By Mr. BUSH:

H. Res. 1103. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on Urban Affairs; to the Committee on Rules.

By Mr. CORMAN:

H. Res. 1104. Resolution urging withdrawal of Russian personnel from the Middle East; to the Committee on Foreign Affairs.

By Mr. DICKINSON:

H. Res. 1105. Resolution recognizing the 100th anniversary of the practice of Free Masonry by the city of Florala, Ala.; to the Committee on the Judiciary.

By Mrs. GREEN of Oregon:

H. Res. 1106. Resolution creating a select committee to conduct an investigation and study of the care of the aged in the United States and the effects of Federal laws and programs on the availability and quality of care; to the Committee on Rules.

By Mr. HANNA:

H. Res. 1107. Resolution extending deepest sympathy to the President and people of Peru in this dark hour of their suffering and distress, and for other purposes; to the Committee on Foreign Affairs.

By Mr. OLSEN (for himself, Mr. ADAMS, Mr. DADDARIO, Mr. LEGGETT, Mr. REUSS, Mr. LUKENS, Mr. OBEY, Mr. BROWN of California, Mr. POWELL, Mr. KOCH, Mr. UDALL, Mr. GONZALEZ, Mr. WILLIAM D. FORD, Mr. MOSS, Mr. HALPERN, Mr. RODINO, Mr. EDWARDS of California, Mr. FISH, Mr. REID of New York, Mr. MILLER of Ohio, Mr. PETTIS, Mr. RUPPE, Mr. HARRINGTON, Mr. SCHEUER, and Mr. ROYBAL):

H. Res. 1108. Resolution to declare the sense of the House of Representatives with respect to the Federal administration of Indian Affairs; to the Committee on Interior and Insular Affairs.

By Mr. OLSEN (for himself, Mrs. GREEN of Oregon, and Mr. HATHAWAY):

H. Res. 1109. Resolution to declare the sense of the House of Representatives with respect to the Federal administration of Indian affairs; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BURTON of California:

H.R. 18168. A bill for the relief of Leonora Bascos Basconcillo and her children, Abelardo Basconcillo, Jr., and Maria Lourdes Basconcillo; to the Committee on the Judiciary.

H.R. 18169. A bill for the relief of Giuliano Trettel; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 18170. A bill for the relief of Lewis Vandiver; to the Committee on the Judiciary.

By Mr. HALPERN:

H.R. 18171. A bill for the relief of Ruben N. Vitullo; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

409. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the issuance of a commemorative postage stamp in honor of Jedediah Smith, which was referred to the Committee on Post Office and Civil Service.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

514. By the SPEAKER: Petition of Chobyo Yara, Chief Executive, Government of the Ryukyu Islands, Naha, Okinawa, relative to the removal of poison gas weapons from Okinawa; to the Committe on Armed Services.

515. Also, petition of the Association of Chairmen of City, Town, and Village Assemblies in Okinawa, Naha, Okinawa, relative to the removal of poison gas weapons from Okinawa; to the Committee on Armed Services.

516. Also, petition of Henry Stoner, York, Pa., relative to stopping funds for the war in Indochina; to the Committee on Foreign Affairs.

SENATE—*Monday, June 22, 1970*

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

The Reverend James E. Rogers, national chaplain, Disabled American Veterans, Columbia, S.C., offered the following prayer:

O God, before whose face the seasons find birth, we gather in this immense temple of freedom to acknowledge the touch of Thy eternal presence.

We speak of infinite time and space; we weigh the sun and saddle its heat, show us the way through the mystic chords of the better angels of our nature, how to drink deep from the living water, for therein is our salvation.

Be this day with those who search for the goblet of peace to lift to the parched lips of a crying humanity. Through Thy holy spirit distill into the cup a wisdom that shall overflow into the cisterns of the heart.

We pray Thee for our beloved country, our President, and our leaders. Share with them the sparkling waters of the good, the truè, and the beautiful. And may their devotional love to Thee ever be a reflection of the soul of our country.

We pray through Him that commanded, "If any man thirst let him come unto me and drink." For He prescribes it and presides in it, Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, June 19, 1970, be dispensed with.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

WAIVER OF THE CALL OF THE CALENDAR

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

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

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

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. Is there any morning business?

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

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

The bill clerk proceeded to call the roll.

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

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

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

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

Thereupon, at 10:09 a.m., the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 10:17 a.m., when called to order by the Presiding Officer (Mr. CRANSTON).

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

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

BRUTALITY BY NATIONAL GUARD AT KENT

Mr. YOUNG of Ohio. Mr. President, a terrible and absolutely unnecessary and uncalled-for tragedy occurred on the

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campus of Kent State University located at the edge of the city of Kent in northern Ohio a few minutes after the noon hour on a beautiful sunshiny day, May 4, 1970, when Ohio National Guardsmen shot and killed four students, two girls and two boys, and wounded 10 others, one of whom is paralyzed from the waist down and at least five of whom are still hospitalized due to the serious wounds they received. I have spoken out in the past and today I am again adverting to this uncalled-for tragedy.

Mr. President, since that sad day I have made a thorough investigation and in doing so took the statements of a large number of eye witnesses. Some of these statements were obtained at Kent State University by staff assistants. They were out there immediately following the killing and wounding of these students and they remained on the campus talking with students until the time came that the president closed the university and ordered all students to vacate the dormitories.

A large number of these statements were obtained by me personally from Kent State students at my residence and at my Senate office. Other statements also came to me from students in response to letters from me requesting the facts.

Among the statements of witnesses a statement made by Joseph B. Cullum which was received by me only last Saturday sets forth in simple direct language his experiences and what he witnessed on May 3 and 4. I ask unanimous consent that the letter of this young man be inserted in the RECORD at this point.

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

CANTON, OHIO,
June 16, 1970.

HON. STEPHEN M. YOUNG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YOUNG: I apologize for not responding to your initial letter. I was very busy attempting to complete the academic quarter at K.S.U. I, of course did not consider this to be of primary importance, but I had already made a statement to the F.B.I. and I assumed that if necessary you would have access to this. I may have been wrong. A combination of this doubt and your second letter prompted me to attempt to reconstruct some of my experiences on May 3 and 4 for your purposes.

I shall begin with some of the events of Sunday evening, May 3. I believe that an understanding of these events will help clarify some things that took place on the following day, Monday.

Around dusk on May 3 I left my apartment off campus after a phone call from one of my roommates. He said that there was a gathering on the Commons. I arrived at the Commons at about 8 o'clock to see only a few onlookers present. In a few minutes a crowd of students arrived on the Commons. After asking a few questions I learned that these students intended to purposely break the curfew in order to demonstrate that the curfew was an unnecessary infringement on the students' rights. It was the intention of these students to march off campus and peacefully march downtown with the express purpose of not causing a disruption, but demonstrating that the curfew was unnecessary. The students, myself included began to leave the Commons and march down Main St. toward the business district. The students were midway between Lincoln and Willow Sts. on Main St. when a line of local policemen began coming toward us. We turned and walked back to the campus area and sat down on Main St. just west of the intersection of Main and Lincoln.

A seemingly spontaneously formed group of students attempted to talk to the policeman in charge. It was announced that if the students would move off the street and onto University property the mayor of Kent and President White would come and meet with the students to discuss the curfew and some of the more primary problems on campus, including the status of R.O.T.C., the Liquid Crystals Institute, and the demands of the Black United Students. Being naive in this game most of the students moved onto the campus proper to wait for the city and University officials to appear. When after about thirty minutes the officials didn't appear the students became skeptical. Some tear gas was shot into a crowd of students about 100 yards west of the intersection. Some of those gassed came down to where the police and national guard were standing and expressed doubt that we could bargain in good faith only 100 yards from where our colleagues were gassed.

At this time it appeared to me that control of the situation was passed from the local police to the National Guard. A National Guard officer announced that we had five minutes to disperse. Within 30 seconds a line of National Guardsmen with billy clubs advanced into the ranks of students, most of whom were already dispersing. I was walking quickly away from the area when a National Guardsman actually ran after me to get into striking range and hit me in the back with a club.

I relate this incident on Sunday night in order to demonstrate two points. The first being that the peaceful attempts of concerned students to achieve a dialog was flagrantly ignored and secondly that the mood of the Guardsmen was not that of a seasoned veteran of civil disorder, it was certainly not one conducive to effective crowd control.

I will now attempt to relate to you my experiences concerning the death of my colleagues on May 4.

I attended a class in Bowman Hall from 11:00 to 11:50 on Monday. After that class I went to the Commons to see what would happen at the noon rally if there was one. With approximately 300 other students I stood by the victory bell as it was being rung. A student who I did recognize as being on campus in the past, but whose name I don't know, stood on top of the wall and announced that what he intended to do was try to determine if the students present wanted to follow the students at Princeton and participate in a national student strike against the Cambodian invasion and the war policy in Indochina in general. Before he could call for a vote a military vehicle with what appeared to be military and local officials inside, drove close to the students and told them to disperse. This act was greeted with boos, catcalls, and a few rocks, one of which bounced and hit the jeep.

The jeep returned to the area of the R.O.T.C. building and a number of National Guardsmen advanced, shooting tear gas canisters as they came. Some students threw the tear gas back at the Guardsmen and some threw rocks.

I ran up the hill to Taylor Hall and then into Prentice Hall to attempt to wash the gas out of my eyes. After I left Prentice Hall I saw that the Guardsmen were pursuing the students into a fenced off area, which was the practice football field. I tried to get the students to move north as the gas was moving in the direction they were running, which was west and they would be trapped against the fence. The students did move north and when the Guardsmen were in the football field it appeared that they ran out of tear gas canisters as they stopped firing them at us.

Some students threw stones at this time. I myself, out of frustration made a ludicrous attempt with two stones from about 75 yards, hitting only the ground. I saw no glass or railroad spikes as has been alleged in some sources.

The Guardsmen began to walk back toward Taylor Hall. Many students followed them chanting and occasionally throwing stones. At the time the Guardsmen reached the crest of the hill they suddenly turned and began to fire. At first I thought that they must have been shooting blanks because I was very close (approximately 40 yards) and I wasn't hit while it seemed that the Guardsmen were directing the fire right in the direction of where I was standing. I stood for the first five seconds of the firing and then impulsively dove to the ground. I was still sure that they were shooting blanks. However when I stood up I saw, at a distance of about 20 yards, a boy who I later learned was John Cleary, lying beside the sculpture. I ran to him and pulled up his shirt. He had a bullet wound in his chest and was badly bleeding. I applied pressure to the wound and began to yell for someone to get an ambulance.

No National Guardsman attempted to help any of the wounded and the final barbarism occurred when about 30 seconds after the shooting I saw two gas canisters land some 50 feet below me. When in a short time the first ambulance came a student told the men with the stretcher to forget the student on the driveway as he was already dead. This is the first time things became real to me, and the first time that I noticed any other wounded students. I went to the Ravanna Hospital in the ambulance with two wounded students and one other student who helped hold the stretcher on the seat. It was not until hours later that I heard on the radio that the student who lay dead on the driveway was my friend, Jeff Miller.

I hope that this account can be of some help to him and all of those that die at the hands of a tyrant.

Thank you for all you're doing.

Sincerely,

JOSEPH B. CULLUM.

Mr. YOUNG of Ohio. Mr. President, I have requested that the letter be printed in the RECORD for the benefit of my colleagues who I am sure are greatly interested in having the facts. Over many years as a trial lawyer in Ohio and at one time, for a period of 3 years, as chief criminal prosecuting attorney of Cuyahoga County, I have dealt with facts, as do all trial lawyers, and I believe that the letter of this student is worthy of consideration by all of my colleagues.

PRINCETON'S PRESIDENT GOHEEN—PIONEER

Mr. YOUNG of Ohio. Mr. President, Dr. Goheen, president of Princeton University, is a pioneer. He observed that among the students a vast majority had expressed their revulsion and infuriation over President Nixon's invasion of Cambodia with 27,000 American soldiers, and without authority from Congress. This in addition to our tremendous airpower. Four of five students feared expansion of our involvement in Vietnam throughout all Indochina. They expressed fears that invasion of Laos and Cambodia would result in more drafting of youth and more deaths of American GIs. They feared confrontation with Red China.

The keen-minded, progressive president of Princeton announced that classes will be suspended for 2 weeks before the elections to give undergraduates the opportunity to work for the congressional candidates of their choice of the political parties of their choice.

President Goheen was careful to point out that this will not be "time off." Full academic schedules will be met by taking the time from summer vacation and from Thanksgiving and Christmas recesses. He states:

We see this as a positive response to grave national problems, a response which facilitates constructive efforts by individuals working within the democratic system, while neither commiting the University to any particular political position nor interfering with its prime educational responsibility.

Students are happy to acquire political experience. Warhawk congressional candidates will feel the impact from a dozen to a hundred or more undergraduate young men and women ringing doorbells in their districts and presenting with evidence and sincerity reasons and arguments why this particular candidate should be defeated.

This approach is spreading like prairie fire, sponsored by faculty members of colleges throughout the country. This may become the most meaningful program ever undertaken by college students.

Just an added suggestion. If young men give up some length of their hair and perhaps shave their beards and don clean clothes, they may have greater influence and impact. Without doubt, the young women undergraduates will make effective and persuasive campaigners.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. CRANSTON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON APPROVAL OF LOAN TO THE CENTRAL ELECTRIC POWER COOPERATIVE, INC., CAYCE, S.C.

A letter from the Administrator, Rural Electrification Administration, U.S. Department of Agriculture, transmitting, pursuant to law, a report on the approval of a loan to the Central Electric Power Cooperative, Inc., of Cayce, S.C., for the financing of certain transmission facilities (with an accompanying report); to the Committee on Appropriations.

REPORT ON INVESTIGATION OF BARBERS' CHAIRS AND PARTS THEREOF

A letter from the President of the United States, reporting, pursuant to law, on an investigation of barbers' chairs and parts thereof (with accompanying papers); to the Committee on Finance.

REPORT UNDER SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950

A letter from the Chairman, Subversive Activities Control Board, Washington, D.C., transmitting, pursuant to law, a report under the Subversive Activities Control Act of 1950, as amended (with an accompanying report); to the Committee on the Judiciary.

AUDIT REPORT OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW

A letter from the executive vice president and director of the American Society of International Law, transmitting pursuant to law, the annual audit report of the society covering the period April 1, 1969, through March 31, 1970 (with an accompanying report); to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. METCALF):

A joint resolution of the Legislature of the State of California; to the Committee on Armed Services:

"ASSEMBLY JOINT RESOLUTION NO. 36—RELATIVE TO FORT MACARTHUR

"Whereas, The Secretary of Defense has recently decided not to make cutbacks at Fort MacArthur in San Pedro as part of general cutbacks which will inactivate the only other Army installation in southern California, Fort Irwin; and

"Whereas, Fort MacArthur has adequate land for the service of military personnel in southern California and has the support of the San Pedro community; and

"Whereas, The designation of Fort MacArthur as a 'permanent' Army installation would permit the construction of certain new buildings for expanded operation in southern California and facilitate fundraising for a proposed military hospital; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memoralizes the President and the Congress of the United States to designate Fort MacArthur as a 'permanent' Army installation; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Post Office and Civil Service:

"ASSEMBLY JOINT RESOLUTION NO. 30—RELATIVE TO ISSUANCE OF COMMEMORATIVE STAMP

"Whereas, Jedediah Smith was the leader of the first American trapping expedition to cross overland into California in 1826, and the first to cross the Sierras from west to east in 1827; and

"Whereas, He was the first American to traverse California from San Diego to Oregon; and

"Whereas, His exploration pioneered routes that later became main arteries of travel to California; now therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to authorize the issuance of a commemorative postage stamp in honor of Jedediah Smith; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A concurrent resolution of the Legislature of the State of Louisiana; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION NO. 4—A CONCURRENT RESOLUTION

"Memorializing the Congress of the United States with respect to the calling of a convention for the purpose of proposing an amendment to the Constitution of the United States relative to the power of Congress and the states to enact laws to prohibit sedition and criminal anarchy.

"Whereas, subversive elements present a clear and present danger to the governments of the United States, the state of Louisiana and other states; and

"Whereas, cognizant of this clear and present danger, most states, including the state of Louisiana, and the Congress of the United States have enacted criminal anarchy statutes, sedition statutes and subversive activity control statutes; and

"Whereas, the decision of the United States Supreme Court in the case of *Commonwealth of Pennsylvania v. Steve Nelson* (350 U.S. 497) rendered state sedition and criminal anarchy laws virtually inoperable on the grounds that Congress has occupied this field of legislation to the exclusion of parallel state legislation and that the dominant interest of the federal government precludes state intervention in cases of sedition against the United States; and

"Whereas, the federal legislation in this field, namely the Subversive Activities Control Act, was considered by the United States Supreme Court in the 1967 case of *United States v. Eugene Frank Robel* (389 U.S. 258) and was held to be unconstitutional insofar as this Act was used to prohibit the employment in a defense facility of active members of Communist action organizations who have the specific intent of furthering the unlawful goals of such organizations; and

"Whereas, the aforementioned decisions of the United States Supreme Court and other decisions of this Court in the field of control of subversive activities have for all practical purposes prohibited Congress and the various state legislatures from enacting laws prohibiting these criminal and seditious activities; and

"Whereas, it is urgent and essential and to the best interest of the citizens of this and all other states that subversive activity be prohibited.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate concurring herein, that, in conformity with Article V of the Constitution of the United States, application is hereby made by the Legislature of Louisiana to the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States which shall read substantially as follows:

" 'Amendment ———

" 'The Congress may by law prohibit the advocating or teaching, in any manner, in public or private, of the subversion or destruction of the government of the United States by violence or other means. The Congress may by law prohibit the organizing or becoming a member of any organization or society which is known to the offender to advocate, teach or practice the subversion or destruction of the government of

the United States by violence or other means.

" 'Each state may by law, prohibit the advocating or teaching, in any manner, in public or private, of the subversion or destruction of the government of the United States or of such state by violence or other means. Each State may by law prohibit the organizing or becoming a member of any organization or society which is known to the offender to advocate, teach or practice the subversion or destruction of the government of the United States or of such state by violence or other means.'

"Be it further resolved that duly attested copies of this Concurrent Resolution shall be transmitted immediately by the Secretary of State of Louisiana to the President and Secretary of the Senate of the Congress of the United States, to the Speaker and Clerk of the House of Representatives of the Congress of the United States and to each member of the Congress from the State of Louisiana.

"JOHN S. GARRETT,
"Speaker of the House of Representatives.
"_____ _____,
"Lieutenant Governor and President of the Senate."

A concurrent resolution of the Legislature of the State of Louisiana; ordered to lie on the table:

"A CONCURRENT RESOLUTION TO RATIFY, FOR THE STATE OF LOUISIANA, AMENDMENT XIX TO THE CONSTITUTION OF THE UNITED STATES, PROVIDING THAT THE RIGHTS OF CITIZENS TO VOTE SHALL NOT BE DENIED OR ABRIDGED ON ACCOUNT OF SEX

"Whereas, the Congress of the United States, by a two-thirds vote of both houses, deemed it essential to the rights of women to amend the Constitution of the United States to provide that the rights of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex; and

"Whereas, the Constitution of the United States provides that amendments proposed by the Congress shall be valid when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths of the states; and

"Whereas, the above mentioned amendment of the Constitution of the United States was proposed to the legislatures of the several states by the Sixty-sixth Congress on the 5th day of June, 1919 and, by proclamation of the Secretary of State, dated the 26th day of August, 1920, the amendment was declared to have been ratified by three-fourths of the whole number of states in the United States and certified as valid to all intents and purposes as a part of the Constitution of the United States, and thereafter this amendment became Amendment XIX to the Constitution of the United States; and

"Whereas, the right of women to vote thus is universally recognized throughout the country and is so recognized in Louisiana; and

"Whereas, despite this fact the state of Louisiana, through its legislature, has not to this date taken action to ratify this important amendment to the United States Constitution, and it is important that our state be on record not only as recognizing and abiding by said amendment but as having taken formal action to ratify it.

"Be it further resolved that a copy of this Resolution shall be transmitted to the presiding officers of each of the Houses of the Congress of the United States and also to each of the members of the Louisiana Delegation in the Congress.

"JOHN S. GARRETT,
"Speaker of the House of Representatives.
"_____ _____,
"Lieutenant Governor and President the Senate."

CXVI——1303—Part 15

A resolution adopted by the Association of Chairmen of City, Town, and Village Assembles in Okinawa, requesting the immediate removal of all poison gas weapons from Okinawa; to the Committee on Armed Services.

A resolution adopted by the common council of the City of Madison, Wis., praying for the enactment of legislation to grant home rule to the District of Columbia; to the Committee on the District of Columbia.

A resolution adopted by the Province of Misamis Oriental Cagayan de Oro City, Republic of the Philippines, praying for the enactment of legislation to amend the Social Security Act to include all military forces of the Philippines who were in the service of the U.S. Army during World War II; to the Committee on Finance.

A resolution adopted by the common council of the City of Madison, Wis., praying for an end to the war, and to insure the safe and orderly return of our troops from Southeast Asia immediately; to the Committee on Foreign Relations.

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. CRANSTON:

S. 3993. A bill to establish the Channel Islands National Park, in the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. THURMOND:

S. 3994. A bill for the relief of 1st Sgt. Albert F. Thompson, U.S. Army (retired); to the Committee on the Judiciary.

By Mr. HARRIS:

S. 3995. A bill for the relief of certain air taxi mail transportation operators; to the Committee on Post Office and Civil Service.

By Mr. NELSON:

S. 3996. A bill to amend title 23 of the United States Code, relating to Federal-aid highways, in order to declare that upon completion of the National System of Interstate and Defense Highways amounts in the highway trust fund shall be made available for the development, construction, and improvement of transportation modes and facilities which supplement, complement, and provide alternatives to the highway and the automobile; to the Committee on Public Works, and when reported by that committee, to be referred to the Committee on Finance.

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

By Mr. ALLOTT:

S. 3997. A bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Confederated Bands of Ute Indians in Court of Claims case 47567, and a judgment in favor of the Ute Tribe of the Uintah and Ouray Reservation for and on behalf of the Uncompahgre Band of Ute Indians in Indian Claims Commission document numbered 349, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. JORDAN of North Carolina:

S. 3998. A bill to amend section 5342 of title 5, United States Code, to provide for the adjustment, consistent with the public interest, of the pay of certain vessel employees engaged in fire protection; to the Committee on Post Office and Civil Service.

By Mr. PROUTY:

S.J. Res. 216. Joint resolution to authorize the President to designate the period beginning September 20, 1970, and ending September 26, 1970, as "National Machine Tool Week"; to the Committee on the Judiciary.

(The remarks of Mr. PROUTY when he introduced the joint resolution appear later in the RECORD under the appropriate heading.)

S. 3993—INTRODUCTION OF A BILL TO CREATE THE CHANNEL ISLANDS NATIONAL PARK

Mr. CRANSTON. Mr. President, I introduce, for appropriate reference, a bill to create the Channel Islands National Park.

The channel islands off the coast of southern California are a unique marine resource of rolling hills and rocky cliffs. There are five islands: Anacapa, Santa Barbara, San Miguel, Santa Cruz, and Santa Rosa. The two smallest, Anacapa and Santa Barbara, were established as the Channel Islands National Monument several decades ago. The westernmost island, San Miguel, is also owned by the Federal Government and administered by the Navy Department. The two largest islands, Santa Rosa and Santa Cruz, are in private ownership.

Each island is unique. Together they are a fascinating panorama of historical, archeological, paleontological, zoological, botanical, geological, and, of course, ecological resources and variations which thus far have not been degraded or destroyed by our society.

If we act soon, we can preserve the channel islands. I believe they should be preserved. Neither the progress nor the betterment of California requires that we build subdivisions or erect oil derricks on Santa Rosa or Santa Cruz. Yet unless something is done, the tide of California's relentless residential and commercial expansion will inexorably roll over the two largest and privately owned islands. Furthermore, we cannot allow vandals to continue to harrass and depredate the island's wildlife, particularly the marine mammals like the sea elephants, sea lions, sea otters, and fur seals.

In an Interior Department report issued several years ago, the National Park Service described the channel islands as "one of the finest opportunities in America to preserve a combination of island seashore, and related marine values in a reservation suitable for park use." Unless we take this opportunity soon, it will be lost to us.

While I introduce this bill with the personal conviction that it should be adopted, I do understand the various questions concerning the feasibility of the park proposal which have been raised by others. The tricky currents and sudden fogs of the channel have led some people to question the park idea. I am also concerned about the absence of a thorough, up-to-date appraisal of Santa Rosa and Santa Cruz Islands. Therefore, I am exploring the possibilities of reviewing the previous Department feasibility study including an appraisal with onsite inspection of the two islands. I expect to make a further proposal on these questions at a later date.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

The bill (S. 3993) to establish the Channel Islands National Park, in the State of California, and for other purposes, introduced by Mr. CRANSTON, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 3993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to preserve for the benefit of the people certain property in the State of California possessing unique scenic, scientific, and other natural values, there is hereby established the Channel Islands National Park. The national park, subject to valid existing rights, shall comprise the islands of Anacapa, Santa Barbara, San Miguel, Santa Cruz, and Santa Rosa in the Channel Islands group, together with the lands, submerged lands, and waters within one nautical mile of the shoreline of such islands.

SEC. 2. Within the Channel Islands National Park the Secretary of the Interior is hereby authorized to procure lands and interests in lands, including submerged lands, by purchase, donation, purchase with donated funds, or otherwise. Lands and submerged lands owned by the State of California or any of its political subdivisions within the park may be acquired only with the consent of such owner. Notwithstanding any other provision of law, federally owned lands or waters lying within the park may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary, without transfer of funds, for administration as part of the park.

SEC. 3. Lands and submerged lands acquired by the Secretary of the Interior and those transferred to his administrative jurisdiction pursuant to section 2, together with the former Channel Islands National Monument, shall be preserved and administered by the Secretary of the Interior as the Channel Islands National Park in accordance with the provisions of the Act entitled "An act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4), as amended and supplemented, with special consideration for the conservation and protection of their existing marine fauna, bird life, and archeologic heritage.

SEC. 4. Any funds that may be available for the purposes of the Channel Islands National Monument shall hereafter be available to the Secretary for the purposes of the Channel Islands National Park.

SEC. 5. There are hereby authorized to be appropriated such funds as are necessary to accomplish the purposes of this Act.

S. 3996—INTRODUCTION OF A BILL RELATING TO TRANSPORTATION FOR PEOPLE

Mr. NELSON. Mr. President, I introduce a bill to amend title 23 of the United States Code, relating to Federal-aid highways, in order to declare that upon completion of the National System of Interstate and Defense Highways amounts in the highway trust fund shall be made available for the development, construction, and improvement of transportation modes and facilities which supplement, complement, and provide alternatives to the highway and the automobile.

The appropriate reference for this measure, the Parliamentarian informs me, will be to the Committee on Finance. Because of the overlapping interest and jurisdiction of the Committee on Public Works, I ask unanimous consent that the bill be referred to that committee for consideration prior to its referral to the Committee on Finance. It is, of course, contemplated that the bill will also be fully considered by the latter committee, which has the principal jurisdiction. The distinguished chairman of the Finance Committee (Mr. LONG) has authorized me to state that there is no objection to this procedure on the part of that committee.

The PRESIDING OFFICER (Mr. WILLIAMS of New Jersey). The bill will be received and referred to the Committee on Public Works, without objection, as requested by the Senator from Wisconsin, and when reported by that committee, the bill will be referred to the Committee on Finance.

The bill (S. 3996) to amend title 23 of the United States Code, relating to Federal-aid highways, in order to declare that upon completion of the National System of Interstate and Defense Highways amounts in the highway trust fund shall be made available for the development, construction, and improvement of transportation modes and facilities which supplement, complement and provide alternatives to the highway and the automobile, introduced by Mr. NELSON, was received, read twice by its title, and, by unanimous consent, referred to the Committee on Public Works.

UNBALANCED TRANSPORTATION SPENDING

Mr. NELSON. Mr. President, Federal spending for transportation in the years 1947 through 1970 will total about $77.7 billion. Of that amount, $58 billion—75 percent—has gone for highways and $33 billion—over 42 percent—for the Interstate System Airways aid—including subsidies for the supersonic transport development—has accounted for 13 percent, airports for 1.7 percent, and airline subsidies for 1.5 percent. Waterways have received 8 percent.

In sad contrast, Federal spending for urban mass transit has been only $795 million—1 percent of the total. In even sadder contrast, appropriations under the High Speed Ground Transportation Act have been only $76 million—one-tenth of 1 percent.

The symbol—and a cause—of this unbalance is the highway trust fund. Established in 1956, this inflexible fiscal creation prohibits the expenditure of certain taxes collected from highway users from being spent for anything except highways. By comparable reasoning, taxes collected from drinkers could be spent only for bonded warehouses. Or perhaps, income tax revenues could be spent only for the benefit of persons paying income taxes.

It is time that we break the stranglehold of highways on the highway trust fund revenues from gasoline and other road user taxes. It is possible that the best way to accomplish that end will be simply to let the trust fund expire on its presently scheduled date, September 30, 1972, or sometime not long thereafter. On the other hand, it may yet prove to be administratively preferable or politically more feasible to retain the fund indefinitely. The bill introduced today makes the latter assumption, but it would provide for important changes in the nature of the fund. The moneys now being spent for the Interstate System—currently at the rate of $4 billion a year—will be made available to build other forms of transportation when the presently authorized interstate mileage is completed.

PREDICTABLE FAILURES BY UNDERFUNDING

Mr. President, this country has too long been deprived of needed change and improvements by the kind of reasoning and budgeting which give certain programs inadequate funds and then declare them unsound or unwanted because they have failed, with the inadequate funds, to achieve their objectives.

It is often argued by the highway interests that urban and interurban rail systems have failed because the people preferred cars and roads. Yet who can say what the results might have been if improved rail passenger services had received public financial aid on the scale of aviation let alone highways.

With this year's $4 billion, Federal spending on the Interstate Highway System will reach $33 billion, more or less. For the fiscal years 1966 through 1970 inclusive, total appropriations under the High Speed Ground Transportation Act have totalled only $76 million, although $127 million was authorized. Even that relatively tiny sum has helped bring the boon of the Metroliner service to New York-Washington travelers. The same paltry appropriations have produced the northeast corridor transportation project studies and reports, which are dazzling in their promises and prospects for future transportation.

The Metroliner has shown that better rail service is wanted and will be used. Because of the improved service—and it is only a little improved over what was available before and far, far from what is possible—rail travel between Washington and New York in 1969 was up 46 percent over 1968, with more than half a million persons taking advantage of the faster trains. Travel by air aboard the "shuttle" rose less than 1 percent last year over 1968, compared with annual increases in prior years of up to 15 percent.

It is deplorable that high speed ground transportation in 5 years, has been funded at a level equal to less than half of the funding last year alone for work on two SST prototypes. It is deplorable that the funding of urban mass transit programs, in 6 years, has been less than one-fifth of the funding this year alone for the Interstate Highway System.

We must correct these distortions in our transportation values and priorities. It is proposed, in essence, that we build transportation for people during the next two decades on something that begins to approach the scale of our building of

transportation for automobiles in the last two. It will of course be argued that the people are satisfied with what they have been getting and want only more of the same: cars and roads, roads and cars. Those making that argument should interrogate the people late for work in rush-hour traffic jams, the people who cannot get to jobs at all for lack of a car, the people whose shrubs are dying and whose lungs are blackened by automotive air pollution.

Mr. President, the $4 billion a year we are now spending on the Interstates may well be below the funding that is needed to build an efficient mass transportation system for the Nation. Nevertheless it would be a significant step in the right direction.

I ask unanimous consent to have printed in the RECORD at this point a table comparing the Federal expenditures for various transportation modes in the years 1947 through 1970 inclusive.

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

U.S. GOVERNMENT SPENDING FOR DOMESTIC TRANSPORTATION, 1947–70

[Dollars in million]

	Amount	Percent
Airways [1]	$10,107	13.0
Airports [2]	1,367	1.7
Cash subsidies to domestic airlines [3]	1,132	1.5
Subtotal, aviation	12,606	16.2
Highways [4]	58,101	74.7
Waterways [5]	6,175	8.0
Urban mass transit [6]	795	1.0
High speed ground transportation [7]	76	.1
Total, 1947–70	77,753	100.0

[1] Obligations for establishment, administration, maintenance and operations of the Federal Airways System, including flight and medical standards programs, years 1947 to date. Does not include costs of military facilities and funds transferred to the Civil Aeronautics Administration, the amounts of which could not be ascertained. Obligations of the Federal Aviation Agency for accelerated research and development programs for improving the national system of aviation facilities, including administrative expenditures for the program, are included for years 1958 through 1970. Research and development expenditures for "civil supersonic aircraft development" during the years 1962 through 1970 are included.

[2] Federal expenditures for civil airports under the Federal Airport Act of 1946. Includes grant agreements for the years 1947–69 and appropriations for 1970, plus expenditures for administration and research. Expenditures for development of Washington National ($48,000,000) and Dulles International (ultimately $175,000,000) airports, revenue-producing Federal facilities, not included. Note: State and local governments expended an additional $7,531,000,000 for airports during the period 1947–70.

[3] Includes domestic trunk, local service, and helicopter airlines. Subsidy payments to domestic airlines as distinguished from compensation for carrying mail not available separately for years prior to 1951 and were estimated by applying the subsidy ratio (59 percent), as determined by Civil Aeronautics Board for entire 1939–50 period, to the total mail payments for each year from 1947 through 1950. Subsidy payments for years 1961 to date include Alaskan and Hawaiian operations.

[4] Total Federal expenditures for highways, including grants to the States. Note: State and local governments expended an additional $191,000,000,000 for streets, roads and highways (including maintenance) during the period 1947–70.

[5] Includes inland waterways, intracoastal waterways, Great Lakes and coastal harbors—obligations for construction, operation and maintenance of channels and harbors, locks and dams, alterations of bridges over navigable rivers, advanced engineering and design, and other minor costs related to navigation. Expenditures by the Corps of Engineers exclude the navigation portion of multiple-purpose projects. The figure shown does not include construction and operating expenditures for navigation on the Tennessee River as reported by the Tennessee Valley Authority ($357,000,000 through fiscal 1969) and the U.S. portion of construction costs for the St. Lawrence Seaway ($132,000,000 through fiscal year 1970). Thus far at least, toll revenues on the Seaway have failed by a wide margin to cover total annual costs as contemplated by law. Expenditures by Coast Guard and subsidies for merchant marine not included. Note: State and local governments expended an additional $5,814,000,000 on waterways during the period 1947–1970.

[6] Total appropriations, 1965–70, for the Urban Mass Transportation Act of 1964. Funds actually obligated were $10,000,000 less. Funds authorized were $70,000,000 more.

[7] Total appropriations, 1966–70, for the High Speed Ground Transportation Act (1965). Funds authorized were $127,400,000.

Source: Figures for airways, airports, airline subsidies, highways, and waterways, including footnotes 1 through 5, derived and adapted by Senator Nelson's staff from tables in Association of American Railroads, Government Expenditures for Highway, Waterway, and Air Facilities and Private Expenditures for Railroad Facilities (April 1970). Totals all include estimates for 1970. Data for highways checked by staff to original official sources cited in the AAR report. Figure for urban mass transit, and additional data in footnote 6, derived by staff from Senate Banking and Currency Committee, Report to Accompany S. 3154, S. Rept. 91–633, p. 2 (Dec. 22, 1969) and from the Urban Mass Transportation Act of 1964, sec. 4(b), as amended; 49 U.S.C. 1603 (b). Figure for High Speed Ground Transportation Act appropriations obtained from Office of High Speed Ground Transportation, U.S. Department of Transportation; figure for HSGT authorizations, in footnote 7, obtained from High Speed Ground Transportation Act, sec. 11, as amended; 49 U.S.C. 1641.

SENATE JOINT RESOLUTION 216—INTRODUCTION OF A JOINT RESOLUTION DESIGNATING "NATIONAL MACHINE TOOL WEEK"

Mr. PROUTY. Mr. President, today I introduce a joint resolution proclaiming September 20, 1970, to September 26, 1970, "National Machine Tool Week" and I ask unanimous consent that it be printed in the RECORD immediately following my remarks.

Mr. President, the machine tool industry represents the single most important reason for our Nation's standard of living.

Thanks to the machine tool industry other manufacturing industries efficiently turn out millions of automobiles, trucks, refrigerators, washing machines, typewriters, television sets, and a myriad of smaller and larger products which make our life more enjoyable.

No country can be a prosperous industrial nation without a strong machine tool industry. This still holds true for the United States or for any country that wishes to gain or retain a high standard of living. Through the use of modern machine tools, greater productivity of industrial and consumer goods can be attained. Higher productivity puts consumer goods within the buying power of more and more people—and enables manufacturers to pay better wages, giving employees more purchasing power.

Today, new machine tools, many of them electronically controlled, are revolutionizing manufacturing techniques. They make possible the production, at competitive prices, of hundreds of new products that did not exist 5 or 10 years ago.

Machine tools also continue to be essential to the success of our military and space programs. Thousands of vital parts in the Apollo spacecraft that took our astronauts safely to the moon and back were produced with amazing precision by advanced machine tools.

Vermont's machine tool industry builds about one-tenth of the Nation's metal-cutting machine tools. Through the use of Vermont-made machine tools in every industrial area, Vermont's machine-tool builders and their thousands of employees contribute to the health of the national and international economy.

Mr. President, I think that it is most fitting that the week of September 20 through September 26 be set aside as "National Machine Tool Week."

All of us in this country owe our affluence to many factors. But in any list of factors contributing to this Nation's affluence, the machine tool industry would be near the top of the list.

All of Vermont is proud for contributions its machine tool industry has made to the Nation and the world. Throughout the years names like Russell Jones, Silas Lamson, William Leroy Bryant, Ralph Flanders, Fred Lovejoy, Edwin Fellows, James Hartness, Frank Cone, to name a few, ring familiar whenever one traces the history of the Vermont machine tool industry. One of those, Mr. President, mentioned in the list of those who have made great contributions to the machine tool industry was our late colleague Ralph Flanders. I personally was proud to be elected to fill his seat in the Senate following his retirement of 1958. Prior to that time, and until his death last winter, I knew of Senator Flanders' dedication to the industry he had so helped to advance and grow.

I hope that all my colleagues will join with me in supporting this joint resolution which is so necessarily desired by the machine tool industry, and in many ways it is a small tribute to the late Ralph E. Flanders who served in this body with great distinction and wisdom as a Senator from Vermont.

The PRESIDING OFFICER (Mr. HOLLINGS). The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the RECORD.

The joint resolution (S.J. Res. 216) to authorize the President to designate the period beginning September 20, 1970, and ending September 26, 1970, as "National Machine Tool Week" introduced by Mr. PROUTY, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S.J. RES. 216

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That as a tribute to the importance of the national machine tool industry to the American economy, in recognition of its efforts on behalf of the Nation in peace and for our national defense and with the realization of the role it must play in the development of the sophisticated machinery and equipment necessary to eliminate and prevent pollution, the President is authorized and requested to issue a proclamation designating the period beginning September 20, 1970, and ending September 26, 1970, as "National Machine Tool Week", and calling upon the people of the United States and interested groups and organizations to observe such week with appropriate ceremonies and activities.

AMENDMENT OF THE DEFENSE PRODUCTION ACT OF 1950—AMENDMENTS

AMENDMENT NO. 712

Mr. PROXMIRE. Mr. President, the administration made a wise decision to cancel the Penn Central loan guarantee.

However, the proposed guarantee does point up a glaring weakness in the wording of the Defense Production Act which needs to be corrected by Congress. We cannot let this happen again.

The Defense Production Act was originally intended to help small defense contractors obtain credit in order to expand defense production. It was never intended to bail out large corporations from the consequences of their financial or managerial mistakes.

I was, therefore, distressed to learn that the Defense Department was planning to use the loan guarantee authority of the act to bail out the Penn Central Railroad. I wrote to Secretary Laird on June 13 asking for complete details on the transaction and a copy of the Department's determination that the guarantee was necessary to our national defense. Up to now, I have not received a shred of evidence from the Defense Department to justify the need for a loan guarantee. Moreover, repeated requests to obtain to copy of the Penn Central application for a loan guarantee have been denied.

The administration has acted rightly in yielding to congressional criticism on the proposed bailout of Penn Central. Nonetheless we need to make sure that this type of situation does not arise again. Barron's Weekly has warned that there are six other railroads who could probably make similar claims for Federal loan assistance.

The Justice Department has determined that the language of the Defense Production Act is broad enough to encompass a rescue type loan such as the one contemplated for the Penn Central Co. If this is the case, Congress needs to limit the authority so that it conforms to its original intent. It is too broad and too dangerous to be left in the hands of any President, Republican or Democrat, where it might be used for political or other purposes.

That is the reason I am submitting an amendment this morning intended to be proposed by me to the Defense Production Act, of which I am the author. That act does require cost accounting practices.

My amendment would prevent the loan guarantee authority of the Defense Production Act from being used primarily to prevent the financial insolvency or bankruptcy of any company unless the President certified that such insolvency or bankruptcy would have a substantially adverse effect upon the defense production. If he makes such a determination, he must send a copy of it together with a detailed justification thereof to the Congress at least 10 days prior to the use of the loan guarantee authority.

I believe this provision will confine the use of the act to legitimate defense purposes while not precluding its use in a genuine financial emergency, provided the President notified the Congress and provides it with adequate justification.

At a time when the President has called for restraint to fight inflation, we should not be risking $200 million of the taxpayer's money to bail out an ailing railroad.

It is my understanding that they contemplated over $600 million for the Penn Central Railroad as a guarantee and it might have gone up to $700 million before they were through.

The PRESIDING OFFICER (Mr. CRANSTON). The amendment will be received and printed and will lie on the table.

ANNUAL REPORT ON MILITARY EXPENDITURES AND THE ECONOMY

AMENDMENT NO. 713

Mr. GOODELL. Mr. President, I submit today on behalf of myself and the Senator from Wisconsin (Mr. PROXMIRE) an amendment intended to be proposed by us, jointly, to the defense production bill (S. 3302) which would require the President to transmit to Congress an annual report on military expenditures and the economy.

As members of the Senate Banking and Currency Committee, the Senator from Wisconsin and I have been seeking ways to minimize the harmful effects of this inflationary economy and to stem the continuing tide of inflation. Senator Proxmire is also the vice chairman of the Joint Economic Committee, the committee whose jurisdiction it is to receive, evaluate, and report on the President's annual economic report.

At the outset, it should be understood that the report on military expenditures and the economy is to be distinct from the annual economic report of the President inasmuch as it will focus specifically on the impact of national defense expenditures on the economy. This new and additional report is to fill the void left in the economic report. It is to provide Congress with the information it needs in order to have a meaningful role in forging new priorities and in making the transition from a wartime economy to a peacetime economy.

Mr. President, with the Employment Act of 1946, Congress and the President made a commitment to take measures necessary for a healthy economy. To this end, the legislation called for an annual economic report of the President to review the economic policy of the Federal Government and economic conditions affecting employment, production, and purchasing power. The legislation also created a Council of Economic Advisers to assist the President in preparing the economic report and a Joint Economic Committee in Congress to assist Congress in matters pertaining to the economic report.

At the time of the great debate in 1945, on the need for such an annual economic report, Congress did not insist on having in the report specific requirements, such as, economic projections or a causal analysis of economic conditions. It was felt then that there was too little experience with economic analysis and projections to incorporate such requirements in a basic statute.

Today, however, we see more clearly than 25 years ago what information is required and what economic data is available to assist in decisions for a sound, healthy, and equitable economy.

Mr. President, a major influence on the state of the economy is Federal Government spending. Galloping inflation, which began in 1966, continues to plague our economy. Over and over again, economists have warned that war spending without adequate economic countermeasures would lead to an overheated economy. In April of this year, Louis Lundborg, chairman of the board of Bank of America, in testimony before the Senate Foreign Relations Committee stated plainly:

> The war is a major contributor to inflation—our most crucial domestic economic problem.

If Congress is to do something realistically about inflation, a starting point is information on the costs—past, current, and projected—of the Vietnam war. Over the years, Congress has been hampered in obtaining accurate information on Vietnam war spending. Over and over again, Congress has been presented with underestimations of the cost of the war by successive administrations. In addition, there has been conflicting congressional testimony on war costs by witnesses within successive administrations. For example, Congress was told that for fiscal year 1969 the cost of the Southeast Asia conflict—the official budgetary designation for Vietnam war costs—was $17 billion, or $25 billion, or $30 billion, or $32 billion depending on which cost-accounting method was used. This year the administration has decided to withhold from Congress the current cost of the war.

The President said last week:

> We must deal with the problems of a nation in transition from a wartime economy to a peacetime economy.

Mr. President, how are we to deal with these problems when we are not told what the war is costing now or what it will cost over the next several years? We have been told, and expect, that there will be a peace dividend from cutbacks in Vietnam war spending. These savings are then to be available for nondefense spending, that is, for domestic priorities. How are we to know the size of the peace dividend when we are not told how much war spending has been reduced? How are we to guard against erosion of any peace dividend to increases in defense spending when we are not told what is envisioned for future spending on weapons and military assistance?

Regarding economic conversion from war to peace, how are we to help minimize the disruptive effects of needed cutbacks in wasteful defense spending on local employment and the economy of local communities when we are not told where, and when, and what job sectors will be affected?

Mr. President, a look at the $200 billion Federal budget for fiscal year 1971 shows over $73 billion requested for national defense expenditures. Of the controllable dollars in the Federal budget, those that can be readily adjusted and redirected, nearly 75 percent are earmarked for defense spending. The sheer size of the defense budget coupled with its effects on inflation and the economy of local communities warrant the singular attention of Congress.

Mr. President, today Members of Congress grope in a void of economic data while attempting to see a peace dividend, to make real strides in economic conversion, and to bring about a cooling off of the economy.

Mr. President, the report on military expenditures and the economy aims at filling this economic data void.

The purpose of the Goodell-Proxmire amendment requiring an annual report on military expenditures and the economy is to provide Congress with information over several fiscal years on the impact of national defense expenditures on wages, prices, employment, and the general state of the economy. Information is to include costs of the Vietnam war, the amount of the peace dividend, the costs of planned military assistance to Southeast Asian countries, and the level of overall weapons spending. In addition, the report is to contain programs and policies which the Federal Government proposes to institute to minimize the disruptive effects of reductions or increases in defense expenditures on local employment and the economy of local communities.

The information requested in the report is available to the administration. To date, however, specific information has been either withheld from Congress, such as the costs of the Vietnam war, or presented in peacemeal fashion. The lack of comprehensive data as well as interpretive analysis on the economic impact of defense expenditures can only continue to hamper Congress in performing its funding function wisely and in resolving questions of economic policy soundly.

The report on military expenditures and the economy can be a significant source of information which Congress needs for decisions on economic conversion and toward a sound economy.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

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

The amendment (No. 713) is as follows:

On page —, line —, insert the following:

"REPORT ON MILITARY EXPENDITURES AND THE ECONOMY

"SEC. (a) The President shall transmit annually to the Congress a report to be known as the Report on Military Expenditures and the Economy setting forth—

"(1) national defense expenditures projected over the next five fiscal years;

"(2) the impact of national defense expenditures projected for the next two fiscal years on wages, prices, employment, and the general state of the economy;

"(3) past and current expenditures and appropriations for the Southeast Asia conflict; the projected expenditures and appropriations for the next two fiscal years based on the foreseeable schedule of troop replacements and troop withdrawals; and the projected expenditures and appropriations for the next two fiscal years of military assistance to Southeast Asian countries; provided, the cost accounting method or methods used to calculate these expenditures and appropriations shall be identified;

"(4) an itemization of current and anticipated reductions or increases in national defense expenditures for the next two fiscal years; and

"(5) specific programs and policies which the Federal Government proposes to institute to minimize the disruptive effects of reductions or increases in national defense expenditures on local employment and the economy of local communities.

The first of such Reports shall be transmitted to the Congress not later than sixty days after the date of enactment of this Act; thereafter, such Reports shall be transmitted to the Congress not later than March 20 of each year.

"(b) The President may transmit from time to time to the Congress reports supplementary to the Report on Military Expenditures and the Economy, each of which shall include such supplementary or revised information as he may deem necessary.

"(c) The report on Military Expenditures and the Economy, and all supplementary reports transmitted under subsection (b) of this section shall, when transmitted to Congress, be referred to the Joint Economic Committee.

"(d) Upon receipt of the Report on Military Expenditures and the Economy, the Joint Economic Committee shall evaluate the Report and issue its own report to the Congress not later than June 30 of each year."

Mr. PROXMIRE. Mr. President, I commend the distinguished Senator from New York on his leadership and initiative in this matter. I think it is a most important amendment.

Mr. President, I am delighted to join with the Senator from New York (Mr. GOODELL) in submitting this amendment which requires the President to submit, before March 20 of each year, a report on military expenditures and the economy.

There are two very important points about this amendment, which I hope we can call up and pass when the Defense Production Act comes before the Senate shortly.

First of all, the information it asks for is fundamental, elementary, and necessary in any examination of where the economy is and where it may be going. It is difficult enough to make good judgments when we have all the facts. We do not now have them available to us in the Congress. We need them. We should have them.

Second, most of the information is available or can be supplied without placing great demands for time or resources on the Government machinery. In addition, that information which is not now available should be put together in an orderly way in any case.

We ask for the projection of national defense expenditures over the next 5 fiscal years. The Council of Economic Advisers now makes a 5-year projection for the economy as a whole. In making that projection they must of necessity project what national defense expenditures may be over the period. But that information is not now available to the Congress. We have asked them for it. They have it. We should get it.

We call for an analysis of the impact of national defense expenditures, projected over the next 2 fiscal years, on wages, prices, employment, and the general state of the economy. This request is vital. Defense spending plans are made that far in advance. We should know their economic consequences for the economy in order to plan for them.

Certainly, the business leaders in our country have a right to know what the Government is planning in the way of defense expenditures, because they can have a direct effect on our economy.

Our amendment calls for the past and current costs of the Southeast Asian conflict. That information has been given to us in the past. We need it now. The administration has it. This information cannot be withheld on grounds that it is vital to the enemy. If we tell them at what rate we are going to withdraw our troops, information as to the costs of the war can hardly be called classified information. We need this information. We should have it.

