—Public Law 88–408 refers to Southeast Asia and expressed support and approval of Presidential action to "repel armed attacks"—yes, even from Cambodia—"against the forces of the United States."

Therefore, the Congress has given its advance approval and support of the President, as Commander in Chief, to take all necessary measures to "repel any armed attack" against the forces of the United States "launched from Cambodian sanctuaries." That advance approval was given in Public Law 88–408, as I have already stated. My amendment could not become a second Gulf of Tonkin resolution. In the first place, it does not enlarge the congressional sanction of the use of Presidential authority as set forth in Public Law 88–408. The truth of the matter is the Cooper-Church language would, in effect, seek to negate the Gulf of Tonkin joint resolution—Public Law 88–408—without amending or repealing Public Law 88–408 outright.

Of course, any language is subject to definition and interpretation by the lawyers and by everyone else. The language of the Cooper-Church amendment is not the last word in perfection—I say this with all due respect to the sponsors thereof—and it, too—as I will soon attempt to demonstrate—can be subject to definition. But I believe that the verbiage of my amendment, when taken with my own statements and those of cosponsors of my amendment, leaves no room for doubt as to its intent and meaning. I know that there are those who say that the President might send troops to Cambodia to fight for a Cambodian Government and that he may do so under the guise of acting "to protect U.S. forces in South Vietnam." But we have to have faith in our President as Commander in Chief, regardless of who he is or what his political party may be, at the time. And it would seem to me that any President, in sending troops again into Cambodia is going to have to make his case, and it will have to be a good one. It will be subjected to the burning scrutiny of every critical eye—and it should be.

Our problem, here in the Senate, it seems to me, is to state with as much clarity as is possible, the intent of the Congress to avoid American manpower involvement in any new war in Asia—such as a war against the Government of Cambodia or a war in support of the Government of Cambodia—while, at the same time, not infringing upon or weakening, in any way—or appearing so to do—the authority and duty of the President, as Commander in Chief, under the Constitution, to take such action as is necessary to protect the lives of U.S. forces in South Vietnam or to facilitate their withdrawal from South Vietnam.

Mr. President, paragraph (1) of the Cooper-Church amendment has troubled me from the beginning. I want to eliminate American manpower involvement in Southeast Asia—not increase it. I believe that paragraphs (2), (3), and (4) are intended to do this—although paragraph (2) carries a loophole as big as a tunnel—big enough to allow the use of "any U.S. personnel in Cambodia" who engage in "combat activities" so long as they do not do so "in support of Cambodian forces." All the President would have to say, under paragraph (2), in explaining the use of U.S. "personnel" in Cambodia to "engage in any combat activity," is that they are fighting to support South Vietnamese forces—not Cambodian forces. This is my interpretation of the language.

Why do Senators strain at a gnat and swallow a camel? Why do Senators who oppose my amendment—which would permit U.S. ground troops to be used in Cambodia only when necessary to protect the lives of American servicemen in South Vietnam—support the language in paragraph (2) which would permit U.S. personnel to engage in combat activity in Cambodia for the support of South Vietnamese forces? Are U.S. "forces" in paragraph (1) to be distinguished from U.S. "personnel" in paragraph (2)? If so, it is a distinction without a difference as long as U.S. "personnel" may "engage in any combat activity."

But, as I say, paragraph (1) of the Cooper-Church amendment has troubled me from the beginning. I cannot cast a vote to tie the President's hands when it comes to necessary action to protect American troops in South Vietnam—and there are over 400,000 there now. Ask the fathers and mothers and sisters of those 400,000 American men in South Vietnam what should be done. They will say that they want to see their sons and brothers return home as soon as possible but, while they are there, protect their lives.

Mr. President, I had to introduce this amendment. I could not vote for the Cooper-Church amendment without it.

I know of the genuine concern on the part of all Senators with regard to this matter. As I indicated in my Senate floor speech on June 3, I feel that we in the Senate must take every action within our constitutional power—so long as we do not attempt to preclude the proper exercise of his constitutional powers by the President, acting as Commander in Chief—to avoid American manpower involvement in a new war in Asia, whether it be a war against Cambodia, or for Cambodia, or in support of any Cambodian Government.

I have also indicated that I share the concern of other Senators who believe that the President made a mistake—under the peculiar circumstances of the Cambodian incursion—in not consulting with congressional leaders in advance of the action taken. When I say congressional leaders, I would leave it up to the discretion of the President as to the identity of those congressional leaders. Certainly I would think that the majority and minority leaders in both bodies would fall within the definition.

In any event, in order to reach these legitimate concerns on the part of all of us, and in order to make the intent of my amendment as incontrovertible, as indubitably clear, and as infallibly certain as I can possibly make it, I have asked unanimous consent to modify my amendment No. 667, star print.

I hope that the Senate will adopt my perfecting language. If the supporters of the Cooper-Church amendment really want to see their amendment become law, I may be mistaken, but it seems to me they should get behind my amend-

ment to paragraph (1) and vote to adopt it. The chances of ultimate enactment of the Cooper-Church amendment would thereby be enhanced, I believe.

No, Mr. President, my amendment is no "blank check." And it is not a "second Gulf of Tonkin Resolution." It is a bona fide, good faith effort to eliminate what many of us regard as an unacceptable restriction upon the protection of American servicemen. As I say, the Government sent these men to South Vietnam and it has a duty to do everything it can to protect their lives while they are there.

Mr. President, will the Chair again submit my unanimous-consent request to the Senate?

The PRESIDING OFFICER. Does the Senator renew his request?

Mr. BYRD of West Virginia. I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, is there objection to my request?

The PRESIDING OFFICER. Is there objection?