In addition to this general information, the amendment calls for the itemization of current and anticipated defense reductions or increases and the specific programs—the shelf of programs—which the Federal Government is to institute to minimize the disruptive effects of these reductions or increases on local employment and on the economy of local communities.

This information should be available now. Such plans and policies should be going into effect. But when I asked a Member of the Council of Economic Advisers only last week for their plans and programs to mitigate the hardships caused by the cutbacks in defense expenditures, he essentially replied that there were no specific plans for communities and areas available.

This request or requirement in our amendment is long overdue. Requiring it may make this administration or any administration think ahead and plan for the specific consequences of increases or decreases in defense expenditures.

We call for the first report 60 days after the act is passed. That means we should have a report by September 1, which is not yet too late for aid in our planning this year. Much of it should have been in the Economic Report last January. It was not. We need it. By calling for a specific report on the impact of defense expenditures, which makes up almost 75 percent of the controllable expenditures, we can plan in a way we have not been doing.

Mr. President, we had inadequate plans during the period of the rapid expansion of defense expenditures in the years 1965 to 1969. Much of our recent economic difficulties is due to the lack of information during that period.

Now defense expenditures are leveling off. We hope they will decline and decline significantly. We need plans for this period. We need to know both what the general effects on the economy may be and the policies and programs to meet them.

I am delighted to cosponsor this amendment. The information it calls for is long overdue.

SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENTS

AMENDMENT NO. 714

Mr. WILLIAMS of Delaware (for himself and Mr. RIBICOFF) submitted amend-

ments, intended to be proposed by them, jointly, to the bill (H.R. 17550) to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disablity insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes, which were referred to the Committee on Finance and ordered to be printed.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT—AMENDMENT

AMENDMENT NO. 715

Mr. DOLE (for himself, Mr. JAVITS, Mr. STEVENS, Mr. COOK, Mr. GOLDWATER, and Mr. MURPHY) proposed an amendment to the bill (H.R. 15628) to amend the Foreign Military Sales Act, which was ordered to be printed.

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

AMENDMENT NO. 716

Mr. GRIFFIN 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.

MINIMUM STANDARDS FOR CERTAIN GUARANTIES—AMENDMENTS

AMENDMENT NO. 717

Mr. COTTON. Mr. President, I submit amendments, intended to be proposed by me, to the bill (S. 3074) to provide minimum standards for guaranties covering consumer products which have electrical, mechanical, or thermal components, and for other purposes. I ask unanimous consent that the amendments be printed and lie on the table, to be offered at a later date. I do so since I am disturbed by the fact that the bill as reported has been expanded to undertake comprehensive Federal regulation of warranties and guaranties with respect to all consumer products.

As clearly indicated in the report accomanying the bill, the problems which suggest the desirability of Federal warranty and guaranty regulations are confined to warranties and guaranties relating to major household appliances and automobiles.

The principal task force reports upon which this legislation is bottomed are limited to problems associated with automobile and major household appliance warranties. The target area of this bill, as originally introduced, was limited to regulation of the warranty practices of the automobile and the household appliance industries. Hearings were similarly limited.

Nonetheless, our Committee on Commerce chose to report a bill regulating warranties and guaranties offered in connection with all consumer products. The broad reach of the bill is subject only to the parenthetical limitation of certain of its provisions to a consumer product—actually costing more than $5. Clearly such a limitation cannot rationally be said to limit the scope of the bill to household appliance and automobile warranties. Moreover, the incorporation of such a limitation in the bill denies to the purchasers of small household appliances the protection to which I believe they are entitled.

Mr. President, the hearing record on this legislation contains no indication that there are problems with respect to so-called soft goods warranties comparable to those associated with automobiles and appliance warranties, and I am aware of none. Moreover, suppliers of soft goods have not been afforded the courtesy of a hearing inasmuch as they were first brought within the purview of the legislation after the close of hearings on the original bill.

Accordingly, I believe this bill should be restricted to its original scope. The amendment which I plan to offer is designed to accomplish that purpose by defining a consumer product in terms of a product which contains electrical, mechanical, or thermal components. This definition and the succeeding ones have been taken verbatim from the bill as originally introduced with the exception of the proposed new section 2(5), which has been expanded to include definition of the term "malfunctioning" and section 2(6), which has been added to comport with the scheme of the bill as reported.

At the same time I believe the reach of the bill with respect to those items which it was originally intended to cover should be expanded to cover all such items regardless of purchase price. For this reason I have included within my amendment provisions to strike the $5 purchase price limitation wherever it occurs.

In conclusion, Mr. President, it is improper in my judgment to legislate regulation of business in the absence of a demonstrated need for regulation. It would be even more improper in my judgment to do so without affording the businesses to be regulated an opportunity to be heard with respect to the proposed legislation. Clearly no need has been demonstrated for so broad a bill as is presently before this body. Accordingly, it is my conviction that the scope of this bill should be confined to the consumer products which it was originally intended to cover and its provisions expanded to include all such consumer products regardless of purchase price.

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

OFFICE OF EDUCATION APPROPRIATION BILL, 1971—AMENDMENT

AMENDMENT NO. 718

Mr. CASE (for himself and Mr. GOODELL) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 16916) making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes, which was ordered to lie on the table and to be printed.

NOTICE OF HEARINGS ON HOUSING AND URBAN DEVELOPMENT LEGISLATION

Mr. SPARKMAN. Mr. President, I should like to announce that the Subcommittee on Housing and Urban Affairs of the Senate Banking and Currency Committee will begin hearings on 1970 housing and urban development legislation on July 13, 1970. The specific dates are as follows: July 13, 14, and 15; July 20 through 24; and July 27 and 28. The hearings will begin at 10 a.m. each day and will be held in room 5302, New Senat Office Building.

At the hearings, the subcommittee will hear testimony on the following proposed legislation:

S. 3639—The Housing and Urban Development Act of 1970.

S. 3640—Urban Growth and New Community Development Act of 1970.

S. 2855—A bill to permit sale of rural housing sites to or for the benefit of qualified lower income families in addition to particpants in self-help housing programs.

S. 2901—Major Disaster Insurance Act of 1969.

S. 3025—Urban Land Improvement and Housing Assistance Act of 1969.

S. 3239—A bill to include FHA section 236 mortgages in those which the Government National Mortgage Association can purchase.

S. 3330—A bill to authorize farm housing loans to lessees of nonfarm rural land.

S. 3504—A bill to increase the maximum mortgage amount insurable under section 242 of the National Housing Act (Mortgage Insurance for Nonprofit Hospitals).

S. 3624—A bill to extend the farm housing program to include the use of mobile homes.

S. 3755—A bill to authorize rural housing loans to lessees of nonfarm rural land.

S. 3775—A bill to authorize the VA to make direct loans to veterans determined eligible for assistance in acquiring specially adapted housing.

S. 3786—A bill to authorize grants under title VII of the Housing and Urban Development Act of 1965 to communities and urban areas for street lighting facilities to aid in the prevention or reduction of crime.

S. 3824—A bill to amend title VII of the Housing and Urban Development Act of 1965 to assist in water and sewer needs.

S. 3938—Emergency Community Facilities Act of 1970.

S. 3941—Lead Paint Poisoning Penalties Act.

Testimony will also be heard on all other bills introduced up to and during the hearings.

Persons wishing to testify should contact Miss Dorrie Thomas, room 5228, New Senate Office Building; 225–6348.

Written statements, in lieu of personal appearances, are welcomed and may be submitted to the Housing and Urban Affairs Subcommittee, room 5226, New Senate Office Building.

NOTICE OF HEARINGS ON WATER POLLUTION IN THE NATIONAL CAPITAL REGION

Mr. McGOVERN. Mr. President, on behalf of the senior Senator from Maryland (Mr. TYDINGS), I ask to have printed at this point in the RECORD a statement by him relative to the scheduling of public hearings on water pollution in the National Capital region.

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

STATEMENT OF SENATOR TYDINGS

Mr. President, as Chairman of the Senate District Committee I wish to announce that on Thursday, June 25 the Committee will reconvene public hearings on the problems of water pollution in the National Capital Region. These hearings are the result of questions raised at the Committee's hearings on March 25, 26, and April 8. At those hearings certain governmental witnesses were invited back in three months time to discuss the technical and financial aspects of enlarging the Blue Plains treatment facility as well as the best way to incorporate accurate population projections in water resources planning. In the meantime key decisions have been made by the Department of Interior, decisions that greatly affect pollution control in the Washington portion of the Potomac.

The witnesses requested to reappear are the U.S. Department of Interior, the District Government, the State of Maryland, the Washington Suburban Sanitary Commission, and the Maryland National Capital Park and Planning Commission. The hearings will start at 10:00 a.m. in Room 6226 of the New Senate Office Building. Anyone seeking additional information should get in touch with Mr. Terence Finn at 225-4524.

Written statements, from other witnesses, in lieu of personal appearance, are welcomed and should be submitted to the Staff Director, Room 6218, New Senate Office Building, Washington, D.C. 20510, for inclusion in the written record of the hearing.

AMERICAN PRISONERS OF WAR

Mr. HANSEN. Mr. President, over 1,400 American men are still held prisoner by the North Vietnamese Government under conditions that violate every safeguard of the Geneva Convention. Someone—Albert Schweitzer, I believe—said humanitarianism consists in never sacrificing a human being to a purpose. God help North Vietnam to see humanity not subservient to ideology, but as master to life itself.

A SALUTE TO THE SUMMER INTERNS

Mr. HANSEN. Mr. President, we are about to enter upon a new season of the year here in Washington, D.C. The season of the spring rains and the spring flowers has gone. We have just passed the summer solstice, the longest day of the year was yesterday, and from now on the days will become progressively shorter in length until once again we enter fall and the seasons continue their perpetual and welcome change. The leaves are now on all of the trees, the summer gardens are beginning to bloom, and the daily weather forecasts on the radio predict temperatures in the high 80's and 90's with thunderstorms, high humidity, and much need for air conditioning.

Most of our high schools and colleges have concluded their commencement ceremonies, and for the next 3 months there will be a sudden increase in the available labor force in this country.

In short, it looks like a long hot summer.

But perhaps I had better expand a little upon the term "long hot summer," for recent events may appear to cast these words into a new meaning as regards some of the young men and women now released from their campuses.

Such would hardly be a fair statement of what we expect from our young people. Involved they may be—probably more involved than ever before in the history of our country—but this, by and large, is a good thing, not a bad thing. We want them to be involved. We want them to understand our governmental processes and take part in the sometimes difficult solution to the many dilemmas, so much the same and yet so very different from ever before, which beset our country at this particular point in what we all hope is but part of the continuum of a long and beneficial history.

We have as a matter of fact an example of the very best of this sort of involvement right here with us in the Senate now. I refer to the Senate intern program, which came into being some years ago at the behest of young men and women desiring to come to Washington to learn about Capitol Hill, and which has now become established as a sort of unofficial beginning point for many aspiring young politicians and statesmen. Hundreds of young people have benefitted from their experiences as interns in the Senate every year. For a significant number of these young people, internship has opened the door to distinguished careers in Government service. I know I speak for everyone in this body in stating that we hope at least some of these interns who are beginning their summer careers in the Senate Office Building at this time will one day be numbered among our future colleagues in this U.S. Senate.

Indeed, as they communicate with each other and with the offices and staff employees with whom they are working, these young people will find that the Senate is a heterogeneous place. Authority and responsibility are dispersed and in some cases rather subtly exercised. For example, each Senator for most purposes heads almost an autonomous operation, holding responsibility only to his constituents and his own conscience. But we politicians have found there must also be a party organization for efficient coordination of effort, and overlaying this a Senate organization for the proper conduct of affairs.

But interns will find that different Senators, members of the same party, will nevertheless take different approaches to public issues. I would hope they will take the trouble to try to understand some of the underlying reasons, either regional or emotional or historical, which impel these differences. Another thing they will discover is that Members of the Senate and their employees find it absolutely indispensable at all times to employ courtesy in their dealings with each other. Particularly, I would point out, this has become traditionally the case when, because of deep fundamental feelings, Senators are forced to disagree. Hopefully our young people will recognize that civility is not a sign of weakness, nor an indication of a lack of concern. Civility during disagreement is a sign of maturity, of respect for one's fellow man, particularly of respect for equally strong beliefs and opinions held by the party with whom the debate or the disagreement is at that time being held. There is, after all, far more honor and satisfaction attached to an intellectual victory over an adversary one respects—and who respects you—than over one with whom there is no mutual esteem.

The history of this body is replete with instances of deeply held convictions strongly supported, passionately advocated, but nevertheless all done under the basic understanding that intransigent behavior of even the mildest sort is in the fact inimical to the fundamental purpose of perceptively setting forth and soundly defending one's own ideas.

As we on this side of the aisle welcome the interns who will for the space of 2 months or more be our junior staffers and, in a sense, junior partners, I know I can speak for all Senators in extending to them our best wishes for a pleasant and productive summer. Though it may be hot outside, let it be cool inside. May our interns carry forth their obligations with sincerity and respect for each other, argue their convictions with deep feeling among their associates and even to their superiors, but above all keep uppermost in their minds their main purpose here in the Senate, in this Capital of the United States of America, and indeed in this stage of their lives. They are here to increase their experience, broaden their understanding, and better fit themselves for the 50 years or so of productive living which lie ahead. They are the envy of their fellows throughout the length and breadth of this land. May they make the most of the opportunities—and the duties—which lie before them.

Mr. MANSFIELD. Mr. President, first I commend the distinguished Senator from Wyoming for what he has just said concerning the question of civility. Civility all too often today is being looked upon as an old-fashioned virtue which has now become passe. Perhaps a restoration of some of the old-fashioned virtues like civility, responsibility, and the understanding of the other man's point of view would stand this country in good stead at this particular time.

May I say also that I appreciated what the Senator said with respect to how we operate in this body. Of course we have differences; that is why we have two parties. That is why we live in a democracy. But we can understand and appreciate what the man says who happens to oppose a particular view we are urging. Who knows; his position may be right, and those on the opposite side may be wrong. But in this Chamber, there is no need to assume a position which is "nonnegotiable" in the way of demands or anything else. I would hope that this civility which does mark the decorum, the dignity, and the well-being of this body would continue to be observed by all Members regardless of party and regardless of viewpoint.

I am sometimes disturbed by allegations lodged against Members of this body; and may I say that I would come to the defense of a Republican Senator, if his patriotism were impugned, if his integrity were questioned, or if his veracity were under fire, just as I would in the case of a Democrat. In short, we operate in the open. We have our differences, but at least we have an understanding of one another. Once the struggles are over, we

are not sworn enemies, but friendly antagonists who have waged as good a fight as possible. We may have won or we may have lost, but whatever the result, we accept it; and that is the way this body operates.

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

Mr. MANSFIELD. Yes, indeed.

Mr. HANSEN. Mr. President, I deeply appreciate the very kind words that the distinguished majority leader has uttered. I can think of no one in this body who better typifies and emulates the sincerity of the message he has just given us than does the majority leader himself. It has been my pleasure to work with him for almost 4 years, but I can say that as quickly as I came here, I was assured by members of my party who had worked with the distinguished senior Senator from Montana that once MIKE MANSFIELD gave you his word, or said that something would be some way, you could depend that it would be exactly that way.

So I commend him for having typified and continually demonstrated the kind of behavior, the sort of respect and courtesy, that makes it possible for people who may hold strong differences of opinion to disagree and yet not be disagreeable. He is typical of the mortar that holds this body together; and it is certainly, I am sure, evident to all of us, as we reflect upon the type of person he is and the type of leader he is, what a great contribution he has made to this body.

Last week I read and was delighted with, as were all of his colleagues, the very pertinent character study of the senior Senator from Montana, the majority leader, published in one of the local newspapers. As the article pointed out, he is first to discount the contribution he is making toward history, and yet those of us who know him must agree with the person who wrote the article that MIKE MANSFIELD has indeed cast a very long shadow. It is one which, long past the time when he will no longer be here, will continue to be in evidence, because of the type of leadership he has given, because of the courtesy he demonstrates at all times, and because of the honesty which exemplifies the sort of man he is.

Mr. MANSFIELD. Mr. President, I deeply appreciate the remarks of the distinguished Senator from Wyoming. What he has said about me has been overemphasized. Surely if his remarks apply to me then they apply to all Members of this body on both sides of the aisle. We are all here representing our States to the best of our ability. We do the best we can under sometimes arduous, and increasingly arduous, circumstances.

I am deeply indebted for the kind words just uttered by the distinguished Senator.

Mr. President, I ask unanimous consent that I may proceed for about 6 or 7 minutes.

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

THE COOPER-CHURCH AMENDMENT

Mr. MANSFIELD. Mr. President, on Saturday last, I issued to the press a statement which I said I was going to deliver on the floor of the Senate on Monday, June 22, 1970, which is today.

The issue which confronts the Senate is not one to be resolved by lawyers' arguments. What we face is the question of the war in Indochina. Cooper-Church is an attempt to make a congressional contribution to curbing the U.S. involvement in that war. No additives will alter that intent.

The prolonged debate has had its uses. It would be my hope, however, that the Senate will not spend the next several weeks in trying to determine how many angels can stand on the head of a pin. The Senate ought not to waste daylight hours in pursuing constitutional apparitions in this legislation. Indeed, if there were any such ghosts, they should have long since been driven away by the Mansfield amendment which was adopted unanimously several days ago. At that time, the Senate made clear that Cooper-Church did not in any way impugn the constitutional powers of the President.

The proposed Byrd-Griffin amendment now seeks to specify this disavowal with reference to one of the constitutional powers of the President, that of Commander in Chief of the Armed Forces. I do not know that it hurts to make this specification, but I do not know that it adds very much. It may, of course, serve to reassure, if reassurance is necessary, that the Senate meant what it said when it asserted that Cooper-Church does not impugn the constitutional powers of the Presidency.

It would be possible, I suppose, to go on in that fashion and specify all of the President's constitutional powers. We could say, for example, that not only are the President's powers as Commander in Chief not impugned by Cooper-Church but neither are his powers to make treaties, to grant pardons, or to nominate ambassadors and other officers of the Government.

We could do so although the necessity for any such reference is obviously debatable. Indeed, how could the President's constitutional powers be superceded by any act of Congress? How can any act of Congress supersede the Constitution?

The separate powers of each branch stand as a constitutional barricade against the arbitrary, unilateral acts of the other—the constitutional powers of the Presidency against Congress and the constitutional powers of Congress against the Presidency. No act of Congress can change or alter that constitutional bedrock.

Cooper-Church is not concerned with the constitutional powers of the Presidency. Cooper-Church is an assertion of the constitutional responsibility of the Senate and Congress with regard to the war in Indochina and its evolving course. Cooper-Church seeks to reinforce the President's own expressed desire to avoid the spread of the Vietnamese war or a prolongation or repetition of the Cambodian adventure.

Cooper-Church does not and, I reinterate, cannot intrude on the constitutional powers of the President, as Commander in Chief, to direct U.S. forces wherever they are situated. Before Cooper-Church was even suggested, American forces had air bombed Cambodian border areas under that Presidential authority. Under the same authority, commanders of U.S. forces along the Vietnamese border had been given permission to cross the Cambodian border in hot pursuit and for similiar purposes of self-protection. These orders were followed under the previous administration as well as under the present administration.

I have questioned policies which have placed American forces in such an exposed position in Vietnam as to necessitate U.S. bombing or hot pursuit across an international border in order to try to protect them. However, I have not, nor has the Senate, questioned the President's constitutional authority as Commander in Chief, to give those orders.

By contrast, there are grave doubts as to the constitutional authority of the executive branch, unilaterally, to establish a course of action which produces a prolonged, vague, and indefinite military commitment—direct or indirect—in any other country without the concurrence of Congress. That is what the Senate, in effect, has already declared by overwhelming vote in the national commitments resolution. That is what Cooper-Church makes clear with regard to Cambodia. The Mansfield amendment, which has already been adopted, does not negate that purpose. The Byrd-Griffin amendment to the Mansfield amendment would not affect that fundamental assertion; nor, in my judgment, should any amendment be permitted to nullify that intent.

Cooper-Church interposes no bars to the protection of American forces as they are being withdrawn from Cambodia and Vietnam or anywhere else. It does and is intended to interpose the most serious inhibition on Executive actions which would lead this Nation without the consultation and sanction of Congress into another Vietnam in Cambodia—into another major military involvement, direct or indirect, at once or step-by-step—with additional losses of U.S. life and additional drains on our resources.

Mr. President, I ask unanimous consent that certain paragraphs of a speech given by the distinguished Senator from West Virginia (Mr. BYRD), the chief author of the amendment which will be the pending business at the conclusion of the morning hour, and with which I am substantially in agreement, contained in the RECORD of June 18, 1970, be printed in the RECORD. I am in general accord with these paragraphs, which the chief author of this amendment has stated to mean what he is endeavoring to do, because it indicates to me that there is no conflict and what we have with the Byrd-Griffin amendment will be not only the symbol but also the substance of what we are all trying to do—that is, to try once again to reassert the powers of the Senate and of Congress, without in any way impinging or impugning the constitutional responsibilities of the President of the United States either in that capacity or in his specific capacity as Commander in Chief.

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

STATEMENT OF SENATOR BYRD OF WEST VIRGINIA

Mr. BYRD of West Virginia. Mr. President, I share, with the able Senator from Kentucky, the belief that the President should not be given advance approval to enter into any new commitment or to enter into any new war. I would not want any statement I made to be interpreted to mean that the verbiage of the amendment before the Senate would extend such advance approval with respect to a new commitment or a new war.

I have tried to make clear my position to the effect that the President certainly should come to Congress and consult with Congress and get the consent of Congress before entering into any new war, any new commitment, or any involvement in support of or against the Government of Cambodia or the Government of Laos, et cetera.

I want the record to show that I also believe, as does the Senator from Kentucky, that except for those emergency situations which can arise and do arise in time of war—both de jure and de facto wars, if we want to use those terms—the President normally would have time to consult with Congress. I think he should do so. I think we agree that there can be, however, emergency situations wherein the President might have to take action very, very quickly, wherein there might be the element of time and/or the element of surprise, which might have a bearing upon the success of whatever tactical operation might be involved, and when the President might not be able to immediately consult with congressional leaders.

Parenthetically, I do not think that was the case in the instance of April 30. I think that some congressional leaders at least could have been consulted. But that is behind us now.

I do have a feeling that this debate is going to imprint this point so indelibly upon the minds of this President and future Presidents, as they will read the history of it, that every effort will be timely made to properly consult with the leaders of Congress before any action is taken, except in the most dire and impending urgency.

ADDITIONAL STATEMENTS OF SENATORS

AIR TRAFFIC CONTROLLERS' DISPUTE

Mr. MANSFIELD. Mr. President, It is a matter of national concern to me that the dispute between the air traffic controllers and the Federal Aviation Administration has still not been satisfactorily resolved. Beyond that, it is of particular concern to me, inasmuch as I have just learned that two employees of the Great Falls, Mont., Traffic Control Center were, on June 16, dismissed from their positions.

Without passing on the merits or justification for each of these dismissals, or whether this action was in retaliation for the union activities of these men, may I note that there seems to have been no sustained effort to solve this dispute, except through the medium of the courts. Regardless of the rights and wrongs, on both sides, and regardless of the merits of the individual cases, it seems to me that it would be in the interests, not only of the Government and the air traffic controllers, but of the public at large, to begin, now, to take appropriate steps to resolve this problem through an expression of good will and sincere bargaining efforts, on both sides.

At present, 16,000 air traffic controllers guide up to 12,800 planes at a time over the skies of the United States. The forecast is that in 1980 this operation will involve over 22,000 planes and in 1995, 54,000.

The Air Traffic Control Advisory Commission—the "Alexander Panel"—predicts 10 midair collisions in 1980, unless preventive steps are taken, both in the way of equipment and procedures. The President's Science Advisory Council, the "Garwin Council," has also been involved in this matter, in an effort to reconcile the problems.

Congress, in passing the Airport and Airways Development Act (S. 3108), has taken an important step toward meeting the challenge that increased air traffic presents. In the meantime, however, the Government must function with the facilities and personnel presently on hand.

In addition, in August of 1969, Secretary Volpe took the commendable step of appointing the Air Traffic Controller Career Committee, to inquire into questions concerning the air traffic controller career. Although the Committee published its report in January, to my knowledge thus far little has been done to implement the Committee's recommendations. The recent breakdown in employee-management relations between the Government and the air traffic controllers suggests that little progress is being made on this vital matter.

Although the report covers management failures in this area, it did not absolve the controllers of responsibility due to the role played by the Professional Air Traffic Controllers Organization—PATCO—in bringing about the present state of affairs. The grievances of the controllers are, however, not imagined, as illustrated by Federal District Judges Hart, of the District of Columbia, and Judd, of New York, both of whom touched on the fact that the controllers were, in effect, provoked into the "sick-out" action of the early spring.

Although, in the 17 jurisdictions where this matter has been taken before the Federal courts, disciplinary proceedings against controllers have been temporarily stopped, in other areas where the power of the courts has not been invoked, a pattern of suspensions or dismissals has been the fact. In many cases it would seem that the FAA has removed controllers whom it considers instigated the unrest, including some PATCO officers, and either reassigned these men to work not appropriate to their skills, or suspended or dismissed them. The latter, as I have already pointed out, is the situation with reference to the former employees in Great Falls.

As will be recalled, on January 17, 1962, President Kennedy issued Executive Order No. 10988, recognizing the right of Federal employees to form and join labor unions. On October 29, 1969, President Nixon issued Executive Order No. 11491, superseding Executive Order No. 10988, which continued this recognition of Federal employees' rights.

The order issued by President Nixon also established a Federal Service Impasses Panel and required the establishment of a Federal Labor Relations Service, to assist in mediating employee-managenment disputes. None of this new machinery, however, appears to have been used, during either the recent walkouts of postal employees or air controllers. There was no evidence that the new Federal Labor Relations Service was utilized for local negotiations or talks during these disputes, and Paul Barry, regional director of the service in Chicago, was quoted as saying that his office did nothing about these difficulties because he had no machinery for handling the problems at that level.

As already indicated, the air traffic controllers' dispute was handled through the courts, by the Justice Department filing suits to halt the work stoppage,

In addition to the above bodies, Executive Order No. 11491 established a Federal Labor Relations Council, to, among other things, oversee programs and decide major policies. Thus, under the Executive order, there are now available to the administration in the area of mediating employee-management disputes, a new council, a new panel and a new service; however, at least so far as I know, nothing is yet underway, except through the courts, to resolve the dispute with the air traffic controllers.

I wish to express the hope, and I have done so in a letter to Secretary Volpe, that steps will be taken as soon as possible by the administration to resolve this situation, in the spirit of amity and good will.

I do not believe that proceeding through the courts is going to add to the cooperation or good will, on either side, and I hope the administration will fully and quickly utilize any and all Government organizations, including those new ones created by Executive Order No. 11491, to settle the air traffic dispute, so that working relationships in that important employment area may return to normalcy.

I ask unanimous consent that certain materials be printed in the RECORD.

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

GREAT FALLS, MONT.,
May 22, 1970.

Mr. E. G. FAIRBANK,
Acting Chief, Great Falls ARTCC,
Malmstrom AFB, Mont.

DEAR MR. FAIRBANK: This letter is being written to answer the charges which you advise have been brought against me as set forth in your letter of May 8, 1970. I formally deny each and every one of the charges and specifications set forth in your letter and by way of an affirmative answer and defense to the charges allege that the charges, specifications and each of them have been filed against me because of the position I hold as an officer of PATCO and thus amount to political discrimination.

The facts and details upon which my denial of each of the specific charges and specifications are as follows:

Charge No. 1. Unauthorized absence.

Answer. All absences from work were necessitated by illness and approved in accordance with the designated and established procedure for sick leave as specified by the FAA and as administered by the Great Falls ARTCC.

Specification No. 1. Beginning at 1600, 27 March 1970, you failed to report for your scheduled tour of duty at the Great Falls ARTCC. Your absence continued to 31 March

1970 for a total of five work days. This absence was not approved by proper authority.

Answer. At all times specified by absence from duty was due to illness and in accordance with the established and authorized procedure for sick leave. I requested sick leave for each of the days in question and this sick leave was approved. Prior to the commencement of my scheduled tour of duty on 27 March 1970, I telephoned Jack Hopkins, Watch Supervisor, and advised him that I was ill and wanted to be put on sick leave because I would be unable to report for duty at 1600 hours. Prior to my scheduled work shifts on each of the days from March 28 through March 31. I also telephoned the Watch Supervisor, advised him that I was ill and requested sick leave. This procedure is in accordance with the FAA regulations regarding sick leave and the past practices of the Great Falls ARTCC. My request for sick leave was never questioned during any of the telephone conversations and on each occasion either expressly or impliedly approved.

On 27 March 1970, I had severe diarrhea and stomach cramping and consulted my physician, L. R. Swan, M.D. Dr. Swan diagnosed my condition as being caused by an intestinal flue virus and prescribed medication to relieve the symptoms. The Symptoms continued and again on 30 March I consulted the doctor. He continued the medication. My regular days off were April 1 and 2 and on 2 April 1970 my distress subsided enough to permit me to report for work for my regular tour of duty on 3 April 1970.

During the time I was on sick leave and made the telephone requests for sick leave as above described, I also received various written communications from you. By letter dated 27 March 1970 you advised me that all personnel reporting ill would be expected to provide a medical report including a diagnosis from a physician concerning the illness upon return to duty or be considered absent without leave with appropriate disciplinary action. In accordance with past practice which I understood was the correct procedure, I intended to furnish you with the form SF–71 upon my return to duty. However, before I returned to duty, I received two identical letters from you, one dated 27 March 1970 and one dated 28 March 1970, the latter which was hand delivered to me, and by these letters you advised me that if my absence continued for more than 24 hours after receipt of the letter or if I failed within that time to furnish adequate medical proof of my illness, prompt action would be initiated to impose the sanctions provided by law and the rules and regulations of the Department of Transportation and Civil Service Commission. On March 28 when I received the first of these letters, I telephoned you and advised you that I had the physicians certificate SF–71 but did not feel good enough to bring it to your office that day and inquired if Monday, 30 March 1970, would be soon enough. You advised me that that would be all right. On 30 March 1970 I delivered the physician's certificate SF–71 to your office. This certificate was properly completed by Dr. Swan in accordance with the FAA regulations and past procedure at Great Falls ARTCC. The following day, 31 March 1970, you telephoned and advised me that the SF–71 was not adequate and that I should get a more detailed form and have the doctor complete it. That day I picked up the detailed form and delivered it to Dr. Swan. The doctor wrote a detailed explanation of my illness and consultation on his letterhead stationery and inadvertently dated the report 3 April 70 when in fact the report was written 2 April 70. I hand delivered this detailed report to your office. By letter dated 2 April 1970 you acknowledged receipt of the medical report submitted by Dr. Swan and advised me that you would consider that as having met the requirement to answer the charges in your letter of 30 March 1970 wherein you proposed to remove me from my position due to unauthorized absence. In your letter you further stated that if I must provide further answer to those charges, you would inform me in writing.

At no time during my sick leave was I advised of any procedure which I had violated in obtaining approval by proper authority for the absence due to my illness. My time and attendance card for the pay period eight was submitted by appropriate authority specifying my absence as sick leave. This approval was further ratified when I was paid for the specified pay period and pay for the days on which I was absent was acknowledged to be payment for sick leave. Not until May 8, 1970, at the time when your letter of proposed removal was delivered to me was any action taken with respect to classifying my absence other than sick leave. On that date you advised me that you were denying my request for sick leave for the period in question and that an amended T & A card was being submitted to place me on AWOL status for the days during which my request for sick leave had been denied. My request for sick leave was never denied and is supported by the properly completed SF–71 physician certificate and supplemented by my doctor's further detailed report in accordance with the request from you. I therefore strongly object to and question your authorty to retroactively designate properly authorized and documented sick leave as being AWOL.

Charge No. 2. Failure to comply with lawful order of officials of the United States Government.

Answer. I deny having failed to comply with a lawful order of officials of the United States Government.

Specification No. 1. You were informed by letter dated 27 March 1970 from me that the United States District Court for the District of Columbia had issued on 25 March 1970 a temporary restraining order restraining you from in any manner continuing, encouraging, ordering, aiding, engaging or taking any part in any work stoppage or slowdown or any interference with or obstruction to the movement or operation of any aircraft in air commerce or air transportation at any traffic facility operated by the FAA or interference with or obstruction to the application of the safety standards or procedures established by the FAA for the regulation and control of air traffic in the United States of America. By failing to report for duty at your facility and failing to perform your duty at your facility, you have failed to comply with this order.

Answer. As set forth in detail above in my answer to Charge No. 1, Specification No. 1, I was ill and in great distress and unable to perform my duties at the time the letter in question was received and physically unable to perform my duties. I therefore did not report to duty but in accordance with FAA regulations and in accordance with the specific instructions contained in the letter in question I furnished adequate medical proof of my illness and reported my need for sick leave on each day in question.

Specification No. 2. You were informed by letter dated 27 March 1970 from me to report to your place of duty within 24 hours or to submit within such period of time adequate medical proof of your illness. You failed to comply with the instructions in this letter.

Answer. It was impossible for me to comply with the terms of the letter of 27 March 1970 because I could not return to work due to my illness and although I had in my possession the certificate of physician SF–71 which Dr. Swan completed and executed on March 27, 1970, I was too ill to deliver it to your office. However, when I advised you of this situation by telephone, you verbally authorized me an extension of time until Monday, 30 March 1970 within which to furnish the requested medical proof. The form was delivered within the extended time.

Charge No. 3. Violation of 5 U.S. Code 7311 which states in pertinent part, "An individual may not accept or hold a position in the Government of the United States . . . if he . . . participates in a strike against the Government of the United States . . .".

Answer. I deny that I participated in any strike against the United States Government.

Specification No. 1. Beginning on or about 25 March 1970, you, in concert with others, participated in a strike against the Government of the United States by failing to report for duty and continuing to absent yourself from duty without approval of proper authority.

Answer. I deny that I individually or in concert with others participated in any strike against the Government of the United States and reiterate that my absence on 27 March 1970 and thereafter was due to my illness. That this absence was propertly authorized and documented sick leave which was approved by appropriate authority including yourself.

Charge No. 4. Leading employees in a concerted action to withhold their services from the Federal Government by absenting themselves from duty without approved leave.

Answer. I deny that I led any employees in concerted action or otherwise to withhold their services from the Federal Government by absenting themselves from duty without approved leave.

Specification No. 1. You occupied the position of Chairman of the Great Falls Center Chapter of the Professional Air Traffic Controllers Organization on 25 March 1970 when that organization led and fostered an illegal strike in violation of 5 USC 7311. As the Chairman of the Great Falls Center Chapter, you did not exercise your influence to prevent employees of the Great Falls ARTCC from engaging in an illegal strike.

Answer. I admit that I am the Chairman of the Great Falls Center Chapter of PATCO and occupied that position on 25 March 1970. I strenuously deny that the organization led or fostered an illegal strike in violation of 5 USC 7311. No such evidence of any action by that organization is set forth in your charge and no such evidence could be produced. I had no knowledge of any illegal strike by anyone at the Great Falls ARTCC and did specifically advise my fellow controllers if they were not sick or otherwise legitimately prohibited from performing their duties, they should report to work and perform their duties. I have no direct authority over any of my fellow air traffic controllers and any influence I may have by virtue of my office in PATCO was in fact used to encourage the employees to obey the laws and regulations applicable to their employment.

Specification No. 2. You called or otherwise arranged for a meeting of PATCO members of the Great Falls area to be held at your home during the evening of 24 March 1970. At this meeting, you led a discussion of plans to withhold optional air traffic control services within the Great Falls area in support of PATCO's nationwide strike action.

Answer. On 24 March 1970 a group of PATCO members met at my home. I deny that I led a discussion of plans to withhold optional air traffic control services within the Great Falls area and deny that PATCO instituted a nationwide strike action. No plans were formulated to withhold optional air traffic control services within the Great Falls area at the meeting in question and no such optional air traffic control services were in fact withheld.

Specification No. 3. As a facility officer of Professional Air Traffic Controllers Organization (PATCO), you did not comply with the direction of the 25 March 1970 temporary restraining order of the United States District

Court for the District of Columbia to instruct immediately absentee PATCO members to resume their normal employment.

Answer. I advised every air traffic controller or PATCO member in the Great Falls ARTCC with whom I discussed the matter to resume or continue his normal employment if he was physically capable of doing so. I performed this service for the FAA and U.S. Government out of my concern for the safety of the air traffic moving in the United States and in accordance with the suggestion of PATCO national officers. This service did in fact comply with the direction of the restraining order in question but I am advised by my attorney that the letter I received informing me of the court order was not a valid service of such court order and that the court in question did not have jurisdiction to issue an order for the District of Montana. I have no authority to direct or demand that employees report to work. If in fact I did have such authority, I could not and would not order employees who were disabled from performing their duties to report to work.

Specification No. 4. As a facility officer of PATCO, you failed to take all action necessary to insure that the instructions included in the 25 March 1970 temporary restraining order of the United States District Court for the District of Columbia were carried out, including the posting of a copy of the temporary restraining order at the Great Falls ARTCC.

Answer. I was never served with a copy of the temporary restraining order in question and therefore could not post a copy of the order at the Great Falls ARTCC. I did in fact take all action that I could to insure that the instructions of which I was aware were contained in the restraining order were complied with. You have failed to specify any action which I could have taken and did not take to accomplish this. Never having seen the court order in question it is impossible for me to know what if any action was expected of me. Again, I have been advised by my attorney that the court order in question was not properly served upon me and the District Court which issued the order did not have jurisdiction in the Montana District.

As is set forth in various of the answers above, the charges and specifications which you listed against me are not specific enough to present more detailed answers. If in fact you have more specific details on which to base these charges, please furnish me with the details in writing and extend an additional 15 days thereafter for me to reply to the same.

I respectfully submit that the charges and specifications set forth in your letter of 8 May 1970 are unfounded and that these charges be dismissed.

Very truly yours,

CHARLES R. HALL.

THE MEDICAL-DENTAL CLINIC,
Great Falls, Mont., May 21, 1970.

Re Charles R. Hall
Mr. E. G. FAIRBANK,
Acting Chief, ARTCC,
Air Route Traffic Control Center,
Malmstrom AFB, Mont.

DEAR SIR: Mr. Charles Hall came to my office on 3/27/70 complaining of abdominal pain and diarrhea. I examined Mr. Hall and felt that he had contacted the viral gastroenteritis which at that time was very prevalent in our area. I prescribed Combid spansules and Lomotil for him and then rechecked him on 3/30/70. He still had symptoms of gastroenteritis and nervous stomach and he was continued on medication.

On 4/3/70 he had continued slight diarrhea, however, was feeling better and I felt he could return to work.

Sincerely,

LEE R. SWAN, M.D.

THE MEDICAL-DENTAL CLINIC,
Great Falls, Mont., April 3, 1970.

TO WHOM IT MAY CONCERN: Mr. Hall was seen in my office on 3/27/70 with symptoms of diarrhea and stomach cramping. After examination I felt he had an intestinal flu virus which has been prevelant in our area for some weeks. I prescribed Combid and Lomotil for him. He then returned on 3/30/70 with continued flu symptoms. His medication was continued and recheck now shows him to be improving. I feel he is able to return to work at any time.

LEE R. SWAN, M.D.

GEORGE B. EUSTERMAN, Jr., M.D.,
Great Falls, Mont., May 21, 1970.

Re Pat Herriges.
To Whom It May Concern:

The following is a summary of the medical examination and care of the above patient. He was first seen by me on the 2nd. of March complaining of low back pain with moderate amount of incapacity. Examination revealed definite spastic muscles of the lower right sacroiliac area (myositis). There was deep tenderness also of lipomas present in this area. Often times removal of these lipomas will relieve pain. He was put on a muscle relaxant and told to return.

He did quite well on the medication but was seen again on the 24th. stating that his pain and muscle spasm had returned, so further medication, exercise course, hard bed, etc., were given. On the 31st of March he was seen again for a progress evaluation and I requested that he go back to work on 4/7/70 which he did do. I do not feel that the patient was malingering because of two conditions; one is definite palpation of spastic inflamed muscles and the second is repeated definite location of pain especially of the areas of lipomas.

Very truly yours,

GEORGE B. EUSTERMAN, Jr., M.D.

1. Date of visit or consultation. Patient was seen by me regarding progressive low back pain on 3/2/70, 3/24/70 and 3/31/70.
2. Symptoms and/or complaints. Patient is complaining of progressive low back pain without traumatic history. Getting up from sitting or lying positions was difficult.
3. Results of examination in detail, including reports of laboratory tests.
4. Diagnosis.
5. Treatment prescribed, to include name, dosage and frequency of any medications.
6. Prognosis, to include date of recovery or date of expected recovery.

Continuing with symptoms and complaints: Bending over to wash face, difficult, lifting too difficult to carry out. No radiation of pain down the legs, no good history for early disc. Small lipomas present in the sacroiliac areas which may or may not be a factor. Complaint has been recurrent, jelling noted, bending limited, low back X-rays not taken for this complaint but may do so later. No laboratory tests indicated.

Diagnosis: Recurrent fibrositis, low back.

Treatment: Bed rest, exercises, given muscle relaxants with salicillates.

Prognosis: Good, expect to return to work 4/7/70.

Very truly yours,

GEORGE B. EUSTERMAN, Jr., M.D.

A BLATANT DISTORTION BY THE PRESS

Mr. ALLEN. Mr. President, Hon. Earl C. Morgan, district attorney for the 10th judicial circuit of Alabama—Birmingham—has called my attention to an Associated Press dispatch to which he rightfully takes objection.

In his letter, he stated that, "This is typical of the distorted news coverage we have so long received here in the South." I concur in his judgment that the incident should be brought to the attention of the Senate and of the public in general.

Before commenting further on the subject, I ask unanimous consent that the letter from Mr. Morgan to me, together with his résumé of the facts and circumstances relevant to the news dispatch by the Associated Press, and the dispatch itself be printed at this point in the RECORD.

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

JUNE 16, 1970.

Hon. JAMES ALLEN,
U.S. Senator,
Washington, D.C.

DEAR SENATOR: Attached hereto is an Associated Press story which was printed in papers throughout this country and foreign countries as well regarding a case which was prosecuted by my office. As a result of this story, the Governor of Alabama, the Attorney General of Alabama, other officials and I have received many letters critical of our judicial system here in this state. All of these letters carry the same theme—injustice because the defendant was a Negro who robbed a white of $30.00 and a watch.

This is typical of the distorted news coverage we have so long received here in the South. The case in question was an extremely aggravated case involving severe physical injuries and rape as well as the robbery. A summary of the facts is attached hereto and all of these facts were brought before the jury upon the trial of this case.

I have filed a protest of this reporting with Mr. Wes Gallager, the General Manager of the Associated Press. I have called this incident to the attention of others throughout the country. I am sending this to each of our United States Senators with the thought that you would perhaps bring this incident to the attention of the Senate.

With kindest personal regards,

Yours very truly,

EARL C. MORGAN,
District Attorney.

$30 ROBBERY BRINGS NEGRO DEATH PENALTY

BIRMINGHAM, Ala. (AP)—An all-white jury has decreed the death penalty for a Negro convicted of robbing a white girl of $30 and a wrist watch.

The seven women and five men of the Circuit Court jury deliberated less than three hours Thursday night before returning the verdict against John Henry Jones Jr., 23.

RÉSUMÉ

On a Saturday afternoon last fall, a seventeen year old girl named Rose Marie Campisi was reported missing and was last seen at a local hospital where she had taken her brother for emergency treatment. Late that afternoon search parties were organized and throughout the following day search continued for this young girl. On Sunday morning, the members of her church, mostly young teenagers, organized a search party under the direction of the church priest and approximately 4 o'clock that afternoon, while searching an isolated and remote rural area, found a charred envelope with the young lady's name on it. An intensive search of the area revealed her automobile at the bottom of a 100 foot ravine over which it had been driven. Upon searching the automobile this young girl was found locked in the trunk compartment, disrobed, beaten and very seriously injured. She was taken to a hospital where she remained for several weeks and suffered permanent injuries from internal infections which developed in her body. Law enforcement agencies of state, county and several municipalities spent days

and weeks searching out every possible lead in an attempt to find the culprit. In addition to having been beaten and run over by an automobile, there was every indication that she had been raped.

For months the case went unsolved until on January 1, 1970, a young Negro woman made a complaint to the Birmingham Police Department that she had been raped on the previous night. Similarities of description and mannerisms of the culprit in that case resulted in the arrest of John Henry Jones, Jr., and charges being placed against him arising out of offenses committed against both women. Rose Marie Campisi's wrist watch, which had been forcibly taken from her at or about the time of the rape, was recovered from a local pawn shop and John Henry Jones was identified by the operator as being the person who pawned the watch. When arrested, John Henry Jones had the pawn ticket for the watch on his person. Rose Campisi made a positive identification of this defendant from photographs and from personally viewing him among a large group of persons. Additionally, with full constitutional guarantees and the Miranda procedure followed, Jones made and signed a written statement admitting having forced the young girl into her automobile and leaving the hospital area with her but claimed not to remember subsequent events partly because of a high degree of intoxication.

Rose Marie Campisi testified that after the defendant abducted her at the hospital, he drove her to an isolated area in a rural community, where he stopped the car, drug her from it, beat her with his fists, kicked her, stomped her, dragged her seventy feet into the woods, stripped her clothing from her and shot over her head as she struggled to try to prevent him from removing her panties. She further testified that he raped her, drug her back on to the roadway where he tied her hands and feet together, placed her in front of the car and ran the car over her arm and leg, she having succeeded in squirming out of the path of the wheels as they passed over a part of her body. She further testified that the defendant then put her in the trunk of the car in this bound condition, laughed at her, slammed the trunk door on her and she then knew the car was being driven into the ravine because of the crashing and bumping. She remained in the trunk of this automobile for approximately twenty-four hours, being conscious most of the time.

When the car was found it was substantiated that the defendant had obtained all available paper material in the car and set it on fire prior to running the car into the ravine.

John Henry Jones, Jr. was indicted in four separate cases for the offenses of Kidnapping, Assault With Intent to Murder, Rape and Robbery. Under Alabama law the offenses of Rape and Robbery are capital offenses, either one of which carry a penalty from ten years to a maximum penalty of death. Only one case can be tried at a time and the state elected to go to trial on the Robbery case first. Upon a trial of this case on the Robbery charge, the state was permitted to show all the acts of the defendant as set out herein.

Mr. ALLEN. Mr. President, I believe that after reading the above material, fair-minded persons will agree that the Associated Press dispatch is grossly misleading. In the absence of background facts, a reader is led to believe that the defendant received the death penalty for the sole offense of robbery involving a wrist watch and $30. That is not true. But more than questions of accuracy and truth are involved here.

We read a lot today about polarization. Examine the racial implications in the above dispatch. Can anyone escape the conclusion that the story was deliberately slanted to project a picture of racial injustice and to reflect adversely upon the people of the South?

News reporting similar to the above example raises a question as to whether or not the medium is demonstrating symptoms of a projection complex. Is the medium accusing others of creating a credibility gap when that is perhaps one of its own most glaring faults?

Serious implications are involved when the public ceases to believe what it reads in the newspapers or what it hears on radio and television. For one thing distortions such as we are discussing create doubts which carry over to news dispatches originating elsewhere and particularly in the Far East and the Middle East. This can become a serious problem.

Not long ago, Andre Fontaine, professor of journalism at the Newhouse Communications Center, Syracuse, N.Y., criticized the mass media for not fulfilling either responsibilities to people because, among other things, he said, "People do not believe what they read." In an article prepared for publication in the American Academy of Political and Social Science, he said further:

> When journalists produce material that the readers reject, they are no longer in the communications business.

Mr. President, I believe implicitly in freedom of the press. Let the media report what they will and express any opinion they may chose, but I resent deliberate distortions of fact in the cause of blatant propaganda. And I resent it when such propaganda is directed against the people of Alabama and of the South, and our institutions of self-government.

CRISIS IN AMERICAN EDUCATION

Mr. GOLDWATER. Mr. President, on June 19, Dr. Roger A. Freeman, Special Assistant to the President of the United States, made an outstanding speech before the Washington State Research Council, in Seattle.

These remarks are so well thought out, so clearly presented on a problem that becomes a little more confused every day, that I thought Senators might enjoy reading it.

I ask unanimous consent, therefore, that it be printed in the RECORD.

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

CRISIS IN AMERICAN EDUCATION

I cannot adequately tell you how thrilled I was when I received your invitation to serve as your speaker at this luncheon. I left the State of Washington nearly fifteen years ago and thought that I had long been forgotten here. While David Swenson's letter was still on my desk, bathing my face in its reflected glow, I began getting telephone calls from Herb Miller, Ben Ehrlichman and others, urging me to accept the invitation. So here I am.

Having spent some of the most precious and most exciting years of my life in the Pacific Northwest, I am humbly grateful to you for letting me know that I made some lasting friends during the decade I lived and worked here.

If I were at liberty to do what I feel like doing, then I would now recognize my old friends in the audience, reminiscing about our common exploits in the legislative wars of the 1950's and tell the new generation tales of battle scars that have long since healed.

But you did not come here for that. You came to hear me speak about the "Crisis in American Education." So, in fairness to you, my hosts, and to make sure that you don't make me pay for my own lunch, I shall address myself to the assigned subject.

But before I do so, I want to pay tribute to the man who brought me into public life here over twenty years ago, to whom I owe most of what I know about public affairs, and whom I served as an assistant for more than five years. I mean, of course, Governor Arthur B. Langlie whose untimely death was a severe blow and grievous loss to all of us. I am most happy to hear that a biography of this great man, the only man ever to be elected Governor of Washington three times, is now in preparation and will soon be published.

For as long as anyone of us can remember there has always been talk about a "crisis in education." Those within the educational establishment usually saw the crisis in financial terms, denounced the existing support level as lamentably inadequate and predicted dire consequences and disaster if available funds were not promptly multiplied.

That no such crisis ever developed does not necessarily mean that our educational spokesmen had only been crying "wolf." It may well be that because their warning came early enough and their appeal for remedial action was sufficiently forceful and effective, their crisis predictions never came true.

That experience caused me in past years to place a question mark behind the phrase "crisis in education" whenever I used it. Somehow I felt certain that our schools and colleges would turn the corner in fine shape before they reached the critical stage.

I no longer feel as confident as I once did, and I no longer place a question mark behind the term "crisis in education." For the first time in history it appears that the profound faith of the American people in their educational institutions has been shaken and their belief in the wisdom of our educational leaders and in the soundness of their goals or practices has turned to doubt and even to outright disapproval. If a vote of confidence were asked for today from the people across this nation in the management and policies of their educational institutions, it would in most states no longer be as favorable as it would have been twenty, ten or even five years ago. This is true above all in regard to some of our most prominent universities and colleges, but also of many high schools and elementary schools. This is evident not only from the growing number of failures of school tax and bond elections—which in most areas offer the people the only organized way in which they can vote their displeasure—but also from numerous independent polls, letters and many other sources. How are schools and colleges to weather the onslaught to which they are now subjected, how are they to cope with their current and future problems, to progress and prosper in the years ahead, if they can no longer count on the affection and trust of the great majority of the American people upon whom their very existence depends?

So far, the flow of funds into education has not declined and continues to show a healthy rate of growth. Yet there are many voices heard, mostly from inside the establishment, which assert that inadequate financial support is at the root of their trouble and that lack of money is the most urgent

problem in education which could be solved by the addition of several billion dollars in federal funds. Congress is being criticized for not appropriating enough money for education and the President is attacked for having vetoed an education appropriation earlier this year and for not having proposed the new and expanded programs which his critics urge upon him.

The President stated his reasons clearly in the Veto Message of January 27, the Message on School Reform of March 3 and the Message on Higher Education of March 19. Let me summarize them briefly:

1. Inflationary pressures, generated largely by eight years of deficit spending to the tune of $57 billion, are still so intense that demands for federal funds for *all* purposes must be restrained and their total kept approximately within the frame of prospective revenues. To pursue an expansionary fiscal policy at this time would add fuel to the fires of inflation and could wreck serious harm, none the least on education.

2. Certain costly school programs introduced with great expectations a few years ago are not yielding the promised results. In fact, the entire concept of a clear-cut positive cost-quality relationship in education has been called into question by recent research.

3. The label "education" is not enough to justify claims for federal funds. There must be evidence that a proposed program offers the most effective solution available and a tangible return to the taxpayers.

The President criticized that "we are not getting as much as we should of the dollars we spend," recommended several programs to correct existing shortcomings and promised:

"As we get more education for the dollar, we will ask Congress for more dollars for education."

Some of our critics claim that the budget is tight only because military outlays have been tremendously increased and that arms swallow most of the federal tax revenue which otherwise could be allocated to education and other social purposes. The facts are to the contrary:

In the current three-year period—FY 1968 to FY 1971—defense spending is being cut 9 percent, outlays for education and other social purposes boosted 47 percent, all other federal expenditures increased 21 percent. But the record of defense costs should probably be reviewed in a broader historical perspective:

Immediately after World War II, the military establishment was largely dismantled and outlays fell precipitously from $80 billion in 1945 to between $12 and $13 billion annually from 1948–1950. This unilateral disarmament was one of the causes of the Korean action which shot defense costs up to $50 billion in 1953. Since that time—that is between 1953 and FY 1971 as proposed by the President—defense expenditures increased 49 percent—approximately equal to the simultaneous rate of price rise. Spending for health, education, welfare and labor increased 944 percent, for all other functions 182 percent.

More than half of the $129 billion increase in Federal expenditures between 1953 and 1971 was applied to social purposes, less than one-fifth to defense. Defense meanwhile shrank from 64 percent of the Federal budget to 36 percent, from 13.6 percent of Gross National Product to about 7.2 percent.

In other words, the share of Federal revenues and of the Gross National Product allocated to national defense has been cut almost in half since 1953. Most of the huge savings were applied to social purposes, with education one of the main gainers. To slash our badly depleted defense establishment even faster or further in this troubled and hostile world would risk the nation's very existence in an irresponsible manner and be an invitation rather than a deterrent to war.

With only 6 percent of the world's population and between one-fourth and one-third of its developed resources, the American people now invest in educational institutions annually almost as much as all other nations combined. Nothing testifies more eloquently to the American faith in education than the priority which the people have granted it in financial terms. Over the past twenty years the support of schools and colleges from all sources has multiplied about eight times while personal consumption expenditures or business or personal investment multiplied only slightly more than three times. Expressed in dollars of constant value, personal consumption doubled while educational spending expanded five-fold.

Over the same period, the number of employees in private industry increased 38 percent while it tripled (+203 percent in public education). In the rest of government, manpower grew 87 percent. These are impressive facts which make charges of neglect or starvation of education look plain silly.

FEDERAL EXPENDITURES, 1953 AND 1971

[In billions]

	National defense	HEW-Labor	All other	Total
1953	$49.4	$7.1	$20.4	$77.0
1971 [1]	73.6	74.3	57.6	205.6
Increase in percent	+49	+944	+182	+167

INCREASE IN FEDERAL EXPENDITURES, 1953-71

[Dollar amounts in billions]

	Amount	Percent
National defense	$24.2	19
Health, education, welfare, labor	67.2	52
All other	37.2	29
Total	128.6	100

[1] President's proposals as revised May 19, 1970.

To be sure: school enrollment grew faster than the population as a whole. Twenty years ago the impending "tidal wave" of postwar babies faced the schools with a grave challenge. Would schools be able to obtain the resources required to expand their staffs and facilities in proportion to students? Would the American people be willing to provide the huge funds by traditional methods? Few observers thought at the time that the job could be done without a massive intervention of the federal government.

The task was truly stupendous: Between 1950 and 1970 public school enrollment nearly doubled, jumping from 25 million to 47 million pupils (= +88 percent). Nobody expected in 1950 that school support would multiply seven-fold in the succeeding 20 years, from $5.4 billion to $38.5 billion; but it did. Expressed in constant dollars, the increase equalled 350 percent—while enrollment, as mentioned, went up 88 percent, national income or product 125 percent.

What did this accomplish? While enrollment grew 88 percent, the instructional staff expanded 131 percent: classroom teachers +119 percent, non-teaching professional staff such as administrators, counselors, psychologists, nurses, librarians, etc., +358 percent. The ratio of the instructional staff to pupils was reduced from 1:26.1 to 1:21.3, which means that there are now 4.8 fewer pupils per teacher in the public schools than there were in 1950.

In his first education message in 1961 President Kennedy, in proposing federal school construction aid, suggested that 600,000 classrooms ought to be built during the 1960s to take care of all needs and that state and local governments would be unable to meet that goal unaided. Actually, about 700,000 new classrooms were constructed in the 1960s—*without a federal construction aid program*. There are now about five children fewer per classroom than there were in the early 1950s. The most amazing fact is not that these reductions in class size took place in a short number of years but that this was accomplished during the time of the sharpest enrollment expansion that America's public schools ever experienced, and that it was done largely by action of the people themselves, in thousands of tax and bond elections.

Of the $33 billion that were added to the support of the public schools over the past twenty years, 93 percent came from state and local governments which were then as now alleged to be "hanging on their financial ropes." No program of general federal aid for school operations or construction was enacted, in spite of truly heroic efforts of its protagonists, in a campaign begun well over a century ago. Nothing testifies more clearly to the continued effectiveness of the traditional American way of government by the consent of the governed. In the current school year, 1969–70, the federal government supplied only 6.4 percent of the public school support, according to the National Education Association,[1] with most of it closely earmarked for special programs and little available for general support.

The time of enrollment growth in the public schools is over. Current projections suggest little or no increase in the 1970s—unless mass closings are forced on the private schools which still accommodate almost 6 million children. Barring such a development, the task of providing adequate support for the public schools should be far easier in the 1970s than it has been for several decades. There is one big IF in this expectation: IF the public schools can retain—or, in many cases, regain—the confidence and goodwill of the communities they serve.

So far we have recorded only the "input" into the schools: dollars, teachers, classrooms. It has always been customary to measure educational progress and quality by "input" factors—such as dollars expenditure per pupil or teacher-pupil ratio—not by "output" factors, that is improved skills and knowledge of the students.

Unfortunately, we have no record of "output" because school administrators have always strenuously resisted demands to introduce qualitative yardsticks into the schools by which the progress of students in essential skills and knowledge could be measured, recorded and compared.

In his School Reform Message, the President stressed the need for objective measurement of educational results. He added:

"For years the fear of 'national standards' has been one of the bugaboos of education . . . The problem is that in opposing some mythical threat of 'national standards' what we have too often been doing is avoiding accountability for our own local performance. We have, as a nation, too long avoided thinking of the productivity of the schools."

Many years ago we had at least a tentative gauge in the percentage of pupils held back. But the practice of having lagging pupils repeat a grade was largely abandoned when the schools discovered the secret of perpetual promotion.

Achievement test data on pupil skills in the 3Rs are now available only from research projects and from a few cities. James S. Coleman of Johns Hopkins University, who in 1965/66 headed the largest and most thorough examination of American public schools ever undertaken, was amazed to find: "The evidence revealed that within broad geographic regions, and for each racial and ethnic group, the physical and economic resources going into a school had very little relationship to

[1] According to other sources, 8%.

the achievements coming out of it." He concluded that "if it were otherwise we could give simple prescriptions: increase teachers' salaries, lower classroom size, enlarge libraries, and so on. But the evidence does not allow such simple answers."

Reviewing the ensuing national debate in the *New York Times Magazine* of August 10, 1969, Christopher Jencks of the Harvard School of Education, summarized his conclusions: "Variations in schools' fiscal and human resources have very little effect on student achievement—probably even less than the Coleman Report implied."

The most detailed report now available on any city school system (*New York City School Fact Book*, City University of New York 1969) found:

"The evidence we have accumulated is somewhat surprising. We have recorded traditional variables that supposedly affect the quality of learning: class size, school expenditure, pupil/teacher ratio, condition of building, teacher experience and the like. Yet, there seems to be no direct relationship between these school measurements and performance . . . ." Statistical data in that report show that reading and arithmetic achievements in the highest expenditures schools ($1100 per pupil and up, median $1330) average between 5 and 7 months *behind* those in the schools with the lowest expenditures (below $600 per pupil, median $551). The teacher-pupil ratio was 1.25.9 in the high-achievement schools, 1:12.3 in the low-achievement schools.

But the belief in the educational magic of the dollar dies hard. Five years ago Congress enacted a $1¼ billion-a-year program to raise the achievement level of millions of children from low-income backgrounds who were reported to lag one or several years behind national norms (averages) in basic skills. Title I of the Elementary and Secondary Education Act of 1965 for "compensatory education" and a few related programs now account for about half of all federal school funds.

Two years ago the *Associated Press* found in a nationwide survey: "Title I, the federal project on which $3 billion has been spent in the hope of answering the educational needs of deprived children, is not working out. On this point, critics and supporters alike are agreed."

After reviewing the major "compensatory education" programs since 1957 the U.S. Civil Rights Commission found that "none of the programs seems to have raised significantly the achievements of participating pupils."

In his Message on School Feform, the President reported that:

The best evidence indicates that most of the compensatory education programs have not measurably helped poor children catch up . . . Recent findings on the two largest such programs are particularly disturbing. We now spend more than $1 billion a year for educational programs under Title 1 of the Elementary and Secondary Education Act. Most of these have stressed the teaching of reading, but before-and-after tests suggest that only 19 percent of the children in such programs improve their reading significantly; 13 percent appear to fall behind more than expected; and more than two-thirds of the children remain unaffected—that is, they continue to fall behind. In our Headstart Program, where so much hope is invested, we find that youngsters enrolled only for the summer achieve almost no gains, and the gains of those in the program for a full year are soon matched by their non-Headstart classmates from similar poor backgrounds.

The record of thousands of projects from "Higher Horizons" and "More Effective Schools" in New York to "Banneker" in St. Louis, from "Madison" in Syracuse to the Berkeley schools—all of them started with great enthusiasm—tells a story of consistent failure to produce the educational improvement among so-called "deprived children" which their sponsors hoped for and promised.

What this adds up to is, of course, not that we should quit increasing school resources every year. The President made that abundantly clear—he recommended, in fact, several programs to bolster school support in certain critical areas besides proposing a system of federal revenue-sharing which will aid state and local governments generally.

The basic approach of the School Reform Message is: let us pursue methods, through research, that will accomplish what we are aiming at. But let us not go overboard until we know how what will work with children from slum backgrounds. Just spending billions of taxpayers money is no adequate substitute for tangible achievements.

The New York City Master Plan (1969) declared: "The plain fact is that no one yet knows how to make a ghetto school work." [2] This has not kept New York City from multiplying its outlays generally, but particularly in schools in poverty areas, to the point where it now spends on the average about twice as much per pupil as other large cities. But students in New York City schools lag, on the average, far behind national norms—and they slipped back another two months in reading last year. What was the Board of Education's response? It demanded a 30 percent increase in operating funds—$380 million—for next year (1970/71) besides a $600 million appropriation for new construction. Not surprisingly, New York City authorities expect this to be paid by the rest of the country.

Most compensatory and similar programs for educational improvement place their main emphasis on reducing class size, although it has long been known from hundreds of research studies that there is no correlation between class size and pupil achievement. The *Encyclopedia of Educational Research* reported twenty years ago that: On the whole, the statistical findings definite`y favor large classes at every level of instruction except the kindergarten . . . the general trend of evidence places the burden of proof squarely upon the proponents of small classes.

Three years ago the Coleman report found that the teacher-pupil ratio "showed a consistent lack of relation to achievements among all groups under all conditions". But the myth that pupils learn more in smaller classes still flourishes and the demand for cutting class sizes continues while resistance to technological progress, such as programmed learning with the help of machines or television and films grows. Could the explanation lie in a fact brought out by the Bureau of Labor Statistics last year? Commissioner Geoffrey H. Moore reported at a Congressional hearing last December that "the aggregate supply of trained teachers is expected to significantly exceed demand, if recent entry patterns in the occupation continue." He projected job openings between 1968 and 1980 at 2.4 million, the new supply of teachers at 4.2 million.

Youth unemployment has long been severe—one out of seven people between 16 and 21 is out of a job, and one out of four among non-white youths. In no other industrial country in the world is there a comparable problem of youth unemployment. But we have so far failed to study why we do so badly. Since the belief that education is the best answer to poverty has virtually become part of the American Creed, we might well look to the schools for a remedy.

Among the country's worst school systems by any yardstick save expenditures per pupil are the District of Columbia schools. But, there are exceptions. For example, Bell Vocational High School, 60 years old and almost all black, has little if any of the troubles that beset most other Washington schools and its graduates have no difficulty in landing jobs. So what does the Board of Education plan to do about it? You guessed it—it intends to abolish Bell and the other four vocational high schools.

There used to be an excellent academic high school in Washington, Dunbar. Some twenty years ago eighty percent of its graduates, almost all black, went to college. Reorganized under more recent rules. Dunbar is now as bad as Washington's other high schools. I should mention that my son has been attending a Washington public high school this past year.

Amidon was among the country's best schools—and many D.C. schools maintained at least a semblance of good education under the four-track system. The four-track system was abolished, Amidon was equalized with other D.C. schools—equal, that is, to the lowest schools in the country measured by pupil achievements.

It has widely been suggested that schooling should be started earlier so that disadvantaged children do not lag behind others when they reach first grade. Results of the massive Headstart program have so far not been convincing and efforts have been started to begin schooling even earlier, e.g., at three years. The number of 3 to 4 year olds in school has risen from 800,000 five years ago to 1.2 million—with the attendance among whites 15% and among non-whites 21%. This may be all to the good. Would it help the educational process to begin at birth, as some have suggested? Nobody knows. Available studies have shown that the I.Q.'s of adopted children correlate with their natural parents from whom they have been separated since birth and bear little relationship to the foster home. Also, the I.Q.'s of identical twins reared apart are almost as closely correlated as the I.Q.'s of identical twins reared together. This seems to suggest that intervention at birth may come about nine months late.

Several research projects are now being sponsored by the Office of Economic Opportunity and the Department of Health, Education, and Welfare which aim to find and identify methods of teaching "disadvantaged children" effectively. One project farms out the teaching of reading and other core subjects to independent contractors whose compensation varies according to the measurable progress of the students. Another project provides parents with vouchers, giving them a freedom of choice among schools, public or private, which they wish their children to attend.

Ventures of this type aim to stimulate imagination and, above all, competition among schools, which has so sadly been lacking under a system of virtual monopoly that left parents and students no practicable choice. How would you like to shop if there existed just one grocery store for your neighborhood and your only recourse were a complaint to a distant and quite independent board of grocery store supervisors? How good would service and values be under such a system?

To expand, intensify and systematize educational research, the President recommended to Congress the formation of a National Institute of Education. It will sponsor projects at schools, colleges and research centers as well as of individual scholars and also have some studies conducted by its resident staff. Ideas about improved education, no matter how attractive, must be tested before they are translated into huge undertakings. Some ventures in recent years did more harm than merely waste money. They were like the psychoanalyst who blamed his patient's appendicitis on early life experiences and tried to cure it on the couch.

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[2] My colleague, Daniel P. Moynihan, commented on this a few months ago: "The plain fact is that nobody knows how to make a real ghetto school—that is one made of up European Jewish students—*not* work."

Lavish promises to parents and taxpayers about improvement in educational achievements which went unredeemed have aroused widespread disappointment and deep unhappiness. Bitterness and recriminations have in many locations led to violence and senseless mob action whose consequences will plague us—and the affected children—for years. In numerous cities, well-intentioned men and women have raised demands or taken steps which not only split communities and multiplied civic strife and hatred but permanently damaged the education of millions of youngsters. Such action was often encouraged, sponsored or carried out by governmental authorities. I am reminded of a warning that Mr. Justice Brandeis gave more than four decades ago:

Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficient. Men born to freedom are naturally alert to repel invasion of their liberty by evil minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding. (*Olmstead* v. *United States,* 277 U.S. 478)

In many locations, action intended to improve the education of large numbers of children has actually worked to retard their progress, to create conflict and chaos and to alienate large numbers of residents from the public schools. Some schools have been virtually ruined and some cities could be destroyed in the process if it continues much longer.

There is dynamite all over the place and if we do not "cool it," if we permit it to heat up more, it may blow up in a major conflagration. The main losers then might be the schools but the victims will be the children whose hope for the future depends on getting an education in schools that can operate only if there is no disruption or turmoil.

I have always been a great believer in community control in education and in other public services. This is why I regret that neighborhood control of schools was never given a fair chance in the sections of New York City where it was intended to be tried out. Intensified scientific research for finding more effective methods combined with greater influence of the parents on school policies might well offer the most promising solution. Actions and policies strongly opposed by the parents or leading to a diminishing role of the parents in school affairs are unlikely to help the children. By pursuing a course that alienates their communities, some public schools may well be sawing off the branch on which they are sitting.

Grave problems loom ahead for the schools, public and private, and some of those problems are of a financial nature. This is why the President established by Executive Order a Commission on School Finance, which will report to him within two years. But the financial problems of the public schools don't amount to a crisis—unless the schools themselves, by their actions further weaken the affection and confidence of the parents and taxpayers upon whom their support inescapably depends. At this time, the danger of a deep and lasting split between the American public and its school system is present, but not immediately threatening. It is imminent and grave in the case of universities and colleges. I will therefore devote my remaining time to the ominous developments on campuses from coast to coast, which jeopardize the future of higher education in the United States.

The administrators of colleges and universities no less than those of elementary and high schools tend to view finances as their most pressing problem. "The most critical question facing higher education today is how to find sufficient resources", declared the Association of American Universities in April 1968. Considering the growing wave of campus revolts in recent years, some of us may doubt that finding sufficient resources truly is "the most critical question facing higher education today". Finding leaders capable of coping with the violent uprising could be more crucial.

Enrollment at Institutions of Higher Learning (IHL) multiplied about three times over the past twenty years, revenues ten times. With the rate of enrollment growth certain to diminish in the years ahead, the task of obtaining sufficient income should also turn easier. In all likelihood though, it will not.

While enrollment was about evenly divided between public and private institutions until about 1950, there has since been a decided shift evident toward public IHL; seventy-five percent of the new students now enroll at state and city colleges, largely because of the ever-widening tuition gap. State institutions now charge less than one-fourth of the tuitions of private colleges. The latter depend on private donations to make up the difference between instructional costs and charges. But their gift receipts have not been rising as rapidly as the state taxes which support public IHL. If present trends continue, most of the 1500 private colleges—about two-thirds of all IHL in the country—may within the next two decades have to close their doors or turn public. This would, to all appearances, not break the heart of those who set the tuition policy of public colleges.

General operational support of all IHL, from Federal or state sources is unlikely to materialize because two-thirds of all private IHL are church-connected. This raises constitutional questions that have so far proven insuperable. To provide federal funds only for the operation of public IHL would, of course, sound the death knell for the private colleges which Congress most assuredly does not want to do.

This is one major reason why the President in his Higher Education Message of March 19th stressed aid to students rather than to institutions. In his presidential campaign and in earlier years, Mr. Nixon has strongly advocated tax credits, for donations and for tuitions, as a means of aiding higher education. The Senate adopted such proposals on several occasions and a bill of that type could pass Congress any time with broad bipartisan support. The President has not changed his views on educational tax credits but has not pushed the proposal because higher education associations, with some exceptions, have taken an equivocal, and in some case a negative attitude. Heads of institutions prefer direct grants which enable them to spend the sums according to their own judgment; they dislike indirect aid such as tax credits which would confer on parents and other college supporters greater powers in the decision-making process. Sponsors of educational tax credit plans, though they constitute a commanding majority, according to several polls, have so far not effectively organized to get their program adopted.

In recent years the urgency of pleas for the grant of direct federal funds to institutions has sharply intensified. This expresses the fear of the heads of institutions that their established supporters have become increasingly disillusioned and alienated and can no longer be depended upon to increase the funds as rapidly and as unquestioningly in future years, as they have in the past. Mass riots, violence and wanton destruction that have taken place on about 500 campuses over the past six years—the most serious ones within the past two years—the forcible disruption of studies and abject surrender of orderly administration that have occurred and been permitted to continue, have seriously eroded the respect, affection and genuine pride which the American people have traditionally accorded higher education and its leaders. Outright hostility shown by faculty and students on many major campuses toward all efforts that would tend to strengthen the defense capacity of the United States, and violent action against defense research and ROTC activities, have widened the chasm between town and gown and turned admiration into suspicion, antagonism and scorn.

I can obviously not, in this context, adequately discuss the record and far-reaching implications of the campus revolt that started in Berkeley six years ago. But, neither can I avoid talking about the impact these events are likely to have on the future support of colleges and universities.

Several polls within the past few months suggest that the American public disapproves, with a ratio of between 3:1 and 5:1, of the student disruptions or closing down of colleges and universities by mobs of students, faculty and outsiders, that it favors the calling of law enforcement agencies and the National Guard on campus where college and administrators are unable to maintain orderly operations.

According to a Gallup Poll in March 1969, 84% of the public wants Federal aid withdrawn from campus lawbreakers. Administrators were not listening.

Possibly the most significant indicator of the public's resentment was expressed in a Gallup Poll on May 13–14 for *Newsweek* (May 25) in which respondents were asked who was primarily responsible for the deaths of four students at Kent State University: 11% blamed the National Guard, 58% the demonstrating students, 31% gave no opinion. Since the facts at Kent State are not yet fully known—the President has appointed a commission to investigate the tragedy—the vote expresses the "gut reaction" or basic attitude of the public more than its judgment in the particular case.

The public sentiment is also being reflected in adverse votes on education issues on state and local ballots and is beginning to show in a diminished flow of incoming gifts. Sooner or later it may also be reflected in the treatment that colleges and universities can expect at the hands of state legislators who, after all, must shape their votes to conform with the wishes of their constituents, if they want to continue in public office.

This is why administrators look increasingly to the federal government for funds. But the prevailing sentiment in Congress bodes no good. According to latest reports, the President's recommendations and other proposals to aid higher education may not be acted upon by the 91st Congress—except for the establishment of a secondary market in guaranteed student loans—largely because of the campus revolt.

The public's ire is directed at the militants who have engaged in orgies of vandalism and destruction, but also at trustees, administrators and faculty members who have permitted them to do so with impunity. Those campus authorities have defaulted on their duty to protect the civil rights of other students and faculty, an overwhelming majority, to pursue their education, teaching and research without being subjected to coercion, intimidation, and physical assault.

It is difficult to recall now that the campus revolution started as a movement purportedly for free speech. Before long it manifested itself in preventing all who would disagree with the militants—faculty, students or public officials—from speaking. High officials of the U.S. government, such as then Vice President Humphrey and Secretaries Rusk and McNamara, were physically attacked when they tried to speak. Neither the President nor his top advisers would now be able to speak on most major U.S. cam-

puses. Is this an example of dialogue or free speech?

Does anybody really believe that the student revolt would end or abate if the war in Vietnam and Cambodia ended tomorrow? The leaders of the action would invent some other cause. They do not want reform—they seek bigger ends.

The President of Stanford University and the president of its student body have recently acknowledged that behind most action is a small hard-core of revolutionaries who are "bent on nothing less than the destruction of the university, primarily as a way of bringing down the society itself."

Acts of arson, burglary and vandalism were committed on the Stanford campus in recent months. 45 policemen were injured in just two nights. The beautiful building in which my office is located—completed less than three years ago—was and still is partially wrecked. But it is in a better shape than the nearby Center for Advanced Studies in the Behavioral Sciences which was firebombed. An Indian scholar's life work there was destroyed. More than 30 ROTC buildings were fire-bombed and many other structures burnt on various campuses. Non-conforming faculty and staff were beaten up.

There are laws against such acts on the books of every state, imposing long prison sentences. Are the criminals who committed these acts now serving time in penitentiaries? How many of the faculty and students who participated have been expelled? Blackmail and violence have often been rewarded by college administrators with concessions and surrender. Most of the time, little effort was exerted to apprehend offenders and if identified they were usually granted amnesty. Small wonder that a reign of terror continues on campuses. Nor will it end until either the presidents and trustees of colleges and universities live up to their responsibilities—or somebody else does the job for them, which would, of course, be far less desirable.

Nobody questions the right of students, faculty or administrators to make their individual disagreements known with any action of the U.S. government, foreign or domestic. But a university which takes a stand on a political issue—and a violent stand at that—destroys its value and forfeits its claim to be a center for impartial study and teaching. It transgresses upon the rights of the members of the academic community with different views. It is too often forgotten that most parents send their children to college to learn, not to decide public policy. If students were mature enough to exercise such judgments, they would not need to go to college. But even if all seven million students on U.S. campuses disagreed with official U.S. policy—which, of course, they do not—what makes anybody think that they would have the right to force the hand of the lawful government and the duly-elected representatives of 205 million Americans? What makes the dissidents think that they can run the country—without subjecting themselves to the inconveniences of having to run for elective office to gain the consent of the governed before they try to usurp the right to govern? What the leaders of this movement really want is, of course, not to run the country but to ruin it. Shall we let them do it?

A society that does not defend itself is bound to destroy itself. To yield to mob rule is to end government by the people.

Less than two months ago I spent a week of discussions in Moscow. Soviet officials were quite frank in saying that they expect American foreign policy to be influenced and largely governed by domestic events, including violent mob action on our campuses. The Soviets expect that they can sit back and wait until we give in. They are, I believe, mistaken. But I am not surprised that they feel this way.

There are now signs that the patience of the American people is wearing thin. If aroused groups resorted to vigilante action as their last resort, as some did in New York a few weeks ago, the results could be tragic for our colleges and the free institutions we cherish. A "backlash" could gravely harm our system of higher education, built up by the dedicated efforts of generations of Americans in more than three hundred years. Let us not forget that Rome was built in seven centuries, destroyed in a few days. There is still time to keep our higher education institutions from going down. I hope and trust that it will be used well.

MISS JEANETTE RANKIN

Mr. MANSFIELD. Mr. President, on Thursday, June 11, friends and admirers of Miss Jeanette Rankin gathered together in Washington to pay tribute to this great lady on her 90th birthday.

During the course of the evening a number of fine tributes were given to Miss Rankin honoring her for her many years of public service and devotion to peace and tranquility in the world. Among the finest tributes was the one given by my able colleague from Montana (Mr. METCALF). I ask unanimous consent that his remarks be printed in the RECORD.

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

REMARKS OF SENATOR METCALF

As one who also represented the Montana Congressional district Miss Rankin represented so well, it is a real privilege to join tonight in honoring one of the truly great ladies of the world, Miss Jeannette Rankin. Perhaps she is best known for her votes against our entry into two world wars, it is my deep feeling that we honor tonight a woman, young in heart, who not only has survived a generation gap but has jumped over a couple of generations and is now shoulder-to-shoulder with the youngsters of today who are seeking peace.

She was far ahead of her time in other areas which also concern us today. She spoke for disarmament—and what she called "a militant crusade against the whole war system, beginning here in America and taken up by the peace-loving nations." She spoke for the consumer. The Helena Daily Independent, published in Helena, Montana, quoted Miss Rankin as saying to the Montana Legislature: "It is beautiful and right that a mother should nurse her child through typhoid fever, but it is also beautiful and right that she should have a voice in regulating the milk supply from which typhoid resulted." The date of that news story was February 2, 1911. That might have come from a Virginia Knauer news release this week.

She spoke for child welfare, of industrial and labor problems, of economic maladjustments, their need for raw materials, the interdependence of all nations in distribution of the world's goods, the pressure of growing populations, social injustice, racial prejudice. She believed in freedom for our First American—the American Indian—and of his needs for education and recognition. She was interested in the development of the public lands, including our national parks, which are a part of our national heritage. Her advocacy of the direct election of the President is a matter of public record. These all sound like a reading of the calendar of issues before the Congress today.

4. Think of the proposals Miss Rankin espoused that have become part of the body of American law: Suffrage for women, support for dependents of enlisted men, free postage for members of armed forces, granting to American women married to aliens the right to retain their citizenship, creation of a water-power board. And then think that just three years ago Miss Rankin, as her own contractor, built a cooperative homestead for unemployed women.

Such is only a bare outline of a truly *incredible* career which has extended for 60 years, since she became a social worker in Seattle, Washington, in 1909.

I have dwelt on what Miss Rankin has accomplished in her long life. They say, better than I can, what she is: a saver with a great heart, a builder, a trail blazer and an example to all legislators who would have the courage of their convictions.

I salute Jeannette Rankin for her effective interest in Western problems that have influenced global civilization. It was easier to represent the First District of Montana independently because of her example.

On Miss Rankin's birthday, I wish her many more years as one of the great leaders of our time and one of the great leaders of all time.

LOWERING THE VOTING AGE BY STATUTE, SUPPORT OF CONFERENCE OF MAYORS

Mr. KENNEDY. Mr. President, at its annual meeting in Denver last week, the U.S. Conference of Mayors adopted a resolution strongly supporting the Senate-passed version of the voting rights, including the provision lowering the voting age to 18. The resolution, which was offered by Mayor Sam Massell of Atlanta, was initially approved by the resolutions committee on Saturday, June 13, and was approved by the full membership of the Conference of Mayors on Wednesday June 17.

On the same day that the Conference of Mayors approved the resolution, the House of Representatives agreed in a historic vote to accept the Senate bill.

Mr. President, the resolution adopted by the Conference of Mayors is strong new support for extending the Voting Rights Act and lowering the voting age to 18, and I ask unanimous consent that it be printed in the RECORD.

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

RESOLUTION OF THE CONFERENCE OF MAYORS

RESOLUTION NO. 22—VOTING RIGHTS
ADOPTED JUNE 17, 1970

Whereas, the voting rights of every American citizen are guaranteed under the Constitution and the protection of these rights is essential to the preservation of our form of government; and

Whereas, in 1965 the Congress of the United States passed the Voting Rights Act to insure that these rights would be delivered to all citizens, regardless of race, creed or national origin; and

Whereas, the enforcement of the Voting Rights Act has resulted in the delivery of this right to millions of citizens for the first time; and

Whereas, this Act must now be extended by the Congress, and any weakening of its provisions could seriously jeopardize rights that have been safeguarded; and

Whereas, the United States Senate has acted to strengthen the Voting Rights Act, including an amendment providing for voting rights to be extended to 18 year olds; and

Whereas, the youth of this nation are deeply concerned over the effectiveness of the political system, and are entitled to greater participation through their concern and their service to their country:

Now, therefore, be it resolved, that the

United States Conference of Mayors urges the Congress of the United States to adopt the Senate version of the Voting Rights Act, including the provision for the 18 year old vote.

INDUSTRY CALL TO ACTION ON PRIVACY AND COMPUTERS

Mr. ERVIN. Mr. President, at a time when the private sector of our economy is increasingly dominated and affected by the hardware and the software companies which make up our Nation's computer technology resources, it is good to learn that some in the industry are becoming concerned with one of the vital problems of our time. This is the problem of how to assure individual privacy and rights in the computer age and still meet the management needs of Government.

Mr. Robert Henderson, vice president and general manager of the electronic data processing division of Honeywell, Inc., provided unique insight into this problem in a speech this week before a national symposium of the National Archives and Record Service—GSA—in Washington. With the perspective of one versed in the capacities and potentials of computer technology, he has outlined the great benefits which society stands to gain on the wise application of computer knowhow. He has also pointed to dangerous side effects which could threaten individual freedom and has suggested steps to avoid the perversion of computer technology. He calls for new technical safeguards in system design and in information delivery. He also points to the need for self-restraint in the recording of information on the one hand, and the need for relinquishing it and erasing it when the purpose for it has expired, on the other hand.

For two major reasons, I believe the presence or absence of such restraint should concern every citizen, every government official and every computer specialist. First is the fact that virtually every day some amazing new technological breakthrough makes it possible for computers to remember and digest ever more information in ever more complex forms. Second is the growing trend in time sharing among Federal agencies, especially on State or regional levels. While admittedly economical, this trend will at the same time make it more difficult for any one agency or official to exercise such self-restraints conscientiously. I make this observation because, without Federal restraints, it is unlikely that there will be a meeting of minds among civil servants or an identity of interest among agencies about what information should be acquired or retained on the individual citizens whose programs they administer. Mr. Henderson reaches the wise conclusion that new legislation is needed in this area and that our old legal framework may not be adequate to defend our privacy against new techniques of data collection and recordkeeping.

Mr. President, this is a conclusion which I have also reached on the basis of my own study and on the basis of the Constitutional Rights Subcommittee investigation of some Federal data bank programs and their impact on individual rights. I wholeheartedly endorse this call for action and commend Mr. Henderson's speech to those in the computer industry as well as those concerned with the problem in Congress. I ask unanimous consent that the text of his address be printed in the RECORD.

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

REMARKS BY ROBERT P. HENDERSON

It is a great pleasure to be here with all of you today, and to have this opportunity to discuss some of the problems and opportunities that we share in this very vital area of "Recordkeeping in the Space Age."

Space age? Yes, we have indeed entered this most adventurous era in man's history. But I can't help feeling that an even more meaningful description of the time in which we now live is "The Computer Age."

I don't say that just because computers are my field and my overriding interest. I say it because I think that the computer already exerts—and will increasingly exert—a more compelling influence on the life of the average citizen than the exploration of space—as thrilling as that may be. In fact, it hardly needs saying that there would *not be* any space program without the technological advances which we loosely lump under the heading of "computers."

Precisely because the computer's potential effects on society are so important, it has generated a good deal of controversy.

On the one hand the computer is seen as the great servant of mankind. It has come along just when it is most needed to help solve many of the complex social and economic problems which threaten to overwhelm us today. It is a miraculous extension of man's intellect, with implications so broad that no one can even begin to predict its ultimate uses.

That's one view of the computer—but by no means the only one.

The man on the street, with only a vague comprehension of it as some sort of mechanial brain, may regard it as a threat to his job. Or he may see it as an impersonal compounder of errors that show up from time to time on various printed statements—an inhuman device designed to frustrate him by his inability to get past it to the very human person who is really responsible for the mistakes.

If that sort of view represented the only criticism of the computer, there wouldn't be too much for us to worry about. It is easy to demonstrate that computers create far more jobs than they eliminate. And the errors blamed on them are indeed chargeable to people who probably would have committed them even if the computer had never been invented.

There is criticism, however, of an entirely different sort that *does* worry me. It comes from some very learned and thoughtful people. They don't see the computer as a monster, which it is not. They don't see it as the ultimate master of mankind, which it will never be. They see it, rather, as facilitating a radical realignment of knowledge—and therefore of power. This they regard as a very dangerous possibility—and so do I: a new sort of computerized power politics. But I don't regard it as *inevitable*, so what I'd like to get across to you today are some personal observations about future computer developments in four areas:

first, the great benefits that lie ahead of us;

second, the dangerous side effects that could threaten some of our prized individual freedoms;

third, what can be done—and *must* be done—to avoid that sort of perversion of computer technology;

and fourth, steps already being taken to insure that the computer always serves the individual and never the other way around.

In their potential benefit to society, computers today are ready to take off in a big way. Most of our ideas about them in the '60s needs to be discarded or at least radically revised. Arthur Humphreys, managing director of International Computers, Limited, in England, has pointed out that we must stop thinking of computers merely as a way to *save money*. In their ability to perform far more demanding and complex assignments than they have ever been given, computers have become a means of *making* money—of creating new wealth.

In the past a great deal of effort has been directed toward making the most efficient use of computers *as they existed*. This was fine for miscellaneous back office applications, but now managers must think of *developing* computer systems that are specifically geared to *their needs* and the needs of the people who work for them. It is the decision-making process that should receive major attention. Some observers—including Mr. Humphreys—even foresee the old functions of programming passing from the picture.

How will this happen? We will see systems analysts working directly with individual line managers. By learning to understand managers' problems in the light of practical day-to-day business, the analysts can evolve appropriate solutions through the establishment and manipulation of data by computer.

Thus it will be people who best understand management's problems who see a data system through from conception to implementation. With this close user involvement, there will be little or no need for intervening technical or programming specialists.

Up to now the computer industry has had very limited success in persuading management to utilize computer-processed data in their decision making. And I think much of management's resistance has been because they didn't know how to change the way they called for information. New management information systems will be more practical. They will conform to the reality of the human beings they are devised to serve. And the result will be an invaluable data base for an organization's operational and planning activities. In fact, I would hope to see it providing information on day-to-day operations to a point where managers feel unable to function efficiently without constant updating of the data base.

In this way the computer will become a true management innovation, giving executives the time for deeper and more astute consideration of their decisions. You might say it will even put them a bit on the spot—by relieving them of any excuses for not exercising the highest degree of creative thinking and good judgment. Flying by the seat of your pants will be *out*.

Another extremely significant development in the '70s will be the linking together of the isolated and independent computer systems of the last decade. Data and programs will begin to flow together in enormous national—and even international—data grids.

This becomes possible through two important advances in computer technology:

first, new time-sharing potential permits simultaneous on-line access to many users at remotely located terminals;

second, mass memories are becoming available with a capacity for files of almost unlimited size.

One of the great benefits of these large new computer systems will be their ready access to many people in both a physical and intellectual way. Terminal devices through which people can communicate with the computer systems will enable them to converse with the data bank as easily and familiarly as with their human colleagues. In effect, each man

will be able to use the computer as a means of building upon the work of others. Just as he will use data generated by the activities of others, he can generate his own data for their use.

The result can be an eventual pyramiding of man's knowledge and intellectual accomplishment that is staggering to consider. There are those who even foresee a time—we are no longer speaking of the '70s, of course—when all of the information available in the world can be stored and constantly updated in computer memory. From terminals in every large city in every country scholars and others could query the computer to search its memory on any subject—and thereby instantly find and receive the required information. Where a Harvard graduate student, for example, now enjoys the privileged position of working within that institution's great library stacks, that same capability—and even better—would become available to anyone who wanted it wherever he might be.

In a modest way, this sort of thing is already being done. The Library of Congress provides computerized bibliography service on its some 70 million books and documents. The Smithsonian Institution now keeps track of its multitude of exhibits and specimens by computer. Aspen Systems has the legal statutes of all 50 states computerized by subject matter and can provide immediate summaries for any jurisdiction.

Today a brilliant lawyer may diligently track down some remote case history that will favor his side in a trial. Tomorrow vast computerized legal files could produce such histories quickly and easily for all lawyers, freeing their time for other constructive activities. The result could not only help to clarify our laws and their interpretation. It could reduce the costs of cases and relieve our overtaxed court facilities by enabling them to dispense justice more rapidly and efficiently.

Another important area of our lives where computer data banks can benefit us in the maintenance of our health. Every citizen's complete medical history can be recorded within a national data network. Wherever he may go, from coast to coast, this history will always be immediately available to any doctor or any hospital should he suffer an accident or illness. No more mistakes involving blood type or allergy to certain drugs or lack of information on past disabilities. And oceans of correspondence and paper work in triplicate will be eliminated from the burden carried by our overworked medical profession.

Doctors may also use data banks to assist them in making a patient diagnosis, in much the same way that lawyers could obtain help in plotting a case. Today if you take a complaint of illness to your doctor, he will make his diagnosis by running through his memory to search out similarity of symptoms. He may refer to certain books in his library or call in other consultants who can search through their memories and thereby assist him with *their* experience.

But suppose we have a vast computerized file of case histories at your doctor's disposal. Within minutes the computer can search *its* memory against a given set of symptoms and list every possible diagnosis for the doctor's consideration. This is not to say that the computer will make the diagnosis. That will always remain a human function, but as an extension of the human memory, the computer can play an invaluable role.

Since I don't want to spend all of my time with you today in presenting the positive benefits available to us through rapidly advancing computer technology, I will mention only one more example—in education.

Even the most gifted teacher cannot simultaneously satisfy the individual needs of each student in a class—particularly when the student population explosion gives us classes of from 30 to 100 or more. But consider a computerized instructional system which supplies each student with material controlled by a program specifically suited to his needs. Again we are not replacing people with computers. But we are giving the teacher the equivalent of dozens of personal assistants whose work with students can be monitored by the teacher and modified as he may deem necessary. At the same time the teacher would have more time to give direct help to students as required.

In considering all the benefits of a computerized society, we must remember that they depend primarily upon two developments: vastly increasing the capacity, complexity and *accessibility* of computer systems; and, storing within their memories not only an infinite amount of academic information, but also a great deal of highly personal information about *us*—the people who will be looking to these new systems for assistance.

For example, we obviously cannot solve a problem such as poverty without maintaining extensive records about the recipients of welfare programs, job training programs, educational programs. And only a computer can take records of such size and scope and help us reach coordinated decisions and conclusions.

At the same time, there is a natural human dislike of becoming a statistic—particularly when the statistic grows into a lengthy dossier providing more or less intimate details about one's person and one's daily living habits. And even more particularly when that dossier is secreted within a vast, impersonal, electronic information system to which any number of unknown persons may have access for any number of unknown reasons.

Privacy is one of our most precious human rights, and in today's crowded and disorderly environment, it may be one of the hardest to maintain. Long before the pressures of 1970, Louis Brandeis described privacy as "the right to be let alone, the most comprehensive of rights and the right most valued by civilized man."

The computer does not in itself create any invasion of privacy. Its role is no more active in this respect than the old-fashioned filing cabinet. The threat to privacy posed by surveillance and recordkeeping has been a fact of life for centuries.

The only new element introduced into this picture by the computer is fantastic efficiency. I believe that is what people really fear, and that is the problem that must be faced. For there is no way to halt computerization any more than the Luddites of 19th century England could halt the Industrial Revolution.

As Professor Robert Fano of MIT has said, "You can never stop these things. It is like trying to prevent a river from flowing to the sea. What you have to do is to build dams, to build waterworks, to control the flow."

It is toward building those dams and controlling that flow of information that I want to address the rest of my remarks. Because I feel very deeply that computer manufacturers are among those who must assume heavy responsibility in this matter, responsibility which needs to be defined and implemented.

We have too many examples around us today of how technology failed to look ahead at problems which it might accelerate, even if it did not really create them. Pollution of our environment is one, and now we must reckon with the human consequences of pollution of privacy.

The computer industry cannot solve the problem alone, but there is a great deal that it can do, both technically and ethically.

Technically we can build safeguards into system design. We can make it possible to limit those who are allowed to put information into a system. We can even have the machines check data against a given set of values and reject questionable information. In fact, all input could be classified as it is received, ranging from material of public record to top secret. Sensitive information then could be encoded during the input process.

Similarly, there can be ingenious safeguards in the delivery of information. The computer can require a password or answers to a series of questions before printing out. It could require several persons to be present, each possessing separate parts of a code. According to the password a person possessed, the computer could limit access to a specific type of information. It could have intelligence built in to detect any unusual pattern of access request—hesitation, for example. It could record each request so as to pinpoint blame later if information is misused. It could be constructed to read badges and other forms of physical identification—or even compare the user's voice to a "voice print" stored within it.

There are many more possible examples of technical security systems which I might describe—not to mention increasingly ingenious ones which may be developed in years to come. Yes, our machines can do a lot to protect the privacy of computerized records—particularly if you compare them to a flimsily locked filing cabinet or even a safe. But really determined men, unfortunately, can find ways to get around the best security systems. Practically speaking, we regard Fort Knox as inviolable. In an absolute sense, of course, it is not. The late author Ian Fleming, even wrote a James Bond thriller, I recall, suggesting an imaginative means of attack.

So we must consider more than physical safeguards. Obviously the trustworthiness of the operating personnel is an important factor, and management should exercise sensitive control here. What goes into files is also a management decision, and perhaps the question needs to be asked more frequently, "Is this information really necessary?" Do employers, for example, really need to know all about the emotions, personal habits, attitudes and beliefs of other employees—or could they be satisfied to judge their work performance objectively?

The burden of answering questions from all sides is growing for the average man. All of us are leaving a longer and longer trail behind us of information gained by birth records, employment records, Social Security, Selective Service, police, hospitals, credit bureaus, Internal Revenue Service, the Census

Credit cards establish in the checkless society where we eat and shop and how much we spend. In the cashless society to come, even the smallest transactions may be fed instantly into central computers to put every detail of our daily life on record. If you knock off work mid-afternoon to take in a movie or go out to the golf course, that tiny transgression may be irrefutably noted when your account card is processed at the box office or club house.

If we cannot stop this relentless flow of information about ourselves into central files, we can do as Professor Fano suggests—build a dam here, a filtering system there to control it. For example, trivial information—such as that visit to the movie or the golf course—could be recorded on independent data systems which are periodically erased. A time limit on *all* personal data might be a good idea—so that a youthful indiscretion wouldn't haunt a man's records for the rest of his life.

Frankly I feel that we will need some new legislation in this area. Our old legal framework may not be adequate to defend our privacy against these new techniques of data collection and recordkeeping.

Perhaps the most important new legal safeguard would provide a citizen with the ability to challenge in court the release of private data about him without his consent. *Without his consent.* These are very meaningful words.

Professor Alan Westin, in his widely read book "Privacy and Freedom," has defined privacy as "the claim of individuals, groups or institutions to determine for themselves when, how, and to what extent information about them is communicated to others . . . (although he adds.) The individual's desire for privacy is never absolute, since participation in society is an equally powerful desire."

Professor Westin's point is that circumstances may determine whether a man wants to share or withhold information about himself—even information which may be stored in some remote computer system. If he is to have any control, he must be aware that it is there and have the right to examine it and challenge it. He must be able to know who has access to the information and to what outside agents it may be released.

These are some of the things, I believe, that would have to be covered by new legislation. Such legislation might make personal information a property right, with all of the protections and guarantees of due process that our laws have devised for our property. This could involve criminal penalties for improper conduct in gathering, storing or releasing personal information.

In addition to new statutory laws, there is one other area which deserves our attention. You might call this "public education" in a very broad sense. This may sound strange, coming from a representative of the computer industry, but I believe that it is important to get the general public involved in thinking about and discussing the problems generated by computerized recordkeeping.

The weight of public opinion can do a great deal toward influencing constructive public policies, voluntary ethical codes among users of computer systems, and standards of practice among businesses, government agencies, labor unions, universities, research projects and various other organizations.

Happily there are some strong, constructive forces already at work. The Russell Sage Foundation is funding several projects including an in-depth study on data banks and personal privacy by the National Academy of Sciences. Professor Westin is directing the project assisted by a distinguished group of advisers.

The Business Equipment Manufacturers Association has a new Committee on Matters of Privacy and Security which is actively seeking to find feasible solutions to the problems. For we are concerned and want to contribute positively to resolving these complex issues which can have such a profound effect on our personal freedom and the operation of our society. As members of the world's fastest growing industry, there is no reason why we cannot exert a strong influence on the ethical standards governing the use of our products.

Very simply, there are two directions in which computerized and centralized information systems can take us. One would lead us to a rigid, automated bureaucracy with great knowledge and power but little regard for the human consequences of its programs.

The other would enlist the power of computers in the service of individuals, enabling them to cope more successfully with the complexities of modern life and increasing the opportunities for successful fulfillment of their talents.

It is never enough just to invent something—the printing press, the automobile, television, or computers. It is how we use these products that counts. Technological advances must be adapted to serve *people*, and good intentions will not suffice.

If the time ever comes when the misuse of computerized recordkeeping leads man to fear being curious, daring, and willing to deviate from the norm in order to experiment, it would not be a case of the machine triumphing over man, as some people fear. It would be a case of man *becoming* the machine.

May I say again that the computer manufacturing industry feels a heavy responsibility in this regard. We believe that society has no choice but to use computer aids in relieving the tensions and solving the problems of our age. We are thankful that our products now have the capacity to help achieve these beneficial results. And we see no reason why personal privacy and human dignity should be sacrificed in the process.

Thank you.

T. H. BELL: QUALIFIED FOR EDUCATION POST

Mr. BENNETT. Mr. President, the Ogden, Utah, Standard Examiner, in an editorial on June 17, states:

The quality of the federal government's educational programs would be enhanced if the appointment of Dr. T. H. (Ted) Bell as acting U.S. Commissioner of Education is made permanent.

I agree wholeheartedly with the editorial. I also would like to report that I have once again contacted the White House and the new Secretary-designate of Health, Education, and Welfare, Elliot Richardson, and assured them of my interest and support for his permanent appointment as Commissioner to fill the vacancy created by the resignation of Dr. James E. Allen, Jr.