Mr. CHURCH. Mr. President, the Senator from Arkansas (Mr. FULBRIGHT) objected earlier to this unanimous-consent request. He advised me that he did not intend to withdraw his objection. He remained in the Chamber for a period of time after he made his objection. When he was obliged to leave, he asked me to protect his rights, and I am therefore obliged to object in the name of the Senator from Arkansas.

As the Senator from West Virginia knows, I prefer the modified version of his amendment that he has offered today to his previous amendment, and it is my hope that tomorrow we can examine this situation further prior to the time for the vote, and perhaps some accommodation can be reached.

The PRESIDING OFFICER. Objection is heard.

Mr. CHURCH. I hope the Senator will renew his offer tomorrow.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator. I hope that tomorrow the Senate will permit me to modify my amendment. As the Senator from Idaho has indicated, it is his feeling—and I share that feeling—that the modification which I now seek to have included is an improvement over my modification of the other day, and I would hope that the Senate would want to vote on what is generally conceded, I believe, to be improved language over that which is before us.

But I will, of course, accept the will of the Senate. I appreciate the reasons why the Senator from Idaho has found it necessary to object this evening.

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

Mr. BYRD of West Virginia. I yield.

Mr. COOPER. I have told the Senator that I would not object to the modification.

Mr. BYRD of West Virginia. Yes.

Mr. COOPER. I continue in that position.

Mr. BYRD of West Virginia. I thank the Senator.

Mr. SPONG. Mr. President, if the Senator will yield, I would like the RECORD to show that I was present, and I have no objection. I prefer the Senator's second modification.

Mr. BYRD of West Virginia. I thank the able Senator.

Mr. President, I do not ever wish to be in the position, myself, of objecting to a Senator's having the opportunity to modify his own amendment; but this is the right of any Senator, and I had the opportunity before today—as a matter of fact, I had the opportunity before the Senate entered into any agreement—to modify the amendment to my heart's content. But the further modification is the result of further study.

So I hope that the Senate tomorrow will permit us to vote on this modification; but if it does not, we will vote on the first modification, and I may even be constrained to withdraw my unanimous-consent request. We shall see.

I yield the floor.

Mr. ALLOTT. Mr. President, every day I receive numerous letters and memoranda from the academic community expressing interest in, and concern about the current debate over the President's powers as Commander in Chief.

I have recently received an especially interesting document from Prof. Robert Scigliano, a member of the department of political science at the State University of New York at Buffalo.

Professor Scigliano enjoys the high regard of his professionals in political science. His books include "The Supreme Court and the Presidency, Technical Assistance in Vietnam," and "South Vietnam: Nation Under Stress." In addition, he is currently doing research directly related to the subject of this current debate—the war powers of the President. In fact, this research will soon result in a book from the reading of which we all will profit.

Professor Scigliano has been kind enough to share with us all some of his thoughts on one relevant aspect of the current debate. He has sent me a fascinating essay on the intentions of the Founding Fathers with regard to the war power. Consider his findings with regard to the Constitutional Convention and the First Congress:

> There is considerable evidence that the Framers generally were inclined to view the powers of war and foreign affairs as executive. They did not, by and large, object to having the President possess these powers but were anxious that he not be enabled to launch a war, although they did want him to be able to act in an emergency; and they wished to prevent him from making treaties, especially treaties of peace, on his own authority.
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Professor Scigliano is also illuminating with regard to the important passages of the Federalist, and of the Constitution on which the Federalist is such a brilliant commentary. Professor Scigliano says:

> There is no question that the Constitution conveys broad war power to the President. To be sure, only one provision explicitly conveys this power: that which makes him "commander in chief of the army and navy of the United States; and of the militia of the several states, when called into the actual service of the United States." *The Federalist* is often cited as evidence that the Framers intended the President to have "no powers that any high military or naval com-

mander who was not also President might not have." There, in Number 69, Hamilton observed that the President's authority as commander in chief "would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the Confederacy." But clearly such an interpretation misconceives what Hamilton meant by "supreme command and direction." In Federalist Number 74, where Hamilton took up the commander-in-chief clause again, he explained his meaning as follows: "The direction of war implies the direction of the common strength; and the power of directing and employing the common strength, forms a usual and essential part in the definition of executive authority." Nowhere in the Federalist is there support for the thesis, frequently put forward today, that Presidential incumbents, not the Framers, forged the commander-in-chief clause into a potent executive instrument.

The Constitutional oath of office required of the President confirms Hamilton's understanding of the commander-in-chief clause. If it is not itself a grant of power, it at least illuminates the military power granted the chief executive elsewhere in the document. The oath reads: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States." Indeed, the oath seems to light up an area which is wider than the commander-in-chief clause. If the President may do all that is necessary to preserve, protect, and defend the Constitution, what is he forbidden to do when the Constitution is imperiled? It is worth noting that no other officer of government takes the same oath as the President. Congressmen, federal judges and the executive officers, and all state officials are obligated simply "to support this Constitution."

The President's war power in the Constitution does not rest solely on the commander-in-chief clause. He is also charged with the duty "to take care that the laws be faithfully executed." This power does not refer explicitly to military matters, of course, but it is applicable to them. Rebellion, insurrection, and other civil disturbances obstruct the execution of the laws: May not the President use military force, if necessary, to eliminate the obstruction? A reasonable inference from the "take care" clause is that he may, and Presidents have acted upon it. It is not surprising, given the implications of this clause, that James Wilson, a leading Framer, should describe it in the Pennsylvania ratifying convention as a "power of no small magnitude."

Mr. President, so that all Senators may have the benefit of Professor Scigliano's splendid scholarship, I ask unanimous consent for his memorandum to be printed in the RECORD; along with his brief cover letter to me.