All of us from Utah were thrilled when Secretary Finch agreed with me that Dr. Bell should temporarily fill the vacancy, and I have always looked upon the interim appointment as merely a first step toward making it permanent.

Dr. Bell has been Associate Commissioner in the Office of Regional Office Coordination in the U.S. Office of Education since last February. Previously, he served as Utah Superintendent of Public Instruction for 7 years.

As I told Secretary-designate Richardson, I have known Dr. Bell for a good many years and can report that he is a fine man, completely dedicated to education, and I am confident he will do an excellent job. I do not hesitate in any way in recommending his name to the Senate for the permanent position of U.S. Commissioner of Education.

I commend the Ogden Standard Examiner for this excellent, well-written statement, and I wholeheartedly associate myself with it.

So that my colleagues may be aware of the Ogden Standard's warm endorsement of Dr. Bell, I ask unanimous consent that the editorial be printed in the RECORD.

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

T. H. BELL: QUALIFIED FOR EDUCATION POST

The quality of the federal government's educational programs would be enhanced if the appointment of Dr. T. H. (Ted) Bell as acting U.S. Commissioner of Education is made permanent.

Dr. Bell, former Weber County superintendent of schools, was temporarily named to the position Monday to replace Dr. James E. Allen, Jr., fired last week at the climax of a policy disagreement with the Nixon administration.

The Utahan has been in Washington for the last two months, since he resigned as Utah superintendent of public instruction, serving as an associate commissioner in charge of coordinating regional offices of the U.S. Office of Education.

The selection of the 47-year-old native of Lava Hot Springs, Idaho, as Dr. Allen's acting successor came as Robert H. Finch was leaving his position as Secretary of Health, Education and Welfare to join the White House staff. Secretary Finch is being replaced by Elliott L. Richardson, former under-secretary of state.

It will be up to Secretary Richardson, in consultation with President Nixon, to make the permanent appointment as commissioner of education.

In selecting the man to fill this vital office, Secretary Richardson should be able to check Dr. Bell's credentials easily and quickly.

He will find that "our" Ted Bell may be small in physical stature but he's a giant in the field of education.

The innovative processes he introduced into the Weber County school system while superintendent have made our county district one of the most progressive educational units in the nation. He also had an extraordinarily fine ability to pick capable educators for positions on his staff, as demonstrated by the record shown by his successors in the Weber district.

He did the same thing, on a statewide level, during his seven years in Salt Lake City as head of the Utah school system.

Members of the Utah congressional delegation have already begun a campaign, on a non-partisan basis, to make Dr. Bell's appointment as commissioner of education permanent. They are being joined by Gov. Calvin L. Rampton and spokesmen for the Utah Education Association and the Utah School Boards Association. He also has the endorsement of Dr. Sterling M. McMurrin, dean of the University of Utah graduate school who served as U.S. Commissioner of Education in 1961 and 1962.

Dr. Bell would be a credit to the Mountain States that he has always called home—and to the nation at large—if he were made permanent commissioner at this crucial hour in the history of our country's educational program.

THE BIGGEST LITTLE MUSEUM IN THE UNITED STATES

Mr. SYMINGTON. Mr. President, during the past 9 years the community-supported Springfield, Mo., Art Museum has moved into national prominence with its annual exhibit and competition, "Watercolor USA." Recognized as one of the top watercolor shows in the United States, it is the most widely representative display of American watercolorists in the Nation.

The 1970 "Watercolor USA" attracted 1,220 entries from 680 artists in 48 States and the District of Columbia. Thirty-two of the 123 paintings selected for exhibit were winners of the total $10,175 in awards. In the exhibit's first year there were only nine awards, totaling $2,250. Businesses and individuals participate in the success of the exhibit through donations of these purchase awards.

Under the able direction of Mr. Kenneth M. Shuck, the Springfield Art Museum has acquired a permanent collection of 45 paintings, on continuous display in city, county, State, and Federal

offices. From this year's show there will be two traveling exhibits, 20 paintings each, which will tour Missouri under the sponsorship of the Missouri Council on the Arts.

The Honorable Carl Stillwell, mayor of the city of Springfield, has declared the week of June 28, 1970, as "Springfield Art Museum Week," a week of tribute to Mr. Shuck and to Mr. Jack Taylor, chairman of the art museum board, the museum employees, and the members of the board. Mayor Stillwell has also declared June 29 as "Kenneth Shuck Day" and June 30 as "Jack Taylor Day."

In recognition of this tribute and the city's contribution in the field of the arts, I ask unanimous consent that Mayor Stillwell's proclamation be printed in the RECORD.

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

PROCLAMATION

Whereas, Watercolor U.S.A. has brought outstanding prominence to the City of Springfield and the State of Missouri in the field of art and has made an extraordinary contribution to the advancement and betterment of the arts and humanities on a national basis; and

Whereas, Mr. Kenneth M. Shuck, Director of the Springfield Art Museum has been the prominent figure in the establishment and successful exhibition of Watercolor U.S.A., displayed in Springfield, and Mr. Shuck has been supported by the City Council of the City of Springfield and has had overwhelming cooperation from the members of the Springfield Art Museum Board and local citizens;

Now therefore be it proclaimed that I, Carl Stillwell, as Mayor of Springfield, declare the week of June 28, 1970, as Springfield Art Museum Week.

Be it further proclaimed that Kenneth M. Shuck, Director of the Museum, Jack Taylor, Chairman of the Art Museum Board, all employees of the Museum, and board members consider this a week of tribute from the citizens of Springfield to them in their efforts to promote Springfield nationally in the arts and humanities.

Furthermore, the day of June 29, 1970, is to be Kenneth Shuck Day in the City of Springfield, with June 30, 1970, recognized as Jack Taylor Day.

Respectfully submitted.

CARL STILLWELL,
Mayor.

TWO HUNDRED AND ELEVEN DAYS WITH NO ACTION IN THE FITZGERALD CASE

Mr. PROXMIRE. Mr. President, it is now 211 days since I originally wrote to Attorney General Mitchell requesting an investigation of the intimidation and firing of Ernest Fitzgerald. It has been more than 3 months since the only reply from the Justice Department. But still no action.

Mr. President, what is the Justice Department waiting for? How long must we wait for the Criminal Code to be enforced? Is the Criminal Code only for certain citizens and not for others?

Mr. President, when does the Justice Department intend to act?

RESULTS OF THE CAMBODIAN SANCTUARY OPERATIONS

Mr. HANSEN. Mr. President, I ask unanimous consent that a summary of the results of the Cambodian sanctuary operation, as of 8 a.m., June 22, 1970, be printed in the RECORD.

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

RESULTS OF CAMBODIAN OPERATIONS, JUNE 22, 1970

Individual weapons	20,412	+121
Crew-served weapons	2,438	+5
Bunkers/structures destroyed	10,744	+166
Machinegun rounds	4,047,817	[1] +39,307
Rifle rounds	9,351,204	+670
Total small arms ammunition (machinegun and rifle rounds)	13,399,021	+39,977
Grenades	53,364	+18
Mines	5,419	+4
Miscellaneous explosives (pounds) (includes satchel charges)	81,000	[2]
Anti-aircraft rounds	184,245	[2]
Mortar rounds	64,590	[2]
Large rocket rounds	2,106	+36
Smaller rocket rounds	40,267	+127
Recoilless rifle rounds	27,721	+4
Rice (pounds)	13,684,000	+124,000
Man months	301,048	+2,728
Vehicles	416	+4
Boats	117	[2]
Generators	36	[2]
Radios	241	+3
Medical supplies (pounds)	54,000	[2]
Enemy KIA	10,728	+218
POW's (includes detainees)	2,244	[2]

[1] Field adjustment.
[2] Unchanged.

Note: Figures do not include 70 tons of assorted ammunition.

PRESIDENT NIXON IS URGED BY SENATOR RANDOLPH TO SIGN VOTING RIGHTS BILL

Mr. RANDOLPH. Mr. President, I have today sent a telegram to the President of the United States urging him to sign the bill extending the Voting Rights Act of 1965 and lowering the voting age in all elections to 18.

This legislation will provide for the inclusion of responsible Americans who have been denied the right of full citizenship for a variety of reasons. Particularly it embraces a new segment within the electoral process—18-, 19-, and 20-year-olds. Through this legislation we are endeavoring to insure the continuation of a responsive democracy in today's society.

Mr. President, I ask unanimous consent that my telegram to the President be printed in the RECORD along with a telegram to the President from the 1970 YMCA youth governors. They are meeting in Washington and have adopted a resolution recommending Presidential approval of this legislation.

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

JUNE 22, 1970.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: I respectfully urge you to sign the recently approved voting rights legislation which extends the Voting Rights Act of 1965 and lowers the voting age to 18. It is my firm belief that the measure as approved by Congress provides for the effective continuation of our effort to enfranchise Americans who have been denied the ballot.

I understand your concern and questions over the statutory approach to a lower voting age. However, I supported this approach because such a change is so necessary and because we have provided for immediate court tests. This legislation will bring into the elective process many Americans who have earned the right of expression at the ballot box and it will further our goal of broadening the base of our democracy.

JENNINGS RANDOLPH,
U.S. Senator.

[Telegram sent on Sunday night, June 21, 1970]

RICHARD M. NIXON,
The White House.

DEAR MR. PRESIDENT: This is to inform you that the 1970 YMCA Youth Governors' Conference, presently assembled in Washington, has passed a resolution urging your support and signing of the pending bill to reduce the voting age in our nation to eighteen years. The vote was twenty-five for and six against. As representative, elected youth of the various states, we urge your early action on this bill.

Respectfully yours,
THE 1970 YMCA YOUTH GOVERNORS.

THE CAMBODIA CAMPAIGN

Mr. SCOTT. Mr. President, the Altoona Mirror recently published an editorial on the situation in Cambodia which merits the attention of all Americans. The editorial poses questions which cry out for replies, and it makes points which should be taken to heart by all concerned with the U.S. position in Indochina. I ask unanimous consent that the editorial be printed in the RECORD.

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

WHAT HAPPENS TO GOOD NEWS

The campaign against Red bases inside Cambodia is a marked military success, an outstanding victory for the U.S. and South Vietnam. A White House announcement dated May 15 reported that during the first two weeks of the Cambodian campaign 5,600 of the enemy have been killed and 1,400 captured.

In addition, said the executive announcement, U.S. and South Vietnamese troops captured more than 8,500,000 rounds of ammunition, more than had been seized in a year of operations in Vietnam. It was estimated that this "exceeds the enemy requirement for ammunition throughout South Vietnam in a six-month period."

The announcement also reported that an estimated 8,100 individual and 1,000 crew-served weapons were captured in this period. This would be enough to equip 15 full-strength North Vietnamese Communist infantry battalions at currently estimated strength levels, it was said.

The U.S. and allies also captured 500,000 pounds of rice, enough to feed more than 120,000 Communist soldiers for a month at full rations. This rice is being allocated for use by refugees, said the White House announcement.

"We have disrupted the enemy's logistics network and lines of communication. We have struck a heavy blow at his offensive capability. American forces are already starting to withdraw and all will be out of the sanctuaries by June 30."

The announcement, signed by Herbert G. Klein, director of communications for the executive branch, White House, concluded, "Results from the first two weeks, which I have only highlighted here, leave no doubt that the Cambodian mission already is an enormous success."

Sen. Hugh Scott announced that more enemy equipment had been seized than had been captured before in the last 16 months. He said enough enemy ammunition had been captured for "3,632 attacks at the enemy rate of fire of recent weeks."

Apparently, the U.S. and South Vietnamese forces are accomplishing what they set out to do.

A question which intrigues us at the news desk level of American journalism is what happened to this victory in the news dispatches that have been coming through?

A United Press International dispatch dated Saigon, published in the Altoona Mirror May 14, announced that "U.S. Combat Deaths Highest in 8 Months. American Toll Set at 168 Last Week."

The day before, the Mirror headline on a UPI Saigon dispatch reported, "N. Viets Attack U.S. Gunbase in Cambodia. American General Killed."

What happens to the U.S. and South Viet victories in the American press? Enemy casualties are based, said the Pentagon, on "body count." The White House report of enemy casualties and war equipment lost should rate top news position. But, it seems to have become lost or buried someplace along the line.

"Telling it like it is," it would seem, hardly could overlook such a White House announcement, or fail to give it at least equal prominence with the routine sameness of news leads which marks so much of the Vietnam war news.

PROF. PHILIP B. KURLAND'S VIEWS ON STUDENT DISORDERS

Mr. ERVIN. Mr. President, because of my deep concern for the future of this Nation's universities I should like to call to the attention of the Senate a speech given by Prof. Philip B. Kurland, professor of law at the University of Chicago. It merits the careful reading of every Member of Congress.

In his speech before the Women's Bar Association of Illinois on June 4, Professor Kurland expressed his opinion that acquiescence to the demands of violence and force will destroy academic freedom and hinder the worthy pursuit of knowledge. He stated that the politicization of our universities and colleges will result in the distintegration of our institutions of higher education and, therefore, the loss of academic freedom.

As Professor Kurland so aptly stated:

A university cannot be both a political force and an institution dedicated to the search for knowledge and its dissemination. As a university makes a political commitment it destroys its claim to academic freedom. And without academic freedom, the search for and dissemination of knowledge becomes more shadow than substance.

There are two facets of the politicization of a university, one being internal, the other external. The external forces are readily visible; that is, the encouragement of students by some public officials, the press, and some university faculty members to pursue political activities instead of academic activities while in school. In explaining the internal facet, Professor Kurland draws on a speech given by Prof. Gardner Ackley of the economics department of the University of Michigan who was at one time Chairman of the Council of Economic Advisers. In his speech to his faculty colleagues, Professor Ackley made the following observations about their particular situation:

The year began with the bookstore dispute—a more ridiculous issue is hard to imagine. But its supporters were willing to disrupt and destroy. The University was unwilling or unable to resist or punish the destroyers. In the end, the Regents backed down, and precious resources were allocated . . ."

Whatever the issue, these lessons were taught and learned:

That violence and disruption either cannot or will not be punished by the University;

That the big lie, loudly pronounced can become the truth;

That the desire of the overwhelming majority of students—who want to learn and of the overwhelming majority of the faculty—who only want to teach and investigate—count for nothing.

Professor Ackley continues his discussion by recounting the vandalism, ransacking and burglarizing which occurred, and the lack of punishment for these criminal offenses. He noted how decisions of the faculty were made on the basis of fear:

Last Wednesday I watched the faculty of my own department, assembled in the Chairman's office, discuss a demand that all classes in our building be shut down, *or else*. We discussed this while the entrances to the building were sealed, and while the halls outside the room in which we were meeting were patrolled by men carrying pipes and clubs . . .

That day, the truth lay in those clubs.

Professor Kurland opposes student participation in the governance of the university. This objection stems mainly from the threefold purpose he sees as the mission of the university. First, to administer; second, to aid in the search for knowledge and its dissemination; and third, to engage in the use of reason, not force, as the sole means of discourse. The university is not there to exercise power, or to provide social services, to engage in political activities, or to afford therapeutic psychological experiences for students or faculty.

With these ideas of Professor Kurland, I wholeheartedly agree.

With students refusing to attend classes, demanding credit for classes not attended, and having those demands catered to by their faculties, I can only foresee the destruction of our educational institutions. Turning students into faculty-led lobbyists can serve no purpose other than the disintegration of higher education.

Students and faculties interested in the pursuit of knowledge have found themselves caught up in the present atmosphere of the universities, and, as a result of faculty and administrative inaction, find themselves having to adapt to their new environment. In this type of institution, to quote Professor Kurland, "indoctrination will replace education."

Professor Kurland's closing statement shocks us with its alarming prophecy on the effect of such disorders on our college campuses. He concludes:

This is the price that America will pay for the cowardice of its university faculties. It may not be too high a price. After all, what would be the function of an old-fashioned kind of university in 1984 except to breed critics of orthodoxy. And in 1984 who will need critics of orthodoxy?

The success of this Nation has been nurtured by its thirst and quest for knowledge and freedom. Without academic freedom both are lost. The future of this great Nation is dependent upon the knowledge and education of America's youth. That knowledge and education is dependent upon the preservation of academic freedom in our universities and colleges, not to be intimidated by threats of force or violence.

Mr. President, I ask unanimous consent that the speech by Prof. Philip B. Kurland before the Women's Bar Association of Illinois be printed in the RECORD.

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

THE POLITICIZATION OF THE ACADEMY

Your invitation to speak here tonight was a most flattering one. I was told that my speech before the Chicago Bar Association of last January had so impressed some members of your hierarchy that they wished me to repeat it here. Much as I like to hear myself talk, however, even I don't like to listen to the same words in the same sequences. And so, if I don't have any new ideas to offer on the subject—as I expect your committee knew—I am prepared to offer the old ones in new garb.

Moreover, times have changed since January. What was forecast then has become fact now. In January, I could say that the universities of this country were in danger of being politicized. Today I can report that they have been politicized. The catalyst for this change has been the senseless, illegal war destroying lives and resources at a profligate rate with no apparent objective except to permit us to choose between alternative nefarious governments for a people not particularly anxious for one or the other. Among the casualties of the Vietnam war may well be the once free American universities.

The war has contributed to the destruction of the universities not directly by removal of students and faculty from the campuses. Instead, the war has afforded an emotional rallying point around which those bent on the destruction of American institutions could coalesce sufficient numbers of faculty and students to accomplish their unworthy ends. The essence of the academy is disinterestedness. Its justification is disinterestedness. A university cannot be both a political force and an institution dedicated to the search for knowledge and its dissemination. As a university makes a political commitment it destroys its claim to academic freedom. And without academic freedom, the search for and dissemination of knowledge becomes more shadow than substance. If research begins with commitment to an answer, it should not be surprising that the expected answer is forthcoming. This is especially true in the so-called social sciences and the humanities. It is only slightly less true in the physical and biological sciences, as the Nazi and Communist biologists—the forerunners of our current breed—have so well demonstrated. The "Aryanization of physics" and the "Bolshevization of biology" are among the lessons of history that contemporary academics prefer to ignore. The "winter of our discontent" that I described in January has had no York to turn it into "glorious summer." That which was nightmare has become reality.

I suggested earlier that politicization of a university has two facets, internal and external. I will proceed to each in turn. The example of internal politicization that I offer you comes to you second hand. But it comes

from an unimpeachable source. He is Professor Gardner Ackley of the economics department of the University of Michigan, one time chairman of the Council of Economic Advisers. His testimony, which I quote at length, is by way of a speech to his faculty colleagues. The last political issue of the season at Michigan was whether the University should treat blacks as different—by implication as intellectually inferior—by admitting them not on the basis of their qualifications for higher education but rather on the basis of a fixed quota. Whether this is a "racist" position, I leave for you to judge. The faculty of Michigan didn't have to make a choice, for it wasn't given a choice. Here is what Professor Ackley said to his colleagues, themselves participants in and witnesses to the events:

"This has been a tragic year in the life of the University of Michigan—a year that has begun the destruction of this University as a great center of learning—destroyed not so much by outside force, as by the actions of its own faculty and administration.

"This conclusion is independent of the outcome of the current crisis.

"We are sometimes told that teaching is a lost art—great teachers are no more. But the University of Michigan has, this year, taught one lesson so inescapably, so clearly, that it will be long remembered.

"It is that, however ridiculous or worthy the cause, however miniscule or substantial its support, it will win in proportion to the willingness of its supporters to disrupt the life of the University.

"The year began with the bookstore dispute—a more ridiculous issue is hard to imagine. But its supporters were willing to disrupt and destroy. The University was unwilling or unable to resist or punish the destroyers. In the end, the Regents backed down, and precious resources were allocated to make possible the symbolic saving of pennies by the affluent students who pay for their own books—resources which we now know could have been allocated to a far more vital use.

"This was an issue on which an objective, empirical analysis of costs and benefits would have been quite simple and quite revealing. But no one asked for such an analysis and no one volunteered it. No one cared. Rather, the 'truth' was more transcendental: it could be heard in the tramp of marching feet and the tinkle of broken glass.

After that, the issues succeeded one another in bewildering variety: Vietnam, ROTC, corporate recruiting, University research, tenants' rights, teaching fellow demands, pollution, University investments, 'repression,' the Chicago 7, black admissions and support.

"Whatever the issue, these lessons were taught and learned:

"That violence and disruption either cannot or will not be punished by the University;

"That the big lie, loudly pronounced, can become the truth.

"That the desires of the overwhelming majority of sudents—who only want to learn—and of the overwhelming majority of the faculty—who only want to teach and investigate—count for little or nothing.

"*And so:* The SDS, acknowledged to be dedicated to the destruction of the University, is still, so far as I know, an officially-recognized student organization. So far as I know, none of its members has been suspended. Its discipline has been entrusted to the Student Judiciary—which is like asking the Mafia to investigate organized crime.

"*And so:* teaching fellows strike against their students and are not punished but reappointed. Other students who engage in the destruction of University property are retained and reappointed in University employment.

"*And so:* our libraries are vandalized, faculty and administrative files are ransacked and burglarized, faculty members are (physically) struck while performing their duties. In many cases, the perpetrators are known but have not been punished by the University. The investigation of the attack on Professor Young has been turned over not to the Administrative Board but to the Student Judiciary. I predict there will be no meaningful investigation, and no penalties.

"*And so:* last Wednesday I watched the faculty of my own department, assembled in the Chairman's office, discuss a demand that all classes in our building be shut down, *or else*. We discussed this while the entrances to the building were sealed, and while the halls outside the room in which we were meeting were patrolled by men carrying pipes and clubs. We sought guidance from the College, and were told: 'Do what you think best; you will have no protection.' And so we cravenly capitulated, in fear—if not for our own safety—for that of our students and employees.

"*That day, the truth lay in those clubs.* Today, it lies in those chanting, marching columns. And if there is not truth enough in those, there are still the clubs—and who knows what else.

"*And so:* we will now submit in one way or another to all the demands of the BAM. In so doing, we will admit, explicitly or implicitly, that we are indeed a repressive, racist institution. BUT THAT IS STILL A LIE!

"My first appointment to this faculty was in 1940—thirty years ago. Since then I have seen much happen at this University. In the mid-1950's—the McCarthy era—I was a Department Chairman and President of the Michigan chapter of AAUP. More than once I was ashamed of actions—or inaction—by my University.

"But I was never so ashamed as I was this morning, at 9 o'clock, and again at 11, when my students came to me to ask why we were not having class.

"I didn't know what to tell them.

"I still don't. Unless it is this:

"There is no reason.

"There is only power."

In fairness to Professor Ackley, it should be noted that as the events have receded into the past and the possibility of better perspective has become available, he has had a return of hope that his University may yet reject the rule of force and strive for the return of the rule of reason. If Michigan were unique, I could join him. But because the same tactics have repeatedly brought about the same results in other universities throughout the land, I am less sanguine than he about the return of reason to the American campus.

A few weeks ago I spoke to my colleagues on the Council of the Senate of The University of Chicago. I opposed student participation in the governance of the University. I said then:

"I think a majority of this faculty has a shared notion of the mission of this university. There are ideas that I think the faculty share among themselves but not with a majority of students. First, that the function of this university's governance is not the exercise of power but the provision of administrative services so that this university may go about its proper business of searching for and disseminating knowledge. Second, that the search for knowledge and its dissemination are the sole functions of this university. It is not this university's function—whatever individual obligations may be—to provide social services, to engage in political activities, or to afford therapeutic psychological experiences for students or faculty. Third, that the sole means of discourse within this university must be reason, that the utilization of force as a means of persuasion is anathema . . . it is on these precepts and these precepts alone that the idea of academic freedom depends. Surrender them or endanger them and you have surrendered or endangered the reason for the continued existence of the university."

I should like now to confess error. For I was wrong in saying that these were ideals that were shared by the faculty. I am now convinced that a majority of my faculty no longer regards these as appropriate values for a modern academic institution. The mission of the university is now to do good as a majority of its members decide it to be. The decision of what is good will, of course, be made after the faculty is subjected to the threat or fact of violence.

So far as the internal governance of universities is concerned, the proper understanding from Charles Dickens' description in *Barnaby Rudge* of the Lord George Gordon riots in London: "The crowd was the law, and never was the law held in greater dread." So much then for the internal politicization of universities.

At the risk of proving Mencken's dictum—that "confession may be good for the soul, but it doesn't get one much reputation for sense"—I would confess still another error. In my talk to the Chicago Bar Association last January, I spoke of the politicization of the university in its external aspect. I said: ". . . this means the attempt to capture the university as a pressure group to affect national policies. At this level, the objective is ludicrous, for it is grounded on two absurd premises. First, that the university is a monolith, indeed that all universities combined are monolithic. Second, that the universities are capable of being a strong pressure group for bringing about change in national policy about anything."

The first part of this proposition has already been disproved by the monolithic entry of the American universities on the political scene in the Spring of 1970. The story begins in New Haven, Connecticut, where students, upset at the trial of a Black Panther for the alleged murder of another Black Panther, convened a national caucus of college students to protest. It is not clear whether the students regarded such a killing not to be a criminal act or as an act of a foreign sovereign immune from the processes of American law. All that was clear was that the Yale students, the president of their university, and the thousands of guests accommodated by the university so that they might voice their protest, wanted to prevent the trial from going forward. At this meeting, a call issued by a member of the Chicago 7, a founder of SDS, for a national student strike to "free political prisoners," to end the war, and for sundry other unimpeachable objectives. Whether the call would have had much success had the Ohio National Guard not wantonly killed four students at Kent State University is anybody's guess. The fact is that a "student strike" took place, to a greater or lesser degree, on every major campus in the country.

Except for its effect on the business of a university, of course, a student strike can never be more than a symbolic gesture. The absence of students and faculty from classes could only prove what needed no proof to so many, that the world proceeds apace whether students are in class or not. A student strike re-emphasizes questions about the need for or desirability of so-called higher education, but by itself it is likely to affect neither the war effort nor trials of Black Panthers. It was not the strike but the alternative uses to which the students and faculties put their time that marked the emergencies of the universities as a punitive political force. In lieu of classes, students and faculty organized political workshops and Washington lobbying efforts. The first mimicked the Teamsters Union and the U.A.W. indoctrination of their memberships for political goals. The lobbying effort was

imitative of a combination of Coxey's army and the oil lobby. Kingman Brewster led 75 faculty and 1,000 Yale students in their lobbying efforts in Congress to end the war. A similar stand was made by the president of Brandeis and 600 students. The entire student body and faculty of Haverford College descended on Washington for the same purpose. Eight hundred students came from the University of North Carolina.

Certainly the goal was a worthy one. And so, the effort was applauded by the press and university officials as teaching the students to work within the system. Some Senators and Congressmen also applauded the actions as they envisioned new recruits for their own campaigns. Some legislators enjoyed the spectacle as proof that universities were political institutions. For they knew that political institutions will be dealt with as political institutions, bereft of tax exemptions for income and gifts, subject to grants for research and scholarship conditioned on political fealty or, better yet, no grants at all.

Sophisticated students and faculties suddenly discovered that they were citizens. They discovered something more, that the exercise of citizenship functions was inconsistent with pursuit of scholarship. To underline the political nature of the venture, university after university adopted the "Princeton plan" to adapt their calendars so that students would have two weeks vacation immediately prior to the national elections to engage in partisan political activities.

The students, of course, enjoyed what they hoped would be new-found political power. They believed that they were now a national political force. Nevertheless, they insisted on and were granted special privileges. True they abstained from classes, but they wanted credit for the courses that they did not attend. And universities gave it to them. They wanted credit for political indoctrination. And the universities gave it to them. They wanted transportation costs and housing and stationery and duplicating machines and long-distance phones. And the universities provided them. They wanted time for political activities next year, without impairing their access to classes if they chose to go. And the universities gave it to them. The faculties expected to be paid for not teaching classes while engaged in political activities. And they were. Reminiscent of Orwell's *Animal Farm*, the faculties and students asserted their political equality with other Americans, except that they recognized that they were more equal than others. Those familiar with Orwell's little book may well ask, "Will the real pigs please stand up?"

Patently I was in error, when I suggested that the universities could not be made to behave as a monolithic political force. But it is still not clear that the political force will prove effective, except in its destruction of the university. The recent assault on Congress has not yet shown any affirmative results. Whether it will deprive the universities, already so hard-pressed for funds, of much of their governmental support and, indeed, of some of their private support which is dependent on tax deductions, remains to be seen.

The students are certain to be disillusioned if, as is to be expected, the instant results that they always demand are not forthcoming. The faculty members who led them, properly, will be regarded as Pied Pipers. But this will probably mean not a return to academic life but a further estrangement from it.

Meanwhile, the faculty members and students who believe in the notion of the university as a place for the disinterested discovery and dissemination of knowledge find themselves with no place to go. And so they remain to adapt to the world of the new political university. It's possible. Political universities have proved viable in South America. Some faculty will escape. We may see the rise of the places, like the Institute for Advanced Studies at Princeton, where the disinterested search for knowledge may be carried on, where the dissemination of knowledge will take place through publications. But the universities we have known will essentially become caretaker institutions. Answers will be substituted for questions. Indoctrination will replace education. The colleges and universities may become political institutions, but when they do, they will no longer be able to serve as anything more than elementary educational institutions from which only a very select few will ever enter the world of higher education.

This is the price that America will pay for the cowardice of its university faculties. It may not be too high a price. After all, what would be the function of an old-fashioned kind of university in 1984 except breed critics of orthodoxy. And in 1984 who will need critics of orthodoxy?

I am sorry to have sung such a sad song for my supper. You may take such solace as you can from the words of Ralph Waldo Emerson, who said in 1864 when we were in the midst of another holocaust: "These times of ours are serious and full of calamity, but all times are essentially alike."

THE ENVIRONMENTAL PROTECTION ACT

Mr. HARRIS. Mr. President, the Washington Post, in an editorial Saturday, June 6, discussed an important aspect of the continuing effort to provide the tools for combating pollution.

While this is an important bill, the editorial tends, by omission, to relegate to a level of lesser importance the large amount of environmental legislation that is being processed in Congress. It also ignores the contributions over the years by Members of Congress in addition to those who were properly commended for their environmental concern.

In the Senate Committee on Public Works, which has the principal jurisdiction over environmental legislation in that body, leaders like the chairman (Mr. RANDOLPH), and Senators COOPER, MUSKIE, BOGGS, and MONTOYA have long been active and have contributed substantially to legislation now law. Senators JACKSON and MAGNUSON likewise are in the thick of the environmental battle through their chairmanships of the Interior and Commerce Committees, respectively, and their own personal commitments.

More than a dozen bills directly involving the environment are pending in the Public Works Committee. Hearings have been underway since early in the year on air and water pollution, and solid waste disposal. The committee also is reviewing the environmental implications of highway construction in another series of hearings.

Ten existing major laws dealing with the environment have been through this committee since 1963.

The right of citizens to seek relief from the courts when they feel their surroundings are being degraded, as provided for in the Environmental Protection Act, is an essential element in the arsenal of legal weapons being developed by Congress. It should also be noted that citizen action is included in both air and water pollution legislation pending before the Public Works Committee.

The protection and enhancement of the world we live in is a formidable challenge, and much of the responsibility rests with the Congress. The concern is widespread among both the Senate and the House of Representatives, a concern that greatly enhances the probability of strong, effective legislation being passed. The credit, therefore, should be spread wider, where it is not only due but richly deserved.

FEDERAL TRADE COMMISSION

Mr. TOWER. Mr. President, on Friday, June 19, the Federal Trade Commission proposed regulations outlawing the shipment of merchandise which has not been requested by the recipient. The proposed ruling is similar to legislation which I introduced last summer. Except for free samples and items shipped by charitable organizations, the shipment of all unordered merchandise would constitute a violation of laws against deceptive business practices. When finalized, the rules would allow the recipient of such merchandise to consider it a gift from the sender, with no responsibility to return it or pay for it.

I became aware of this problem as a result of complaints from constituents. I only recently received a letter from a Texas woman who complained about just such practices as would be made illegal under my bill and under the proposed regulations. This lady had suffered a loss in the family when she receivec in the mail the obituary notice clipped from the newspaper, sealed in plastic, and asking for a dollar. In this case, the sum of money involved was not large. Certainly, however, such a practice preys upon the sympathies of the individual and represents a form of commercial exploitation. In addition, potential consumers have received a wide assortment of unsolicited merchandise. Although laws restricting such practices now exist in 30 States, the consumer is often unaware of his legal rights. Some recipients have been told that failure to pay will affect their credit ratings.

The legislation which I proposed last summer, S. 2719, would go further than the FTC ruling. Both would exempt free samples and merchandise sent by certain nonprofit organizations. In addition to prohibiting unsolicited mailing of such merchandise, my bill would authorize suit for triple damages for injuries resulting from potentially harmful merchandise transmitted through the mail in violation of the bill's provisions. I included this section to provide effective relief for accidents which may occur when children come into contact with items such as drugs or pesticides which may have been sent through the mails in violation of the bill.

I am primarily interested in insuring that individuals cannot be held responsible for the purchase of unsolicited merchandise, simply because the individual takes no action to return the merchandise or otherwise reply to the sender within a specified time. My bill would achieve that objective. The proposed FTC rule apparently would also achieve that objective. If the FTC rule is finalized and proves effective, passage of my bill may

not be necessary. Until the FTC rule is applied and does prove effective, however, I will continue to urge the Congress to proceed with active consideration of my bill. The bill is currently before the Senate Post Office and Civil Service Committee. I hope that the committee will consider it. I applaud the action of the FTC in proposing restrictions against the mailing of unsolicited merchandise. I feel that enactment of the legislation which I introduced last summer would provide the best means to accomplish the objective, but the consumer will nonetheless benefit from the proposed FTC regulation.

POLICY ARGUMENTS IN FAVOR OF THE HUMAN RIGHTS COMMITTEE

Mr. PROXMIRE. Mr. President, in recent days I have been emphasizing to the Senate the lack of persuasive legal arguments against the human rights treaties. While refuting opponents' arguments I have not meant to suggest that there are no positive reasons for supporting ratification. There are in fact several very good policy reasons for this country to ratify the conventions.

In the article entitled "The Three Human Rights Treaties: Good Law and Good Policy," by Richard N. Gardner, which I quoted from last week, are several excellent policy arguments in favor of ratification of the U.N. human rights conventions.

Mr. Gardner notes that refusal to ratify the conventions has increasingly become a diplomatic embarrassment to this country.

> Our friends cannot understand it. Our adversaries exploit it. It is a costly anachronism which should be eliminated without delay.

Mr. Gardner goes on to explain:

> Nobody, of course, believes that words on paper are enough in themselves. Nobody thinks that signing a human rights convention brings automatic improvement in the condition of people around the world. The positive consequences of U.S. adherence are hard to measure and long term. Nevertheless they are very real.

Mr. Gardner's article suggests four major policy reasons why the United States should ratify the conventions. They are:

> 1. Ratification by the United States will encourage other nations to adhere to these conventions and implement their provisions in their own territories. This is particularly true of newly independent countries that frequently take U.N. conventions as a model. Ambassador Goldberg has put this point sharply: "Without the support of the United States, these agreements may appear insignificant to many other countries. If we do not consider it important to sign the conventions, why should they? Or, more importantly, why should they implement the conventions?"
>
> 2. Ratification will put the United States in a better legal and moral position to protest infringement of these human rights in countries that have ratified the conventions but failed to implement them in practice.
>
> 3. Ratification will increase United States influence in the continuing U.N. process of drafting legal norms in the field of human rights. As long as the United States fails to ratify human rights conventions, its view will carry less weight than they deserve.
>
> 4. Ratification will dissipate the embarrassing contradiction between our failure to ratify these conventions and our traditional support of the basic human rights with which they are concerned.

Mr. President the human rights treaties are both "good law and good policy." It is time that we ratified them.

ALABAMA JAYCEES TOPS IN THE NATION

Mr. ALLEN. Mr. President, the Jaycee program is 50 years old this year and its code of community service has enriched the lives of many of today's leaders in the business of this Nation.

Numerous Jaycees of yesterday are now to be found in every phase of American life. Yes, I am sure that even this assembly may count among its members men who were Jaycees just a few years ago.

I am tremendously proud to tell the Senate that the Alabama Jaycee chapter has just achieved a milestone in its 50-year history of affiliation with the national Jaycees by being selected the outstanding Jaycee chapter in the United States. On this coming Wednesday in St. Louis, Mo., the Alabama Jaycee chapter will be recognized for the Number One rating by leading a giant parade which will be held in connection with the annual convention of the national Jaycees.

The wonderful growth and outstanding accomplishments of the Alabama Jaycees during the past year may, in large measure, be attributed to the effective and inspiring leadership of its president, Frank Parsons. A native of Birmingham and practicing attorney there, Mr. Parsons has served in every local Jaycee office as a member of the Birmingham Eastwood Jaycee Chapter and has been on the national board of directors of the U.S. Jaycees.

It was under the leadership of Mr. Parsons that the Eastwood Jaycees developed and put into action a dynamic drug abuse education program which was subsequently adopted by the State chapter. The Alabama Jaycees were indeed fortunate to have Frank Parsons and his leadership at the helm during their banner year. I am confident that under their new president, Dr. Don Horne of Lafayette, the Alabama Jaycees will continue their splendid growth and make many more outstanding contributions to Alabama.

Mr. President, thousands of young men in Alabama have benefited from the guidance received as members of the Alabama Jaycees. They have given of themselves time and again to community and other public-spirited causes which have been felt throughout the length and breadth of Alabama. The Jaycees of Alabama have taken their rightful place in the life of Alabama and the organization is recognized throughout the State as one of our greatest assets. I am thankful that we have in Alabama an organization which is so dedicated to community service and citizenship training of so many of our young men.

Yes, Mr. President, the Alabama Jaycess have done a magnificent job through the years and are deserving of the honor and recognition which will be accorded them at the U.S. Jaycee annual convention in St. Louis. I salute and congratulate President Parsons and the Alabama Jaycees in their great achievement.

The Alabama Jaycees have issued the warning through the junior Senator from Alabama that they fully intend to be the No. 1 Jaycee chapter again during the coming year.

REPORT OF THE TASK FORCE ON WOMEN'S RIGHTS AND RESPONSIBILITIES

Mr. GOODELL. Mr. President, this country has been preoccupied with theories of freedom and human right since the days before the American Revolution. Tragically, theory often has not led to practice. As a result, black people have had to suffer the indignity and humiliation of a second-class citizenry. Another group of people—women—have had to suffer the injustices of an imposed inferior status. American women are now becoming increasingly aware and restive over the denial to them of equal opportunity, equal responsibility and even equal protection of the laws.

The Senate has begun to respond to this awareness. The junior Senator from Indiana (Mr. BAYH) has held hearings in the Senate Judiciary subcommittee on Constitutional Amendments on Senate Joint Resolution 61, the equal rights for women amendment to the Constitution. I had the opportunity to testify before the subcommittee where I strongly supported ratification of this amendment guaranteeing equal rights regardless of sex under the Constitution. Ratification would also serve as a dramatic and dynamic symbol of a new era for women's rights and responsibilities.

I fully support the concept of the amendment, but I cautioned in my testimony that ratification must be accompanied by implementing legislation which will create the opportunities for real choice. Unless such legislation is passed, the new amendment will be devoid of substance and lasting effect.

Last week the report of the President's Task Force on Women's Rights and Responsibilities was released. The members of the task force concluded, after 2½ months of research and deliberation, that the United States lags behind other enlightened and indeed some newly emerging countries, in the role it ascribes to women.

The task force has recommended a national program to attack the inequality of women—an inequality linked to many broader questions of social justice. To be implemented, strong leadership from the President and the Congress must be exercised.

Not surprisingly, one of the major recommendations was passage of the equal rights amendment to the Constitution. The report presents a very succinct statement of the need for such legislative action as follows:

> It is ironic that the basic rights women seek through this amendment are guaranteed all citizens under the Constitution. The applicability of the 5th and 14th amendments in parallel cases involving racial bias has been repeatedly tested and sustained, a process which has taken years and has cost millions of dollars.

The Supreme Court, however, has thus far not accorded the protection of those amendments to female citizens. It has upheld or refused to review laws and practices making discriminatory distinctions based on sex.

These include the practice of excluding women from State universities, a law requiring longer prison sentences for women than for men for the same offense, and a law prohibiting women from working as bartenders (but not in the less lucrative jobs as waitresses in bars).

At the State level there are numerous laws regulating marriage, guardianship, dependents, property ownership, independent business ownership, dower rights, and domicile, which clearly discriminate against women as autonomous, mature persons.

A number of discriminatory State laws have in the past four years been declared unconstitutional by the lower courts, but no case has reached the Supreme Court.

A constitutional amendment is needed to secure justice expeditiously and to avoid the time, expense, uncertainties, and practical difficulties of a case-by-case, State-by-State procedure.

More importantly, the task force has recommended a government program which would put "teeth" into the equal rights amendment. This, I believe, is the most important contribution the task force has made to the dialogue on women's rights. For the benefit of my colleagues I ask unanimous consent that the full text of the proposals be printed in the RECORD.

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

PROPOSALS

1. Establish an Office of Women's Rights and Responsibilities, whose director would serve as a special assistant reporting directly to the President.

2. Call a White House conference on women's rights and responsibilities in 1970, the fiftieth anniversay of the ratification of the suffrage amendment and establishment of the Women's Bureau.

3. Send a message to the Congress citing the widespread discriminations against women, proposing legislation to remedy these inequities, asserting Federal leadership, recommending prompt State action as a corollary, and calling upon the private sector to follow suit.

The message should recommend the following legislation necessary to ensure full legal equality for women:

a. Passage of a joint resolution proposing the equal rights amendment to the Constitution.

b. Amendment of Title VII of the Civil Rights Act of 1964 to (1) remove the burden of enforcement from the aggrieved individual by empowering the Equal Employment Opportunity Commission to enforce the law, and (2) extend coverage to State and local governments and to teachers.

c. Amendment of Titles IV and IX of the Civil Rights Act of 1964 to authorize the Attorney General to aid women and parents of minor girls in suits seeking equal access to public education, and to require the Office of Education to make a survey concerning the lack of equal educational opportunities for individuals by reason of sex.

d. Amendment of Title II of the Civil Rights Act of 1964 to prohibit discrimination because of sex in public accommodations.

e. Amendment of the Civil Rights Act of 1957 to extend the jurisdiction of the Civil Rights Commission to include denial of civil rights because of sex.

f. Amendment of the Fair Labor Standards Act to extend coverage of its equal pay provisions to executive, administrative, and professional employees.

g. Amendment of the Social Security Act to (1) provide benefits to husbands and widowers of disabled and deceased women workers under the same conditions as they are provided to wives and widows of men workers, and (2) provide more equitable retirement benefits for families with working wives.

h. Adoption of the liberalized provisions for child care in the family assistance plan and authorization of Federal aid for child care for families not covered by the family assistance plan.

i. Enactment of legislation to guarantee husbands and children of women employees of the Federal government the same fringe benefits provided for wives and children of male employees in those few areas where inequities still remain.

j. Amendment of the Internal Revenue Code to permit families in which both spouses are employed, families in which one spouse is disabled and the other employed, and families headed by single persons, to deduct from gross income as a business expense some reasonable amount paid to a housekeeper, nurse, or institution for care of children or disabled dependents.

k. Enactment of legislation authorizing Federal grants on a matching basis for financing State commissions on the status of women.

4. The executive branch of the Federal government should be as seriously concerned with sex discrimination as with race discrimination, and with women in poverty as with men in poverty.

Implementation of such a policy will require the following Cabinet-level actions:

a. Immediate issuance by the Secretary of Labor of guidelines to carry out the prohibition against sex discrimination by government contractors, which was added to Executive Order 11246 in October 1967, became effective October 1968, but remains unimplemented.

b. Establishment by the Secretary of Labor of priorities, as sensitive to sex discrimination as to race discrimination, for manpower training programs and in referral to training and employment.

c. Initiation by the Attorney General of legal actions in cases of sex discrimination under section 706(e) and 707 of the Civil Rights Act of 1964, and intervention or filing of amicus curiae briefs by the Attorney General in pending cases challenging the validity under the 5th and 14th amendments of laws involving disparities based on sex.

d. Establishment of a women's unit in the Office of Education to lead efforts to end discrimination in education because of sex.

e. Collection, tabulation, and publication of all economic and social data collected by the Federal government by sex as well as race.

f. Establishment of a high priority for training for household employment by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

5. The President should appoint more women to positions of top responsibility in all branches of the Federal government, to achieve a more equitable ratio of men and women. Cabinet and agency heads should be directed to issue firm instructions that qualified women receive equal consideration in hiring and promotions.

Mr. GOODELL. Secretary of Labor George Shultz has taken immediate steps to implement one recommendation by establishing guidelines to Executive Order 11246 which prohibits sex discrimination in employment by Government contractors. Although this Executive order was announced in September of 1965, it has remained virtually ignored and unenforced since that time. I do commend Secretary Shultz, however, for his willingness to make the order effective, and I ask unanimous consent that a June 9 Washington Post article entitled "United States Bars Sex Bias in Federal Projects," written by Elizabeth Shelton, which describes the new guidelines, be printed in the RECORD.

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

UNITED STATES BARS SEX BIAS IN FEDERAL PROJECTS

(By Elizabeth Shelton)

Secretary of Labor George P. Shultz yesterday issued guidelines, effective immediately, to assure that federal contractors and subcontractors do not discriminate against women workers.

The guidelines, which have been in the works since September, 1968, were announced as the White House released the long-awaited report of the President's Task Force on Women's Rights and Responsibilities.

Elizabeth Duncan Koontz, director of the Women's Bureau of the Labor Department, in announcing the guidelines at a White House briefing, called them "a giant step forward for those Americans whose talents have too often been wasted simply because they are women."

Under the guidelines federal contractors must maintain written personnel policies expressly indicating that there shall be no discrimination against employees on account of sex, and union contracts must be consistent with the guidelines.

The guidelines apply to companies with contracts of $50,000 or more or those that employ more than 50 people. The rules are supervised by the Labor Department's Office of Federal Contract Compliance.

Employers are prohibited from:

Making any distinction based upon sex in employment opportunities, wages, hours, or other conditions of employment.

Advertising for workers in newspaper columns headed "Male" or "Female" unless sex is a bona fide occupational qualification.

Denying employment to women with young children unless the same exclusionary policy exists for men.

Making any distinction between married and unmarried persons of one sex unless the same distinctions are made between married and unmarried persons of the opposite sex.

Penalizing women in their conditions of employment because they require time away from work for childbearing. Whether or not the employer has a leave policy, childbearing must be considered a justification for leave of absence for a reasonable length of time.

Maintaining seniority lists based solely on sex.

Discriminatorily restricting one sex to certain job classifications and departments.

Specifiying any differences on the basis of sex in either mandatory or optional retirement age.

Denying a female employee the right to any job that she is qualified to perform in reliance upon a state "protective" law.

The guidelines require contractors to take affirmative action to recruit women for jobs from which they have been previously excluded.

Release of the task force report, titled "A Matter of Simple Justice," and issuance of the guidelines, which the report recommended, were timed to coincide with the 50th anniversary this week of the Women's Bureau. The anniversary will be observed this weekend during a conference at the Washington Hilton Hotel.

The other recommendations in the report, according to Mrs. Koontz, are now under study by pertinent departments and agencies of the government. The report was accompanied by no presidential comment, but Nixon assistant Leonard Garment said that he has read its recommendations.

They include:

Establishment of an Office of Women's Rights and Responsibilities headed by a woman who would be a special assistant to the President.

Convening a 1970 White House Conference on Women's Rights and Responsibilities to study ways to improve the status of American women.

Enactment of an amendment to the Constitution to assure men and women equal protection under laws relating to marriage, guardianship, dependents, property ownership, business ownership, dower rights and domicile.

President Nixon included support of the amendment in his 1960 and 1968 campaign platforms, but did not reiterate his support yesterday.

Passage by Congress of a legislative package that would equalize educational opportunities, access to public accommodation, benefits under Social Security and professional salaries. (Women professionals, executives and administrators are excluded from the equal provisions of the Fair Labor Standards Act.)

Establishment as a national goal of a system of well-run child care centers available to all preschool children and after-school activities for school-age children, priority to be given to the needs of low-income working mothers.

Establishment of a special Women's Unit in the U.S. Office of Education to end discrimination against women in higher education and to improve the counseling of girls and women.

Mr. GOODELL. Doubtless many of the expressed inequalities require a fundamental change of basic cultural attitudes. A change can only begin to take place if the Government exercises leadership for new attitudes.

As the task force report states:

Social attitudes are slow to change. So widespread and pervasive are discriminatory practices against women they have come to be regarded, more often than not, as normal. Unless there is clear indication of Administration concern at the highest level, it is unlikely that significant progress can be made in correcting ancient, entrenched injustices.

Many of the recommendations of the task force are under consideration by the appropriate Federal agencies and departments. I urge the President and his Cabinet to send these recommendations to the Congress so that the 1970's will be the decade of equality for all Americans—men and women.

TO LIVE IN AN ADULT WORLD

Mr. McGEE. Mr. President, K. Ross Toole, a professor of history at the University of Montana at Missoula, recently authored an essay in which he called on the universities of America, indeed on our entire society, to start living in an adult world. Many newspapers have reprinted Professor Toole's essay, which is a gripping article with much sense in it. I ask unanimous consent that the article be printed in the RECORD.

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

A FED-UP PROF. STRIKES BACK

(By K. Ross Toole)

I am 49 years old. It took me many years and considerable anguish to get where I am—which isn't much of any place except exurbia. I was nurtured in depression, lost four years to war, am invested with sweat, have had one coronary, am a "liberal," a square and a professor. I am sick of the "young generation," hippies, Yippies, militants and nonsense.

I am a professor of history at the University of Montana and I am supposed to have "liaison" with the young. Worse still, I am father of seven children. They range in age from 7 to 23.

I am tired of being blamed, maimed and contrite; I am tired of tolerance and the reaching out (which is always my function) for understanding. I am sick of the total irrationality of the campus "rebel," whose bearded visage, dirty hair, body odor and "tactics" are childish but brutal, naive but dangerous and the essence of arrogant tyranny, the tyranny of spoiled brats.

I am terribly disturbed that I may be incubating more of the same. Our household is permissive, our approach to discipline is an apology and a retreat from standards, usually accompanied by gift in cash or kind.

It is time to call a halt; time to live in an adult world where we belong and time to put these people in their places. We owe the "younger generation" what all "older generations" have owed younger generations—love, protection to a point and respect when souls, our privacy, our whole lives, and above all, we do not owe them immunity from our mistakes, or their own.

Every generation makes mistakes, always has and always will. We have made our share. But my generation has made America the most affluent country on earth; it has tackled, head-on, a racial problem which no nation in the history of mankind had dared to do. It has publicly declared war on poverty and it has gone to the moon; it has desegregated schools and abolished polio; it has presided over the beginning of what is probably the greatest social and economic revolution in man's history.

It has begun these things, not finished them. It has declared itself and committed itself, and taxed itself and damn near run itself into the ground in the cause of social justice and reform.

Its mistakes are fewer than my father's generation—or his father's, or his. Its greatest mistake is not Vietnam; it is the abdication of its first responsibility, its pusillanimous capitulation to its youth and its sick preoccupation with the problems of the young.

WHO'S IN CHARGE HERE?

Since when have children ruled this country? By virtue of what right, by what accomplishment should thousands of teenagers, wet behind the ears and utterly without the benefit of having lived long enough to have either judgment or wisdom, become the sages of our time?

The psychologists, the educators and preachers say the young are rebelling against our archaic mores and morals, our materialistic approaches to life, our failures in diplomacy, our terrible ineptitude in racial matters, our narrowness as parents, our blindness to the root ills of society. Balderbash!

Society hangs together by the stitching of many threads. No 18-year-old is simply the product of his 18 years; he is the product of 3,000 years of the development of mankind—and throughout those years, injustice has existed and been fought; rules have grown outmoded and been changed; doom has hung over men and been avoided; unjust wars have occurred; pain has been the cost of progress—and man has persevered.

As a professor and the father of seven, I have watched this new generation and concluded that most of them are fine. A minority are not—and the trouble is that this minority threatens to tyrannize the majority and take over. I dislike that minority; I am aghast that the majority "takes" it and allows itself to be used. And I address myself to both the minority and the majority. I speak partly as a historian, partly as a father and partly as one fed-up, middle-aged and angry member of the so-called "establishment," which, by the way, is nothing but a euphemism for "society."

Common courtesy and a regard for the opinions of others is not merely a decoration on the pie crust of society; it is the heart of the pie. Too many "youngsters" are egocentric boors. They will not listen, they will only shout down.

Arrogance is obnoxious; it is also destructive. Society has classically ostracized arrogance without the backing of demonstrable accomplishment. Why, then, do we tolerate arrogant slobs who occupy our homes, our administration buildings, our streets and parks, urinating on our beliefs and defiling our premises? It is not the police we need it is an expression of our disgust and disdain. Yet we do more than permit; we dignify it with introspective flagellation! Somehow it is our fault. Balderbash again!

Sensitivity is not the property of the young, nor was it invented in 1950. The young of any generation have felt the same impulse to grow, to reach out, to touch stars, to live freely and to let the minds loose *along unexplored* corridors. Young men and young women have always stood on the same hill and felt the same vague sense of restraint that separated them from the ultimate experience—the sudden and complete expansion of the mind, the final fulfillment. It is one of the oldest sweetest and most bitter experiences of mankind.

Today's young people did not invent it; they do not own it. And what they seek to attain, all mankind has sought to attain throughout the ages. Shall we, therefore, approve the presumed attainment of it through heroin, speed, LSD and other drugs? And shall we, permissively, let them poison themselves simply because, as in most other respects, we feel vaguely guilty because we brought them into this world?

Again, it is not police raids and tougher laws that we need; it is merely strength—the strength to explain, in our potty, middle-aged way, that what they seek, we sought; that it is somewhere, but not here and sure as hell not in drugs; that, in the meanwhile, they will cease and desist the poison game. And this we must explain early and hard—and then police it ourselves.

WE ARE NOT BLIND

Society, "The Establishment," is not a foreign thing we seek to impose on the young. We know it is far from perfect. We did not make it; we have only sought to change it. The fact that we have only been minimally successful is the story of all generations—as it will be the story of the generation coming up.

Yet we have worked a number of wonders. We have changed it. We are deeply concerned about our failures; we have not solved the racial problem but we have faced it; we are terribly worried about the degradation of our environment, about injustices, inequities, the military-industrial complex and bureaucracy. But we have attacked these things.

We have, all our lives, taken arms against our sea of troubles—and fought effectively. But we also have fought with a rational knowledge of the strength of our adversary and, above all, knowing that the war is one of attrition in which the "unconditional surrender" of forces of evil is not about to occur. We win, if we win at all, slowly, and painfully. That is the kind of war society has always fought—because man is what he is.

Knowing this, why do we listen subserviently to the violent tacticians of the new generation? Either they have total victory by Wednesday next or burn down our carefully built barricades in adolescent pique; either they win now or flee off to a commune and quit; either they solve all problems this week or join a wrecking crew of paranoids.

Youth has always been characterized by impatient idealism. If it were not, there would be no change. But impatient idealism

does not extend to guns, fire bombs, riots, vicious arrogance and instant gratification. That is not idealism; it is childish tyranny. The worst of it is that we (professors and faculties in particular), in a paroxysm of self-abnegation and apology, go along, abdicate, apologize as if we had personally created the ills of the world—and thus lend ourselves to chaos. We are the led, not the leaders. And we are fools.

As a professor, I meet the activists and revolutionaries every day. They are inexcusably ignorant. If you want to make a revolution, do you not study the ways to do it? Of course not! Che Guevara becomes their hero. He failed; he died in the jungles of Bolivia with an army of six. His every move was a miscalculation and a mistake. Mao Tse-tung and Ho Chi Minh led revolutions based on a peasantry and an overwhelmingly ancient rural economy. And yet they are the pattern makers for the SDS and the student militants in our modern, technological society.

I have yet to talk to an "activist" who has read Crane Brinton's "The Anatomy of Revolution," or who is familiar with the works of Jefferson, Washington, Paine, Adams or even Marx or Engels. And I have yet to talk to a student militant who has read about racism elsewhere or who understands, even primitively, the long and wondrous struggle of the NAACP and the genius of Dr. Martin Luther King Jr., whose name they invariably take in vain.

An old and scarred member of the wars of organized labor in the United States in the 1930s recently remarked to me: "These 'radicals' couldn't organize well enough to produce a sensible platform, let alone revolt their way out of a paper bag." But they can, because we let them destroy our universities, make our parks untenable, make a shambles of our streets and insult our flag.

I assert that we are in trouble with this younger generation not because we have failed our country, not because of affluence or stupidity, not because we are antediluvian, not because we are middle-class materialists—but simply because we have failed to keep that generation in place and we have failed to put them back there when they got out of it. We have the power; we do not have the will. We have the right, we have not exercised it.

REAPPRAISAL NEEDED

To the extent that we now rely on the police, Mace, the National Guard, tear gas, steel fences and a wringing of hands, we will fail.

What we need is a reappraisal of our own middle-class selves: our worth and our hard-won progress. We need to use disdain, not Mace; we need to assess a weapon we came by the hard way, by travail and labor firm authority as parents, teachers, businessmen, workers and politicians.

The best place to start is at home. But the most practical and effective place right now is our campuses. This does not mean a flood of angry edicts, a sudden clampdown, a "new" policy. It simply means that faculties should stop playing chicken, the demonstrators should be met not with police but with expulsions. The power to expel (strangely unused) has been the legitimate recourse of universities since 1209.

A university cannot function without rules for conduct. It cannot, as society cannot, legislate morals. It is dealing with young men and women, 18 to 22. But it can and must promulgate rules. It cannot function without order—and therefore, who disrupts order must leave. It cannot permit students to determine when, what and where they shall be taught; it cannot permit the occupation of its premises, in violations both of the law and its regulation, by "militants."

There is room within the university complex for basic student participation but there is no room for slobs, disruption and violence. The first obligation of the administration is to lay down the rules early, clearly and positively and to attach to this statement the penalty for violation. It is profoundly simple—and the failure to state it, in advance, is the salient failure of university adminstrators in this age.

This is neither new nor revolutionary. Expulsion is merely the reassertion of an old, accepted and necessary right of the administration of any institution. The failure of university administrators to use it is one of the mysteries of our permissive age—and the blame must fall largely on faculties because they have consistently pressured administrators not to act.

Suppose the students refuse to recognize expulsions; suppose they march, riot, strike? The police? No. The matter by prearrangement, publicly stated, should then pass to the courts. If buildings are occupied, the court enjoins the participating students. It has the lawful power to declare them in contempt. If violence ensues, it is in violation of the court's order.

Too simple? Not at all. Merely an old process which we seem to have forgotten. It is too direct for those who seek to employ Freudian analysis, too positive for "academic senates" who long for philosophical debate and too prosaic for those who seek orgiastic self-condemnation.

This is a country full of decent, worried people like myself. It is also a country full of people fed up with nonsense. We need, those of us over 30, tax-ridden, harried, confused, weary and beat-up, to reassert our hard-won prerogatives. It is our country, too. We have fought for it, bled for it, dreamed for it and we love it. It is time to reclaim it.

THE PROBLEMS OF THE PRIVATE FOUNDATIONS

Mr. HARRIS. Mr. President, a short time ago the distinguished junior Senator from California (Mr. CRANSTON) spoke before the Council on Foundations. At that time, he very lucidly described many of the problems which presently confront America's private foundations.

The contributions of private foundations to the enhancement of America's and the world's health, welfare, and peace are immense. And as the Senator from California correctly perceives, it is in the best interest of both the American people and the private foundation that steps be taken to insure the continued viability and effectiveness of an institution which has in the past and which will certainly in the future add much to the progress without which our Nation cannot continue to grow and prosper.

Mr. President, I ask unanimous consent that the text of Senator CRANSTON'S speech be printed in the RECORD.

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

SPEECH BY SENATOR ALAN CRANSTON

Just a few years ago, our children and grandchildren were miraculously freed from the terrible scourge of polio that has wracked and worried our own generation and centuries of generations before us.

Remember how relieved and thankful we parents and grandparents felt at the time?

Remember, too, how there were signs of relief among our children, who felt that one of the many, many threats to their sense of security had vanished?

And remember how we felt especially grateful to the young genius who developed the vaccine that had made the miracle possible?

But while we were thankful to Dr. Jonas Salk, he, in turn, was giving much of the credit for his success to philanthropy. Dr. Salk told me—and he told the Senate Finance Committee last year that he was able to succeed only because of "the American system of private philanthropy." He said the foundation grants he received enabled him to work in ways "that would not have been possible" if private philanthropy did not exist and he either had to do without or depend solely on government tax money.

Actually, he went even further. He said that, in many ways, government was more of a hindrance than a help to him when he was engaged in the work that led to his great discovery.

Now Dr. Salk is engaged in new research in California that may lead to the conquest of cancer. This work, too, is being made possible only by philanthropy, through our American system of foundations.

You and I know the many great accomplishments of foundations—but there would be no purpose served by my reciting that record, and congratulating you for it tonight. I would like to take this opportunity to be more constructive.

I believe as you do that private foundations as private enterprises should not be unduly restricted. Foundations form an essential part of the private sector in a free society. Their growth and creativity should be encouraged by the government, not thwarted.

I want to share with you some thoughts concerning some of the problems foundations now face, and some of the criticism from the Congress and the public which foundations must overcome if they are to continue to play their unique and constructive role in American life. My observations are based in large measure upon what I saw and heard during my participation in the struggle on Capitol Hill over last year's Tax Reform Act. They are, I might add, the observations of a legislator who is a sympathetic supporter of foundations, but who is gravely concerned that foundations seem to be unaware of the degree to which they have become detached from and out of touch with the public which provides them—through law—their unique status, and which benefits so largely from their activities.

Much of the criticism directed towards foundations is being leveled now, as in the past, by those to whom the whole concept of private foundations is anathema.

Their views are so fixed, so steeped in self-righteous denunciation, and so familiar to all of you that I won't go into them here. Since their conversion to the cause of foundations is unlikely it suffices to note in passing that they exist, that they are powerful, and that they are actively seeking—and presently winning—new allies.

The battle in Washington—and in the country—is far from over. A few days ago, Congressman Wright Patman introduced a bill entitled the "Emergency Home Finance Act of 1970." This bill would require foundations to use 2½ per cent of their assets to buy bonds from a proposed "National Development Bank." Predictably there will be other bills coming in the days ahead that will be of concern to foundations.

But there are new voices in the chorus of foundation criticism—voices which foundations should not ignore.

Responsible and respected citizens are genuinely concerned by the failure of foundations to regulate themselves adequately. As you well know, a handful of foundation founders and executives have taken advantage of their privileges to make a quick buck. And there are unfortunately an equally small number of foundations which have been established as tax dodges, or to proselytize fanatic causes.

There have been a number of reasons advanced—by some foundations—seeking to explain why foundations cannot effectively regulate themselves:

Because of their diversity in size and function;

Because of the dichotomy between foundations which function in only one area and those which serve in another;

And finally because it is not good manners for one foundation to criticize another.

These arguments are not really helpful to the cause of foundations. They are not convincing to the American public, and they are not convincing on Capitol Hill.

The indiscretions of a few foundations threaten the whole foundation community and their vitally important work in our country.

These are not breaches of etiquette in some exclusive club. They are, at worst, examples of white collar criminality, and, at least, flagrant breaches of public trust.

No gentlemen's code of *omerta* can long be tolerated in a democratic society. Gentlemen who forget this imperil the institutions they seek to strengthen and defend.

The susceptibility of the new tax laws and regulations to onerous application has already been proven.

I'm told—frankly, I don't know the precise facts—that the Internal Revenue Service recently attempted to impose on a newly created legal foundation the condition that the foundation had to obtain I.R.S. approval of any lawsuits before they were filed. If this is indeed true, this constitutes an intolerable invasion of the lawyer-client relationship, and is not consistent with the canons of judicial ethics.

The intimate connection between the work of foundations and the work of government makes extensive government regulation of foundation activities undesirable. Such regulation is too susceptible to political influences. But if foundations are to be free of increasingly extensive government regulation, they will have to devise policies and procedures to regulate their own activities. I hope you will seriously consider what steps you can take collectively to set standards and procedures of your own to single out foundations which are irresponsible.

Whether the framework now exists for self-regulation, or whether the foundations will have to begin from scratch is something you know better than I. There is much, surely, that existing organizations can do. The Council on Foundations might consider developing a code of ethics to which foundations could voluntarily subscribe. The Foundation Center could, in the words of one official, "make its studies and publications more pointedly critical of certain foundation practices."

Perhaps what's in order is the creation of entirely new organizations, along the lines of the "Advisory Board on Philanthropic Policy" recommended in the Peterson Commission Report.

In short, the foundations must not give up on self-regulation as one means of winning back that part of the public that's been lost. You, more than any others, realize how high the stakes are. If standards cannot be developed by the foundation community they will almost certainly be developed and enacted into law by future Congresses. And Congressman Patman has shown us what kind of regulations those will be.

If foundations rise to the challenge of self-regulation, then we who are sympathetic to the work of foundations may be able to revise the tax laws to eliminate some of the more onerous restrictions recently imposed.

I believe that one of the most useful functions that foundations could perform is to supply Congress with information in fields of their special expertise. Organizations like the American Academy for the Advancement of Science, the Ecological Society of America, the American Academy for Political and Social Sciences, and many other scientific, academic or professional organizations are composed of some of the most knowledgeable persons in our society. Such foundations should be allowed and encouraged to participate in the legislative process—not barred from doing so. Information and opinions from these foundations would be of great assistance in formulating legislation and policy at all levels of government. But now, foundations which engage in such informational activity forfeit their right to receive tax deductible contributions. It is incongruous that the tax laws allow private businesses to deduct the expense of lobbying on behalf of a program like the supersonic aircraft from their taxes, but deny a foundation the right to use tax-deductible contributions for such purposes.

There's another problem I want to discuss with you.

There's mounting evidence, I think, that the foundation community has lost adequate contact with the public it serves.

Jack Tuthill, our former ambassador to Brazil, noted once that when a group grows to more than 500 individuals it begins to believe it has no need to communicate with outsiders. Foundations may be a case in point, for they have failed to make their activities and their contributions to the public welfare clear to the public.

Many foundations published no annual reports at all in the past. And those which were published were so turgid, statistical, and complacent that they would turn off the average non-foundation reader within moments. The desire for anonymity on the part of so many foundation leaders also serves to separate foundations farther from the public than is wise. We are not far removed from the time when a foundation executive explained that members of his foundation would not meet with members of the press because this would be "inconsistent with our announced desire of remaining anonymous."

In short, foundations have done a bad job of letting the public know what they are doing, and how well they are doing it. There are in this country three great institutions of accountability—the press, the Congress, and the public. The foundations have been lax in their responsibilities to all three.

The foundations must make a real effort to keep the working press informed of their activities. If the press isn't informed so it can keep the people informed, then the people are going to be inclined to believe that foundations are doing nothing.

Foundations are just as much to blame for their relations with Congress. From my vantage point on Capitol Hill, one of the shocking things about last year's Congressional hearings was the disarray of the foundations in the early stages of the struggle when it came to organizing support and presenting testimony.

You have to supply Congressmen with the right information, and acquaint them with the problems you face, if you want Congress to act in your best interest. It seems to me the foundations must live with that fact, and design their relationship with Congress accordingly.

But, of course, the ultimate form of accountability involves the public, and nowhere have the foundations been as glaringly deficient. The precise statistics on annual reports reveal that before last year's Tax Reform Act less than 200 of our 22,000 foundations published them on a regular basis. Now all foundations will be required by law to publish them. They could be powerful tools for bringing the foundations accomplishments to the people, and real efforts should be made to circulate them widely to the communities and groups each foundation serves. If these groups, rather than the immediate foundation community, become the audience, I am sure the annual reports will become more readable, more informative, and above all more topical. And, obviously, there are many other ways of communicating that are more effective than annual reports.

Last year's legislation was by no means the end of the legislative process.

It could be just the beginning of a process which will hem in foundations and restrict their activities. The ball is in your court; I urge you to become much more aggressive in bringing your case to the public.

But improved communications imply more than improved public relations effort. You need, I think, to broaden your base, not in terms of the people you seek to aid with your programs, but in terms of those involved in your own internal processes. As Alan Pifer recently noted, you are drawn too much "from the same social class, the same age group, the same professions, the same educational background, the same race and the same sex."

You are not representative enough of the society which permits your institutions to exist, and I'm convinced that many members of the public resent this. Many foundations are making efforts to broaden the memberships of their boards and their personnel.

I urge you to intensify these efforts. You would all be well advised to seek out man and women with different backgrounds, different life patterns, different professional experiences to serve with you as foundation trustees and executives.

Such new blood might enable foundations to avoid some of the mistakes they have made in recent years.

I recognize that foundations, like other institutions, generate controversy because in troubled times like these all our institutions and all our assumptions are being challenged. Foundations cannot be neutral in today's highly charged atmosphere. Our country is in crisis. It is engaging, perhaps, in what will be looked back upon as a second reconstruction.

Some sectors of public opinion react negatively to foundation experiments in ghetto education, others will oppose efforts in public housing, and for peace, and countless other causes.

I would urge you not to shy away from new activities merely because they generate this sort of controversy.

So many areas of need cry out for your attention—Mexican-Americans in the Southwest, Indians—lost in the big city and isolated on the reservations, and so many other Americans and so many other causes.

It would be a great mistake to interpret those provisions of the Tax Reform Bill which relate to foundations as a warning to foundations to shy away from working on the tough social issues troubling our society.

The conference report on the bill states that it was not intended to prevent foundations from commenting upon policy problems and broad social issues. And the language of the statute itself clearly allows foundations to make available the results of non-partisan research and analysis of such issues. I am sure the treasury will take all this legislative history into account when outlining new guidelines for you.

Good judgment and common sense should be ever present, however, when considering how foundations should become involved. I suspect your best contributions are in research and in innovative new programs which test new theories and expand our knowledge. As Representative Hugh L. Carey of New York stated during the tax reform hearings before the House Ways and Means Committee in February, 1969:

"It is . . . the role of private philanthropy to lead where government agencies might rightly fear to tread; to assist those individual and community experiments whose potential is not determinable short of actual experience; to try five schemes where only

one may succeed; and thus to give to the Congress and the Administration a surer sense of what can work and what may not, of where the limited funds we appropriate may best be spent."

But foundations will be gravely damaged if ill-advised programs are instituted which create the impression that any of them are merely talent banks or halfway houses for an intellectual praetorian guard of either political party. America has succeeded as a society because we have with notable exceptions encouraged diversity and flexibility in our economic, political, and social life. We have had, up to now, a mutual respect and a tolerance for the opinions and the convictions of others.

The idea of private foundations and the role of foundations in American life illustrate this tolerance for diversity, and a willingness to create institutions which foster that diversity. We are immensely richer as a people because of our foundations.

Yet we live in dangerous and trying times. We are, as a people, looking inward upon our spiritual and moral values to determine what we are, what we want to be, and how we can turn the frustrations of today into the promises of tomorrow. Quite recently we have begun to grope towards institutional reforms intended to return the power of government more closely to the people directly affected by the actions of government. We realize more acutely than ever before that what seems the one right move to a bureaucrat in Washington might be considered wrong for three different reasons by people in California or Georgia or Utah who stand to lose a friendly stream or valley or neighborhood if they are not effectively consulted and involved in the decision making process.

We have, in short, concluded that we need more diversity in government decision making.

It would be tragic if at the historical moment when governmental reforms are being instituted, the private foundations, which have provided so much diversity and experimentation, proved unable to open up their procedures and processes to the people of our land who can contribute to their further richness and capacity.

I am confident that you can meet this challenge—and the others you face.

I urge you to get on with it—while you still have the opportunity.

ACADEMIC COMMUNITY SUPPORTS THE PRESIDENT

Mr. ALLOTT. Mr. President, in the course of our current debate the constant flow of outstanding letters and memoranda from members of the academic community has continued. And I continue to profit by exposure to the reflective judgments they contain.

I repeat, this flow of communications should put to rest the fallacious notion that the academic community is united in opposition to the President's position regarding the necessary and proper and constitutional powers of the President when acting as Commander in Chief. This should be heartening to all Americans, regardless of political persuasion. After all, what would be more alarming than to discover that all our colleages and universities were in the grip of a monolithic orthodoxy covering all important questions of public policy?

Fortunately, as the great outpouring of academic support for the President indicates, there is a rich diversity of views within the academic community. That is as it should be.

It is fortunate that I have been able to share with all Senators the reflective letters and memorandums. Today I want to share some more. Today I want to survey some more letters that have come to me from men in academic life.

Prof. Charles S. Hyneman of the department of political science at the University of Indiana writes as follows:

Whether we should or should not have a continuing military involvement in Indochina is no longer a debatable question. Surely virtually every American citizen wants an early withdrawal. The questions are: On what terms shall we withdraw, and what interests shall we sacrifice in order to speed the withdrawal? On this, for me, the prime question is: Am I willing for some time ahead to trust the judgments of the President? I am. I expect his judgments to be challenged by Congressmen, informed publics, and persons with high emotional involvements; and I expect him to take those challenges into account. I have no doubt that he does this. Therefore I give him my support. His decisions about combat in Viet Nam, about a lateral movement into Cambodia, about the terms and pace of negotiation in Paris—all have my support.

Prof. Jeffrey Hart of Dartmouth College writes to endorse the President's position in these words:

I hope you will be successful in your efforts to prevent the Senate from passing any of the several measures designed to restrict the President's options in Southeast Asia.

The tactical situation there requires that he possess maximum flexibility of maneuver. The sudden panic of some segments of our population over the Cambodian thrust should not be permitted to affect considered military and diplomatic moves. The whole spirit of our constitutional structure militates against government by popular enthusiasm, or even by temporary majorities.

Prof. John P. East of the department of political science at East Carolina University is anxious to make clear that the President has considerable support within the academic community. He says this:

As a member of the academic community, I would like to inform you and any other members of the United States Senate who share our common concern for the state of affairs in southeast Asia, that I stand squarely behind the President on his current policy, and I feel the current sweep through Cambodia is fully warranted. Furthermore, I feel it would be a serious mistake for the United States Senate to pass any resolution at this time that would restrict the President's options. In particular, I feel the Senate should reject the Cooper-Church resolution or any modified form of it. To pass such resolutions is certain to give encouragement to the Communist forces in southeast Asia, and, consequently, will actually prolong the war rather than shorten it. In brief, such resolutions would be counter-productive.

One further point. Members of the United States Senate ought not to be misled into believing that the academic community, faculty and student, is united in its opposition to the President's policy. That is not true. Many students and faculty do support the President, and they deeply regret that the national news media are not as charitable in presenting their point of view as they are in presenting that of the opposition.

Prof. Francis G. Wilson is also very concerned lest people in public life get a distorted view of the diversity of opinions in the academic community. Professor Wilson, who is a member of the political science department at C. W. Post College at Long Island University, and who is professor emeritus of the University of Illinois, writes these words:

I am writing this letter to urge you to support the authority and the policy of President Nixon. In this area faculty groups are dominated by liberals and thus they can pass resolutions against the war in Vietnam. Such a resolution was recently passed and sent to the President, but it can hardly be called a proper expression of faculty opinion. It is, as is so often the case, the expression of the ideas of a dominant liberal oligarchy. Certainly, there is no way of saying that such a resolution expresses the opinion of the faculty of Long Island University (C. W. Post Center).

I believe that as more and more people become activated in support of the President and the honor of the United States, it will become apparent that the war protesters do not represent the larger and deeper sentiment of the American people. Slowly but surely it will also be shown that well-organized revolutionary groups are manipulating the unsophisticated idealism of many young people. On the other hand, if such young people let themselves be used by agitators who stay in the background all kinds of incidents will occur in the protection of the rights of Americans, including even the unhappy loss of life of so-called students. I am not even sure to what extent we should provide educational opportunities for those who destroy such opportunities by violence.

Prudent forbearance is the theme of the advice offered by Prof. George Carey. Professor Carey is a distinguished student of constitutional law. He is a member of the political science department at Georgetown University. He urges Congress to avoid tampering with settled constitutional practices. These are Professor Carey's words:

As a political scientist who has considerable knowledge of the American Constitution and our tradition, I urge you at this time to vote against any measure that would infringe upon the President's commander in chief powers. I urge the same on the part of your colleagues, both Republican and Democrat.

I grant that the Congress does undeniably possess the constitutional authority to restrict presidential powers and discretion through its powers of appropriation. I grant, also, that there is a compelling need to explore in some depth the entire question of presidential-congressional relations, a matter which you have in the past brought to public attention. However, present circumstances are clearly such that this perennial problem cannot be handled within the confines of our constitutional morality which clearly calls for delay, deliberation, and sober thought apart from the partisan issues of the moment. Put another way, it would be most unfortunate if the Senate were to set a precedent that future generations would live to regret.

I well understand that most arguments will take place on the constitutional grounds I have indicated. I fear that some of these arguments will not take into account the constitutional morality given to us by *The Federalist*—each branch of government should show a forbearance lest the whole structure come tumbling to the ground.

Two members of the political science department at St. John's University in New York have written to me to express their grave concern about the attempts to tamper with the traditional role of the President acting as Commander in Chief. Prof. Raymond L. Carol, chairman

of the political science department, is disturbed by what he considers a massive reversal of position on the part of some public figures. Professor Carol says this:

As a Professor of Political Science I must express my support of you against the people inside and outside of the Senate who never before have denounced the prerogatives of the President. Indeed, in years past as the records will show, they supported Presidential power when it was leading the country in a direction which they wanted it to take.

Prof. Gerald E. Fitzgerald, also of the St. John's University Department of Political Science, doubts the soundness of the sudden spate of questioning of the President's traditional powers as Commander in Chief. Professor Fitzgerald is convinced that two articles of the U.S. Constitution, as well as a doctrine of International law, all support the propriety, constitutional and otherwise, of the President's sensible decision to clean out the sanctuaries along the Cambodia-South Vietnam border. This is how professor Fitzgerald puts his case:

Article II, Section 2, of the Constitution provides that the "President shall be Commander in Chief of the Army and Navy of the United States. . . ." The use of the Armed Forces by the President without a formal declaration of war has occurred in the past in a number of instances. President Polk sent forces into Mexican Territory, President Wilson authorized a punitive expedition into Mexico, The Barbary states were the subject of American military attack when pirates preyed upon American shipping, and President Truman ordered the American forces into Korea to resist Communist aggression. Other instances of the use of the armed forces by the commander in chief, without congressional action can be cited, including President Theodore Roosevelt's order to the fleet to sail halfway around the world, even though Congress failed to authorize the funds for this purpose. President Franklin D. Roosevelt's action in ordering the U.S. Navy to patrol the North Atlantic and to sink U-boats is also relevant. The latter's occupation of Greenland, prior to a declaration of war may also be cited.

Article VI, the "supremacy article", declares the Constitution and treaties to be the supreme law of the land. Any action by the President, in fulfilling treaty obligations of the United States, would appear to be legitimate use of this article.

It occurs to me that the doctrine of hot pursuit would also have application in the international sphere to the action of the President in pursuing enemy troops into Cambodia.

Mr. President, I am particularly interested in Professor Fitzgerald's comment about the doctrine of "hot pursuit." In this regard, I have come upon a most interesting argument. It is contained in a classic volume on law, "A Treatise on the Law of War," by Cornelius van Bynkershoek.

Bynkershoek was a great Dutch lawyer of the 18th century.

The Treatise is the first book of Bynkershoek's Questiones Juris Publici. The first edition of this classic was published in 1759, and the first English language translation of it was rendered in 1810 by Peter Stephen Du Ponceau, chancellor at law of the Supreme Court of the United States.

The question of "hot pursuit" is hardly a new question in law and practical politics. And one need not puzzle long to imagine how this problem concerned many nations—and not least of all the United States—in 1810. The doctrine of "hot pursuit" was useful in enabling nations to defend their shipping from marauding pirates and other seaborne forces.

Such illegal forces could wage a kind of nautical guerrilla warfare. They could make a swift foray out from a neutral port and then quickly scurry back to the sanctuary of that port. Obviously no great nation could or would long tolerate this kind of attack. No sensible nation would feel called upon to allow such injuries. No sensible nation would allow its citizens, military and otherwise, to face an enemy that could strike and run with impunity.

Mr. President, it would be nice for all Senators to have the pleasure of reading Bynkershoek's argument with regard to the point Professor Fitzgerald raises—the problem of "hot pursuit" against an enemy using sanctuaries. Therefore I ask unanimous consent for chapter eight of his "Treatise on the Law of War"—"Of Hostilities in a Neutral Port or Territory"—to be printed in the RECORD at the conclusion of my remarks today.

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

(See exhibit 1.)

Mr. ALLOTT. Mr. President, I should now like to move two centuries from the problems of 18th century pirates to the problems of 20th century extremist protest. Unfortunately, the move seems distressingly plausible at times.

I have received a most illuminating—and, in fact, entertaining—memorandum from Prof. Walter Darnell Jacobs of the department of government and politics at the University of Maryland.

As I am sure we all remember, the University of Maryland was one of the campuses hit hardest by what we euphemistically call "dissent" about the President's decision to move against the Cambodian sanctuaries. Professor Jacobs has seen the campus "dissent" up close, and he has no illusions about it. I particularly enjoyed reading the paragraphs with which he began the memorandum he prepared for me. These are the paragraphs:

Fascist Cambodian lackey!

This was one of the venomous epithets hurled by student rioters at a state trooper during the May Day "confrontation" at the University of Maryland. The trooper was so confused by the angry invective which came his way that he asked his antagonist, "What's a lackey—and what's a Cambodian?" He might also have asked what a fascist was but his bearded accuser had moved on, perhaps to accuse another trooper of being a hireling and running dog of the imperialist war machine.

About three weeks later, on May 22, the aging sex symbol, Jane Fonda, addressed a rally of students (described by her as "lethargic") and others on the College Park campus. According to the *Washington Post*, Miss Fonda pleaded, "Please, all of you, don't let the kind of momentum that is building up all over this country on campuses die out." The *Post* report went on to say, "Even if President Nixon brings the troops back from Cambodia next month, or even if he ended the American effort in Vietnam, the problem's still not over," she added.

Professor Jacobs frankly admits that it is virtually impossible to engage in rational discourse with many of the most rabid radicals currently enjoying the status of "dissenters" on campuses. But Professor Jacobs does feel it is still imperative and easy to defend the President's position against the current attacks. He says this:

The specific charges can be answered. For example, in sending troops into Cambodia the President moved to save American lives and to speed the day when American troops could be deployed home. His action was taken against command and supply centers which had long been prepared and operated not only by "guerrillas" but also by North Vietnamese regulars. These "guerrillas" and regulars have been supplied both by the Chinese and the Soviets. Neither Moscow nor Peking has concealed its aid to the Viet Cong and the North Vietnamese regulars. Moscow and Peking have openly and continuously boasted about this aid. The new revolutionaries, who are so absercant and omniscient about American or South Vietnamese action and intentions, are completely struthious about the actions of Hanoi, Peking, and Moscow.

President Nixon has operated in Indochina under rules of engagement inherited from his predecessors. These rules prohibited attacks on North Vietnamese targets and severely limited engagement of other targets. The President's observance of these crippling restrictions has gained him no credit with the new revolutionaries. Instead, when he makes an alteration in order to protect American lives and in order to hasten US withdrawal from the peninsula, the new revolutionaries—after first closing their ears to the President's arguments and to his logically constructed case—rush into the street, burn buildings, stone officers, and demand to be heard. The new revolutionaries demand that force and violence be declared to be greater wisdom and more deserving of a hearing than the reasoned arguments of the President.

When the American-Vietnamese action against the Cambodian sanctuaries of the Viet Cong and North Vietnamese regulars began to succeed, the new revolutionaries ignored the successes and raised the question of the constitutional right of the Commander in Chief to order the troops into the Cambodian nation. This legalism was never raised when North Vietnam freely violated the borders of Laos and Cambodia. It was raised only when U.S. and ARVN troops demonstrated that the sanctuaries in Cambodia were just what the President had said they were—a vast network of command posts and supply points which represented an immediate threat to the security of US troops in Vietnam. After it was clear that the thrust into the Cambodian sanctuaries had found and destroyed numerous 122mm rockets (of Soviet manufacture), 107mm rockets (Chinese), B-40 and B-41 rockets, 7.62mm carbines, and much, much more equipment and armament, some of the new revolutionaries in the United States found it appropriate to challenge the constitutionality of the President's action and to threaten to cut off funds for military operations in Indochina.

The President, of course, has the constitutional right—indeed, obligation—to safeguard American lives. The new revolutionaries ignore this or attempt to submerge it in a rhetorical avalanche.

The constitutional position of the President can, of course, be argued on more specific grounds. There is really little need to do so, however, because the arguments would not be heard by the new revolutionaries who have their anti-Nixon filters entirely operational while they seem to be unable to handle their much advertised two-way receivers.

The specific charges of the new revolutionaries against the Cambodian action can be answered—or can at least be argued amidst rational persons. The point is, however, that the answer will not be heard, will not be considered, and is not desired.

Professor Jacobs thinks it is time for the movement against the President to put its own house in order. He recognizes that honorable men of good will can and do disagree with the President's position concerning the powers of the Commander in Chief, and concerning the best way to achieve an honorable disengagement in South Vietnam.

Further, Professor Jacobs realizes that the contingent of rancid revolutionaries is only a part of the group that is critical of the President. But Professor Jacobs does feel that it is the duty of all honorable men of good will to associate only with other honorable men of good will. Professor Jacobs has had ample opportunity to examine the utterings of these rancid revolutionaries and this is what he says:

The new revolutionaries . . . do not respect the system, they ridicule its institutions, they attempt to deny its members the right to speak, and they do not engage in debate or exchange of opinions. The new revolutionaries are determined to destroy the system.

The President, who is devoted to preserving the system and to responding to complaints, is stigmatized while, in some circles, the new revolutionaries are defended and are put forth as persons who should be listened to.

Most Americans, including most persons on the faculties and in the student bodies of our universities, suggest that it is time for the critics of the President to examine the nature of his opposition within the new revolutionary movement.

Mr. President, it is heartening to hear from men such as Professor Jacobs. Such men demonstrate the continuing vigor of the President's support within the academic community. This support is not confined to any region.

From Prof. James L. Busey, chairman of the department of political science at the Cragmor Division of the University of Colorado in Colorado Springs came this expression of support for the President:

I confess it can be argued, possibly with success, that the President might theoretically use his constitutional powers as Commander in Chief in such manner as to conflict with and disrupt the exercise of other constitutional powers. For example, he might order the troops to close down the Congress, which in my judgment would be clearly unconstitutional, since the Constitution provides for the establishment and functioning of a Congress. Some might even contend that in some instances a massive new deployment of U.S. troops abroad, which would threaten the constitutional order of the United States, might be in this unconstitutional category.

But the situation under which the President is commanding troops in southeast Asia is of an entirely different order. The fact is that when he came into office, some 500,000 American troops were already deployed in Vietnam. The fact is that the President is their Commander in Chief, and that it is his duty to command them in such manner as he deems most appropriate for the ending of this Southeast Asian involvement as expeditiously and successfully as possible. If he considers that an elimination of Communist materiel depots and command posts in Cambodia is essential to the accomplishment of that task, then it is the President, and the President alone, who has the constitutional duty and the responsibility to give the commands which will accomplish that end. Once finding ourselves in our present military situation, the President would be derelict as Commander in Chief of the Army and Navy, and as defender of the Constitution of the United States (Art. II, Sec. 1, Cl. 8), if he did not not issue the commands which would get us out of it with as little harm as possible to our troops abroad and our citizens at home.

In his letter to me, Professor Busey gives a careful and detailed consideration of the difficulties facing the President as he tries to achieve an honorable solution to the war he inherited. After surveying the difficulties, Professor Busey says this:

All the above leads me to my conclusion: That if the President believes, on the basis of expert advice available to him, that a cleaning out of Communist sanctuaries in Vietnam will facilitate our safer departure as well as the more effective Vietnamization of the war, and if he is persuaded that this massive U.S. effort in Cambodia can be ended by July, then I am convinced that every support should be given him in the accomplishment of this objective. Under these circumstances, to deny him that support is to play into the hands of the enemy—in the words of Churchill, to grasp defeat from the jaws of victory, at least in the sense of accomplishment of our immediate objectives of an orderly departure from southeast Asia.

What some people seem to want is a disorderly departure from southeast Asia—a hysterical flight to the boats, so to speak, without effective defense of those troops who cannot scramble aboard in the first rush, and without assurance that even South Vietnam can be saved from Communist-bloc aggression. It seems to me that our present action in Cambodia, which is designed to wipe out the enemy's capability for effective military effort during the next several months, is the essential *sine qua non* if our departure is to be hastened, South Vietnam is to be put into a viable posture of defense, and we are to be saved at home from inestimable panic and dismay.

But I will not plead for any further delay in our withdrawal from southeast Asia. If I support the President in this matter, it is because I think that such support is essential if further delay is to be avoided.

A most interesting and sobering point is made in a letter I have received from Prof. James M. Buchanan, director of the Center for Study of Public Choice at Virginia Polytechnic Institute. Professor Buchanan thinks that restrictions on Presidential flexibility cannot be confined to Presidential actions in a particular region. This is what Professor Buchanan says:

The United States should not, and I think will not, allow Israel to be destroyed. Yet explicit restrictions on presidential flexibility of action in the Far East would surely be interpreted by the Soviet Union as a general unwillingness of the United States to intervene *anywhere* on behalf of friendly nations. To tie the president's hands in the Far East amounts to an open invitation for Soviet domination of the Middle East, with all of its consequences.

Another interesting expression of support for the President comes from Prof. Robert J. Markle, acting chairman of the department of political science at the College of New Rochelle. Professor Markle is a specialist in urban affairs. He is interested in but—not convinced by—the arguments that suggest we should curb the President in order to end the war, all in order to get on with solving the problems of the cities. He thinks this argument is misguided in suggesting that a constitutional crisis over Presidential power can be useful in helping the cities. Nor does he think we can achieve domestic tranquillity by means of an unprecedented challenge to the powers of the Commander in Chief. Professor Markle says this:

It seems to me that tranquillity can best be promoted by agreement between President and Congress on a withdrawal policy. Battle with the President by the Senate will add to the inflamed national atmosphere, particularly on the college campus (where unfortunate people like myself are often caught in the middle—physically as well as intellectually). As I've tried to indicate, the great urban problems we face need long term solutions, and to use them as a stick to beat the President out of Cambodia is (forgive me) to display terrible ignorance of their complexities.

Professor Markle thinks the veracity of the President is being impugned by the current moves to curb traditional Presidential latitude. He says this:

It seems a fair assumption that the President intends to carry out a staged withdrawal of American troops from South Vietnam. This is supported not only by public statements but through troop withdrawals already carried out. It seems clear that American activities, directly or indirectly, in both Laos and Cambodia, are meant to meet incursions into those adjacent areas by the enemy war machine. American forces, and our allies, are battling in South Vietnam. It is the open use of combat troops in Cambodia, of course, which has signaled the recent domestic tempest here.

But if that involvement were meant to be the beginning of a wider war of conquest then it is inconsistent that the President should have reduced troop levels and announced his intention to continue doing so.

If the Senate votes to place a definite time limit on withdrawals from Cambodia, and even Vietnam, then it is doing something more serious than simply calling Mr. Nixon a liar; it is also branding the President and the military as incompetent, given the withdrawals and their impact on our future power, as well as undermining the institution of the Presidency in a time of crisis.

Professor Markle concludes with this warning:

It may be that imposing deadlines on the President will punish Richard Nixon, and will have minimal impact on the United States domestically and in foreign affairs. But, if we are frank with each other in terms of your practical understanding of politics and my theoretical work, I think it is clear that such action will have an impact. I fear that in punishing Richard Nixon the Senate will harm the United States.

Mr. President, it is important that we understand how much harm the Nation would have suffered at various points in its history had the Commander in Chief not enjoyed the latitude guaranteed for him by the Founding Fathers. In this regard I have received an interesting letter from Mr. Kermit Staggers II, who is currently completing his doctoral work in history at the University of Idaho. Mr. Staggers calls attention to the historical dimension of the current argument. He says this:

The Cooper-Church amendment would prevent the President from using U.S. forces in Cambodia in order to protect American troops. Throughout history the right to self protection has been asserted. Today it is generally recognized that Israel has the right to move into Arab countries to destroy Arab guerrilla bases which threaten Israel security. Why shouldn't U.S. troops have a right to protection?

President Washington in 1794 recognized the elemental right of Americans to protec-

tion. When General Wayne was taking defensive measures against the Indians, President Washington authorized General Wayne to destroy a British fort that was twenty miles inside of U.S. territory if he was threatened. Wayne was not threatened and the British fort was not destroyed. President Washington's instructions clearly indicate that he felt defensive measures were sometimes needed to protect U.S. citizens.

In 1818 President Monroe continued the precedent established by President Washington. Monroe allowed General Jackson to take defensive measures against the ravaging Indians by permitting him to enter into Spanish Florida in "hot pursuit." Monroe stated: "When the authority of Spain ceases to exist there, the United States has a right to pursue their enemy on a principle of self defense."

One-Hundred years later President Wilson also asserted the right to pursue an enemy into a foreign country on the principle of self defense. The occasion arose with the forays of Villa in the United States.

Most recently the right to self protection was proclaimed by President Kennedy during the Cuban Missile Crisis of 1962. With Soviet missiles pointed at the United States, Kennedy contemplated a defensive measure of sending an air strike to Cuba to destroy the missile sites. This concern that Presidents Kennedy, Wilson, Monroe, and Washington have shown to protect U.S. citizens by defensive measures, must also be provided for our servicemen in Vietnam.

One of Mr. Staggers' closest friends has been severely wounded in the fighting in South Vietnam. Mr. Staggers has no love for war. He is anxious to see an honorable disengagement from the current conflict. But he has no illusions about this being an easy task. And his study of history, and his study of the current situation, leads him to conclude that his friend, and others like him, stand to benefit from prudent exercises of Presidential latitude. That is why he supports the President's decision to order a limited incursion into the Cambodian sanctuaries.

Mr. Staggers says this about the so-called neutrality on the part of Cambodia in which the late and unlamented sanctuaries were located:

This blatant disregard of Cambodia's neutrality was recognized two years ago by Canada according to Canadian Foreign Minister, Mitchell Sharp. Canada who is a member of the 1954 Geneva Conference in charge of the enforcement of peace in Indochina called upon the two other members, India and Poland, to have the commission undertake investigations into the presence of North Vietnamese and Viet Cong troops in Cambodia. India and Poland, however, refused to see any need for action.

With an international commission unable to maintain Cambodia's neutrality, it became imperative that the United States insure Cambodian neutrality in order to protect U.S. troops. U.S. action in Cambodia has been praised by the Cambodian government who desires that U.S. troops remain to protect Cambodia from the North Vietnamese and Viet Cong.

Praise for the U.S. action has also come from the Englishman, Sir Robert Thompson. Sir Robert Thompson who was in charge of defeating the Communist guerrillas in Malaya in the early 1950s is an expert on guerrilla warfare. Three weeks ago Sir Robert stated that if the North Vietnamese had been allowed to continue in their Cambodian sancturay the whole South Vietnamese situation would have been very vulnerable. Thompson states: "It would have made withdrawal of United States troops from South Vietnam quite unlikely. As a matter of fact, it would have placed the withdrawal itself in jeopardy."

Prof. Louis A. Fanning of the history department at the State University of New York, Farmingdale, also calls upon history to make a point. He says this:

Surely, the Roman decision to destroy Hannibal's Italian army by striking at its main supply base in Spain was a valid one. Further, in 1944, what legal French government invited the Allies to "invade" France to destroy the hated Nazi?

Prof. Joseph Dunner of the department of political science at Yeshiva University recalls some more recent history which is relevant to the question of presidential power. He says this:

Some fifteen years ago I published a brief pleading for the defeat of the Bricker Amendment. I was in full agreement with Senator Bricker in his criticism of the Yalta Agreement signed by F.D.R. in February 1945. In fact, long before Senator Bricker took the initiative, I had denounced the Yalta Agreement as a sell-out of vital free world interests and a surrender to the forces of Communist totalitarianism for which in view of our military strength in 1945 there was no need whatsoever. But I disassociated myself from Senator Bricker's stress on states' rights in foreign policy and I was opposed to his attempt to place serious limitations on the constitutional powers of the President. Under our Constitution the President is Commander-in-Chief of the armed forces. In this capacity he is authorized to carry out the commitments of the U.S.A. under international agreements and to resort to the use of force for the protection of American lives and interests abroad. Literally as well as legally, Congress can let him down if action by Congress, particularly appropriations, is in any way involved. But to do so must result in the humiliation of the Presidential office which, in turn, is bound to cause irreparable harm to the position of the U.S.A. in international politics.

Mr. President, all the letters I have been discussing thus far today come from members of the academic community. But before I conclude I would like to share with Senators three other communications from men who are not academicians. One is from a distingushed newspaperman. The second is from a decorated Marine who is a veteran of the Vietnam conflict. The third is from a noted authority on military matters.

The newspaperman is Anthony H. Harrigan, assistant editor of the Charleston, S.C., News and Courier. Mr. Harrigan is incoming executive vice president of the Southern States Industrial Council, and is a frequent writer and lecturer on international affairs. He is the author of six books on foreign and military affairs, including "A Guide to the War in Vietnam." His writings have appeared in the Royal United Service Institution Journal, England; NATO's Fifteen Nations, the Netherlands; the Catholic World; National Review; the New Leader; Revue Militaire Generale, France; Proceedings of the U.S. Naval Institute; the New York Times; Canada Month; and many other publications. For several years he was a research associate of the Georgetown University Center of Strategic and International Studies. He is a former member of the Institute of Strategic Studies, London, and occasional lecturer at the National War College.

Mr. Harrigan has written to me as follows:

The current efforts in the U.S. Senate to restrict the President's authority as Commander in Chief and architect of American foreign policy create a serious threat to the constitutional division of powers and, if successful, would gravely hinder future chief executives in performance of their constitutional duties.

While the authors of the U.S. Constitution provided for the advice and consent of the Senate in important matters, it clearly was *not* their intention to give direction of foreign policy or control of the armed forces to the national legislature. Indeed even in that day of poor communications and slow transport, it was apparent to wise men that the executive authority required flexibility in meeting crises and in conducting foreign relations.

Through the history of the United States, the presidential authority has been exercised in operations similar to the incursion into Cambodia ordered by President Nixon. President Wilson authorized numerous military operations in the Caribbean in defense of vital U.S. interests. President Hoover did likewise. President Roosevelt transferred U.S. Navy destroyers to Great Britain without a specific congressional mandate. These and innumerable similar operations were accepted by the American people, albeit with some degree of dissent, over many decades. The people, in their wisdom, realized that the leadership of the country in critical security crises could not be entrusted to any committee of the Congress or any other body of citizens.

Acceptance of this fact has embraced people in both great political parties. Republicans accepted President Truman's decision to send military advisers into Greece during the Greek Civil War when communists threatened to take over that country. Democrats accepted the action of President Eisenhower in sending troops into Lebanon to prevent that crisis blowing up into a global confrontation.

The need for unity on the vital principle of presidential leadership is greater than ever, for that principle is threatened as a result of the mass hysteria in the country over the Cambodian operation ordered by President Nixon.

The United States could not long exist if the presidential authority were undermined by congressional action. Indeed if the Soviet Union saw that the President no longer possessed freedom of action to defend American interests, the leadership of the USSR undoubtedly would be strongly tempted to take bold action to its own advantage, possibly in the Middle East.

Thus it would be appalling—from the standpoint of America's national interest and peace-keeping in the world—to tie the hands of the President by setting any cut-off date for funds necessary to support American troops in the field. As a concerned citizen and a student of foreign policy, I certainly hope that the Senate will support the President of the United States and will reject unconstitutional and unwise demands that his proper and legitimate authority be restricted. Now is the time for all thoughtful Americans to give their support to the nation's Chief Executive and Commander in Chief.

The next writer whose thoughts deserve Senate consideration is Maj. O. M. Whipple, Jr. Major Whipple has seen the grim reality of Vietnam from a vantage point different from that of those of us in Washington. He has been in the field, and has been decorated for his valor.