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

STATE UNIVERSITY OF NEW YORK AT BUFFALO,

June 1, 1970.

HON GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: In consideration of your interest in the question of the war power of the President, I am enclosing some thoughts on that subject. They are taken from research on which I am at present engaged.

Sincerely,

ROBERT SCIGLIANO,
Professor.

THE PRESIDENT AND THE WAR POWER: THE INTENT OF THE FRAMERS

(By Robert Scigliano)

There is no question that the Constitution conveys broad war power to the President. To be sure, only one provision explicitly conveys this power: that which makes him "commander in chief of the army and navy of the United States; and of the militia of the several states, when called into the actual service of the United States."[1] *The Federalist* is often cited as evidence that the Framers intended the President to have "no powers that any high military or naval commander who was not also President might not have."[2] There, in Number 69, Hamilton observed that the President's authority as commander in chief "would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the Confederacy."[3] But clearly such an interpretation misconceives what Hamilton meant by "supreme command and direction." In Federalist Number 74, where Hamilton took up the commander-in-chief clause again, he explained his meaning as follows: "The direction of war implies the direction of the common strength; and the power of directing and employing the common strength, forms a usual and essential part in the definition of executive authority."[4] Nowhere in the Federalist is there support for the thesis, frequently put forward today, that Presidential incumbents, not the Framers, forged the commander-in-chief clause into a potent executive instrument.

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The President's war power in the Constitution does not rest solely on the commander-in-chief clause. He is also charged with the duty "to take care that the laws be faithfully executed."[7] This power does not refer explicitly to military matters, of course, but it is applicable to them. Rebellion, insurrection, and other civil disturbances obstruct the execution of the laws: May not the President use military force, if necessary, to eliminate the obstruction? A reasonable inference from the "take care" clause is that he may, and Presidents have acted upon it. It is not surprising, given the implications of this clause, that James Wilson, a leading Framer, should describe it in the Pennsylvania ratifying convention as a "power of no small magnitude."[8]

Finally there is the vesting clause of Article II of the Constitution. By it, "The executive power shall be vested in a President of the United States of America."[9] There has been considerable dispute as to whether this clause makes a general grant of war power to the President. The issue has two parts: Does the clause grant general executive power, and, if so, does that power extend to military matters?

Footnotes at end of article.

It has been argued that the vesting clause merely stipulates the title of the person who will exercise the executive power enumerated in the body of the executive article. But this argument has too much against it. If the Framers intended the President's executive power to be limited to an enumeration, why did they not say so? They did say, in Article I, that Congress would possess "all legislative powers herein enumerated."[10] The Presidential enumeration, moreover, is obviously incomplete. For example, it mentions the President's power to nominate and, with the Senate's advice and consent, to appoint public officials, but it says nothing about the power of removal. It states that he may require the written opinions of the heads of executive departments, but is silent concerning his other relations with officials in the executive branch. The somewhat sketchy list of powers in the executive article is satisfactorily explained if the vesting clause is seen to convey general executive power. Under this interpretation, some powers were enumerated in the article because they were legislative or judicial in nature (for example, the veto and pardon powers) and would not otherwise be possessed by the President. Some were enumerated for emphasis (apparently the power to require written reports falls here, although Hamilton in *The Federalist* considered it "a mere redundancy in the plan"[11]). And certain enumerations (most notably, that of the appointment power) were intended to limit the President's possession of executive powers.

Those Framers who had most to do with shaping the executive article, James Madison, Gouverneur Morris, and James Wilson, all considered the vesting clause of the article to convey general power to the President. So did most members of the First Congress (including most members who had also been Framers) when, in establishing executive departments, they denied any power in Congress to control the removal of the heads of the departments.[12] Political practice, and practical necessity, have supported the general-grant theory of executive power.

The more arguable question is whether executive power includes power over war. At first glance, this does not seem possible; but let us examine the question closely. Early American thinking about the powers of government was influenced mainly by the writings of Locke, Montesquieu, and Blackstone, all of whom had the British government as their subject of study. It is true that Locke distinguished the power of executing domestic laws from that of "war and peace, leagues and alliances, and all the transactions with all persons and communities without the commonwealth." He called the first power "executive" and the second "federative if any one pleases. . . . I am indifferent as to the name," but he observed that they were nearly aways united in the same hands.[13] For Locke, this power corresponds to the power which every man possessed in the state of nature to execute the law of nature for himself. The law of nature is basically one of self-preservation, and civil societies execute that law for themselves in their relations with each other, as did particular men before they entered into civil society. Montesquieu maintained Locke's definition of the two powers, while calling them both simply "executive," one dealing with domestic and the other dealing with external matters.[14] In a similar way Blackstone saw the prerogatives of the British crown to extend to sending and receiving ambassadors; making treaties, leagues and alliances; and making war and peace.[15]

Among the Framers, Hamilton most clearly expressed the Lockean conception of executive power. The reader is referred to the statement of Hamilton we have cited in connection with the commander-in-chief clause. We might also cite his view in Fed-

eralist Number 78 that "the execution of the laws, and the employment of the common strength, either for this purpose or for the common defense, seem to comprise all the functions of the executive magistrate." [16] Hamilton's great argument under the name of "Pacificus" in defense of Washington's Neutrality Proclamation of 1793 was grounded on the belief that the Constitution gives the President, as part of the executive power, a general power of transaction affairs with other countries.[17] Hamilton's major antagonist on the issue of the nature of executive power was his collaborator in the writing of the Federalist numbers, James Madison. Writing as "Helvidius," Madison responded to Hamilton-Pacificus, denying that the war and treaty powers were executive in nature and arguing that the executive power was concerned with the execution of the laws.[18] Madison appears to have taken a similar position very early in the deliberations of the Constitutional Convention, when he indicated his agreement with the views expressed on the subject of the President's powers by James Wilson. The only powers which Wilson considered "strictly executive" were those of executing the laws and appointing officers not appointed by the legislature.[19]