Major Whipple is currently at the Department of Defense Computer Institute. He has written to me the following:

Speaking from an infantry man's point of view, the President's decision will have far reaching gains. I have believed for years

that our efforts in RVN have been severely constrained by allowing the North Vietnamese privileged sanctuaries so close to the war zone. One of the basic principles of waging a counter guerrilla or counter revolutionary war is to deny the enemy any opportunity to rest and recover from the rigors of combat operations. You must constantly pursue the enemy, never allowing him to regain strength. For all too long a period of time this fact has been ignored. Now that we have been able to move against their sanctuaries, and have been able to capture or destroy vast quantities of enemy weapons, ammunition, foodstuffs, medical supplies, etc., we will surely see signs of decreased enemy actions. Additionally, the enemy's knowledge that we might move against these sanctuaries again, will greatly assist our planned withdrawals.

Particularly significant in this regard has been the capture of thousands of communist rockets and millions of rounds of .51 caliber anti-aircraft ammunition. Without these rockets the enemy will not possess the continuing capability to periodically rocket the civilian population which has characteristically undermined our attempts at pacification. Most assuredly we have not captured all the enemy's rockets, but we have definitely reduced his inventory. The capture of the .51 caliber ammunition, while its importance has not been played down by the news media, has an extremely important impact on our offensive operations. True, the .51 caliber is not used by the enemy ground troops against our infantry, it is however, the main caliber used against our helicopters. The enemy has been very successful in shooting down helicopters, and it must be remembered that each helicopter shot down means the possible loss of three of five men being killed or wounded, and the possible loss of the helicopter itself. This has far reaching ramifications, particularly in the propaganda value to the enemy.

Perhaps one other aspect of our venture into Cambodia should be mentioned; i.e., as a means to actively demonstrate support for the Lon Nol regime at a time when it needed support and to help relieve some of the tactical pressure being exerted by the NVA against the Cambodian Armed Forces. The Lon Nol regimen is struggling to maintain itself against a recognized Communist aggression which has ebbed and flowed across Cambodia for years. If our operation in the border areas can buy some time for the Cambodian Armed Forces to become more modernly equipped and trained, and if, as a result, they in turn can effectively resist the Communists and actively assist in precluding the reestablishment of sanctuaries, then we can make our ultimate withdrawal from RVN more expeditiously, and with an increased margin of safety for that portion of our forces which will remain to assist in the Vietnamization program.

For the above reasons, I wholeheartedly support President Nixon's move into Cambodia. If, as I feel it will, it allows us to extradite ourselves from Vietnam more expeditiously, then he has been successful in this venture.

Mr. President, in conclusion, I want to share with the Senate some of the thoughts of George Fielding Eliot.

Mr. Eliot is one of the Nation's most respected and honored writers on military matters. He has been kind enough to send me his ideas on the current situation in Southeast Asia, and on the importance of Presidential latitude in achieving an honorable resolution of the conflict in that region. He says this:

For nearly five years, the Cambodain government of Prince Sihanouk has allowed the North Vietnamese and Vietcong to use Cambodian territory as a secure neutral sanctuary, where they could store their weapons and supplies, from which they could launch surprise attacks against U.S. and South Vietnamese at their good pleasure, and to which they could withdraw and find perfect safety from pursuit.

To call this by the name of neutrality is a bitter irony. For American political leaders to accuse President Nixon of doing violence to the sacred laws of neutrality when he determines to put an end to this state of affairs—which has already been cruelly wasteful of the lives of American servicemen—is beyond the understanding of those who wear the uniform of the United States, and, one hopes, of the great majority of American citizens.

We have to keep firmly in mind the hard central fact of Hanoi's military ability to conquer South Vietnam which can only be attempted by using supposedly neutral territory in Cambodia and Laos in order to get at the power-centers of the Saigon government. If the neutrality of Cambodia and Laos had been firmly upheld by strong local governments from the very first, North Vietnam could have had no means of supporting the guerrilla insurrectional forces which Hanoi had been developing in South Vietnam for years. The military intervention of the United States by sea and air would have rung down the curtain on the whole Communist effort in a matter of months, had that effort been confined to the short frontier along the so-called Demilitarized zone bethween North and South Vietnam.

With American military intervention imminent, Hanoi began hostilities by an end-run through eastern Laos and northeastern Camobdia. Their immediate aim was to move their well-trained regular army south and bring it into action in South Vietnam before the American troops level became too strong for them. They soon found that the collection of jungle paths known as the Ho Chih Minh trail through Laos and a corner of Cambodia could not supply sustained operations against the southern part of South Vietnam as well as in the northern and central parts of that country. So they worked out a deal with Prince Sihanouk's Cambodian government to use the Cambodian seaport of Sihanoukville for Red Chinese supply ships carrying arms, munitions and supplies which were then moved from that port over Cambodian roads to the Communist military base areas on the South Vietnamese frontier. This operation went steadily on from late 1965 until President Nixon blew the whistle on it a few weeks ago. It is now in course of being brought to an end by the destruction of its forward supply bases and by blockade of the Cambodian coast by U.S. and SVN naval units.

Since the U.S. government is committed to a gradual withdrawal of U.S. ground forces from South Vietnam by the end of 1971, the only means of establishing secure conditions for such a withdrawal, and for the takeover of the defense of South Vietnam by that country's own forces, is to deprive Hanoi of the illegal use of the territory of supposedly neutral states such as Cambodia and Laos. This President Nixon is proceeding to accomplish by military means while he still has something like adequate means in Southeast Asia to do the job. Failure to make use of the time thus at his disposal would be a dereliction of his duty as Commander-in-Chief to safeguard the security of American (and allied) forces now in action against a hard-fighting enemy.

It is the Cambodian government of Prince Sihanouk, not the U.S. government of Richard Nixon, which has consistently disregarded Cambodian neutrality. The time has now arrived when no American President can longer afford to pay serious attention to that outworn fiction.

Mr. Eliot has also communicated to me his impression, gained from his own study and from discussions with American military men, of the real importance of preserving the power traditionally exercised by the Commander in Chief. He says the following:

The views expressed to this writer by experienced military friends on the subject of Congressional attempts to place artificial limits on President Nixon's use of his Presidential authority as Commander in Chief to deal with the critical situation which has developed in Cambodia may be summarized as follows:

"We do not believe that Congress can find means of bringing the Presidentially-directed military operations in Cambodia to a full stop. We do believe that the Congressional attempts to do this may result in enough obstruction, delay and home-front misunderstanding to make the difference between victory and stalemate: and in this case, in which time is the all-important military factor, stalemate is virtually the equivalent of defeat and will be so exploited by the enemy."

It was precisely to avoid political interference with the freedom of action of future Presidents in dealing with emergency situations that the Constitutional provision making the President the Commander-in-Chief of the armed forces was written into the Constitution without any specified limitation on his exercise of authority in that capacity: such as the requirement of "advice and consent" by the Senate which modifies the President's authority to make treaties with foreign states or to appoint judges and other high officials.

The President's authority as Commander-in-Chief is the only power granted him by the founding fathers without any specific limitation. This was done despite very earnest attempts by anxious members of the Constitutional Convention to establish such limitations.

The principal reason for this failure of these attempts appears to have been the quiet but unyielding attitude of General Washington, the only man at that time who had had the experience of commanding the armies of the United States in the field.

Based on this experience, General Washington doubted the capacity of human foresight to anticipate the nature of the emergencies which might confront future Presidents: except that some of these emergencies would certainly be unforeseeable in character. He therefore preferred to put his trust in the wisdom of the electorate to choose Presidents of strong character and sound judgment, and he considered specific limitations on the freedom of action of future Presidents in their capacity as Commanders in Chief to be a far greater threat to the National security of the United States than to trust the President for the time being to use his powers with wisdom and restraint.

The records of the thirty-seven men who have held the Presidential office—including Mr. Nixon—bear testimony to the sound judgment of General Washington on this subject. Some Presidents have shown outstanding ability, others perhaps have been less gifted than the best, but none have proven unworthy of the trust bestowed upon them by their fellow citizens.

All have had the same authority as Commanders-in-Chief, though their exercise of that authority has varied according to their views of their responsibility and of the nation's needs. It is quite ridiculous of President Nixon's opponents to clamor for "the restoration of the Constitutional balance in reaching vital decisions on war and peace". No such "balance" was written into the Constitution, and for that we may thank the wisdom and the foresight of George Washington.

Mr. President, today I have shared with the Senate some of the many communications I have received supporting the President's position with regard to

powers that should be permitted, and are constitutionally permitted, to the Commander in Chief. I think the arguments advanced in these communications, and in the similar communications I have been sharing with the Senate during the weeks of this current debate, are conclusive.

There is no such thing as a good time to tamper with proven constitutional arrangements. For that reason, I conclude that this is not a good time—and that there will never be a good time—to pass any measure which attempts to usurp the powers traditionally exercised by every Commander in Chief since President Washington.

EXHIBIT 1

CORNELIUS VAN BYNKERSHOEK, A TREATISE ON THE LAW OF WAR

CHAPTER VIII. OF HOSTILITIES IN A NEUTRAL PORT OR TERRITORY

We only exercise the rights of war in our own territory, in the enemy's, or in a territory which belongs to no one. If we take the enemy in our own territory, and he has come to it without a safe conduct, there is nothing that prohibits our treating him in a hostile manner. To enter the territory of an enemy, and there to make captures, is permitted by the law of war. The same may lawfully be done on the high seas, as being the territory of no one. But he who commits hostilities on the territory of a friend to both parties, makes war upon the sovereign who governs there, and who by his laws coerces every violence, by whomsoever it may be committed. Therefore the *Carthaginians*, though with a superior naval force, did not dare to attack the *Romans* in a port of the king of *Numidia*, as *Grotius* (after *Livy*[1]) relates in 1. 3., *De Fur. Bell. ac. Pac.* c. 4. § 8. n. 2., and *Zouch, De Fur. Fec.* part 2 § 9 Q. 7., transcribes it out of *Grotius*. *Zouch* there states some contrary arguments, but *Grotius* had already mentioned and refuted them.

But as all the publicists (without any exception that I know of) prohibit the use of force in the dominions of another, it deserves to be considered, whether the usage of nations and the edicts of our princes[2] and states[3] are conformable to this opinion, and whether on this subject the right to pursue ought to be distinguished from the right to attack? To begin with the princes. *Philip* II. king of *Spain*,[4] in the nautical laws which he gave to the *Belgians* on the last day of *October* 1563, (title 1, § 27.) ordered, on pain of death, that no violence should be done on the sea, by reason of war or for any other cause, on his subjects or allies, or on *foreigners*, within sight from land or from a port. He therefore understood the dominion of the continent to be extended as far as the sight can reach from the shore, and there are authors who are of that opinion. But I have shewn this to be too vague, in the second chapter of my Dissertation *de Domino Maris*, being of opinion that the dominion of land ends where the power of arms terminates. And that the states-general and the state of *Holland* were of the same opinion, I think I have sufficiently proved by the two decrees made concerning the salute at sea, quoted in the said chapter 2, and also in chapter 4.[5]

Certainly it is by no means lawful to attack or take an enemy in the port of a neutral who is in amity with both parties. If it be done, it is the duty of the neutral state to cause the thing taken to be restored, either at its own expense or at the expense of the injured party. That it should be done at the expense of the latter has been agreed by the twenty-second article of the treaty of peace between the commonwealth of *England* and the states-general of the 5th of *April* 1654, the twenty-first article of the treaty of peace between the king of *England* and the states-general of the 14th of *September* 1662 and again by the 29th article of the treaty of peace between the same powers of the 31st of *July* 1667.

The same is stipulated by the forty-eighth article of the commercial treaty between the king of *France* and the states-general of the 27th *April* 1662, but there is no mention made therein of the expenses being to be borne by the injured party, which appears to me to be very unjust, as it is the duty of the sovereign of the territory to revenge the injury done to himself, for it is an injury done to him to violate a port which is equally open to all his friends. And what if he who committed the violence goes away immediately? Is the individual, whose vessel, perhaps, has been taken, to make war at his own expense? Therefore the mention of the expense is properly omitted in the thirty-fifth article of the treaty of commerce which was made between the same powers on the 10th of *August* 1678, in the fortieth article of the treaty of commerce between same of the 20th of *September* 1697, and again in the thirty-ninth article of the treaty of commerce between the same of the 11th of *April* 1713, for later treaties are generally without any further examination copied from the former ones, as we have seen just now to have been the case with the *English*. Those articles of treaties between *France* and the states-general only stipulate that the sovereign of the port, bay or river in which a prize shall be made from a friend, shall use his utmost endeavours that the captured property be fairly and justly restored. If it be the duty of the sovereign to use his utmost endeavours to effect that purpose, it follows that he must do it at his own expense, nay, by going to war, if other means are not sufficient. Such is the law which is observed among all nations, and there is no other reason for it than that it is not lawful to commit violence within the territory of another, and that ports, *bays*,[6] and river, are also within the territory of the sovereign county. Thus the grand duke of *Tuscany*, in the year 1695, caused the *French*, who had taken near the port of *Leghorn* a ship of the powers allied against *France*, who were friends to the grand duke, and carried her into that port, to restore her immediately; for, as I have said, the sea which is near to the ports of a sovereign is a part of his territory. These principles may easily be applied to the following cases:

In the year 1639, while admiral *van Tromp* was blockading in the *Downs* the fleet of the *Spaniards*, who were in amity with *England*, the states-general, on the 21st and 30th of *September* 1639, issued decrees by which they ordered him "to destroy the *Spanish* fleet, without paying any regard to the harbours, roads, or bays of the kingdoms where it might be found, even though the *English* should make resistance," and the admiral immediately carried that order into execution, and was praised and approved for it by the states-general, as is commemorated by *Aitzema* in various places.[7]

This can hardly be defended, neither can the conduct of the *English*, who, on the 12th of *August* 1665, took some ships of our *East India* company, in the port of *Bergen*, in *Norway*,[8] not without great indignation in the *Danes*, who repelled the *English* with all their might. In order, however, that the case of *van Tromp* may not be considered as too outrageous, two things are to be attended to; the one, that the *English*, in the year 1627, had taken out of *Holland* a ship of the king of *France*, then at war with *England*, but in amity with the states-general;[9] the other, that the *Spaniards* themselves, in the year 1631, were charged with having committed hostilities against the ships of the states-general, in the ports of the king of *Denmark*, then a common friend to both, as I read in *Aitzema*.[10] Otherwise, if nothing can be charged that gives just cause to exercise the right of retaliation,[11] it is manifestly unjust to attack an enemy in the port of a common friend. And thus, the states-general decreed in the year 1623,[12] on a memorial of the *English* ambassador. The ships of the states-general had committed hostilities against the ships of *England*, in the river *Elbe*, a neutral river. Great complaints were made on this subject, not only by the *English*, but by the *Hamburghers*, and various ambassadors of the *Germanic* empire.[13] As to the complaints of the *English*, they could easily have been silenced, by reminding them of what had happened the preceding year at *Bergen*, in *Norway*, but it was not so with the others, for this aggression was solely founded on the right of retaliation. Nor can it be doubted that the *French* acted very unjustly, when in the year 1693 they set fire to certain *Dutch* ships in the port of *Lisbon*, at that time neutral, which the king of *Portugal* would not either permit to be fired at nor to be taken away. This fact I assert from my own memory.

It might be more doubted, whether it is lawful to pursue in the heat of battle an enemy met with on the high seas, into a neutral river, station, port or bay? The weight of argument is in favour of permitting it, on taking certain precautions which I shall enumerate by and by. Such certainly was the opinion of the states-general in the year 1623,[14] when they answered to the *English* ambassador that it was not lawful to commit violence in a neutral port, "with this understanding, however, that it was hoped his majesty would not take it amiss, if any *Dunkirkers* were met with on the high seas, that they might be pursued even along the king's coasts and into the king's ports." The same opinion of the states-general appears expressed in their decree of the 10th of *October* 1652,[15] but so, however, as is very properly added in it, that the castles of neutrals be spared, even though violence should be committed from them, and that the enemies also be spared, if they should have already entered the neutral ports. Both of these exceptions are right, for it is better to suffer within the dominions of another than to act, and if we act, we are to be very careful that the force used against our enemy shall not hurt our friend. If therefore two fleets fight in the open sea, I do not pretend that the conqueror may not justly pursue the conquered fleet, even though it should be driven to the territory of a neutral. But I approve the direction of the states-general in their decree of the 10th of *October* 1652, to abstain from violence in the port itself, because violence could not be done there without danger to the neutral. On this principle it is not lawful to begin an attack on the sea near the land, within shot of the cannon from the fortresses, but it is lawful to continue an attack already commenced, and pursue the enemy into a jurisdictional sea even close to the land, or into a river, bay or creek, provided we spare the fortresses, though they should assist the enemy, and provided there be no kind of danger to our friends.

From facts which afterwards took place, the states-general appear to have approved even thus much; for when in the year 1654 a *Dutch* commander met an *English* vessel on the high seas and pursued her flying into the port of *Leghorn*, where he took her at the moment she was coming to anchor, the grand duke of *Tuscany* complained of it to the states-general, but we read that he complained in vain.[16] He, however, afterwards took satisfaction, by condemning the *Dutch* vessel that had made the pursuit and occasioned the capture of the *English* one.[17] Again, when the *Ostenders* had fired at a *Dutch* ship which was pursuing an *English* vessel into the port of *Ostend*, the states-general[18] complained of it to the court of *Spain* as of an illegal act, because the *Dutch* ship had not fired at the *English* vessel in the port of *Ostend*. But this reason is not good, except to aggravate the injury done to the *Ostenders*, for its is not of any conse-

Footnotes at end of article.

quence what kind of hostility you commit on your enemy, but whether you attack him in a hostile manner. Upon the whole, it appears that the states-general approved both the pursuits that I have mentioned, because the force was begun before, and was only continued.

FOOTNOTES

[1] *Liv* 1. 28. c. 17.

[2] The counts of *Holland*, who were the sovereigns of that province before the *Dutch* revolution.

[3] The states-general of the *United Netherlands*, and the provincial states of *Holland*.

[4] Who was also *count of Holland*, and sovereign under different titles of the seventeen provinces of the *Netherlands*.

[5] The states of *Holland* decreed on the 3d of *January* 1671, that their ships of war should salute those of other sovereigns on their coasts within reach of the cannon of batteries and forts, precisely in such manner as the government of the country should require, leaving it entirely to its discretion to return or not the salute; adding, that every government is sovereign within its own jurisdiction, and every foreigner is a subject there. *Bynk. de Dom. Mar.* c. 2. On the 16th of *May* 1670 the same states decreed that the *Danish* fort of *Croneburg* situate on the shores of the sound in the *Baltic sea*, should be saluted in such manner as the king of *Denmark* should require. *Ibid.* c. 4.

[6] In the year 1793 the *British* ship *Grange* was captured by the *French* frigate *L'Ambuscade*, in the waters of the bay of *Delaware*, and brought into the port of *Philadelphia*, to which she was bound. The *British* minister demanded her restitution of the government of the *United States*. In vain did the *French* minister, *M. Ternant*, allege that the bay of *Delaware* was an open sea, not subject to the exclusive jurisdiction of the *American* government. His arguments had no effect, and the *Grange* was very properly restored.

[7] Aitz. 1.19.

[8] Ibid. 1.45, 6, 7.

[9] Ibid. 1. 7. 9. 19. 20.

[10] Ibid. 1. 11.

[11] But see page 33, where our author justly contends that retaliation is only to be exercised directly against the enemy, and never through the injury of a friend.

[12] Aitz. 1. 3.

[13] Ibid. 1. 45, 6, 7.

[14] Ibid. 1.3.

[15] Aitz. 1. 32.

[16] Aitz. 1. 4.

[17] Ibid.

[18] Aitz. 1. 45.

THE PENN CENTRAL DECLARATION OF BANKRUPTCY

Mr. HARTKE. Mr. President, the action of the Penn Central Transportation Co. yesterday—a Sunday—in filing a petition in bankruptcy climaxes a series of bizarre events that demand congressional scrutiny.

For several weeks past we were aware that Penn Central executives were spending a good deal of time in Washington attempting to obtain some unspecified kind of financial assistance. Then we learned that a $100 million bond issue at 10.5 percent was aborted for lack of takers. Suddenly a special meeting of the company's board of directors deposed most of the leadership of the Penn Central. The very next day the Nixon administration sent its emissaries to Congress to inform us that it intended to provide loan guarantees under, of all things, the Defense Production Act. The plan, we were told, was for $200 million to be provided in that fashion, but the plight of this $7 billion corporation is such that another $400 to $500 million in loans would have to be underwritten by the Federal Government before the railroad would be completely out of trouble. No indication was given as to what the administration thought the Government should require in return; help would come with few questions asked.

The administration has now wisely backed away from this scheme to provide immediate, no-strings-attached assistance under the Defense Production Act. But Congress will still apparently be asked to cast aside the basic principles of the free enterprise system in order to pass a special relief bill for a railroad turned conglomerate.

We are led to believe that transportation services are of prime concern in this grossly irregular procedure. But when we had a chance to look at the bill it quickly became clear that it was designed not for the purpose of preserving or improving the transportation services of this organization but rather for the purpose of shoring up the banks to which the Penn Central is in debt in the amount of some $2 billion.

Moreover, we have only the sketchiest idea of who, precisely, we will be helping if we approve such a measure. Federal records at the Interstate Commerce Commission and the Securities and Exchange Commission raise more questions than they answer: most of the Penn Central creditors and all of its stockholders are anonymous. At a minimum, Congress has the duty to find out who stands to benefit from Government largesse before we hand out millions of dollars of the taxpayers' money.

There are also some basic policy issues at stake. We need to know, for example, whether the Penn Central's railroad business—important for the national defense—has brought it to these difficult financial straits, or whether instead its problems have been caused by its practice of diverting assets and management time into investment adventures unrelated to rail service.

In this connection, it is common knowledge that passenger and freight service alike have deteriorated since the merger of the New York Central and the Pennsylvania Railroad. Just recently the traffic manager of the B. F. Goodrich Co. was quoted in Newsweek as saying:

> If I can avoid using the Penn Central under any circumstances, I am going to do it.

And the complaints of Penn Central passengers are legion. Yet during the time since the merger, the Penn Central has pursued real estate schemes in Florida, Texas, and Georgia, and has started million-dollar renovation projects in Manhattan hotels.

If the U.S. Government intends to bail out a failing company, it must demand at the very least that this company is indeed serving the public interest. We are not an openhanded guarantor of private corporate investment schemes. We have a duty to find out what the priorities are at the Penn Central—whether it is feeding its transportation business or bleeding it—before we subscribe a penny of public money to the venture.

Mr. President, I have barely touched on only a few of the salient issues which confront us as the bankruptcy proceedings go forward and the administration readies a relief bill. It is vitally important that the Congress look into all these questions in an orderly and thorough way, beginning with the negotiations that led to the merger of the New York Central and the Pennsylvania, and following through to the immediate causes of the Penn Central's present financial disarray. Without such an inquiry we will be unable to act as responsibly as the public interest demands.

Accordingly, I have today directed the staff of the Subcommittee on Surface Transportation to begin preparations for conducting a full-scale review of these matters. It is my hope that we will be able to proceed expeditiously to develop the kind of information and understanding that will enable the Congress to meet its responsibilities to the transportation industry, to the financial community, and above all to the American people whose interests will be so vitally affected by the decisions we must inevitably make.

TREND OF POLITICIZATION AND UPSURGE OF VIOLENCE

Mr. McGEE. Mr. President, not every professor and college or university administrator is taking the trend of politicization and the upsurge of violence on campuses across America sitting down. Some, we can be thankful, are speaking out, giving us hope that reason will finally prevail on the campuses of our educational institutions. James J. Kilpatrick, in his column published in the Washington Sunday Star of June 21, 1970, addressed himself to the comments of three educators whose remarks are well worth noting. I ask unanimous consent that Mr. Kilpatrick's column be printed in the RECORD.

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

REFRESHING SOUNDS FROM ACADEMIC GROVES

(By James J. Kilpatrick)

It seems too good to be true—it may yet prove too good to be true—but signs keep appearing of a changing wind in academic groves. For the first time since the dark night of campus destruction began three years ago, respected liberals openly are denouncing their irresponsible colleagues and demanding a return to reason.

Let me single out three such voices: Nathan M. Pusey, president of Harvard; Philip B. Kurland, professor of law at the University of Chicago; and Gardner Ackley, professor of economics at the University of Michigan. Each of them is a certified intellectual; each of them comes to the forum with impeccable credentials in higher education.

Pusey's eloquent address at a recent Harvard baccalaureate service has been widely quoted, but it will do no harm to underscore his charge of latter-day McCarthyism against the New Leftists. Among their number are "some faculty who for reasons not quite clear to me would like to see our colleges and universities denigrated, maligned, and even shut down."

"It is a shameful state of affairs," Pusey said. And he went on to speak of those militants and their techniques in words that cracked like whips: hateful, cunning, deceitful, ignorant, intolerant, sickening. He closed with his own confession of error. The inroads

into academic life could not have grown so deep, he said, "had all of us to whom they are deeply repulsive been more ready to oppose them."

Kurland spoke on June 4 to the Women's Bar Association of Illinois. His theme was the politicization of the academy—the growing movement by which students and professors involve themselves actively in public affairs in the fashion of "Coxey's army and the oil lobby." Kurland denounced the process:

The essence of the academy is disinterestedness. Its justification is disinterestedness. A university cannot be both a political force and an institution dedicated to the search for knowledge and its dissemination. As a university makes a political commitment it destroys its claim to academic freedom. And without academic freedom, the search for and dissemination of knowledge becomes more shadow than substance."

Kurland is bitter. He sees ahead nothing but the destruction of universities as America traditionally has known them. In the "caretaker institutions" of the future, "answers will be substituted for questions, and indoctrination will replace education." This is the price, he said, "that America will pay for the cowardice of its university faculties."

Ackley, at Michigan, is no coward. In a recent address, he spoke scathingly of the weakness and permissiveness of Michigan's "own faculty and administration." The past academic year has taught the lesson, he said, "that violence and disruption either cannot or will not be punished by the university." Striking teachers are not punished; they are reappointed. Student vandals are not expelled; they are retained.

"Last Wednesday," said Ackley, "I watched the faculty of my own department, assembled in the chairman's office, discuss a demand that all classes in our building be shut down, or else. We discussed this while the entrances to the building were sealed, and while the halls outside the rooms in which we were meeting were patrolled by men carrying pipes and clubs. We sought guidance from the college, and were told: 'Do what you think best; you will have no protection.' And so we cravenly capitulated, in fear—if not for our own safety—for that of our students and employes. That day the truth lay in those clubs."

Pusey, Kurland and Ackley are not alone. One of the most powerful voices for reason in academia is being raised by Yale's Professor Alexander M. Bickel in the New Republic. Doubtless there are others; and in them lies the only hope for recovery of our tormented institutions.

It may be too late, as Kurland fears, to undo the damage. If so, the pusillanimous faculties must bear much of the blame. But if it is not too late, a rescue operation must be mounted swiftly by great teachers speaking to a great tradition, clearly, and unafraid.

ISSUES AND ANSWERS, SUNDAY, JUNE 21, 1970

Mr. ALLEN. Mr. President, yesterday, June 21, 1970, "Issues and Answers" presented a most interesting and informative program dealing with the conditions in Southeast Asia and the participation by the United States in military activities there.

On the program, the distinguished Senators from West Virginia (Mr. BYRD), Arizona (Mr. GOLDWATER), New York (Mr. JAVITS), and South Dakota (Mr. MCGOVERN) participated. In the belief that the views expressed by the Senators are relevant to the issue under debate in the Senate, I ask unanimous consent that the text of the script of the program be printed in the RECORD.

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

ISSUES AND ANSWERS, SUNDAY, JUNE 21, 1970

Guests: Senator Robert C. Byrd (D. West Virginia), Senator Barry M. Goldwater (R. Arizona), Senator Jacob Javits (R. New York), Senator George McGovern (D. South Dakota).

Moderators: Bob Clark, ABC Capitol Hill Correspondent; John Scali, ABC News Diplomatic Correspondent.

Mr. SCALI. Gentlemen, welcome to Issues and Answers.

This will not be a formal debate, but more or less an informal discussion with each of you being encouraged to speak up on various subjects whenever you feel you have something to say.

Bob Clark and I will serve more or less as those who throw up the question and make sure that all of you have an ample opportunity to make your views known.

Let's start off by talking about topic number one, Cambodia.

In nine days, President Nixon has promised that all American troops will be out of Cambodia as per promise. From all signs they will be pulled out at a time when the government of Cambodia, the Lon Nol government, is increasing pressure from Communist forces which are threatening to encircle the capital and perhaps even overthrow that government. In view of this, will we have to send more American troops into Cambodia at some later date?

Senator GOLDWATER. No, I don't think we will have to. I think the Cambodian army, together with the South Vietnamese army, with help from Thailand, can cope with the problem. I think the President has made it abundantly clear that we will not send additional American forces in there.

I think the decision to go in was a wise one. I think it should have been made years ago, because, in effect, we have been harassed more from Cambodia than we have from South Vietnam, and I wouldn't expect that we would have to send any more forces. We might have to give some tactical air support, and I would not oppose that; that it just might be that the Southern Vietnamese air force could supply this. But that remains to be seen.

Senator JAVITS. Well, I think that the whole concept that we are under in Vietnam is that we are on our way out, not on our way in. And the President agrees with that. Congress seems generally to agree with that. We are not underwriting Cambodia or any other place in South Vietnam, now. We are withdrawing at the earliest time, even taking the President's word that Vietnamization will permit, to wit, reasonable readiness by South Vietnamese forces and the fact that the North Vietnamese will not unduly press us any more than they have. So I think that rules out Cambodia, no matter what happens to these amendments that are pending. And I hope very much that the Congress will, generally speaking, let the President know that that is what they want by adopting the Cooper-Church Amendment.

Mr. SCALI. Senator Byrd, do you feel the same way?

Senator BYRD. I do. The United States has no commitments to Cambodia. The President and the Secretary of State have made this clear. I am sure the President understands the feeling of the Congress and the feeling of the American people, and I am confident that the President joins with members of Congress and the people of the United States in their determination to stay out of any war for Cambodia. And with no commitments having been made to Cambodia, I see no reason why we would have to get involved.

Senator MCGOVERN. I don't think we should have gone in in the first place, Mr. Scali. I think it was a great mistake. I hope we don't go back in. But that is not to imply that I think we have won any great victory by what we have done in Cambodia. As I look at the situation, at the time we went in there there were Communist forces scattered along the border of Cambodia but the rest of the country was largely free from military operations. Today, virtually half the country has fallen to Communist control. I think what we did was to go in there and dump over a beehive, and the bees have spread out all over the country, and we now have an area almost the size of South Vietnam in Cambodia that is now part of the war effort. So I think the whole thing was a mistake. I hope we won't repeat it.

Mr. CLARK. Senator Goldwater, you endorse the idea of using South Vietnamese and Thai forces in Cambodia.

Senator GOLDWATER. Yes.

Mr. CLARK. And possibly using American tactical air support. All of these things would be barred by the Cooper-Church amendment, be prohibited by that amendment in its present form, would they not?

Senator GOLDWATER. That is why I am opposed to the Cooper-Church amendment idea. I don't think the Congress should, by legislative means, try to tamper with the Constitutional powers of the President as Commander in Chief.

Now, if we want to do this—and there may be a desire on the part of the American people to do this—I would suggest doing it by Constitutional amendment. I think it is wrong to try and legislate on the floor of the Senate as we are trying, today, to put a fence around what the President, as Commander in Chief, can do. And there has never been any question about his powers. It has never been questioned in the courts, it has never been questioned except occasionally by the Congress. And I think we are making a very, very serious mistake by trying to do what the Cooper-Church amendment hopes to accomplish.

Senator JAVITS. I would like to try to make a comment on that, if I may, Barry.

I do think we have a right to deal with what the President should do, that it is long over due, and that this war showed it up. We have been there now since 1965 in a combat role on a Congressional resolution passed at the end of 1964 which nobody, not its sponsors, not anything that was said about it, thought would mean anything more than the rebuff of forces which were imperiling—and there is a lot of argument about it; let's forget the argument—our naval forces in the Gulf of Tonkin. Under that we have had 40,000 deaths, 250,000 wounded, oceans of treasure, about $100 billion.

Now, the American people never contemplated giving one man, even if he was President, that kind of power, and that is why the Constitution gives Congress the right to declare war, to make rules for the army and navy and air force and so on. It only uses one word as to the President: He is "Commander in Chief," quote. And I think it is high time that we screened that out and decided whether we have any control over this at all, or whether any President, defining his own powers as he will, because he has the physical command of the armed forces, can put us in war and keep us in war. And if that is right, if what you say is right, then it can be five years or ten years or fifty years, and I don't think that was ever contemplated or that the people want it.

Senator GOLDWATER. Let me say in answer to that that I find myself in agreement. But the Constitution gives the power of Commander in Chief to the President. He can go to war, as we have done—we have been in 137 different military engagements. Only five of them have been declared wars. Now, this may be right or it may be wrong, but the fact that the Congress has the right to declare war is one thing. The fact that the President

is the only body that can go to war is another thing. We can't go to war as a Congress. We can declare it. Only the President can engage in war. And as I say, this may be wrong, and I have a strong feeling that there is a question about it amongst the people of our country, but we should decide it by a Constitutional amendment, not by trying to pass legislation on the Floor of the Senate as we are trying to do today.

I think that there is great ambiguity between the statement of the Constitution on the powers of the Congress to raise armies, to pay for the armies, to provide this, that and the other thing, and that Constitutional powers of the President as Commander in Chief. There is nothing in the Constitution that says that he even has to consult with us. This is why I think we are working in a very dangerous way.

Senator McGovern. The Constitution, though, makes it perfectly clear that the Congress of the United States controls the appropriation of funds for military purposes, and it can describe what those military purposes should be. The Constitution requires that the Congress at least every two years review military appropriations to see whether the purposes for which that money is being funded meets the will of the Congress. There is nothing in the Constitution that gives the President a free hand to commit American forces abroad indefinitely. By precedent he can act in emergency situations, but the Congress has some responsibility, and I don't think we need any Constitutional amendment to make that clear. Our power comes as—

Senator Goldwater. Just one point there. I agree with you. When you are talking about the Constitutional powers of the purse, we do have that power, and if we want to stop the President in any war, all we have to do is deny him approprations.

Senator McGovern. That is what we are trying to do, Senator.

Senator Goldwater. It is not that way. This is not the exact language of the Cooper-Church amendment. If we want to do that all we have to do in the forthcoming authorization bill and appropriations bill for armed services is say, "We are sorry, no money." I won't argue with that.

Senator McGovern. That is my amendment.

Senator Goldwater. There is nothing in the Constitution that prevents the President from going to war when he wants to or there is nothing in the Constitution that says the President shall confer with the Congress. I think he would be very very wise to do that, and I would like to see a Constitutional amendment suggested along these lines.

(Announcements.)

Mr. Scali. Senator Byrd, as part of the great debate on Cambodia, the Senate is scheduled to vote tomorrow on your latest amendment, which would affirm the President's Constitutional authority to protect American troops wherever they are deployed. Does your amendment give the President the right to send American troops back into the Cambodian sanctuaries to clean them out again without advance approval of the Congress?

Senator Byrd. John, may I comment on something that my good colleague from South Daokta said, first?

In response to my colleague's statement with respect to a victory in Cambodia, I don't think the President has ever intended to go into Cambodia to win a victory, and I don't think we need look at Cambodia to determine the success of the operation there. I think if we do that we would find that it has been a great military, tactical success. I think that what we have to do to determine the success of the operation in Cambodia is to see what happens in South Vietnam, whether or not we have enhanced the withdrawal of American forces from South Vietnam, whether or not the Vietnamization program is going to be enhanced, and so on. And I feel if we look here we will find that the operation in Cambodia will have been very beneficial. Furthermore, I don't think that the President committed us to a new war. I think it was the same war, with the same enemy. I think we merely went into a different part of the war zone which the men had established, itself, by setting up an arsenal into Cambodian sanctuaries.

Senator McGovern. Before the Senator leaves that to go on to another point, could I just say, it is my fear that at least half of Cambodia and maybe the entire country may be taken over by the Communists. Now, I think that is a serious matter.

Senator Byrd. It is.

Senator McGovern. The President described the move into Cambodia as the greatest victory of the war. That was his phrase, not mine. He described it as a great military victory. I don't think it was. I think it was a military and political disaster that is going to complicate shortening the war in Vietnam. We have already committed tens of thousands of South Vietanamese forces that are in Cambodia. We don't know whether they are coming out, we don't know how many American resources will be diverted trying to help them. We know that several hundred young Americans died in Cambodia, that our casualties are at the highest rate in Southeast Asia that they have been in the last eleven months. I don't regard that as a sign of victory.

Senator Byrd. Well, that is the Senator's judgment, and he has a right to it. But I think it has been indicated that the third and fourth corps areas, which were subject to attacks from the Cambodian sanctuaries, have experienced a diminishing degree of attacks upon those areas since the Cambodian incursion began. Now, I don't think that it was a mistake. I think the President acted within his Constitutional authority to do this. I think he had a duty to protect American lives in South Vietnam. He indicated that this is why he went in. I think he had the responsibility to fulfill this duty. I think he did the right thing, and he indicated that he was going to withdraw our troops from South Vietnam by July 1. I think he is going to do this. We only have 10,000 in now, whereas we had 31,000 at one point. So I think that the President is going to show that he is going to keep his promise, and I think that in the long run he will have saved American lives. That was his duty to do that, and that is what he hopes to accomplish.

Mr. Scali. Could we get to your amendment? Under your amendment, would American troops be allowed back into Cambodia if the President decides it is necessary in order to protect Vietnamization or anything else?

Senator Byrd. No, not to protect Vietnamization or "anything else," to quote you, John. My amendment, the thrust of this goes to paragraph 11 of the Cooper-Church amendment, and may I say in this respect I favor paragraphs 2, 3 and 4 of the Cooper-Church language because I think they are calculated to keep us from getting involved in a new war and from making a new commitment in a war for Cambodia or against Cambodia or to prop up Cambodia. I am against that, and therefore, I am for paragraphs 2, 3 and 4.

Mr. Clark. That would mean that you would disagree with Senator Goldwater about financing the operations of Thais or South Vietnamese——

Senator Goldwater. I didn't say finances. I said the Thais might offer support as they have given us support in South Vietnam. I was in Bangkok the night the decision was made back in 1965, I believe it was, to send a battalion of Thai troops, and it was done under the wishes of the Thai government. We had nothing to do with it.

Mr. Clark. But you would concede, Senator, that most of the military operations of the Thai government as well as the South Vietnamese, are heavily financed by the United States, and this would apparently be banned by Cooper-Church?

Senator Goldwater. I won't admit that, because I am not sure. But even if they are, this is not unusual, for the United States to help an ally.

Senator Byrd. I understood my able colleague from Arizona to indicate that we might give air support to the Cambodian government. I am against giving anything to the Cambodian government. Any kind of support. Air support, troop support, any kind of personnel support from the United States to the Cambodian government. We don't have any commitments to that government, and I don't think we ought to get involved.

Mr. Clark. How about military supplies?

Senator Byrd. The President has indicated that Asians should take on the burden of fighting for Asia, and in accordance with his doctrine, which was promulgated at Guam, we would supply. We would supply equipment, small arms, et cetera, but no men.

Senator Javits. The real thing it seems to me, Bob—and please correct me if I am wrong—is that we are really skirting around the issue. Whatever the President was thinking about when he made his speech, whether he had half an idea that we help this Cambodian government, that is over; that is out. It almost ruined this country. Let alone what happened over there—there is some argument over that between Senator Goldwater and Senator McGovern.

I think the important thing, now, is that we must now pursue a policy of getting out. We have made that decision. We are over that bridge.

Senator Byrd. I agree with that.

Senator Javits. What your amendment now seeks to do, as I understand it—and I am speaking now in a sense as a Constitutional lawyer—is that we are not taking away any of the President's power as Commander in Chief to protect American troops when they are committed to hostilities, lawfully in accordance with the procedures and laws of the nation. Now, it seems to me that circumscribes his activity tremendously. And if we don't like what he is doing, as everybody agrees, we can cut off the money.

I think we can do more than that, and I would like to quote from the Constitution. The Constitution says, in Article I, section 8, that the Congress has not only the power to declare war, but "to make rules for the government and regulation of the land and naval forces," and we have done it. We did it in the reformation of the whole Defense Department, when we eliminated the separate chiefs of services and made them subordinate to the Secretary of Defense. We did it in the Selective Service Act in 1940, when we said our troops who were drafted couldn't go to certain places in the world. We can do it if we want to. The only answer, Barry, to what you said a while ago is, sure, it is true the President can make war, but we can stop it. We can stop him by money, and we can stop him by direct order. And I don't think you need any amendment to the Constitution for that.

Senator Goldwater. If he would yield on that point, I think you do, Jack. I don't believe that the words you just read of the Constitution give us the right in the Congress to make strategic and tactical determinations. I think we can get at it by controlling the purse, but only that way. I don't think that we can go around the President's power to go to war and say that you can do this or you can do that and you can't do this. I think, frankly, he could tell us to go to hell.

(Announcements.)

Mr. Clark. Senator Byrd, because this does appear to be a critical issue in the Cooper amendment, and the question of how it will finally emerge in the Senate, would your

amendment which will be voted on tomorrow permit the President to send American forces back into Cambodia to clear out the sanctuaries, again, if there was some emergency, and could he do this without going back to Congress for further approval?

Senator BYRD. Only if he deemed it to be a very critical emergency and absolutely necessary to protect the lives of American servicemen in South Vietnam. That is the intent of the Byrd amendment. To have a clear understanding, if I might hope to get a clear understanding of this amendment, let me say this: Paragraph 1 of the Cooper-Church language says that, in essence, no funds will be spent to retain United States forces in Cambodia after July 1, and the key word is "retaining," "for retaining the United States forces in Cambodia after July 1." And as the two authors of that amendment have explained time and time again on the Senate Floor, they mean for that word to be the key word. That it is meant to cut off funds if any forces remain in Cambodia after July 1. But they themselves agree that in an emergency situation, where the lives of U.S. servicemen are in danger, where there might be a concentration of the enemy in the sanctuaries, and there is an impending attack about to occur upon U.S. servicemen in South Vietnam, that the President might not have time to come back to the Congress, and in this event, his constitutional authority and power as Commander in Chief would authorize him to make a quick strike of short duration and withdraw, without coming back to the Congress.

Mr. SCALI. This doesn't restrict him one whit more than previous restrictions, does it?

Senator JAVITS. I think you are right about that, and I think Bob's explanation is right, that it doesn't restrict him, that he can go back. It does restrict, however, the size of his operation if he does go back, and resolves the doubt that he will not go back for two purposes: (1) to aid the new Cambodian government in some kind of an operation to assist them, and (2) to assist others who might be assisting them.

If Cooper-Church passes, with Senator Byrd's amendment, that, in my judgment, is what is accomplished. And I believe that is a real and substantial accomplishment, because right now—and I think Senator Goldwater is very right about this—all these questions are very much up in the air. That is why I have felt it necessary to introduce a bill, myself, to try to define the powers of the Congress at long last, historically. But right now they are up for grabs. We can put the pressure on him for money which comes after the fact. We can write a bill which he may not choose to sign unless we pass it over his veto to specify his powers according to law by the regulation of the armed forces, which I am trying to do.

Senator Byrd can try to define what he means to say that he is Commander in Chief, but we are in the amorphous state now where the Commander in Chief, the Executive, has tremendous authority, except that the Congress can hold him to account as a matter of good faith, and so can the people.

Mr. CLARK. Senator McGovern, are you willing to grant the President the emergency authority under the Byrd amendment to go back in and clean out the sanctuaries again without Congressional approval?

Senator MCGOVERN. I am not, Mr. Clark. I will probably vote against Senator Byrd's amendment. I don't think the amendment is necessary, but what I object to in the language of that amendment is that it seems to imply that our principal concern, now, is to reinforce the power of the President as Commander in Chief, and I think the great need is to reassert the power of the Congress. That is what has been eroded. That is what has been neglected. It is probably not the President's fault. It is probably the fault of the Congress. That for the last 20 years we have permitted military decisions to be made almost exclusively by the President of the United States. Not just this President, but by Republicans and Democrats alike. And what I am interested in is not language that underscores again the power of the President of the United States in committing American forces. I want language that reasserts the responsibility and the power of the Congress in areas of war and peace. I don't know how else to end this war. I regard the wars as a disastrous mistake. I think most Americans feel that way. I want to see their elected representatives in the House and the Senate asserting their responsibility and their powers to try to bring this war to an end as quickly as possible. If I were President of the United States I would welcome that, to share these decisions of war and peace with the Congress. This is going to be a very difficult series of decisions. Let's share it between the Executive and the Congress.

Senator JAVITS. This is one of the most important things of all, because if we get out of Vietnam—and we are getting out—things may go very wrong there, and you may have a deep resentment in this country and a great body of opinion which is very angry. And unless the President and the Congress have shared the responsibility, we may be in for infinitely more trouble than we have had up to date.

(Announcements.)

Mr. SCALI. Gentlemen, last night, as most of you know, Vice President Agnew assailed half a dozen Democrats who have been critical of the Vietnam War, including Senator McGovern, who he said is "'among those who apparently have developed a psychological addiction to American defeat because they have called for retreat so often."

Senator McGovern, I am going to ask you about that in just a second, but first I would like to ask Senator Javits if he shares that view?

Senator JAVITS. No, I do not. I think that Senator McGovern and his colleagues, though I am not a co-sponsor of the McGovern amendment, and though I shall probably vote for it in due course, as I deeply believe that they are in the process of revising it the way it ought to be. Change is, I think, urgently needed. But I do not agree. I think the assertion of the power of the Congress and the raising of that question by Senators McGovern, Goodell, Hatfield, Hughes and Scranton, was very desirable, and I think this only shows that the Congress can and must find a way to get out once we get in. We cannot be irrevocably committed to this war. And it raises one other point which I think is critically important, and that is this illusion about winning and losing, or this illusion about honor or about defeat. We went into Vietnam to help a small nation get self-determination. It has self-determination. That is what everybody argues about. They say the government is good, bad, indifferent, but it actually had an election and this is their elected government. They have an elected assembly functioning, et cetera. Now, do you have to stay in forever and be their guardian? Is there any national honor or national victory or defeat in that, or is it only a disguised way to destroy yourself in your own country, which is what we are doing, economically, incidentally, beyond anything else, and to paralyze ourselves from being able to conduct a policy of vigor, which will bring peace—we are in terrible trouble in the Middle East right now—in the world.

Mr. SCALI. Senator McGovern, since you have been singled out by the Vice President, what do you have to say in reply?

Senator MCGOVERN. The first thing I have to say is that I regard the Vice President's conduct ever since he has been in office as disgraceful. I think he has done more to divide and weaken the country, perhaps, than our enemies in Hanoi have done. He is undercutting the whole possibility for a unified American people. He is a divisive, damaging influence on the people of this country.

Now what is he talking about on being addicted to defeat? Does that mean he thinks we are going to score some kind of victory in Vietnam? The President does not hold to that view. He is not talking about military victory. He is talking about getting out. He is talking about withdrawing forces. That is not the way to victory. We wouldn't be withdrawing if we didn't know we had made a mistake in going, and I suspect 90 percent of the Congress wishes we weren't involved in Vietnam. What I am addicted to is peace and to ending this war.

The President talks about us being a pitiful giant. Well, we are pitiful in the sense that we are a gigantic country with one foot in a trap, and that trap is the jungle of Southeast Asia. We are not even in the main arena there. We are tied down by a fourth-rate power, and it is weakening this country, and that is the situation. I want it to end. I am not advocating defeat.

Mr. CLARK. Is there someone on this side who would like to say a kind word about the Vice President?

Senator GOLDWATER. Yes, I will defend the Vice President in this case.

I really think that not intentionally but inadvertently men like Senator Fulbright and others have been doing damage to our country. Now, let's look beyond South Vietnam. I think we are all agreed the country doesn't like the war, we don't like the war, we would like to get out of it.

I disagree that the Congress can create peace. We can't. We have no power to do it. The President can do that. But what about our commitments in Europe? Seventeen countries. We are committed to go to war to defend if they are in trouble. I have yet to hear Senator Fulbright say anything about this, although I have tried time after time on the Floor of the Senate to get him to set some time when the American people might hear before the Foreign Relations Committee how far that committee feels we are committed. I think we are committed to 17 wars if they care to call us to those. We have 40 or 41 other treaties around this world, and these are the things that bother me. Not South Vietnam. Getting out of there—I think we are going to be out of there within a year or maybe 14 or 16 months, following the President's program.

To answer Senator Javits' suggestion about what is honor, well what happens to the opinion of some other countries who might be enemy to us, or enemy to one of our friends when they say, "Oh, well, the United States is not going to commit its forces to the protection of that country. It is obvious by the statements made by the Chairman of the Foreign Policy Committee of the Senate and by others." And I think Vice President Agnew is doing a service—not necessarily to individuals, but I think he is doing a service in calling attention to the fact that we in the Senate can say too much. We can say things that hurt our country.

Senator MCGOVERN. Do you think Vice Presidents can say too much, Senator?

Senator GOLDWATER. Yes, I think Vice Presidents can say too much. I can think of some that have.

Senator JAVITS. I think that this kind of a broad scale calling of the roll as it were as to whom is more patriotic than somebody else—

Senator GOLDWATER. I didn't use the word "patriotic."

Senator JAVITS. No, you didn't, but that is the implication in Vice President Agnew's speech.

Senator GOLDWATER. I don't see that at all.

Senator JAVITS. Well, I do, and I think that is the way to suffocate rather than develop discussion, which is essential to the country and the hearts of people like Senator McGov-

ern. Just as essentially as Vice President Agnew. And frankly, Barry—and I would like to answer your other point—about this matter of national honor: It is inconceivable to me. What is your quotient as to how many lives have to be lost and how many people have to be dead and how much treasure has to be spent and how deeply this country has to be divided to prove to our allies in Europe, who haven't lifted a finger in this fight, that we will defend them? It seems to me we have proved that every year for the last five or six years since we have been in there, in a way which no other nation on earth would dream of doing. I don't think we need to prove it any more. If we haven't proved it to them now, they will never believe us.