Madison was driven to reply to Hamilton's "Pacificus" articles by Jefferson's urgent entreaty. "For God's sake, my dear sir," Jefferson wrote his friend, "take up your pen, select the most striking heresies and cut him to pieces in the face of the public." [20] Well might Jefferson have been concerned. If the broad grant of executive power given the President by the Constitution includes power over military and, more generally, foreign affairs, as Hamilton maintained then the President's authority in this realm is not confined to the enumerated powers in Article II and, on the other hand, Congress's authority there is confined to the enumerated powers in Article I. That is to say, Congress in the military and foreign realm possesses the power to declare war and the Senate the power to approve treaties and diplomatic appointments, and nothing else; and these powers, being exceptions to the general executive power reposed in the President, are to be strictly construed. On the other hand, if, as Madison maintained, the broad grant of executive power given the President does not include power over military and international matters, then the President's authority in this realm is limited to the enumerated powers in the Article. The only explicit powers are those of making treaties and receiving ambassadors, and his designation as commander in chief of the army and navy.

It should be noted that Madison's view of the President's war power is not a narrow one. With the commander-in-chief clause apparently in mind, he had this to say about its scope in one of his Helvidius pieces: "In war, a physical force is to be created; and it is the executive will, which is to direct it. In war, the public treasures are to be unlocked; and it is the executive hand which is to dispense them. In war, the honors and emoluments of office are to be multiplied; and it is the executive patronage under which they are to be enjoyed." [21] He stated in the Constitutional Convention that the executive "would necessarily derive so much power and importance from a state of war that he might be tempted, if authorized, to impede a treaty of peace," and so attempted to exclude him from participation in such treaties.[22] And in the Virginia ratifying convention, he assured his fellow delegates that the Constitutional Convention had maintained the maxim "that the sword and the purse ought not to be put in the same hands." [23]

Even so, Madison's view of the scope of the executive power cannot be sustained. Does he regard the commander-in-chief power as executive in nature? If so, then the general grant of executive power conveyed in the vesting clause (and which Madison believed was conveyed in that clause) must include the power of war and foreign relations. If not, then what kind of power could it possibly be? Further, consider his concession that "the executive may be a convenient organ of preliminary communications with foreign governments, on the subjects of treaty or war." [24] Upon what is this convenience based? What of the various other transactions which the United States must have with foreign governments? They, too, seem to come conveniently, or naturally, within the domain of the President, and yet no explicit power is given to him by the Constitution. And what about the Presidential oath? The words "preserve, protect, and defend" in the oath must have had special meaning to Madison, for he co-sponsored the amendment which added them there.[25] Does the sweep of these words contemplate nothing more than a chief executive who makes treaties and receives ambassadors and a commander in chief who directs the physical force of the nation, as important as these powers may be? Do they not call to mind someone who will be much concerned with "the collective interest and security?"—an expression which Madison himself, incidentally, used at one point in the Convention to describe the power of the executive.[26]

The fact is that Madison did not consistently sustain his own position, expressed in the early Convention deliberations as Helvidius, regarding the nature of executive power; nor that expressed as Helvidius regarding the scope of the power given the President by the Constitution. Nor did Wilson appear to have been more consistent. If the executive power consists of executing the laws and appointing to office, as he, along with Madison stated in the convention deliberations referred to, how could he speak as follows on the subject of the Senate's powers: "Besides their legislative powers, they possess three others, viz: trying impeachments, *concurring in making treaties*, and in appointing officers"? [27] Note also Wilson's observation that the government established by the Constitution "secured all the internal advantages of a republic, at the same time that it maintained the external dignity and force of a monarchy." [28] Clearly, Madison and Wilson found it easier to expel war and foreign affairs from the domain of executive power than to keep them out. Their difficulty, we may suggest, lay in the fact that war and foreign affairs are from a theoretical point of view most reasonably explained as being executive, or akin to executive, in nature; and from a practical point of view most reasonably entrusted, in major part at least, to the President.

There is considerable evidence that the Framers generally were inclined to view the powers of war and foreign affairs as executive. They did not, by and large, object to having the President possess these powers but only to his possessing them without limitation. They were anxious that he not be enabled to launch a war, although they did want him to be able to act in an emergency; and they wished to prevent him from making treaties, especially treaties of peace, on his own authority.

The question of the President's powers arose in the first days of the Constitutional Convention. One of the Virginia Resolutions stipulated that the executive under the Constitution would "possess the executive powers of Congress" under the Confederation (there being no executive branch under that government). Charles Pinckney said he was for a "vigorous executive but was afraid the executive powers of the existing Congress might extend to peace and war, etc.," and John Rutledge plainly objected that "he was not for giving him [the executive] the power of war and peace." [29] By the power of war and peace, as the context makes clear, was meant that of "launching" war and "concluding" peace. The same meaning was usually conveyed in the Convention debates by the expression "make" war and peace, used in the sense of making a law or making a treaty.[30] The point needs some emphasis inasmuch as the use of the term "make" war in the Constitutional Convention is sometimes misunderstood to mean "wage" war. In order to meet these objections, the delegates amended the resolution to provide that the power of the yet-to-be-organized executive would be "to carry into effect the national laws" and "to appoint to offices in cases not otherwise provided for." [31] But the delegates could not have seriously meant so to limit the powers that could be given the President. Certainly the resolution was never invoked for that purpose, despite occasions on which it might have been, and it quietly passed from view after being referred with other matters to the Committee of Detail in late July. While it was still in existence and before any of the President's powers had yet been decided upon, Gouverneur Morris casually remarked, as though it were self-evident, that the President would be "in possession of the sword." [32]