Senator GOLDWATER. Well, I happen to be one who had arguments five years ago about getting out of this war and never getting into it, and had people listened to me then, I don't think we would be in war in South Vietnam, and we would have maintained the position that we have to maintain as world leader. Whether you or I like it or not, we are either going to be the world leader or we are not, and this requires strength. You asked the question about how many lives. I say not a one; but we have committed ourselves, and that is something we have to remember. We are in war. We don't like it. Our job is to get out of that war. I think the President is doing it. I don't think we need ever have gone into that war. It was not started by your party and mine, it was started by the opposite party.

Senator JAVITS. One of the most improvident commitments we have ever made in the history of our country.

Senator GOLDWATER. I couldn't agree with you more.

Senator MCGOVERN. I think one of the most encouraging things I have heard is people trying to figure out who to blame this war on, because it means all of us are ashamed of it, we all know it has been a disaster. It is robbing the economy of this country right now. We talk about the young American life that is lost and that, of course, is the principal cost. But I don't know how we can go on month after month with this wartime inflation eating up the purchasing power of the American people, preventing people from buying homes, slowing down our whole economy. We have raised interest rates in an effort to deal with this wartime inflation to the point where it is almost prohibitive to start a business or buy a home. Every housewife when she buys those groceries pays another 25 percent, because of this wartime inflation. And all of this says nothing about the divisive impact of the war on our whole body politic.

I think the question we have to ask now is not so much whether we can save South Vietnam: Can we save our own country?

Senator GOLDWATER. I think we are committed to getting out of this war. I don't think this is any longer a question. But I would like to make one comment about your statement on this wartime inflation. It is true that wars can and generally do precede inflation, but our inflation, today, has been caused by an unusually high rate of federal spending. Our military spending is going to be down this year nine percent. It is the lowest it has ever been in comparison to the gross national product. Yet other spending is up nearly 1,000 percent as we go across the board.

Senator JAVITS. The answer, Barry, is that the other spending was absolutely indispensable to the health of this country.

Senator GOLDWATER. Oh, I wouldn't say that, Jack.

Senator JAVITS. Well, I think so.

Senator GOLDWATER. Do you think that our high cost of agriculture programs is needed to keep this country going?

Senator JAVITS. No. I don't want to say 100 percent, but when you deal with the problems of health, education, welfare, hunger, I think added expenditures from this country were essential, and they should not have been jeopardized by this $30-billion that we have been spending for the Vietnam war. We made them anyhow, and we weren't ready to face the reality of taxation which goes with war, or of controls which go with war. That was all swept under the rug by the previous Administration. It is true. But it was. And when we didn't face it, we have now reaped the whirlwind.

(Announcements.)

Mr. CLARK. Senator McGovern, if the Senate ever finishes debating the Cooper-Church amendment it will eventually get on to the McGovern-Hatfield amendment. Perhaps we should ask you at this point to explain it more fully to us. Just how would it end the war?

Senator MCGOVERN. Well, of course it is a much more far-reaching amendment than the Cooper-Church amendment. It does basically three things. It would end American involvement in Cambodia 30 days after passage. Now that is now a moot point. That part of the amendment I assume we don't have to debate.

The second part of it would terminate American military operations, including American military advisors, if any, in Laos, by the end of this year, by December 30.

The most important part of this amendment, though, goes to the central war in Vietnam. As Senator Byrd said a while ago, that is the central conflict. And what this amendment does is to say that, beginning the first of next year, January 1st, no funds can be spent in South Vietnam for any purpose other than arranging the safe and systematic withdrawal of U.S. forces, and that that process should be completed by June 30 of 1979, just about a year from this date.

Now, it provides that funds in addition to the withdrawal of our forces can be used to pay any costs involved in arranging the exchange of prisoners, or to provide asylum in friendly countries for those Vietnamese who might feel endangered by our withdrawal.

Mr. CLARK. Senator Byrd, you are probably the only member of the Democratic leadership in the Senate who will not vote for the McGovern-Hatfield amendment. Would you like to offer your comments on it?

Senator BYRD. Yes.

First of all, I accord to Senator McGovern every degree of sincerity and good faith. I think he wants—he thinks he is doing the right thing. He wants peace. I want peace just as much as he does. He has no monopoly on this desire for peace. I respect him for his efforts, although I disagree with the thrust of his efforts, sometimes.

Now, I do not support this amendment, because I think, first of all, it would be unworkable. I think it would be a real booby trap for American forces in South Vietnam. Why do I say that?

First of all, it sets a date for the withdrawal of all American forces from South Vietnam. I want to see those forces out of South Vietnam. I hope they can be out by July 1 of 1971. But I think we would make a very grave mistake if we stated the timetable—I think it is all right for us to have one, but for us to publicly state a timetable, I think that we play into the hands of the enemy. I think we undermine the efforts of our people at the peace table to negotiate. And secondly, I think all the enemy would have to do is just sit and wait until that date has passed and then move in.

Now, why do I say it is unworkable? In the first place, your amendment would say that after December 31st of this year, no money could be spent, no money could be spent for any purpose, quote: "any purpose," involving military conflict.

Well, this would mean, in my judgment, that our troops, who would have six months beyond December 31 of this year under your amendment, to stay in South Vietnam, would be sitting there defenseless, because we couldn't spend one dollar for any purpose connected with military conflict, I believe your amendment says.

And secondly, your amendment provides that after December 31st of this year we could not spend any funds for aerial interdiction of movement of enemy men and supplies in Laos, because it says "no funds for military operations by United States forces in or over Laos." Therefore, we couldn't interdict the movement of enemy manpower and supplies.

And the worst feature is, George, in my judgment, it says that 30 days after the passage of your amendment we would be unable to spend any money whatsoever for military operations by United States forces in or over Cambodia, which means that 30 days after the passage of your amendment we could not spend one dollar for the aerial interdiction of the movement of enemy manpower and supplies in Cambodia. This to me would render our troops defenseless, it would enable the North Vietnamese and VietCong to move back into the Cambodian sanctuaries. We would virtually be saying, "All right boys, come on back in within 30 days and we won't lay a hand on you."

I don't think the Senate is going to pass this. I don't think it is practicable to think that the Senate or the House will enact this into law. And I think when we speak of it, with all due respect to my colleague, when we refer to this amendment as an amendment to end the war, this amendment is not going to end the war, and nobody should know this better than the senators themselves. Because in the first place, it is not going to be enacted into law, and in the second place, it would tie down our troops rather than making it possible for them to be withdrawn.

Senator MCGOVERN. Part of what the Senator has said is an accurate description of the amendment, but it makes perfectly clear that our commanders are authorized under that amendment to take what steps are necessary to arrange the safe and systematic withdrawal of our forces. That is spelled out very clearly. I have discussed the language with some of our most respected military men, and they say that there is no problem in arranging for the withdrawal of American forces, with a minimum danger to those forces within the context of that amendment. Now, you can't carry on offensive operations, but you can carry on what defensive methods are needed to provide a cover for our forces during the withdrawal. And I think the other side would welcome that kind of a staged withdrawal.

What would be the interest on their part in intervening with it? Because the amendment states that if as we approach the end of this withdrawal period the President finds that in order to stay on that schedule our troops would be jeopardized, he can come back to the Congress and ask for verification of his finding, and then an additional extension can be given.

Senator BYRD. I think, George, you know how difficult it would be for the President to come back to the Conress and get that additional time that he might need.

Senator MCGOVERN. I don't think it would be difficult. If we get back to the Constitution, when Presidents used to confer with the Congress once in a while—

Senator JAVITS. As a practical matter, this amendment is not going to be passed in this form, anyhow.

Senator BYRD. Exactly. Absolutely.

Senator JAVITS. We know that. But it is very important that Congress assert its right to tell the President: "Look, Mr. President, we have had it in Vietnam. You have given us a very uncertain time table. Our time table is the first of July 1971. Now, what can you do about it?

Now, I think the Administration has to be forthcoming on that. Senator McGovern doesn't have to concede a thing. I am not the author of it. I am not a sponsor of it.

If the President came to the Congress and gave them reasonable assurance that he is getting out of Vietnam on or about July 1, 1971, you wouldn't need the amendment, and they wouldn't push the amendment. Everybody knows that. But somehow or other we have got to solve this Constitutional dilemma.

Now I say—I have got a law in which tries to deal with it in terms of the future. Leave out the Vietnam war. Because Nixon found the Vietnam war. He says he is getting out of it.

Senator BYRD. He inherited it.

Senator JAVITS. The only question now is one of timetable. You can deal with my law for permanent policy, or any variant of it, but you can only settle this way: The Congress somehow must find a way to tell the President, "Look, Mr. President, after all these years, this is our idea." Unless the Administration is forthcoming, if this country gets sick enough of this war they may tie this around his neck. It might not be very good, but he leaves them no alternative.

Senator BYRD. I would hope the President would have a time table, but I think it would be a mistake to announce it. He said last June I believe it was he was going to withdraw 25,000 men; in September, 35,000 men; in December 50,000 men, and he has kept his promises. I hope he has a time table, but I think it would be a mistake to announce it.

(Announcements.)

Mr. SCALI. Senator McGovern, what do you say in answer to Senator BYRD's view that it would be a mistake to announce a timetable for withdrawal?

Senator MCGOVERN. Well, Mr. Scali, I think you have to evaluate that against the alternative, which is the President's so-called Vietnamization policy. Vietnamization, as I understand it, if it works, will have another 150,000 troops out of Vietnam a year from now. But that still leaves 284,000 American troops stuck in Vietnam a year from this date, with no indication of when they are coming out. Now, I think if Vietnamization is to work—and what I understand that to mean is to turn the war over to the Vietnamese—we have to give them a definite notice that we are coming out at such and such a time. I don't think that government in Saigon is going to begin taking the steps either to win the support of its own people or to assume the major burden for directing their own country until they know they can't depend on American help indefinitely.

The President is saying in effect now, as I understand it: We are going to stay for whatever time is necessary to permit the government in Saigon to assume the burden of this war.

Well, I think as long as we give them that assurance they are going to let us carry the burden indefinitely.

Senator BYRD. Well, George, let me concede that I think it would be a good idea for us to do something more than we have already done, to indicate to the South Vietnamese that we are definitely going to get out of there at some point in time, without announcing the exact date.

I should think that in view of the fact that the President indicated on April 20 that he expected to withdraw 150,000 men by next Spring, that now in the light of the tactical success of the Cambodian operation and the cleaning out of those sanctuaries that he might be able to accelerate this movement and have 150,000 out before next spring. If he indicated this, it seems to me this would stimulate the South Vietnamese to put forth the greater effort to take over the burden.

Senator GOLDWATER. May I point out something? When he removes another 150,000 combat troops—and this is what he is aiming at; we are not talking about support troops—in effect all we will have left in South Vietnam with rifles will be those people needed to guard what installations we will have left, air bases, communications and so forth. So I think the time table has been set. South Vietnam has been told that they are not going to have any more ground support from our ground forces. Now, we haven't said that about air, and the great bulk of the 250 to 280 thousand who will be left will be Air Force air, Army air, Navy air, and communications. So in effect, unless we say: No more air, then we can't say that we have a time table to bring the air forces home, and we haven't said that.

Senator JAVITS. I would like to make a practical suggestion. You don't like the date. Senator McGovern feels you have to have a date. The real nubbin of the thing is if the President sticks to the idea that we are getting out, conditioned on Vietnamization by the Vietnamese forces, that is their ability to take over, and conditioned by the amount of pressure or lack of it which the North Vietnamese put on us, he is giving both Hanoi and Saigon a veto over any time table. If the President will strip his policy of those conditions, the United States is getting out on a time table—I have communicated that time table to the most trusted people in the Congress—or even if he hasn't, just that there are no conditions, that we are getting out according to what we need, not according to what they have, then you may have a solution. Otherwise, you constantly run up against the proposition that he won't do it because his own conditions are going to keep him from doing it, himself.

Mr. SCALI. What do you think of that, Senator Goldwater?

Senator GOLDWATER. I think he has already done it, frankly. I think he has put the victory monkey, if there is such a thing, on the backs of the South Vietnamese. He has told them, We are pulling out our ground forces—we have already pulled the ground Marines out. 150,000 more infantry men out of that war; we will have only people left to perform guard duty. Now, whether or not he has some plan for the air forces, I don't know. He has never talked to me about it. I don't think he has talked to anyboody else about it. But I think as long as the North Vietnamese are allowed to bring supplies in through Laos and Cambodia to harass the South Vietnamese, I think we are probably going to have to provide tactical and strategic air support. They just don't have the equipment nor the training to do it.

Mr. SCALI. For how long, Senator?

Senator GOLDWATER. Well, that is up to him. I don't know. I wouldn't want to hazard a guess.

Senator JAVITS. Barry, you will never know what they are able to do or what they will do, politically or militarily, unless you tell them, We are getting out, ready or not.

Senator GOLDWATER. We have a pretty good idea of what the air forces can and can't do. I have been in the middle of that, been over there to see it. I have watched them train. There are some things, Jack, they cannot do. They cannot handle our heavy tactical aircraft.

Mr. CLARK. Senator Byrd, we are about out of time. Are you convinced everybody here is certain just what the Senate will be saying if it approves your amendment as expected tomorrow?

Senator BYRD. My amendment simply states clearly that the President has the Constitutional power and may exercise it to protect the lives of American servicemen in South Vietnam. And I want this written into the law. We have over 400,000 men in South Vietnam there now. They didn't ask to go there. Our government sent them there, it has a duty to protect them. And I think that is what my amendment does. It writes it into the law so the enemy as well as everybody else gets the message that the President is not going to be prohibited or precluded from using his Constitutional power to protect our men.

Mr. CLARK. I believe I count the vote here as three to one for your amendment tomorrow, Senator Byrd.

Thank you very much, gentlemen, all of you, for being with us on Issues and Answers.

THE STUDENT ASSISTANCE AMENDMENT

Mr. KENNEDY. Mr. President, it was Aristotle, more than 2,000 years ago, who said:

> The neglect of education ruins the constitution of the country.

The point holds equally true today. And it underscores the importance of adequate funding of our Federal student assistance programs.

I have sponsored amendment No. 645 to H.R. 16916, the education apropriations bill, to increase the three direct student-aid programs by $47.9 million.

Under the educational opportunity grant program, grants of not more than $1,000 nor less than $200 per year are made through institutions to qualified full-time undergraduates who, because of exceptional financial need, would be unable to attend the institution without the award. Initial year grants are customarily renewed for the 4 years of college. The grant must be matched by other assistance.

Under the national defense student loan program, loans of not more than $1,000 per year for undergraduates and $2,500 per year for graduate students are made through institutions to students who evidence a need for financial assistance. The loan is repayable over a 10-year period at an interest rate of 3 percent, commencing upon completion of school.

Under the college work-study program, part-time employment at the college or in public or private nonprofit organizations is paid for through institutions to needy undergraduate or graduate students. Students may work up to an average of 15 hours per week during the semester and up to 40 hours per week during the summer.

Amendment 645 provides increases over the figures passed by the House and reported by the Appropriations Committee of $17.9 million for educational opportunity grants, $14 million for national defense student loans, and $16 million for the college work-study program. It would help an additional 65,300 students compared to the bill as reported. It would bring the total fiscal 1971 appropriation for these three programs to $604.6 million, compared to the $547.6 million appropriated and $514.2 million actually spent in fiscal 1970.

Especially during this time of economic pressure. Federal student assistance is critically needed. Inflation means family budgets are more strapped than usual. Rising deficits and growing enrollments leave colleges with less money available for scholarships. It is becoming more dif-

ficult to receive guaranteed student loans, and the current shortage of jobs is cutting students out of outside work to help finance their studies.

Amendment 645 is a partial step toward restoring the relative level of funding of student assistance in earlier years:

It would fund 76 percent of approved requests in fiscal 1971, compared to 91 percent in fiscal 1967 and 83 percent in fiscal 1968.

It would fund 62 percent of authorizations in fiscal 1971, compared to 90 percent in fiscal 1967 and 83 percent in fiscal 1968.

It would aid 138,600 of the 833,000 increased student enrollment in the last 3 years, compared to 73,300 under the present bill.

Passage of the amendment would help low-income students move toward equal educational opportunity. This need is highlighted by the estimate of the Carnegie Commission that 48 percent of college students come from the top income quartile while only 7 percent come from the lowest income quartile.

Passage would also bring badly needed assistance to students from middle-income families as well, through national defense student loans and by freeing up institutional scholarship money which would otherwise be needed for low-income students.

When we consider that the return in Federal taxes is an estimated 14 times greater than the total Federal cost of sending a person through 4 years of college, this is a worthwhile investment indeed.

Mr. President, last August the Senate voted 56–38 in favor of an amendment increasing fiscal 1971 authorizations for these three programs by $170 million. A total increase of $140 milion was authorized in the final legislation, after conference with the House of Representatives. The increased appropriations sought under amendment 645 provide an opportunity to follow through on our earlier commitment.

I might add that the amendment is supported by virtually all higher education organizations, including: the American Council on Education, the National Association of State Universities and Land-Grant Colleges, the American Association of Junior Colleges, the College Entrance Examination Board, the American Association of State Colleges and Colleges, the Association of American Universities, the American Association for Higher Education, and others.

I have also heard from over 100 college and university presidents and financial aid officers from over 30 States in support of the increases.

For the benefit of Senators, I have prepared a short fact sheet, a longer memorandum and a State-by-State breakdown of where the increased funds for each program would be spent.

I ask unanimous consent that these materials, along with the important correspondence I have received, be printed in the RECORD.

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

FACT SHEET—STUDENT ASSISTANCE AMENDMENT (NO. 645)

[Amendment 645 increases fiscal year 1971 appropriations for the 3 direct Federal student assistance programs by $47,900,000]

[In millions]

	Fiscal year 1970 (appropriation)	Fiscal year 1971 (estimated HEW approved requests)	Fiscal year 1971 (authorized)	Fiscal year 1971		Increase
				H.R. 16916	Amendment	
Educational opportunity grants	$164.6	$250.0	[1] $278.6 (170.0)	$167.7	$185.6	$17.9
National defense student loans	229.0	286.0	[1] 381.5 (375.0)	229.0	243.0	14.0
College work-study	[2] (195.6) 154.0	260.0	320.0	160.0	176.0	16.0
Totals	547.6 [2] (514.2)	796.0	980.1	556.7	604.6	47.9

[1] Authorizations for EOG and NDSL include amounts appropriated for "such sums as may be necessary."
[2] $33,300,000 of NDSL appropriation for fiscal year 1970 was unspent as part of 2 percent cut.

1. *Applications.* Passage of this amendment would permit funding of 885,600 of the 1,121,000 requests *approved* by HEW regional panels for FY 1971—helping an additional 65,300 students compared to the present bill.

2. *Relative Funding of Earlier Years.*

Amendment represents 28% increase in funds since FY 1968, compared to approximately 31% increase in enrollment (12.7%) and costs due to inflation and tuition rises (18%).

Amendment funds 76% of approved requests in FY 1971, compared to 91% in FY 1967 and 83% in FY 1968.

Amendment funds 62% of authorization in FY 1971, compared to 90% in FY 1967 and 83% in FY 1968.

Amendment aids 138,600 of the 833,000 increased student enrollment in last three years, compared to 73,300 under the present bill.

3. *Growing Shortage of Other Assistance.* Current economic crisis reduces ability of families and students to finance higher education. (a) With over 6% inflation, other costs leave families with less for education. (b) It is predicted that banks may have to cut back on guaranteed student loans. (c) Rising unemployment and shortage of jobs reduces outside work for students. (d) With growing deficits, colleges have less money available for scholarships.

4. *Middle-income Students.* Passage of the amendment would help middle-income students through National Defense Student Loans and by freeing up institutional scholarship money that would otherwise be needed for low-income students.

5. *Enrollment-Cost Increases.* Amendment increase of 10.5% ($57 million) over FY 1970 appropriation—17.5% ($90.3 million) over amount actually spent—is offset by combined rise of over 11% in enrollment (4%) and costs (7%).

6. *Federal Dividend from Education.* The return in federal taxes is 14 times greater than the total federal cost of sending a person through four years of college.

7. *Failure to Achieve Equal Educational Opportunity.* 48% of college students come from the top income quartile while only 7% come from the lowest income quartile.

8. *Earlier Senate Support.* Last August the Senate voted 56–38 in favor of an amendment to increase FY 1971 authorizations for these three programs by $170 million.

BACKGROUND MEMORANDUM ON KENNEDY-HATFIELD-MONDALE AMENDMENT (NUMBER 645) TO H.R. 16916—INCREASING APPROPRIATIONS FOR FEDERAL STUDENT ASSISTANCE BY $47.9 MILLION

SUMMARY OF AMENDMENT

Amendment 645 increases fiscal 1971 appropriations for the three direct federal assistance programs by $47.9 million, as follows:

[In millions]

	Fiscal year 1970 (appropriation)	Fiscal year 1971 (estimated approved requests)	Fiscal year 1971 (authorized)	Fiscal year 1971		Increase
				H.R. 16916	Amendment	
Educational opportunity grants	$164.6	$250.0	$278.6 (170.0)	$167.7	$185.6	$17.9
National defense student loans	229.0	286.0	381.5 (375.0)	229.0	243.0	14.0
College work-study	154.0	260.0	320.0	160.0	176.0	16.0
Total	547.6	796.0	980.1	556.7	604.6	47.9

Note: Authorizations for EOG and NDSL include amounts appropriated for "such sums as may be necessary." $33,300,000 of NDSL appropriation for fiscal year 1970 was unspent.

This brings appropriations for Educational Opportunity Grants to the level requested by the Administration. In general, the increase for each of the three programs is about one-quarter of the difference between present levels in the bill and institutional requests approved by HEW regional panels.

APPLICATIONS

Passage of this amendment would permit funding of 885,600 of the 1,121,000 requests *approved* by HEW regional panels for FY 1971—helping an additional 65,300 students compared to the present bill.

Passage of this amendment would permit funding of $604.6 million of the $789.5 million institutional requests *approved* by HEW regional panels (of the $956.1 million total requests)—an additional $47.9 compared to the present bill.

RELATIVE FUNDING OF EARLIER YEARS

1. *Approved Requests.* Congress funded 91% of approved requests in FY 1967 and 83% in FY 1968; under this amendment they would be funded at 76% in FY 1971.

	Percent
Fiscal year 1967	91
Fiscal year 1968	83
Fiscal year 1969	55
Fiscal year 1970	69
Fiscal year 1971 H.R. 16916	70
Amendment	76

2. *Authorization.* Congress funded 90% of authorization in FY 1967 and 83% in FY 1968; under this amendment they would be funded at 62%.

	Percent
Fiscal year 1967	90
Fiscal year 1968	83
Fiscal year 1969	76
Fiscal year 1970	61
Fiscal year 1971 H.R. 16916	57
Amendment	62

3. *Students.* Total student enrollment has risen by 833,000 from FY 1968 to FY 1971. Under this amendment, the accompanying increase in number of students receiving assistance would be 138,600—compared to 73,300 under the present bill.

ENROLLMENT—COST INCREASE

The amendment is an increase of 10.5% ($57.0 million) over what Congress appropriated for FY 1970. (Also, $33.3 million of the FY 1970 appropriation for National Defense Student Loans was unspent.) But even this increase is offset by the combined rise of over 11% in enrollment (4%) and costs (7%).

GROWING SHORTAGE OF OTHER ASSISTANCE

College Resources for Scholarships. Colleges and universities are operating with growing deficits. In general, costs of higher education institutions have tripled in the last decade. And they are expected to double again in the next six or seven years—to over $40 billion by FY 1977.

In addition, although inflation and expansion are driving costs up, federal assistance for capital construction—even with passage of the Case amendment—is way down.

Also, the increase of an estimated one quarter of a million students from the lowest income quartile in the last 3 years has placed additional pressure on scholarship funds.

As a result, colleges have *less* to lend or grant to worthy, needy students.

Family Budget. With inflation rising at an annual rate of over 6%, other costs leave families with less money available to help finance their children's education.

Pinch on Guaranteed Student Loans. Last year the Guaranteed Student Loan program provided almost as much assistance as these three direct federal programs combined. And guaranteed loans help middle-income families (gross income below about $17,000) as well as the poorest families.

But business conditions suggest—and many financial aid officers predict—that guaranteed loans may be in shorter supply this fall than they were even a year ago if lending agencies find that they must reduce these loans the only alternate source of credit would be even greater expansion of the National Defense Student Loan program.

Job Shortage for Working Students. With the present unemployment and demand for jobs, students are having great difficulty finding supplementary work in the private market to help finance college. College Work-Study programs would help to partially fill the gap. In addition, modest expansion would enable more students in the $5,000 to $10,000 bracket to participate.

FEDERAL DIVIDEND FROM EDUCATION

The return in federal taxes is 14 times greater than the total cost of sending a person through four years of college.

According to HEW's FY 1971 budget justification:

"The most important return on the government's investment in young men and women is, of course, in those benefits to individuals and to the Nation that are not readily qualified. It can be shown, however, that there is a fair return on investment even in terms of tax receipts. It costs about a billion dollars in Federal funds to help 413,000 students through four years of college. It is estimated that they will earn about $72,000,000,000 more during their life times than if they had not gone to college. Federal taxes on these increased earnings would amount to at least 20 percent or $14,400,000,000."

FAILURE TO ACHIEVE EQUAL EDUCATIONAL OPPORTUNITY

According to the Carnegie Commission on Higher Education:

Of our college students, only 7 percent come from families in the lowest income quartile. 48 percent—seven times as many—come from families in the top income quartile.

In the highest socioeconomic quartile, only one out of 20 top-ranking students fails to go to college. A staggering 10 times as many top-ranking students in the lowest quartile are denied a college education.

GROWTH IN NUMBER OF STUDENTS

1. Enrollments in higher education have more than doubled in the last decade.

2. In FY 1971, there will be an estimated 7,181,000 graduate and undergraduate students enrolled on a full-time equivalent basis—an increase of approximately 4% over FY 1970.

3. Undergraduate enrollment in FY 1971 will be an estimated 6.6 million. The Carnegie Commission on Higher Education estimates that undergraduate enrollment will pass 8 million by 1976, and that this figure may rise to 9 million if student assistance programs are adequately funded.

4. A century ago, 2% of young Americans entered college. Now the figure is over 40% and still rising.

INCREASED COSTS

1. Over the last 5 years, tuition and fees have been rising at an annual rate of about 6–8%.

2. According to HEW's FY 1971 budget justification sent to Congress:

"During the past decade, student costs (tuition, fees, room and board) increased about 38 percent at public institutions and about 70 percent at private schools. During the same period, enrollment more than doubled. *These trends seem likely to continue, and thus the need for student financial aid will grow year by year.*"

3. The American Council on Education estimates that average costs at public colleges and universities are about $2000 (plus another $600 for out-of-staters) and about $3600 at private colleges and universities.

4. The cost of attending college is now the second largest expenditure a family will make and, unlike the cost of a home which is the largest expenditure, falls due in a period of only four or five years.

EARLIER SENATE SUPPORT

Last August 12 the Senate supported an increase of $170 million in authorizations for these three programs by a vote of 56 to 38. The increases were based on estimated institutional requests.

Those estimates have turned out to be low, and in any case, even under this amendment the programs would still only be funded at 62% of authorization. But because of present budgetary pressures, the amendment increase has been kept to under $50 million—less than 35% of the authorization increase which Congress voted last year.

PRESIDENT'S MESSAGE

In his message to Congress on March 19, President Nixon said:

"No qualified student who wants to go to college should be barred by lack of money. That has long been a great American goal; I propose that we achieve it now."

We wholeheartedly endorse that view. And if we are serious about achieving that goal "now," Congress must appropriate the needed funds now. This amendment is still not enough, but it is an important start.

EDUCATIONAL SUPPORT

The amendment is supported by virtually all higher education organizations, including:

American Council on Education.

American Association of Junior Colleges.

College Entrance Examination Board.

American Association of State Colleges and Universities.

Association of American Colleges.

Association of American Universities.

American Association for Higher Education.

The amendment's sponsors have heard from over 100 college presidents and financial aid officers from over 30 states in support of the amendment.

EDUCATIONAL OPPORTUNITY GRANTS

Fiscal year 1971 estimates	Administration proposal	House allowances	Difference
Total	$185,600,000	$167,700,000	$17,900,000
Alabama	3,702,140	3,425,513	276,627
Alaska	120,381	111,253	9,128
Arizona	1,800,823	1,611,761	189,062
Arkansas	1,745,698	1,590,595	155,103
California	17,104,736	15,177,318	1,927,418
Colorado	2,443,044	2,183,115	259,929
Connecticut	2,166,477	1,930,128	236,349
Delaware	412,566	371,017	41,549
District of Columbia	1,295,289	1,159,824	135,465
Florida	4,739,594	4,247,415	492,179
Georgia	3,592,639	3,281,638	311,001
Hawaii	488,896	418,959	70,027
Idaho	712,659	636,455	76,204
Illinois	9,167,154	8,272,247	894,907
Indiana	5,270,235	4,797,498	472,737
Iowa	3,747,623	3,426,559	321,064
Kansas	3,173,483	2,911,809	261,674
Kentucky	3,045,657	2,785,152	260,505
Louisiana	3,146,705	2,841,466	305,239
Maine	825,442	751,327	74,115
Maryland	2,356,942	2,080,296	276,646
Massachusetts	6,524,558	5,866,416	658,142
Michigan	7,403,147	6,609,047	794,100
Minnesota	4,754,872	4,353,423	401,449
Mississippi	2,870,763	2,660,134	210,629
Missouri	4,242,744	3,823,550	419,194
Montana	929,120	851,019	78,101
Nebraska	$1,635,520	$1,465,511	$170,009
Nevada	226,979	199,460	27,519
New Hampshire	826,034	748,780	77,254
New Jersey	3,591,980	3,274,073	317,907
New Mexico	1,115,397	1,016,274	99,123
New York	16,144,549	14,701,942	1,442,607
North Carolina	5,225,413	4,794,373	431,040
North Dakota	1,037,796	952,794	85,002
Ohio	8,454,785	7,603,161	851,624
Oklahoma	2,789,981	2,508,811	281,170
Oregon	2,529,278	2,280,867	248,411
Pennsylvania	8,856,683	7,961,706	894,977
Rhode Island	1,029,880	935,339	94,541
South Carolina	1,773,526	1,608,010	165,516
South Dakota	1,110,631	1,026,251	84,380
Tennessee	4,192,352	3,853,795	338,557
Texas	9,586,621	8,662,820	963,801
Utah	1,545,562	1,360,812	184,750
Vermont	635,452	578,606	56,846
Virginia	3,184,798	2,875,512	309,286
Washington	3,156,047	2,794,578	361,469
West Virginia	1,748,207	1,579,021	169,186
Wisconsin	5,210,768	4,749,911	460,857
Wyoming	488,672	451,740	36,932
U.S. Service Schools			
Canal Zone			
Guam	20,696	17,600	3,096
Puerto Rico	1,691,253	1,556,770	134,483
Virgin Islands	7,663	6,549	1,114

COLLEGE WORK-STUDY PROGRAM

Fiscal year 1971 estimated State allotment	Based on $176,000,000	Based on $158,400,000	Difference
Total	$176,000,000	$158,400,000	$17,600,000
Alabama	4,320,484	3,888,436	432,048
Alaska	160,202	144,182	16,020
Arizona	1,548,486	1,393,728	154,858
Arkansas	2,511,783	2,260,604	251,179
California	14,305,238	12,874,714	1,430,524
Colorado	1,952,618	1,757,356	195,262
Connecticut	1,847,997	1,663,197	184,800
Delaware	383,998	345,598	38,407
District of Columbia	806,969	726,272	80,690
Florida	5,091,050	4,581,945	509,106
Georgia	4,874,665	4,387,199	487,465
Hawaii	609,660	548,694	60,965
Idaho	674,554	607,099	67,456
Illinois	7,671,670	6,904,502	767,168
Indiana	3,960,741	3,564,667	396,074
Iowa	2,891,277	2,602,150	289,127
Kansas	2,124,945	1,912,450	212,495
Kentucky	3,546,564	3,191,907	354,657
Louisiana	4,191,330	3,772,197	419,133
Maine	865,152	778,637	86,515
Maryland	2,660,122	2,394,110	266,012
Massachusetts	4,452,286	4,007,058	445,228
Michigan	6,758,558	6,082,703	675,855
Minnesota	3,525,557	3,173,001	352,556
Mississippi	3,632,123	3,268,911	363,212
Missouri	4,045,294	3,640,765	404,529
Montana	697,835	628,051	69,784
Nebraska	$1,499,163	$1,349,246	$149,917
Nevada	243,620	219,258	24,362
New Hampshire	565,535	508,982	56,553
New Jersey	3,761,834	3,385,651	376,183
New Mexico	1,151,862	1,036,676	115,186
New York	12,552,511	11,297,260	1,255,251
North Carolina	6,069,615	5,462,654	606,961
North Dakota	790,855	711,769	79,086
Ohio	7,778,821	7,000,938	777,883
Oklahoma	2,660,577	2,394,519	266,058
Oregon	1,797,863	1,618,077	179,786
Pennsylvania	8,955,483	8,059,935	895,548
Rhode Island	731,776	658,598	73,178
South Carolina	3,327,221	2,994,499	332,722
South Dakota	893,475	804,128	89,347
Tennessee	4,420,479	3,978,431	442,048
Texas	10,413,681	9,372,313	1,041,368
Utah	1,130,128	1,017,115	113,013
Vermont	460,668	414,601	46,067
Virginia	4,183,260	3,764,934	418,326
Washington	2,733,574	2,460,216	273,358
West Virginia	2,213,506	1,992,155	221,351
Wisconsin	3,717,949	3,346,154	371,795
Wyoming	315,286	283,758	31,528
U.S. Service schools			
Canal Zone			
Guam, Puerto Rico, Virgin Islands	3,520,000	3,168,000	352,000

NDSL FEDERAL CAPITAL CONTRIBUTION

1971 estimates	Based on total program of— $243,000,000	$229,000,000	Differences
Total	$236,500,000	$222,500,000	$14,000,000
Alabama	3,708,869	3,464,114	244,755
Alaska	88,830	88,830	0
Arizona	2,591,951	2,420,904	171,047
Arkansas	2,105,388	1,966,451	138,937
California	26,522,343	24,772,095	1,750,248
Colorado	3,566,102	3,330,770	235,332
Connecticut	3,246,873	3,032,607	214,266
Delaware	487,148	487,148	0
District of Columbia	1,856,775	1,734,244	122,531
Florida	6,743,536	6,298,519	445,017
Georgia	4,214,334	3,936,224	278,110
Hawaii	529,432	529,432	0
Idaho	924,501	924,501	0
Illinois	12,218,444	11,412,130	806,314
Indiana	6,420,938	5,997,211	423,727
Iowa	4,347,650	4,060,741	288,909
Kansas	3,534,095	3,300,875	233,220
Kentucky	3,527,216	3,294,450	232,766
Louisiana	4,011,407	3,891,033	120,374
Maine	1,006,719	940,284	66,435
Maryland	3,144,603	3,144,603	0
Massachusetts	9,002,828	8,408,717	594,111
Michigan	10,899,378	10,180,112	719,266
Minnesota	5,430,782	5,072,397	358,385
Mississippi	2,819,929	2,633,838	186,091
Missouri	5,727,409	5,349,449	377,960
Montana	1,056,227	986,524	69,703
Nebraska	$2,329,484	$2,175,758	$153,726
Nevada	260,550	260,550	0
New Hampshire	1,052,063	982,635	69,428
New Jersey	4,314,193	4,029,493	284,700
New Mexico	1,345,506	1,256,715	88,791
New York	20,348,336	19,005,519	1,342,817
North Carolina	5,821,698	5,437,515	384,183
North Dakota	1,147,474	1,071,751	75,723
Ohio	11,648,544	10,879,839	768,705
Oklahoma	3,845,974	3,592,172	253,802
Oregon	3,378,367	3,155,422	222,945
Pennsylvania	12,243,761	11,435,776	807,985
Rhode Island	1,285,984	1,201,120	84,864
South Carolina	2,253,724	2,104,997	148,727
South Dakota	1,132,782	1,058,030	74,752
Tennessee	4,565,709	4,264,411	301,298
Texas	8,595,652	8,595,652	0
Utah	1,706,333	1,706,333	0
Vermont	771,955	721,012	50,940
Virginia	3,758,677	3,758,677	3
Washington	4,978,055	4,649,545	328,510
West Virginia	2,193,588	2,156,396	37,190
Wisconsin	6,253,838	5,841,138	412,702
Wyoming	495,592	462,887	32,705
U.S. service schools			
Canal Zone	0	0	0
Guam	0	0	0
Puerto Rico	1,034,767	1,034,767	0
Virgin Islands	3,687	3,687	0

Note: States which show no increase at the higher level are already funded at 100 percent of approved requests.

COLLEGES WHICH HAVE WRITTEN TO SENATOR EDWARD M. KENNEDY IN SUPPORT OF AMENDMENT FOR INCREASED STUDENT ASSISTANCE

ALABAMA

Spring Hill College.
Troy State College.

CALIFORNIA

California State College at Long Beach.
California State College at San Bernardino.
Claremont University Center.
La Verne College.
Loma Linda University.
Loyola University of Los Angeles.
Northrop Institute of Technology.
Occidental College.
San Fernando Valley State College.
University of Redlands.
Whittier College.

DISTRICT OF COLUMBIA

Catholic University of America.

FLORIDA

Barry College.
Florida Institute of Technology.
Florida Presbyterian College.
Miami-Dade College.
New College.
St. Leo College.

GEORGIA

Emory University.

INDIANA

Notre Dame University.
St. Joseph's College.

ILLINOIS

Blackburn College.
College of Dupage.
Central YMCA Community College.
Loyola University.
Loyola University Medical Center.
Roosevelt University.
Rosary College.
Western Illinois University.

IOWA

Iowa Wesleyan College.
Mt. Mercy College.
Ottumwa College.
William Penn College.

KANSAS

Marymount College.
St. Benedict's College.

KENTUCKY

Alice Lloyd College.
Cumberland College.
Thomas More College.

MARYLAND

Community College of Baltimore.
Catonsville Cummunity College.
Villa Julia College.

MASSACHUSETTS

Anna Maria College.
Boston College.
Massasoit Community College.
Pine Manor Junior College.
Wheelock College.

MICHIGAN

Delta Community College.
Quinas College.

MINNESOTA

College of St. Catherine.
College of St. Teresa.
College of St. Thomas.
Macalester College.
St. Olaf College.

MISSISSIPPI

Tougaloo College.

MONTANA

College of Great Falls.

NEBRASKA

Creighton University.
Middeland Lutheran University.

NEW JERSEY

Bloomfield College.
Caldwell College for Women.
Centenary College for Women.
Glassboro State College.
Patterson State College.
Princeton University.

NEW MEXICO

University of New Mexico.

NEW YORK

Adelphi University.
Barnard College.
Bennett College.
Colgate University.
Finch College.
Hartwick College.
Pace College.
Polytechnic Institute of Brooklyn.
Rensselaer Polytechnic Institute.
SUNY at Albany.
SUNY at Brockport.
SUNY at Plattsburg.
SUC of NY at New Paltz.
St. Lawrence University.
Syracuse University.

NORTH CAROLINA

Guilford College.
Livingstone College.

OHIO

Capital University.
College of Mt. St. Joseph.
John Carroll University.
Malone College.
Notre Dame College.

PENNSYLVANIA

Bucknell University.
Cabrini College.
Cedar Crest College.
Chatham College.
Keuka College.
Lafayette College.
Marywood College.
Ursinus College.

RHODE ISLAND

Rhode Island School of Design.

SOUTH DAKOTA

Augustana College.

TENNESSEE

Carson-Newman College.

TEXAS

Trinity University.
University of St. Thomas.

VERMONT

University of Vermont.

VIRGIN ISLANDS

College of the Virgin Islands.

VIRGINIA

Shenandoah College.

WEST VIRGINIA

Alderson-Broaddus College.

SAMPLE OF LETTERS RECEIVED BY SENATOR EDWARD M. KENNEDY ON THE NEED FOR INCREASED STUDENT ASSISTANCE

SPRING HILL COLLEGE,
Mobile, Ala., May 27, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR KENNEDY: This is written to urge you to do all in your power to amend the Education Appropriations Act, which is scheduled to come to the Senate floor soon, so that the Basic student aid programs may be increased by the following amounts:

Educational opportunity grants	$17,900,000
Work-study	16,000,000
National defense student loans	14,000,000

The students of Spring Hill College and those of many other colleges with which I am familiar are suffering several hardships from the deficiencies in these funds. Please do whatever you can to help them and the institutions which rely so heavily on these funds in their financial aid programs for students.

Sincerely,

WILLIAM J. RIMES, S.J.,
President.

CLAREMONT UNIVERSITY CENTER,
Claremont, Calif., May 28, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR KENNEDY: I understand that the Appropriations Act for the Office of Education will reach the Senate floor in the next few days. The higher educational community is deeply concerned about this bill—particularly about two amendments, one of which would add $28 million to provide funds for academic facilities for four-year institutions, and the other of which would add substantial sums to the Educational Opportunity grants, the Work-Study program, and the National Defense Student Loans. I should like to urge your support of these two amendments.

The higher educational community is in extraordinarily difficult financial situation. We are being asked to carry an ever-increasing load at the same time that we are confronted with inflation and declining sources of income. Assistance in the area of building and student aid is urgently needed. Your support for these amendments will be of great help and encouragement at a most difficult time.

Yours sincerely,

HOWARD R. BOWEN,
Acting President and President-elect.

WHITTIER COLLEGE,
Whittier, Calif., May 26, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SIR: As one representative college from the private education sector, Whittier wishes to express to you and Senators Case and Mondale our hearty endorsement of your proposed amendments to the Education Appropriations Act.

We are convinced these pieces of legislation are critically important factors in the maintenance and expansion of our educational system. We want you and your fellow legislators to know we are now, and will be in future, active in behalf of your education proposals.

Our best wishes are with you in your defense of higher education.

Sincerely,

FREDERICK M. BINDER.

WHITTIER COLLEGE,
Whittier, Calif., May 26, 1970.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SIR: We at Whittier College have a deep concern and interest in the Office of Education Appropriations Act which, we understand, is scheduled for Senate consideration in the immediate future.

Of particular import to us, and to all educational institutions, public and private, are two amendments to the Act:

First, the Senator Clifford P. Case Amendment, which will seek to add 28 million dollars to the Appropriations Committee recommendations; hereby extending to the four-year institutions assistance restricted in the original Bill to the two-year community colleges. We are poignantly aware of the academic facility needs of our sister two-year colleges and strongly endorse legislation which will assist in this area, but we are equally cognizant of the identical requirements facing four-year institutions. We therefore ask your support of the expanded appropriation to meet the full spectrum of requirements.

Second, the amendment sponsored by Senators Kennedy and Mondale, which will add funds to E.O.G., Work Study and National Defense Student Loans. In the past, Whittier College has been the grateful recipient of funds from all three of these programs. This assistance has made possible, among other activities, our Mexican Program, our library expansion, as well as increased scholarship grants for deserving students. A restriction of this assistance would seriously curtail our current and projected programs. We urgently request your careful consideration and active participation on behalf of the amendment's passage.

Your legislative activities in the past on behalf of higher education in California, as well as across the nation, have clearly demonstrated your deep and continuing concern that our youth be given excellent schooling opportunities. In light of this, we are convinced these amendments warrant your vote of approval.

Sincerely,

FREDERICK M. BINDER.

CENTRAL YMCA COMMUNITY COLLEGE,
Chicago, Ill., May 26, 1970.

Hon. EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I fully believe that your emphasis on the Educational Opportunity Grant and the College Work-Study Program is making possible a viable American democracy. Any other course, in my opinion, would only exacerbate the problems of poverty and manpower, as well as racism and the urban confrontation. For example, this one modest Junior college alone provides educational opportunities for more than 400 inner-city youth now on a poverty or below poverty level of life. E.O.G. and C.W.S.P. are essential ingredients of the program. Their continuation and enhancement can be the government's best investment possible in future tax dollars to be collected, let alone the human welfare benefits.

Your efforts are to be commended. We are urging others to support your position, for we believe that we are not over dramatic when we state that our country's future is at stake.

Cordially yours,

DONALD A. CANAR,
President.

COLLEGE OF DUPAGE,
Glen Ellyn, Ill., June 10, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SIR: I am writing to you with regard to the Education Improvements Act and especially as it concerns at least two of the amendments which are of considerable importance to higher education.

In my opinion, it is extremely important that we not jeopardize the Higher Education Facilities Act in order that we may satisfy the crucial need for student aid funds. At the present rate of borrowings from local banks under the guaranteed student loan program, it is unlikely that these lending institutions can continue their present level of activity.

Thank you for your consideration in this matter.

Sincerely,

STEPHEN J. GROSZOS, PH.D.

ROOSEVELT UNIVERSITY,
Chicago, Ill., May 22, 1970.

Hon. EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I understand that you are preparing to introduce an amend-

ment to the Office of Education Appropriations Act which would increase the appropriations for the basic programs of student financial aid. I want to indicate to you my support of such an amendment and to tell you how important these programs of student financial aid are to the students of Roosevelt University.

The Guaranteed Loan Program is not adequate to insure that all qualified students will have an opportunity to study at the college or university of their choice. But the Educational Opportunity Grants Program, the College Work-Study Program, and the National Defense Student Loan Program make this a reality. Without the added funding which would be appropriated by your amendment, we might well have to turn away economically disadvantaged students who are educationally qualified to enter Roosevelt University.

I have written to the Senators from Illinois urging them to support your amendment.

Sincerely yours,

ROLF A. WEIL, *President.*

SAINT BENEDICT'S COLLEGE,
Atchison, Kans., May 26, 1970.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: It was with a great deal of pleasure that I learned that you as well as Senator Mondale are seeking to have funds added to the three basic student aid programs.

It was with dismay that I received recently "unofficial" notice from the Office of Education of my college's allocations for FY 1971. In all three programs there were reductions which, as in past years, further reduces the effectiveness of these programs for the students whom we serve.

This is my fifth year in the area of financial aid administration. During this period I have seen the erosion of higher education's ability to help the needy and disadvantaged, the middle-income student, and the rural poor.

Apparently the Federal Government, and the Nixon administration specifically, is not willing to reverse this trend. Thus I find your efforts very gratifying.

I stand ready to assist you in whatever possible.

Sincerely,

EDWARD S. DOUGHERTY,
Director of Financial Aids.

THOMAS MORE COLLEGE,
Covington, Ky., June 1, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Recently I learned of your efforts to increase the allocation of funds for student aid programs. As a college financial aid officer I have experienced the difficulty of attempting to stretch extremely limited funds to assist students in getting a college education. As enrollment and costs continue to spiral, the conditions become even more critical. The ability and willingness of lending institutions to expand lending under the Guaranteed Loan Program is in jeopardy, due to current economic conditions. Many banks are unwilling to participate even on a limited basis.

Your continued efforts to increase assistance to help the nation's young people to help themselves will certainly be appreciated, both now and in the future when these men and women will be the mainstay of the country.

This brings my best wishes and active support for your efforts in this matter.

Sincerely,

MICHAEL L. MARLOWE,
Director of Financial Aid and Placement.

BOSTON COLLEGE,
Chestnut Hill, Mass., June 3, 1970.

U.S. Senator EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to you to tell you that you have the unqualified support of everyone associated with Boston College in your efforts to increase appropriations for all three basic student aid programs by adding $14 million to the National Defense Student Loan Program; $16 million to the College Work-Study Program, and $17.9 million to the Educational Opportunity Grant Program. We hope that the Senate sees its way clear to act favorably on these desperately-needed proposals.

This year Boston College requested and substantiated a National Defense Student Loan of $1,750,000. But, because of reduced appropriations, we will get only about one-half of that amount which means that, in a period of skyrocketing costs on all sides, the majority of our students will receive less than they are eligible for (and, indeed, far less than they need) to pay for their education. In addition, because of lack of funds, graduate students have been eliminated by administrative memorandum from the National Defense Student Loan Program which we think is a grave injustice. (One has the feeling that there will be absolutely no federal support for graduate student fellowships or traineeships on an institutional basis in the near future. This would be a disaster for graduate student education and unless the situation is remedied soon, there is no question but that graduate education will take many years to recover from this nutritional deficiency). Also, since a large part of our loan funds must be used to match grants-in-aid for low income students, there is little left to help the students from middle income families who, too, are feeling the economic squeeze.

In this calendar year, Boston College has been given approval for $586,000 for its College Work-Study Program. This is the smallest amount we have received in three years, in spite of the fact that this Program not only helps our students to earn part of their college costs but also enables them to contribute their talents in a constructive way for the social benefit of the off-campus community.

As you well know, Educational Opportunity Grants must be matched by scholarships or by funds from The National Defense Student Loan, The College Work-Study or other related federal programs. Uncertainties about financing other federal programs restrict us in developing as effective an Educational Opportunity Grant Program as we would like. As a result we have not been able to use fully the funds provided in the program to help minority and other students from low income areas. Thus, while we need more money for the Educational Opportunity Grant Program, the efficient use of such funds depends on more adequate financing of The College Work-Study Program and the National Defense Student Loan Program.

In the last three years, the availability of these three basic student aid programs has enabled Boston College to carry out the spirit of the law and express national values by bringing to our campus students from low income urban areas. Because of federal support we also have been encouraged to contribute generously of our own resources to this end. (In this regard it must be kept in mind that we are not using endowments, which we do not have, to help the disadvantaged. We are using money from operating expenses.) In the light of our present financial situation, however, we can support such important programs only if they receive adequate financial assistance from the federal government.

To give you an idea of our financial problem, we would like you to know that, for the present fiscal year, operating expenses at Boston College exceed income by an estimated $4.2 million. To meet part of this deficit we have just announced a tuition increase of $240 effective this coming September. This is on top of $400 tuition increase last year. In addition, board and room costs will increase by $300 at the opening of the fall term.

In the light of the critical financial situation in which Boston College and, in fact, all private colleges and universities find themselves, I hope that the Senate approves the $47.9 million total increase in the National Defense Student Loan Program, College Work-Study Program and the Educational Opportunity Grant Program. The need for enlarging these basic programs is more crucial than ever since there is grave doubt that the banks can sustain their present level of lending under the Guaranteed Loan Program.