The question of the President's war power came up again in the Convention, indirectly, in the August debate as to whether Congress' control over war should be expressed as empowering it to "make" war or "declare" war.[33] What the delegates wanted was to give the legislature the power to bring on or establish war (they also debated as to who should be given the power to "make" peace), but some of them saw important nuances of meaning between "make" and "declare." Madison and Elbridge Gerry, for example, feared that power in the legislative branch to "make" war might leave none in the executive branch "to repel sudden attacks," whereas a power to "declare" war would leave the President able to act in an emergency. Roger Sherman, on the other hand, believed the President could still repel attacks under a Congressional power to "make" war, and he feared that a legislative power to "declare" war would imply an executive one to "commence" war. Whatever effect the decision to give Congress the power to "declare" rather than "make" war has had, delegates to the Constitutional Convention thought it would draw less of the war power from the executive reservoir.[34]

The broad war and foreign relations powers of the President were also recognized in the legislation enacted by the First Congress, which, containing many of the Framers, has been called a continuing Constitutional Convention. The act establishing the Treasury Department, concerning whose business the President was given no authority by the Constitution, delegated the duties of the Secretary to him; but the acts establishing the Foreign Affairs and War Departments stated, in identical language that the Secretary would "perform and execute such duties as shall, from time to time, be enjoyed on or entrusted to him by the President." [35] Incidentally, when the same Congress changed the name of the Foreign Affairs Department to that of the Department of State, in order that it might assume certain domestic responsibilities, it did not hesitate to specify the added duties of the Secretary.

Even Jefferson, who professed no love for a very energetic government, shared the broad view of the executive power. In fact, his remarks on the subject sound Hamiltonian. In September, 1789, he wrote Madison as follows: "We have already given in example, one effectual check to the dog of war, by *transferring* the power of declaring war from the

Footnotes at end of article.

executive to the legislative, from those who are to spend, to those who are to pay."[36] In an opinion he prepared in his capacity as Secretary of State he declared: "The transaction of business with foreign nations is *executive altogether*. It belongs, then, to the head of that Department [that is, branch], except as to such portions of it as are especially submitted to the Senate. *Exceptions are to be construed strictly.*"[37] In writing the American ambassador to France in 1793, he commenced that "the executive [is] charged with the direction of the military force of the Union, and the conduct of its affairs with foreign nations."[38] Finally, if further proof is needed, Secretary of State Jefferson, also in 1793, informed Citizen Genêt that the President, "being the only channel of communication between this country and foreign nations, it is from him alone that foreign nations or their agents are to learn what is or has been the will of the nation."[39]

We may summarize as follows: The Constitution gives the President broad power in the realm of war and foreign relations; and this power appears to be conveyed not only through specific grants in Article II but also and more fully through a general grant of power contained in the vesting clause of the Article. If this last is true, and, as we have pointed out, the evidence is not undisputed, then Congress' power to declare war and the Senate's power to ratify treaties are exceptions to the general grant. As exceptions, they are to be strictly construed; what was not expressly taken from the President remains with him.

In our concern with the executive powers of the President, we should not overlook the legislative powers of Congress. The legislative branch possesses formidable powers of its own—not just slices from the executive stock—which give it extensive direction over the conduct of war and foreign affairs by the President. The most significant powers dealing directly with these subjects authorize Congress "to provide for the common defense," "raise and support armies," and "provide and maintain a navy."[40] In addition, Congress has received from the Constitution powers primarily of a non-military character which have an important bearing upon military matters. The stipulation that all money drawn from the Treasury be under appropriation acts reinforces the powers just cited, and the power to regulate commerce with foreign nations furnishes a basis for legislative direction of some aspects of foreign policy, as well as the conduct of hostilities at sea.[41] Finally, the so-called sweeping clause of the Constitution gives Congress broad authority to carry into execution by legislation the President's powers over military and foreign affairs.[42] Thus, despite all the President's authority in military and foreign affairs, Congress, as Story has said, has "a controlling influence over the executive power, since it holds at its command all the resources by which a chief magistrate could make himself formidable. It possesses the power over the purse of the nation, and the property of the people. It can grant, or withhold supplies; it can levy, or withdraw taxes; it can unnerve the power of the sword by striking down the arm which wields it."[43]

CONCLUSION

We may summarize our argument as follows: The Constitution grants the President broad war-making powers. This judgment is supported by express provisions of the executive article, including the Presidential oath. It appears also to be supported by the vesting clause of the article. The vesting clause, we have argued, conveys general executive power to the President, and this power includes not only that of executing the laws but that of war and foreign affairs as a whole. This general power is both illustrated and qualified in the enumeration of powers in the executive article, and qualified by the delegation of certain executive functions to Congress. With respect to the war power, Congress was given authority to declare war and, through the Senate's participation in treaties, to conclude peace.

Our interpretation of the nature of executive power is that made by the writers on government from whom the principle of separation of powers was derived. Our interpretation of the executive power vested by the Constitution in the President best comports with the terms of the document and the necessities of government. There is considerable evidence to support both interpretations in the deliberations of the Constitutional Convention and in other views expressed and actions taken by members of the founding generation, although the evidence is not uncontroverted. Some persons at the time of the formation of the government appear to have been uncertain with respect to the exact nature and scope of the President's executive power; some expressed the belief that the executive power was limited basically to the execution of the laws (with the supervisory power over executive personnel that this implied), although they also tended to express views supporting our broader interpretation as well; and some appear to have believed that the executive power extended to all of the war power except that of launching war and making peace, which they considered to be legislative powers. The weight of the evidence supports the position we have argued.

However great, the President's war power is limited. If he employs the force of the community, it is the legislative branch which, as Locke tells us, "has a right to direct how the force of the community shall be employed."[44] The President is in possession of the sword but it is one which Congress has selected and whose condition it ensures; he wields the weapon but, unless attacked, when and against whom it directs. And yet Congress, as Locke also tells us, is much less capable of directing the President's actions in the military and foreign domain than when he acts in his ordinary executive capacity. Such actions "must be left in great part to the prudence of those who have this power committed to them to be managed by the best of their skill for the advantage of the commonwealth."[45] Indeed, without denying Congress's ultimate Constitutional control over the war power, are there not circumstances when the President might be justified in acting outside of the law? What if "a strict and rigid observation of the laws may do harm, as not to pull down an innocent man's house to stop the fire when the next to it is burning?"[46] But we need not borrow from Locke for our authority: Does not the Constitution, contemplating its own preservation, oblige the President to preserve and protect and defend it?

FOOTNOTES

[1] Art. I, sec. 2, para. 1.

[2] The quotation is from Edward S. Corwin, *The President; Office and Powers* (New York: New York University Press, 1948), p. 276, but many others have said substantially the same thing. For a recent example, see Joseph E. Kallenbach, *The American Chief Executive* (New York: Harper & Row, 1966), p. 526.

[3] Alexander Hamilton, John Jay, and James Madison, *The Federalist* (New York: Modern Library, 1937), p. 448.

[4] *Ibid.*, p. 482.

[5] Art. II, sec. 1, para. 9.

[6] Art. VI, para. 3.

[7] Art. II, sec. 3 and sec. 1, para. 1, respectively.

[8] Jonathan Elliot, ed., *The Debates in the Several State Conventions on the Adoption of the Federal Constitution*, 2nd ed. (Washington: Jonathan Elliot, 1836), vol. II, p. 474. See also Federalist No. 70, *op. cit.*, pp. 454–63.

[9] Art. II, sec. 1, para. 1.

[10] Art. I, sec. 1, para. 1.

[11] No. 74, *op. cit.*, p. 482.

[12] See Charles C. Thach, *The Creation of the Presidency, 1775–1789* (Baltimore: The Johns Hopkins Press, 1922), ch. VI, "The Removal Debate," pp. 140–165.

[13] John Locke, *Two Treatises on Civil Government*, Book II, secs. 144–48.

[14] Montesquieu, *The Spirit of the Laws*, Book XI, esp. ch. 6.

[15] William Blackstone, *Commentaries on the Laws of England*, vol. I, pp. 252–58.

[16] *Op.cit.*, p. 486. Compare this language with Locke's reference to the power "of employing the force of the community in the execution of such laws, and in the defense of the commonwealth from foreign injury." (*Op.cit.*, Book II, ch. 1, sec. 3).

[17] Alexander Hamilton, "Pacificus," in *Works*, ed. by Henry Cabot Lodge (Putnam's Sons, 1940), col. IV, pp. 432–89.

[18] James Madison, "Letters of Helvidius," in *Writings*, ed. by Gaillard Hunt (New York: G. P. Putnam's Sons, 1904), vol. VI, pp. 143–82.

[19] Max Farrand, ed., *Records of the Federal Convention of 1787;* rev. ed. (New Haven: Yale University Press, 1937) vol. I, pp. 65–67, June 1 (Madison's notes); p. 70, June 1 (King's notes).

[20] Madison, *op.cit.*, vol. VI, p. 138 n.

[21] "Letters of Helividius," No. IV, *op.cit.*, p. 174.

[22] Farrand, *op.cit.*, vol. II, Sept. 7, p. 540 (Madison's notes).

[23] Elliot, *op.cit.*, vol. III, p. 367.

[24] "Letters of Helvidius," No. I, p. 146.

[25] Farrand, *op.cit.*, vol. II, Aug. 27, p. 427 (Madison's notes).

[26] *Ibid.*, July 17, p. 34 (Madison's notes).

[27] Elliot, *op.cit.*, vol. II, p. 474. Emphasis supplied. This place in the Pennsylvania ratifying convention, but see also his comments in the Constitutional Convention in Farrand, *op.cit.*, vol. II, Sept. 6, p. 523 (Madison's notes).

[28] Farrand, *op.cit.*, vol. III, p. 139.

[29] Farrand, *op. cit.*, vol. I, June 1, pp. 64–65 (Madison's notes).

[30] See, for example, *ibid.*, vol. I, pp. 73–74 ("making peace and war"); vol. II, p. 318 ("It would be singular for one authority to make war, and another peace"), p. 319 ("there is a material difference between the cases of making *war*, and making *peace*"); vol. III, p. 405 (the power "of making war, was divided between the Senate and the House of Representatives"—not from the debates but from a letter by Morris).

[31] *Ibid.*, June 1, p. 65 (Madison's notes).

[32] Ibid., vol. II, July 24, p. 105 (Madison's notes). Morris later in the Convention referred to the President as "the general guardian of the national interests." (*Ibid.*, Sept. 7, p. 541 [Madison's notes]).

[33] *Ibid.*, vol. II, August 17, pp. 318–19 (Madison's notes).

[34] Although not directly relevant to our discussion, it should be mentioned that some delegates also shared Rufus King's concern "that '*make*' war might be understood to [mean] 'conduct' it, which was an executive function." (*Ibid.*, p. 319).

[35] Laws of the United States, vol. II, secs. 6, 32, 48.

[36] Letter to James Madison, Sept. 6, 1789, in Thomas Jefferson, *Writings*, ed. by Andrew A. Lipscomb and Albert E. Bergh (Washington: The Thomas Jefferson Memorial Assn., 1903), vol. VII, p. 461. Emphasis supplied.

[37] "Opinion," Apr. 24, 1970, *ibid.*, vol. III, p. 16. Emphasis supplied.

[38] Letter to Gouverneur Morris, Aug. 16, 1793, *ibid.*, vol. IX, p. 195.

[39] Letter to Edmond C. Genêt, Nov. 22, 1793, *ibid.*, p. 256.

[40] Art. I, sec. 8. Other grants in this section authorize Congress "to define and punish piracies and felonies committed on the high seas, and offences against the law of nations"; "make rules for the government and regulation of the land and naval forces";

"provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions"; "provide for organizing, arming, and disciplining the militia, and for governing such parts of them as may be employed in the service of the United States"; and "exercise exclusive legislation in all cases whatsoever . . . over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." The Fourth Amendment indirectly grants power to Congress: "No soldier shall, in time of peace be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law." And the habeas corpus provision of Art. I, sec. 9, in a negative way gives power either to Congress or the President, or to both: "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it."

[41] Art. I, secs. 9 and 8, respectively.

[42] Art. I, sec. 8.

[43] Joseph Story, *Commentaries on the Constitution of the United States* (Boston: Little, Brown, 1858), vol. I, p. 372.

[44] Locke, *op. cit.*, Bk II, sec. 143.

[45] *Ibid.*, sec. 147.

[46] *Ibid.*, sec. 159.

AMENDMENT NO. 687

Mr. SPONG. Mr. President, the question of congressional prerogatives in the area of foreign affairs and war is not a new one. It goes back to the framing of the Constitution. Its more modern manifestations date from the lend-lease program of 1941. It is, I believe, regrettable that it has taken a crisis to bring the question into the spotlight and demand action upon it. But the failure to resolve the question previously has done just that.

While the Senators and Representatives who voted for the Tonkin Gulf resolution certainly did not intend to vote for a major war of indeterminate duration, the language of that resolution is clear: I quote:

(T)he United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Three conditions are imposed under the resolution: First, the President must decide that force is necessary, second, the force must be used in a SEATO member or protocol state, and third, the state in which the force is used must have requested U.S. assistance.

These three conditions have been met in Southeast Asia—first in Vietnam, later in Cambodia. Even without the resolution, the President has maintained, with I believe some legal basis, that he has had authority to undertake the actions which he has ordered. In addition to this, the realities of the military situation led to the conclusion that the area of Cambodia entered by U.S. troops had for some time been a theater of war, a sanctuary for enemy troops operating in South Vietnam.

Accordingly, it was the President's prerogative as Commander in Chief to go in. One of the sponsors of the Cooper-Church amendment, Senator CHURCH, has stated that neither he nor Senator COOPER have based sponsorship of their amendment on the belief that the President acted illegally or exceeded his authority under the Constitution.

Consequently, it is policy—future policy concerning Cambodia—with which the Senate should now concern itself. The Senate, regardless of the dim prospects for agreement with the House, should express itself and attempt to participate in the formulation of our future policy in Cambodia. The Cooper-Church amendment seeks to do this. It might be viewed as an attempt to redefine the theater of the war, not to determine how to conduct the war within an authorized theater. I believe a majority of the Senate wishes to join an expression against the use of U.S. forces in Cambodia in support of Cambodian troops or in support of any Cambodian Government. I know a majority of the Senate share my fear of a widening land war in Asia involving U.S. troops. What I believe the Senate should do is state a clear caveat against this in a manner that does not impinge upon the President's authority as Commander in Chief, and is consistent with its own constitutional prerogatives, including the appropriation of funds.

Certainly I do not want to endanger further a single U.S. serviceman who is in Southeast Asia, nor do I wish to be a party to anything that could delay the announced disengagement of our troops from South Vietnam. On the other hand, I do not believe the Senate wishes to grant broader powers in Cambodia to the President as Commander in Chief without his having to consult with Congress prior to entering a new theater of war.

The Senator from West Virginia (Mr. BYRD) seeks to guarantee the protection of our troops in South Vietnam and to facilitate the withdrawal of U.S. forces from South Vietnam by modifying the Cooper-Church amendment as follows:

Except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam, or to facilitate the withdrawal of United States forces from South Vietnam.

Or, the Senator from West Virginia seeks to modify the language as follows. I ask unanimous consent to have this language, as previously submitted by the Senator, printed at this point in the RECORD.

There being no objection, the modification of amendment No. 667 was ordered to be printed in the RECORD, as follows:

On page 5, line 7, before the semicolon insert a comma and the following: "except that the foregoing provisions of this clause shall not preclude the President from taking only such action as is necessary, in the exercise of his constitutional powers and duties as Commander in Chief, to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam; and the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam;"

Mr. SPONG. I believe this language, which has a commendable purpose, could be subject to a broad interpretation, an interpretation that would allow the President to widen the conflict beyond the theater of war along the South Vietnamese-Cambodian border. It is also subject to interpretation that would sanction the use of U.S. forces in Cambodia in support of Cambodian forces anywhere in Cambodia, despite the stated opposition of its sponsor, Senator BYRD, to such policy at this time.

AMENDMENT NO. 687

In the belief that the Cooper-Church language would not be damaged if we spell out the authority we presently understand the President to have as Commander in Chief and if we redefine the theater of operations, I propose the following language. I do so mindful of the parliamentary situation, which, in the absence of unanimous consent, would require that the Byrd amendment be voted upon first. Also, I offer the language with the knowledge that it is difficult to spell out the specifics of the President's present independent authority as Commander in Chief. The language is as follows:

Except that the foregoing provisions of this clause shall not prevent the President from taking action along the Cambodian border with South Vietnam to forestall enemy attacks from that area into South Vietnam, to repel such attacks once they are in progress, and to engage enemy forces fleeing from South Vietnam into that area of Cambodia, if the President as commander-in-chief concludes that such action is essential to the protection of United States troops in South Vietnam and to their withdrawal from that country.

As has been stated in the debate, we are operating in a gray area in determining senatorial and presidential constitutional prerogatives. This makes it necessary that the Senate define its position as clearly as possible.

Mr. President, I send this amendment to the desk.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, the amendment will be received and printed and will lie on the table.

Mr. BYRD of West Virginia. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending question is the adoption of the amendment of the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, for the record, may I say that it is my present intention to submit anew tomorrow the unanimous-consent request which I made today and to which there has been objection.

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

ADDITIONAL COSPONSOR OF A BILL

S. 364

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the next printing, the name of the

Senator from Washington (Mr. JACKSON) be added as a cosponsor of S. 364, the Uniform Services Retirement Pay Equalization Act.

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

AMENDMENT OF THE FOREIGN MILITARY SALES ACT—AMENDMENT

AMENDMENT NO. 687

Mr. SPONG submitted an amendment, intended to be proposed by him, to the bill—H.R. 15628—to amend the Foreign Military Sales Act, which was ordered to lie on the table and to be printed.

(The remarks of Mr. SPONG when he submitted the amendment appear later in the RECORD under the appropriate heading.)

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 674

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Colorado (Mr. ALLOTT), I ask unanimous consent that, at the next printing, the name of the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of amendment No. 674 to S. 3112, to require an investigation and study, including research, into possible uses of solid wastes resulting from mining and processing coal.

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

RECESS UNTIL 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 7 o'clock and 55 minutes p.m.) the Senate took a recess until tomorrow, Thursday, June 11, 1970, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, June 10, 1970*

The House met at 12 o'clock noon.

Rev. Jack Vibbert, First Methodist Church, Greensburg, Ky., offered the following prayer:

Almighty God, our Father, we praise Thee for the dawn of this new day which has come from the breath of Thy divine love. In the midst of life's feverish ways, lead our steps and help us not to falter in our search to find peace and unity, which come to those led by Thy merciful hand.

Through our waiting hours direct us in Thy wisdom; may we be free from spiritual and intellectual neglect, ever mindful that our place may be fulfilled only with stout hearts and deep convictions. Work strong in us, O God, and guide us in all our labors; and should disappointment come, grant that it minister to our greater strength. Help us to realize that what we do will always be determined by what we are.

Let us continue the day in Thee—

"To lean our arms awhile
Upon the window-sill of heaven,
And gaze upon the Lord,
Then, with vision in our hearts,
Turn strong to meet the task."

In the name of Christ. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

EULOGIES TO THE LATE HONORABLE GLENARD P. LIPSCOMB, OF CALIFORNIA, AND JAMES B. UTT, OF CALIFORNIA

Mr. FRIEDEL. Mr. Speaker, I am calling to the attention of the House membership that the closing date for eulogies to the late Congressmen Glenard P. Lipscomb, of California, and James B. Utt, of California, has been set for Friday, June 19, 1970. This has been set as the cutoff date for all insertions that will make up the compendiums of eulogy to these two Members of Congress who, but for their untimely passing, would now be serving in the 91st Congress.

PLANS FOR FLAG DAY CELEBRATION

(Mr. BROOKS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. BROOKS. Mr. Speaker, as chairman of the Flag Day Committee, I have the honor to report that your committee met Monday and plans are going forward for the ceremony honoring our flag at noon next Monday, June 15.

With the able assistance of the members of your committee, we have made arrangements for the Naval Air Training Command Flag Pageant, band, and choir, to take part in the program. The pageant is most informative and inspirational and we feel it will be a worthy highlight to the ceremony. Invitations to join us, as our special honored guests, have been extended to the Joint Chiefs of Staff and the Commandant of the Coast Guard.

I urge my fellow Members to join with us next Monday in this tribute to our national emblem. This will be a particularly timely expression of our allegiance and an appropriate show of our national unity.

APPOINTMENT OF CONFEREES ON H.R. 12858, DISPOSITION OF FUNDS AWARDED TO TLINGIT AND HAIDA INDIANS, ALASKA

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12858) to provide for the disposition of certain funds awarded to the Tlingit and Haida Indians of Alaska by a judgment entered by the Court of Claims against the United States, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Colorado? The Chair hears none, and appoints the following conferees: Messrs. HALEY, EDMONDSON, TAYLOR, SAYLOR, and BERRY.

PROVIDING FUNDS FOR SELECT COMMITTEE CREATED BY HOUSE RESOLUTION 976

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–1173) on the resolution (H. Res. 1071) to provide funds for the select committee created by House Resolution 976, and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 1071

Resolved, That effective June 8, 1970, the expenses of conducting the studies and investigations authorized by H. Res. 976, Ninety-first Congress, incurred by the select committee to investigate current aspects of the United States involvement in Southeast Asia, not to exceed $50,000, including expenditures for the employment of clerks, experts, consultants, technicians, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House, on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 2. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

With the following committee amendment:

On page 1, line 5, strike out "$50,000," and substitute in lieu thereof "$30,000,".

The committee amendment was agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THOSE OF US IN THE MIDDLE

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, last night a bomb exploded at police headquarters in New York City. At least four persons were reported to have been injured. Fortunately, no one was killed. The aimless, senseless violence rocking and shocking our country must not be tolerated.

Those who say they are opposed to the inequities in our society and then seek to right them by the use of violence in fact wrong every one of us. Hurling epithets at policemen and firemen and degrading them by calling them pigs is part of the dehumanizing process that gives the bombthrower his criminal li-