We are most grateful for your continued interest in the problems of private colleges and universities.

Sincerely yours,

Rev. W. SEAVEY JOYCE, S.J.
President.

MASSASOIT COMMUNITY COLLEGE,
West Bridgewater, June 2, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SIR: I understand from John F. Morse, Director, Office of Education Appropriations, American Council on Education that you and Senator Walter F. Mondale (D. Minn.) are seeking to add funds to all three basic student aid programs: Educational Opportunity Grants, $17.9 million; Work-Study, $16 million; National Defense Student Loans, $14 million, and further, that Senator Clifford P. Case (R. N.J.) will seek to add $28 million, the same amount appropriated this year, to provide funds for academic facilities for four-year institutions.

May I express my full appreciation for your assistance in these matters. It would appear that the future of the Higher Education Facilities Act may be in jeopardy, and the need for additional student aid funds is even more crucial, since there is considerable doubt that the banks can sustain their present level of lending under the Guaranteed Loan Program.

Very truly yours,

JOHN W. MUSSELMAN,
President.

WHEELOCK COLLEGE,
Boston, Mass., May 28, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I want to commend you and support you in your efforts to add funds to the Educational Opportunity Grants, Work Study, and National Defense Student Loans sections of the Pending Appropriations Act for the Office of Education.

As the cost of higher education increases, tuition increases seem inevitable. With tuition increases, a college degree is increasingly distant from many Americans without substantial financial aid.

We appreciate deeply all that you are doing in the support of higher education. The financial stress upon us is growing every day.

Sincerely yours,

MRS. ROBERT W. MERRY,
President.

BAY CITY, MICH.,
June 1, 1970.

Hon. EDWARD KENNEDY,
U.S. Senate,
Washington, D.C.

Delta Community College has been a participant in the Educational Grants Program,

the National Defense Loan Program and the College Work Study Program for several years. In that time we have been able to help many students from low income homes to earn a college education. Most of these students would never have received an education beyond high school had it not been for the Financial Aids Program. Many came from minority groups and rural areas. For this reason we support the Kennedy-Mondale amendments. The Financial Aids Programs of the Higher Education Act of 1965 has truly equalized educational opportunities for many disadvantaged students. We hope they will be fully supported by the Congress.

DONALD J. CARLYON,
President, Delta College.

THE COLLEGE OF ST. CATHERINE,
St. Paul, Minn.

EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

HONORABLE SIR: As Dean of Students directing Financial Aid to students of lower income (anywhere from nothing for some independent girls whose parents cannot or will not help them) as well as middle incomes (up to $10,000) I am intensely interested in the Educational Appropriations Act which is coming up on the floor soon.

Most of these students are working to help themselves through college on a campus where they feel they can get the best education for their particular needs. Some of them are getting state scholarships but the amount of state funding in Minnesota is considerably lower than that of many other states. I know most of these students personally or have extensive information about them. I know that the money we have loaned to students under NDEA, NDSL, or NSL has been repaid promptly and that these graduates are grateful for the loans they have received.

I know that one national goal is to help VERY low income students but motivation to help the nation and fellow men is higher among the middle income group and it will be another generation before the aims of the poverty oriented programs can show results. Just getting students to college is not the answer to our problems. A college education is only going to be an advantage to the nation if the students getting it are motivated and prepared, not just milling around a campus for four years to get a magic piece of paper. This latter condition now does exist in some places and these so-called students are easily influenced by agitators.

NDSL was hailed as such a great thing but here we are this year with only a fourth of what we need for loans and banks telling the students they cannot lend as they once thought they might. EOG is urgently needed, and Work-Study is excellent experience for young people. A combination of these three aids properly placed will do more to supply us with level headed students than riot squads.

Please do support the three basic student aids and direct them where they can do most good.

Sincerely,

SISTER MARIE JAMES.

GLASSBORO STATE COLLEGE,
Glassboro, N.J., June 2, 1970.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I wish to lend my support to those who endorse your efforts to amend the Office of Education Appropriations Act.

We are in the process of determining student financial aid awards for next year. Unless we receive additional support from the Federal Government, we will have many students laboring under unnecessary hardships. Even federally-supported higher education loans are becoming increasingly difficult to obtain. Many lending institutions are reluctant to commit their funds to students during this period of economic turmoil. In addition no one has to belabor the problems the college student will face this year when he attempts to secure a summer job. This lack of financial support compounded by a lack of financial aid is going to cause many a deserving student to terminate his education prematurely.

Contrary to popular belief, it is not always the financial aid student who causes campus disturbances. In fact it can be unequivocally stated that one of the most important reasons for this campus remaining open during a recent crisis may be directly attributed to the efforts of some of our financial aid recipients. Their admonishments to their fellow students concerning the importance of their college education had a direct bearing on the course of action for this institution—*it remained open.*

If we want to keep all deserving students in school regardless of their economic background, then it is imperative that colleges receive additional federal financial aid support. Glassboro is no exception.

Sincerely,

WILLIAM L. MURPHY,
Director of Financial Aid.

THE UNIVERSITY OF NEW MEXICO,
Albuquerque, N. Mex., June 2, 1970.

Hon. EDWARD M. KENNEDY,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: We are advised by the American Council on Education of your proposal to amend the Office of Education Appropriations Act to add funds to the Educational Opportunity Grants, Work-Study, and National Defense Student Loans programs. May we wish you all success with this undertaking.

The situation with respect to resources for student aids at the University of New Mexico is acute. As of this date, we are overcommitted approximately $38,000 in Educational Opportunity Grants for freshmen for next fall and, inasmuch as these grants are typically matched on a one-to-one ratio with National Defense Student Loans, we are over-committed a like amount in that category. Applications continue to come in. Unless there is some relief, many prospective freshmen will have to be denied assistance and will probably not enroll in September.

The higher educational institutions in New Mexico have evolved a work-study program called the New Mexico Plan for the coming summer. Under this Plan, prospective students will be able to find appropriate emplyoment with the institutions supplying 80% of the funds and the balance to be provided by eligible agencies. We have thought very highly of this Plan because it enables the student, while living at home, to work and save money for school expenses in the ensuing year. The Plan will be implemented this summer on a reduced scale, but the University of New Mexico has reluctantly concluded that it cannot afford to participate at all.

Costs of higher education continue to rise despite all efforts to hold them in check; student living expenses are, of course, inflated as are those of all other citizens. It seems tragic that those, especially from lower income families, who are qualified to undertake higher education and who desire it must be forced into the ranks of the unemployed.

Sincerely yours,

FERREL HEADY,
President.

BENNETT COLLEGE,
Millbrook, N.Y., May 26, 1970.

Senator EDWARD KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: We wish to add our support to the amendment sponsored by you and Senator Mondale to add funds to all three basic student aid programs.

Cuts in the funding of Educational Opportunity Grants and the College Work Study Program have made it necessary for us to use more of our limited financial aid budget for the disadvantaged students. As a result, we are able to help very few of the students in the middle income bracket.

We also heartily disagree with the proposals of the present administration to shift the burden of payment for education to the student by increased dependence on loans, when there is grave doubt that the banks can sustain their present level of lending under the Guaranteed Loan Program.

Students who are forced to borrow heavily to pay for higher education will not only be seriously handicapped for years after graduation, but may also be more apt to be disillusioned with the present priorities of the American society while on campus.

Sincerely yours,

RUTH I. GIFFORD,
Financial Aid Officer.

STATE UNIVERSITY COLLEGE OF ARTS AND SCIENCE,
Plattsburgh, N.Y., June 4, 1970.

Hon. EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: It is with utmost concern that I ask your support of the Office of Education Appropriations Act in which you and Senator Mondale are seeking to add funds to all three basic student aid programs. Nearly all colleges in the Country have felt the impact of the recent cuts in budgets in the National Defense Student Loan, Educational Opportunity Grant and College Work-Study Programs. This campus is no exception.

The 52% cut in New York State for the Initial Year Educational Opportunity Grant Program is presenting a most disturbing situation. With a new program for the disadvantaged on our campus and the acceptance of many other disadvantaged students who will not be in the Special Program, the amount allocated will not be enough to aid these needy students. It is necessary to transfer over one half of the Initial Year Educational Opportunity Grant (which also received a cut) in order to meet the needs of the past Educational Opportunity Grant recipients.

Therefore, only 20 of 102 eligible Educational Opportunity Grant students will be able to receive aid from this program. We need more National Defense Student Loan and College Work-Study Program funds to aid the many other students in need of financial aid.

To understand the seriousness of this request it is important to know that approximately 30% of all of our students at Plattsburgh come from homes which have a net taxable income of $1,800 or less. I think you can see why we consider the need for additional student funds is crucial.

Sincerely,

GEORGE W. ANGELL,
President.

RENSSELAER POLYTECHNIC INSTITUTE,
Troy, N.Y., June 2, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: We are very much interested in the Office of Education Appropriations Act which is scheduled for debate in the Senate this week, and wish to comment on the need for passage of amendments you and Senators Mondale and Case are presenting to provide (1) an increase in student-aid programs and (2) for academic facilities for four-year colleges and universities.

Perhaps the most significant development of the mid-20th Century in respect to education has been the deep concern and consequent supportive legislative actions of the

Federal Congress. It becomes, therefore, the more trying when we realize our government's leaders must test the question of participation in the educational situation and act in the presence of many other economic and social factors, both national and international.

Events of the past year clearly point out that the citizen of tomorrow will be living in an America that is difficult to imagine, and that it is the responsibility of educational institutions to develop programs and an environment that will shape his education and his contributions to society. Rensselaer Polytechnic Institute has, through the years, accepted this responsibility to provide an education centered in science and engineering; not neglecting the humanities and the social sciences.

As for the need by Congress to act on additional financial aid to students, we would like to point out that private colleges are not inherently more expensive to operate than are public colleges; nor are they available only to the wealthy. In recent years, the percentage of Rensselaer applicants with financial need has increased steadily to the point where more than 80% of our applicants now demonstrate need. The undergraduate scholarship budget for Rensselaer has increased from less than one half million dollars to nearly two million dollars annually in the past decade.

Problems of direct student support require expansion, not contraction, of grant and loan programs—for all lower and middle income students, but especially for the disadvantaged. Present programs are unrealistic both in number of students to be assisted and in the support per student. We urge you to give thorough study and support to amendments that seek to add funds to the Educational Opportunity Grants, the Work-Study Program, and the National Defense Student Loans.

Sincerely,

R. G. FOLSOM.

LIVINGSTONE COLLEGE,
Salisbury, N.C., May 29, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Livingstone College, Salisbury, N.C., a privately owned, fully accredited four-year college engaged in training poor black students, is intensively interested in your proposed amendment to HR 16916 soon to be voted on by the United States Senate.

Our students come from low-income families and are unable to pay the costs for attending college and must depend upon assistance from the Federal Government. We strongly support the Kennedy-Mondale Amendment to add funds to all three basic student aid programs in the following amounts: Educational Opportunity Grants, $17.9 million; Work-Study, $16 million; and National Defense Student Loan, $14 million.

From our point of view these funds are the life-blood of our student financial aid programs, and merit the most favorable consideration. We support your amendment 100 percent.

Very truly yours,

F. GEORGE SHIPMAN,
President.

NOTRE DAME COLLEGE,
Cleveland, Ohio, June 1, 1970.

Hon. EDWARD M. KENNEDY,
Senate Office Building
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing this to ask your support for increased appropriations for three student aid programs. Without increased funds for the Educational Opportunity Grants, the Work Study Programs and the National Defense Student Loans, our ability to help the underprivileged students now attending Notre Dame College, will be seriously handicapped.

In the past, these student aid programs, combined with our financial contributions, have made it possible to educate many economically disadvantaged students who otherwise would have not received college educations.

The cut back in these programs has certainly hindered our program to help the underprivileged students and unless additional funds are received, we may have to severely curtail our efforts to help educate students from lower income families.

Your assistance in increasing funds for these student aid programs will certainly be appreciated.

Cordially yours,

SISTER MARY LUKE, S.N.D.,
President.

BUCKNELL UNIVERITY,
Lewisburg, Pa., May 29, 1970.

Hon. EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing in appreciation and support of your effort to increase the appropriations for Educational Opportunity Grants, the College Work-Study Program, and National Defense Student Loan Fund. These three sources of financial aid constitute a fine national program, which is flexible and balanced, and which makes possible the application of financial help in forms and packages that effectively meet student needs.

There can be no question of the importance of this program to the young people and the colleges of our nation, and the need to increase the funding as all costs across the land increase can hardly be overstated. In this one relatively small college, lack of financial aid funds made it necessary for us to deny aid to 115 entering freshmen whose combined need was slightly more than $164,000. Among our currently enrolled students, 94, with a combined need of over $140,000, will have to be denied financial aid for next year. This situation exists in spite of our reasonably successful and continuing efforts to obtain scholarship funds from industry, business, foundations and individuals. Cleraly, any reduction in the federal funds for student financial aid allocated to Bucknell will certainly result in the interruption—if not the termination—of higher education for more than a few of our students.

Be assured the University and its students very much appreciate, and strongly support, all efforts to increase the appropriations for student aid programs.

Sincerely,

JOHN C. HAYWARD,
Director of Financial Aid.

MARYWOOD COLLEGE,
Scranton, Pa., May 26, 1970.

Hon. EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR KENNEDY: The Administration of Marywood College, Scranton, Pennsylvania wishes to express its support for the action which you intend to take within the next few weeks in regard to the Office of Education Appropriations Act. I am sure that at this point it is not necessary for colleges to send you statistics to demonstrate the need which they have for additional funds in all three basic student aid programs: Educational Opportunity Grants, Work Study, and National Defense Student Loans.

It should be made clear that in addition to the aid being received through these channels, our college students are carrying jobs in order to assist their families to meet the rising cost of living as well as the rising cost of college education. Your basic belief in the need to preserve the concept of a pluralistic society with the educational choices which that implies, will motivate you to assist both private and public educational institutions to receive additional appropriations.

In our own case, over 90% of our students would not be able to attend college without the assistance of the three basic student aid programs referred to above. We sincerely appreciate the energy you have expended in seeking to augment appropriations for education and want you to know of our support in this endeavor.

Sincerely yours,

Sister M. MICHEL, I.H.M.,
Vice President for Academic Affairs.

RHODE ISLAND SCHOOL OF DESIGN,
Providence, R.I., May 27, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Independent colleges and universities are being asked, in many cases forced, to carry a burden of responsibility which is beyond their strength, and unless substantial help comes soon, most, if not all of these institutions will die. These institutions are expected to solve, currently with minimal help, one of the most important and most expensive national problems we have: they are expected to make available equally to all who qualify, and in many instances even to those who don't, their particular kinds and qualities of education regardless of the candidate's ability to pay for the ever increasing costs of the education offered.

At this stage in their effort to carry this burden many independent colleges and universities are being forced to give financial aid where the greatest pressure is, that is to the disadvantaged candidates from minority social groups. The result of course is that the middle-income candidate, who needs partial aid, is being deprived and forced to drop out. This pattern will inevitably result in unhealthy student populations, consisting of a large majority from affluent backgrounds and a small minority from poverty backgrounds. Candidates from middle-income families ($10,000–$20,000) will not have the equality of opportunity which the other two groups will have—they will be forced to attend state universities, if they can afford even the lower costs of those institutions.

The independent colleges and universities, which of course play an enormous part in establishing the standards of education throughout the country cannot continue to carry the increasing burden of making it financially possible for all young people in the nation to receive higher education. The amounts of money needed are far beyond the capacities of college endowments, contributions from foundations and industry, and the proceeds from fund-raising drives. Only the federal government has the vast resources needed to attack this problem.

At Rhode Island School of Design our conscientious commitment made two years ago to recruit and offer full financial aid to increased numbers of candidates from disadvantaged minority groups has already forced us to reduce substantially the number of candidates from middle-income backgrounds to whom we can offer financial aid. Furthermore the financial squeeze arising from this commitment has placed us in a position where we are unable to make needed improvements in facilities, premises, and personnel.

The portents of all this are extremely ominous, and therefore I urge that the appropriations recommended by Senators Clifford P. Case and Edward M. Kennedy be supported with all possible strength. I must add, however, that the amounts recommended, especially those for EOG, Work-

Study, and NDSL are far below the amounts which will be needed if the independent colleges and universities are to be saved.

Sincerely,

DONALD M. LAY, Jr.,
Dean of the College.

CARSON-NEWMAN COLLEGE,
Jefferson City, Tenn., May 26, 1970.

Hon. EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: Carson-Newman College continues to live, serve and progress in this important Appalachian region. Over 50% of our students are receiving various types of financial aid. Educational Opportunity Grants, Work-study, and National Defense Student Loans have played major roles in making education available to deserving young people of this area.

We are wholeheartedly in support of efforts to add funds to all three of these basic student aid programs. Our continued service to this region greatly depends on these programs.

Thank you.

Cordially,

WILLIAM I. POWELL,
Director of Development.

BURLINGTON, VT.

Senator EDWARD KENNEDY,
Washington, D.C.:

It is our understanding that when the Office of Education appropriation bill H.R. 16916 reaches the Senate floor later this month you will cosponsor with Sen. Walter Mondale an amendment to add funds for student assistance programs. We wholeheartedly support this effort to provide more money for student aid. It is especially important to the University of Vermont that the amount recommended for educational opportunity grants be increased beyond the House allowance of $167 million. To further reduce the availability of already inadequate grant funds causes students to rely heavily on loans. Being forced to borrow the full cost of their higher education would close the door to many students. A similar telegram is being sent to Senator Mondale and copies forwarded to Senators Aiken and Prouty.

President LYMAN S. ROWELL,
President-Elect EDWARD C. ANDREWS,
University of Vermont.

THE NATIONAL GUARD—FASHIONABLE WHIPPING-BOYS

Mr. ALLOTT. Mr. President, it seems that one of the fashionable whipping-boys for certain vociferous elements in the Nation is the National Guard.

It is alarming—and somewhat irritating—to hear ill-informed persons giving harsh and mean-minded judgments about the many men who comprise our National Guard. Fortunately, someone with high qualifications and a sense of civic duty has come forward to give a few relevant facts. The man is George Fielding Eliot, one of the Nation's most respected and honored military experts.

Mr. Eliot has been kind enough to send me a copy of a short, incisive article he has written on the subject of the National Guard. He deals judiciously with the Guard's difficult tasks and honorable record. I would call particular attention to this paragraph:

During the period Jan. 1, 1968, to April 30, 1970—a total of 28 months—National Guard units were called to active service in support of the civil authority on 191 separate occasions, involving 224,500 Guardsmen. There is no established case where a single fatal civilian casualty resulted from these National Guard operations. That is a record of which any professional law-enforcement agency—or any professional army—might well be proud of. The National Guard is very proud of it indeed.

Mr. Eliot has provided some facts. They are much needed if we are going to lay to rest vicious derogation of the National Guard.

So that all Senators may profit from Mr. Eliot's wisdom, I ask unanimous consent that his article be printed in the RECORD.

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

THE NATIONAL GUARD AND LAW ENFORCEMENT

(By George Fielding Eliot)

On the continent of Europe it is customary for governments to maintain strong forces of armed semi-military police (French gendarmerie, Spanish Guardia Civil, Italian Carabinieri, West German border and regional police, etc., etc.) for the purpose of reinforcing local police in case of serious public disorders. In the United States and Great Britain, the principal dependence in such cases is on citizen militia-type forces composed of volunteers, subject to call to active duty in emergencies: of which the National Guard is the American version.

There is a profound difference between a full-time professional national police force and which is composed of citizen-volunteers motivated by a willingness to devote time and effort to training in emergency law-enforcement duties.

That this difference exists is generally recognized in this country, but occasionally when strong emotions are aroused in the course of the performance of this duty, we tend to forget the basic facts. Such an instance, unhappily, has arisen in connection with the cruel tragedy which occurred on May 4 at Kent State University in Ohio, where young people have died under circumstances which are now under investigation by civil and military authorities.

The emotional reactions aroused by this unhappy affair have resulted in a storm of abuse in the press and other news media against the National Guard. It would be highly objectionable for the Army or the National Guard Association to make any definite official statement until the facts have been fully examined in the official inquiry now in progress, and conclusions reached as to the lodgment of responsibility. There is nothing, however, to deter the military authorities from referring to the recent record of the National Guard regarding civilian casualties.

That record is impressive. During the racial disturbances of 1967, it became apparent that the National Guard needed additional training in riot-control if it was to deal effectively with nation-wide disorders on such a scale and of such intensity—especially at a period in which much of the effective Active Army was preoccupied with a foreign military operation. In consequence, a special training program in riot control (32 hours per year) was instituted, with a backup 16-hour program of studies. By Jan. 1, 1968, every unit of the Army National Guard and selected units of the Air National Guard had undergone this training, which was thereafter continued in 1968 and 1969.

During the period Jan. 1, 1968, to April 30, 1970—a total of 28 months—National Guard units were called to active service in support of the civil authority on 191 separate occasions, involving 224,500 Guardsmen. There is no established case where a single fatal civilian casualty resulted from these National Guard operations. That is a record of which any professional law-enforcement agency—or any professional army—might well be proud of. The National Guard is very proud of it indeed.

It might help us all to retain some sense of proportion if we keep this record in mind. It does not justify such terms as trigger-happy, panicky, poorly trained—terms which have, since May 4, been freely applied to the National Guard as a whole as well as to the two Ohio National Guard units which were actually involved. We can be confident that the official investigation will lay the facts on the line. Neither the Army nor the National Guard Bureau can afford to have it otherwise.

We might also remind ourselves that the draft laws may be on the way out, and that the draft is one very strong incentive to National Guard recruiting. If we prefer a citizen-type emergency force to the European professional gendarmeries, we had better give some thought to encouraging voluntary enlistments without the stimulus of the draft. We do not do that when we allow ourselves to indulge in such public abuse as has recently been showered on the Guard.

HOSPITAL CONSTRUCTION VETO AGAINST BEST INTERESTS OF THE AMERICAN PEOPLE

Mr. EAGLETON. Mr. President, on behalf of the Senator from Texas (Mr. YARBOROUGH), who is at present attending the International Labor Organization Conference in Geneva, Switzerland, I ask unanimous consent that his statement be printed in the RECORD:

STATEMENT OF SENATOR YARBOROUGH

The President's veto of the hospital construction bill of 1970 is a slap in the face of every sick American needing hospitalization and every family who will need hospitalization in the years to come.

The health of the American people should be foremost among all national priorities.

The state officials of the 50 states have certified to the Federal Government that $16,500,000,000 is needed now to construct new hospitals and expand and remodel the old hospitals. That money is needed now. The modest bill passed by the U.S. Congress provided for less than a billion dollars a year for the next three years. It is a rock-bottom, minimum bill if we are to protect the health of the American people.

The two big bills vetoed by the President since he took office have been bills to help the health and education of the people of the United States. By this second veto of a major health bill in less than 12 months the President has shown a strange insensitivity to the illness and suffering of the people of the United States.

With the high infant mortality rate pulling us down in health status in the world it is no time to deny the American people health care.

THE ELECTION IN BRITAIN

Mr. THURMOND. Mr. President, last week's electoral results in Great Britain constitute one of the most significant such contests in recent times. Contrary to all the expectations of the critics and the political observers, the conservative government of Edward Heath won a smashing victory.

This victory will have profound effects not only in Great Britain, but also throughout the world. The foreign policy of the United States and Great Britain have been very closely joined in many of

the key areas of the world and we shall now have to assess the affect which new policies of Great Britain will have on our policies.

In reading much of the comment on this election, most of the critics seem to be displaying the same sense of obtuseness which they displayed before their upset. However, I invite two worthy items of comment. The first of these appeared Saturday on the editorial page of the Charleston News and Courier. The News and Courier says:

While Edward Heath is the leader of the Conservative Party and will be asked by the Queen to form the new government, the mantle of party leadership in time, we believe, will rest on the shoulders of Enoch Powell.

In this regard, the News and Courier, next to its editorial page, presented excerpts from a recent speech by Mr. Powell in which he sets forth his views of the threat to Britain. Since Mr. Powell's views have not been reported in detail but only with a broad brush, the dignity and statesmanship of his statements make interesting reading.

It will be noted that his chief concern is with the growing anarchy and disrespect for authority throughout the Western world. His remarks are of key interest to the United States, for he cites the unrest present at many of our universities.

The other comment on the British elections was by Joseph Alsop in the Washington Post. Mr. Alsop correctly points out that the rise of the Conservative Party may very well prevent the collapse of Western interests in the Mideast, because of the Conservative government's announced position of maintaining a military presence east of Suez.

Mr. President, I ask unanimous consent that the editorial entitled "Election in Britain," published in the Charleston News and Courier of Saturday, June 20, 1970, be printed in the RECORD, along with the excerpts from Mr. Powell's speech printed in the same newspaper, with editor's note. I also ask unanimous consent that the column by Joseph Alsop, entitled "British Voting Pleases Nixon as Sign of Shift to the Right," from the Washington Post, follow in the RECORD.

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

ELECTION IN BRITAIN

The Conservative Party victory in Britain's parliamentary election Thursday was not just another political upset. If we judge correctly, it marks the beginning of an important change in the attitude of British voters toward the problems of their nation.

While Edward Heath is the leader of the Conservative Party and will be asked by the Queen to form the new government, the mantle of party leadership in time, we believe, will rest on the shoulders of Enoch Powell. The news media, which did such a poor job of reporting British public opinion, no doubt will continue to castigate Mr. Powell because of his outspoken views on immigration and race relations. The fact is that Mr. Powell's speeches provided the real interest in the campaign. He was returned to Parliament with twice the vote he received in the last General Election. Like the press, the public opinion polls were far off the mark in assessing the voters' views.

Mr. Heath is on record as saying Mr. Powell won't be given a place in a Conservative Cabinet. The new Prime Minister will find it difficult to bar the man who has captured the imagination of so many voters in Great Britain. The truth is that Edward Heath has been an efficient custodian, holding the Conservative Party together during its years in the wilderness. Mr. Powell is the man with the brilliance and the oratorical gift—another Winston Churchill, perhaps.

Elsewhere on this page today we reprint portions of the dramatic speech Mr. Powell delivered last week which may have had a great deal to do with the outcome of the election. We recommend a close reading of these excerpts. They apply almost as much to America as to Britain.

Irrespective of Mr. Powell's place in the Conservative Party, the new government is likely to assume a different international posture in several respects. The Conservatives pledged to resume defense cooperation with the Republic of South Africa and to maintain a military presence east of Suez.

On the home front, the Conservative Party is likely to continue the welfare state programs developed by the Laborites, as the Nixon administration is continuing the Johnson administration programs.

The issue with the greatest of meaning and drama for Britain is the immigration issue. It is on this issue that the sentiment of the Conservative Party and the nation will be tested most thoroughly. The world will be watching to see whether Anglo-Saxon civilization retains its survival instinct.

POWELL'S VIEW: THE THREAT TO BRITAIN

(EDITOR'S NOTE.—The following is a part of a speech delivered June 13 by Enoch Powell, M.P., in Birmingham, England. Mr. Powell is a graduate of Cambridge University and author of numerous books on Greece and the classical world. He was Minister of Health in the last Conservative government in Great Britain.)

When we think of an enemy, we still visualize him in the shape of armored divisions, or squadrons of aircraft, or packs of submarines. But a nation's existence is not always threatened in the same way. The future of Britain is as much at risk now as in the years when Imperial Germany was building dreadnoughts, or Nazism rearming.

Indeed the danger is greater today, just because the enemy is invisible or disguised, so that his preparations and advances go on hardly observed. When Czechoslovakia was dismembered or Austria annexed or Poland invaded, at least one could see that a shift of power had taken place; but in the last three years events every whit as pregnant with peril have given no such physical signal.

As we prepare to elect a new Parliament, the menace is growing, as such dangers do, at an accelerating pace. Other nations before now have remained blind and supine before a rising danger from within until it was too late for them to save themselves. If we are to escape the same fate, it is high time we opened our eyes; for the first condition of self-defense is to see what it is we have to fear.

In the past three or four years we have seen the universities of America being destroyed. Those institutions are now not merely the permanent scene of violence and disorder, but they only exist and are administered upon terms dictated by the enemy; they have passed out of the control of authority. In the same period we have seen the same enemy in this student manifestation not only terrorize one European city after another, but bring down one of the strongest European Governments. In this country we have seen the institutes of learning systematically threatened, browbeaten and held up to ridicule by the organisers of disorder.

We have seen in this country in the last few weeks how the menace of organized disorder could threaten the morale of the police and wield the authority of the state itself not in favour of the peaceable citizen but against him. When the Prince of Wales and the Repulse disappeared beneath the waters of the Gulf of Siam, at least we knew that Britain had suffered a defeat. We suffered no less decisive a defeat when Britain's Home Secretary surrendered the rule of law in order to buy off demonstrations; but do we know that it was defeat, or are people so foolish as to suppose that such an event is the end of a humiliating story, and not rather the beginning?

People observing the advance of anarchy call for more police, more punishment, more force. These may indeed be necessary; but in themselves they are important—in fact, they can become additional weapons in the enemy's armoury—unless, the battle is simultaneously fought and won in the moral sphere. The decisive act is to put sense and nonsense, truth and absurdity, back into their right places; and that act is already so difficult that conventional wisdom and polite society have come to regard it as impossible.

Have you ever wondered, perhaps, why opinions which the majority of people quite naturally hold are, if anyone dares express them publicly, denounced as "controversial," "extremist," "explosive," "disgraceful," and overwhelmed with a violence and venom quite unknown to debate on mere political issues? It is because the whole power of the aggressor depends upon preventing people from seeing what is happening and from saying what they see.

The most perfect and the most dangerous, example of this process is the subject miscalled, and deliberately miscalled, "race." The people of this country are told that they must feel neither alarm nor objection to a West Indian, African and Asian population which will rise to several millions being introduced into this country. If they do, they are "prejudiced," "racialist," "un-Christian" and "failing to show an example to the rest of the world."

A current situation, and a future prospect, which only a few years ago would have appeared to everyone not merely intolerable but frankly incredible, has to be represented as if welcomed by all rational and right—thinking people. The public are literally made to say that black is white.

Newspapers like the Sunday Times denounced it as "spouting the fantasies of racial purity" to say that a child born of English parents in Peking is not Chinese but English, or that a child born of Indian parents in Birmingham is not English but Indian. It is even heresy to assert the plain fact that the English are a white nation.

Whether those who take part know it or not, this process of brainwashing by repitition of manifest absurdities is a sinister and deadly weapon. In the end, it renders the majority, who are marked down to be the victims of violence, or revolution, or tyranny incapable of self-defense by depriving them of their wits and convincing them that what they thought was right is wrong.

It may have been a happy chance that this particular triumph of organized disorder and anarchist brainwashing coincided with the commencement of this General Election campaign. For many people it lifted a corner of the veil; for the first time they caught a glimpse of the enemy and his power.

BRITISH VOTING PLEASES NIXON AS SIGN OF SHIFT TO THE RIGHT

(By Joseph Alsop)

Besides making fools of the pollsters and the forecasters, the British election gave pleasure to Richard M. Nixon. Reportedly, the President had himself wakened several times during the night, to get the latest returns. And he was openly delighted by the Tory party's surprise victory.

One reason for the President's pleasure, of course, was that the election in some sense confirmed his own hunch about the trend of popular opinion. He has been betting heavily on a rightward trend in this country. He can be expected to bet much more heavily before our off-year election in November.

Nowadays, however, the western nations seem to move in much the same directions, and also to suffer from much the same afflictions, more or less in step together. All of them, for instance, have violent student dissent at the moment, although only the U.S. has the Vietnam war to provide an easy explanation.

Thus the victory of Edward Heath and his Conservatives, and Britain's resulting move to the right, can be taken as indications that the President has rightly judged our own situation. President Nixon is known to read the tea-leaves in just that way, except that he believes the rightward trend in this country is very much stronger than the trend that showed up in Britain.

There was another much more practical reason, however, for the President's pleasure in the British result. In brief, the British electorate has probably altered the prospects in the Middle East in a radical manner, and may even have changed the outlook in the Far East.

Prime Minister Harold Wilson and his chief colleagues have long been dead set on recalling all British troops and liquidating all British military commitments "East of Suez." President Kennedy, President Johnson and President Nixon successively warned of the dangers of this policy, but the three Presidents made no dent at all.

Until Friday morning, therefore, all U.S. planning had to be on the basis that the Labor Party plan would be carried out by the announced date, which was 1971, for total, final withdrawal. Where this was due to hurt most—far, far more than in Singapore—was in the Persian Gulf, with all its oil riches.

It is ridiculous, but it is a fact, that the few thousand British troops at the head of the Persian Gulf are a major stabilizing factor. After their withdrawal, almost everything was expected to happen in the gulf, perhaps even including the invasion of the immensely wealthy sheikhdom of Kuwait by the Kremlin's Arab clients in Iraq.

All kinds of jerry-built plans were being attempted by the U.S. government, against the evil day expected in 1971. The Shah of Iran, for instance, was being urged to act as a new stabilizing factor, replacing the British, even although Iran has always had its own claims in the Persian Gulf.

Yet the jerry-built character of the plans was glaringly apparent, even to the U.S. policy-makers who were attempting to execute them. In sum, the nightmare was always in every informed person's mind, of the British obstinately leaving a complete power-political vacuum in one of the most tempting and vulnerable areas in the whole world.

Now, however, there is a much better than even chance that the new Heath government will reverse the Wilson government's policy of withdrawal. That will mean that the long term outlook will be altered in a major way.

It has in truth been obvious for months that the Soviets were preparing to exploit the British departure from the Persian Gulf, just as soon as it occurred. The direct military intervention in Egypt is the clearest proof that the Kremlin has adopted a forward, and pershaps even a high risk policy in the Middle East. In any case, it would have been an enormous temptation to the Kremlin to take major advantage of the power-political vacuum that was anticipated after the British departure. And obscure moves in Iraq and elsewhere clearly indicated the Soviets were eager to yield to the temptation.

Hopefully, therefore, this extra, really ghastly complication of the ghastly middle eastern crisis has now been crossed off the futures lost. It is one less thing to worry about, but of course it will not solve the crisis itself.

At the moment, while pursuing their forward policy on the ground, the Soviets are sweet-talking U.S. policy-makers about the Middle East in the best manner of Ambassador Anatoli Dobrynin. The chances are very heavy that the sweet talk is an intentional deception. But one must wait and see about that; and one less thing to worry about is certainly something to be thankful for, nowadays.

SENATOR MURPHY ADDRESSES BIENNIAL CONVENTION OF AMERICAN ASSOCIATION OF RETIRED PERSONS

Mr. MURPHY. Mr. President, on May 20, I had the great pleasure of addressing the American Association of Retired Persons at their biennial convention, which was held in Oklahoma City, Okla. I ask unanimous consent that the text of my remarks be printed in the RECORD.

Mr. President, in addition, a report of the Special Committee on Aging was recently filed in the Senate, and I was pleased to join with the minority members in making some much-needed recommendations to help our senior citizens.

I ask unanimous consent that a condensed version of this report be printed in the RECORD.

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

STATEMENT OF SENATOR MURPHY

You have offered me a forum tonight for which I am truly grateful. The pleasure is heightened because you, as members of the American Association of Retired Persons, and I share common purposes.

With your indulgence, I would like to reach beyond you tonight and make an appeal to all ages.

The time has come, in my judgment, for new recognition of older Americans as an "in" generation. Key to a new "in" status are three "in" words—individuals, involvement and independence.

I shall also have comments on two "in" phrases important to older persons—incomes adequate for decent living standards and inflation control to preserve the resources that retirees have.

Pertinent to all of this is my belief that we need to develop a new concept of what retirement should be.

That this challenge should be issued before you is most appropriate. You and your association have demonstrated that you are "in" people. No organization has shown more clearly that the needs of society are the concern of all citizens and not just the young.

Development of my theme on behalf of older Americans does require reference to the young of the past and present.

Forty-three years ago today Charles A. Lindbergh began his non-stop solo flight from New York to Paris. None of you need to be reminded of the response to his victory over the elements. Nothing since has so captured the hearts and imagination of the world until the astronauts began their venture into space.

Even as the wings of his plane dipped to within a few feet of the ocean's waves, millions of people prayed for the lone eagle and cheered his exploit.

Four decades later, pulses were quickened all over the world as Neil Armstrong became the first man to set foot on the moon.

Five weeks ago, millions of people were personally involved, through hope, fear and pride, as the three members of the Apollo 13 crew faced up to possible tragedy some 200 million miles from earth.

It might well be asked what all this has to do with a new status for older Americans. The answer is simple. Nothing strikes a more responsive chord than persons. Nothing is more important in our Nation than its individual citizens.

Proud as we were of the national effort which made the moonlanding possible, conscious as we were of the thousands of technicians on whom its success depended, our hearts went out to the men on the mission, to the individuals involved. Paramount in our minds was the prayer that these men, in success or momentary failure, would come home safely.

Man's interest in the individual is manifest in lesser pursuits. It is the achievement of a Babe Ruth or a Sandy Koufax that we remember far more than even the teams on which they played.

Our nation has become great because of opportunities given to individuals, day in and day out, to contribute to the good of all through personal responsibility and inititative.

The greatest danger in aging today is the national tendency to think of the elderly as all being the same—a statistical block creating a common problem for the young. How tragic it will be if this rejection of the individually of older Americans is allowed to persist.

As my good friend and your illustrious founder, the late Dr. Ethel Percy Andrus, said: "It is not enough to see man as an individual in the same way as is an individual man in an army or a crowd. The difference is so great that there is a special word for an individual man, a word of power and importance; the word is "person."

Today there are over 20 million persons in the United States past 65. No other group has had such a variety of wisdom and talent-producing experience as these persons. The longer one lives the more forks a person has met on life's highway; the more clearly he or she becomes different from his or her fellows. It is small wonder then that oldesters cherish their individuality so much. In this regard, the "in" generation of youth can hardly hold a candle to the "in" generation of age.

Individualism, in its finest sense, calls for involvement—our second key "in" word. No one knows this better than you.

I believe that the greatest need among older persons today is for unlimited opportunity for involvement in the life of family, community and nation.

I speak of unlimited opportunity. Obviously my concern is with removal of artificial restrictions imposed by society—limitations unrelated to individual capacity and desire.

We all recognize that there are sharp differences from person to person. It is, however, patently ridiculous to assume that a person has lost his economic or social value simply because he has reached the age of 65, 75 or 85. Yet this is the assumption on which our society acts in its treatment of older persons.

A poll was taken several years ago to determine who Americans regarded as the "outstanding man of the 20th century." The winner, hands down, was Winston Churchill.

If a poll had been taken when Churchill

was 65, he would only have qualified as a flamboyant failure. His record of greatness was made after the age when millions of Americans are forced onto the shelf.

Our own Dr. Andrus made great contributions throughout her lifetime, but an argument might be made that her greatest impact may have been after her retirement from her chosen profession. This would be especially true if such judgment were made of Dr. Andrus as a national figure.

Among my most prized possessions are several paintings by Grandma Moses. Do you recall why she became a painter—and hence famous throughout the world?

Grandma Moses began to paint at the age of 80 because her arthritis made it impossible for her to continue her hobby of needlework. But her indomitable spirit—another "in" word—demanded that she continue her involvement in worthwhile activity.

Such examples could be cited for hours. Why should such privilege be accorded only to the famous? You of A.A.R.P. and N.R.T.A. have demonstrated it need not be so. Yet for each public figure, there are tens of thousands who retain their productive ability well into the so-called senior years without opportunity to use it.

Why should any age be designated as a cut-off time? Why should anyone, from the lowest to the highest station, be denied opportunity for involvement commensurate with his or her ability and psychological or emotional need? These are questions to which this nation must face up.

These are questions which will become even more important in the future. If life is extended to an average of 90 or 100 years, as many scientists predict, how can we possibly continue our policy of enforced idleness or severely restricted activities by citizens who reach the age of 60, 70 or 80?

I believe the time has come for a new approach to retirement. Much of this approach can be modeled on the pioneering work done by A.A.R.P. and N.R.T.A.

Expansion of choices should be inherent in a new concept of retirement. The pattern of all retirement in the future, as it is under ideal circumstances today, should be both flexible and graceful.

It should embody opportunities for employment, part or full-time. It should offer expanded avenues of voluntary service for those whose economic situation and personal preferences make second careers of this kind appealing. It should afford full opportunity for learning and growth—and then no doors should be closed for use of such new-found talents.

So much of the work done by the American Association of Retired Persons has been directed at these objectives that an entire speech could be devoted to their review. I shall cite but two examples—your Institutes of Lifetime Learning and your new Mature Temps program.

I have been most favorably impressed by what I know of the Institutes of Lifetime Learning in Long Beach, California, and Washington, D.C. Your decision to create a "Home Study" Institute which will make courses available to members regardless of where they may live is certainly a welcome one. All of us with a special concern for older persons will watch its development with great interest.

Mature Temps, as you know, takes a different approach. It is especially appealing to those whose lifetimes have been so involved with their employment that they prefer a job to volunteer service and to those whose talents may be better suited to vocation than to avocation.

It is my understanding that there are now 11 cities with Mature Temps offices offering temporary job opportunities for older persons in 6 states. I am confident that your plans for expansion to many more cities in 1970 will succeed.

I heartily agree with your President, George Schluderberg. Mr. Schluderberg said: "The waste of precious human talent is evil. We applaud Mature Temps for providing specialized employment service for mature persons."

My own observations and contacts with older Americans convinced me long ago how important work is to many. This is confirmed in the Associated Press story which quotes Joseph Kastenholz, director of the New York Mature Temps office: "Some want to supplement their retirement incomes and want to earn only enough so that their Social Security payments won't be cut. On the other hand, many don't care about the money, but just want something to do."

I am particularly struck by Mr. Kastenholz's reference to loss of Social Security benefits. I believe most emphatically that we should completely eliminate the Social Security earnings test.

Many older persons who want to work and are fully capable of substantial contribution to the economy are fearful of re-entering the labor market, either part-time or full-time, because of what it may do to their Social Security payments.

Many older Americans are working at jobs at reduced pay in order to stay within the $1680 limit of earnings they may have without penalty.

Let me tell you what would have happened in my state last year to a single man, drawing average Social Security benefits of $1,392 a year, if he accepted a job paying $4,000 a year. He would pay $162 Social Security tax, $381 Federal income tax, and $15 State income tax. Probably $500 would be taken by costs of transportation, meals and other incidental to his employment. In addition, he would lose all $1,329 of his Social Security.

Instead of income totaling $5,392—hardly a staggering sum—he would net only $2,942.

If this man were self-employed, as might be the case if he were a real estate salesman or engaged in odd-job work such as carpentry or mechanics, the Social Security taxes and the expenses would be higher.

Continuation of this extremely high tax on those between 65 and 72 who choose to work is unthinkable. It is a special tax on aging which singles out persons with low or middle incomes as its primary targets.

This illustration speaks for itself, but there is more. The Federal Government quite properly is developing programs to increase job opportunities for older people.

In testimony earlier this month before the Senate Special Committee on Aging, we learned that the Green Thumb On-the-Job Training Program, under Labor Department auspices, is placing men past 65 in jobs averaging $4,700 a year. In almost every case, this means total loss of Social Security benefits.

At the same time, other individuals may have incomes of $47,000 a year or more from investments and not lose a nickel of Social Security.

You and I know of retirees who want to work, but do not because of penalties imposed against their Social Security. There are others who work at depressed wages because of this provision. There have been instances, too, of people working and being so penalized that their net gain from employment has been zero.

I believe this is wrong and should be changed.

Numerous other legislative items deserve favorable action, including your and my proposals to reinstate full deductibility of medical expenses from income taxes paid by persons past 65 and to cover teachers under Medicare. A.A.R.P. and N.R.T.A., as a matter of fact, have a list of over 40 important recommendations.

Highest on my priority list are other improvements in the Social Security system. Among these are across-the-board increases to provide a more adequate floor of protection, payment of 100 percent benefits to widows, and automatic adjustments based on rising living costs.

Automatic increases tied to the price index are especially important in giving at least minimal protection to retirees against the ravages of inflation.

You do not need to be reminded that the hidden tax imposed by inflation hits retirees harder than any other group. The instant relief afforded by the automatic increase would eliminate delays which have often occurred because Congress is slow to act. Regrettable as it is, many older people simply cannot wait. Nor should they have to.

Adoption of cost-of-living increases in Social Security, however, is only part of an adequate response to rising prices.

Inflation control, one of our "in" phrases, must remain at the top of our list of domestic policy objectives.

We are reminded of Lewis Carroll's book, "Through the Looking Glass" and what Alice in Wonderland heard from the Queen. Said the Queen. "It takes all the running you can do to keep in the same place. If you want to get somewhere else, you must run at least twice as fast as that!"

This not only applies to inflation, but also to our efforts at improving the quality of life among retired persons. If nothing else, the increasing life-span makes it imperative that we heed the Queen's advice.

Inflation control can only be achieved on a base of spending policies which separate the wheat from the chaff in Federal programs. We see today how difficult it is to solve this problem after a 10-year spending spree which often gave little regard to human priorities and committed the government to continuing expenditures without reference to their true merit.

Inflation control will take time. It will only come when the Congress establishes priorities based on real needs of the people and eliminates the non-essential fat from appropriations. One example of such fat which I have always opposed are the excesses of our foreign aid appropriations.

Inflation control will only come when we reduce the waste and inefficiency in governmental programs. Heavens knows how great that waste is. And you don't have to come to Washington to see it.

Beyond all this, we need to give new attention to income adequacy for all older Americans. This nation is too rich, and its obligation too great, to allow any older person to suffer want.

An Older Americans Income Assurance Plan, outside of the public assistance programs, in my judgment needs to be developed to afford at least minimum living standards of decency to all the elderly.

Such a program should provide income supplements sufficient to meet needs of the elderly regardless of their Social Security status. Many retirees suffering the greatest want have never had the opportunity for Social Security coverage. Among them are thousands of retired state employees, teachers, firemen, police officers and others who have made great contributions—often at personal sacrifice—to our nation's safety, well-being and growth.

An Older Americans Income Assurance Plan should be so designed that it eliminates the need for older persons to go on the welfare rolls. It should prevent economic hardship among the elderly with the dignity to which they are entitled.

The third "in" word of which I spoke at the beginning of these remarks is—independence.

Independence is the most precious possession our nation can offer its older persons. I believe that full opportunity for independence is the right of every citizen past 65.

Independence to choose how one shall live

in his or her later years should be the keystone of our national policy in aging. Nothing is more important to older Americans than choices—choices which are now so often denied.

Choices hopefully will encourage involvement in the mainstream of America's life and full expression of individual responsibility and initiative. The choices should, however, permit leisure to those who prefer it after a lifetime of toil.

Income adequacy, whether through employment, pensions, savings, or governmental support is, of course, essential to independence.

Hopefully we can meet this need for independence through a new flexible and graceful concept of retirement, responsive to the economic, social, psychological and spiritual needs of an expanding senior population.

Abandonment of outmoded compulsory retirement practices, elimination of job discrimination on the basis of age, proliferation of new opportunities for jobs, full-time or part-time, and a sound governmental income support base will all be part of this new approach to aging.

New avenues for community service should be opened, such as the Retired Senior Volunteers Program—R.S.V.P.—authorized in the Older Americans Act 1969 Amendments which I had the privilege of introducing in the last session of Congress.

For the future we will also need the benefit of better understanding of the aging process. This calls for research such as conducted by the Ethel Percy Andrus Gerontology Center at the University of Southern California. Your association's work in promoting this splendid project deserves the highest commendation. My own feeling is reflected in my authorship of a Joint Resolution to express the sense of the Congress that this Center and others like it should receive Federal financial support.

In closing, I would like again to call on the spirit of Dr. Andrus, who said: The "process of depersonalization, so at variance with everything that we call the American tradition of respect for the individual, ignores the basic truth that what has made America great has been man's self-reliance, his personal feeling of liberty and of choice, and the conviction of individual independence."

These are the elements of which improvements in the quality of life for older Americans will be made.

When I think of the accomplishments of Dr. Andrus during her seventies and eighties, and the no less significant contributions being made today by members of the American Association of Retired Persons and the National Retired Teachers Association, I can only conclude that America can ill afford policies and practices which reject so many of its older citizens. I am certain that you, under the leadership of your incoming president, Fred Fassen, will carry on your good fight to bring any such rejection to an end. The time has truly come for people of all ages and all stations of life to recognize that older Americans can be and should be an "in" generation—individually involved and independent.

CONDENSATION OF MINORITY VIEWS OF MESSRS. PROUTY, FONG, MILLER, HANSEN, MURPHY, FANNIN, GURNEY, SAXBE, AND SMITH OF ILLINOIS

INTRODUCTION

Few challenges facing America in the 1970's are as important as a new policy on aging—one leading to decent living standards, independence, and meaningful retirement years for all older Americans.

Multiplications of choices open to each older person in his or her continuing pursuit of rewarding experiences is essential.

National policy should encourage older Americans to make full use of their growing potential for economic, spiritual and social involvement in family, community and national life.

Solutions to problems of senior citizens must relate to changing patterns in the aging process. Life expectancy will continue to lengthen, not shorten. Individual physical and mental abilities will grow, not decline. Reasonable needs for income to afford necessities and niceties of life will expand, not contract. Capacity and desire to take care of one's own needs, and demands for more diversified opportunities to do so, will increase, not diminish.

If society continues to ignore dynamic progress in aging, it will compound an already serious problem.

Creation of sound national approaches to aging will require many changes in attitudes. Imaginative and intelligent responses will be required by all elements of society, including, senior citizens themselves.

Modification of retirement patterns and employment rules in recognition of expanding capacities and desires of many older Americans for active participation, full or part time, in the Nation's economic life should be a major ingredient.

Development of adequate community service opportunities for older persons whose retirement brings a desire for new socially oriented careers should play an important part.

Society's responses to individual needs at all ages should recognize that most people will grow old. One preventive measure deserving of high priority is expansion of work opportunities for persons who have not reached retirement age, but are denied jobs because of age. They are thus forced into situations which make their retirement years a prospect of social and economic deprivation.

Obviously improvements in Social Security, private pension plans and other sources of financial support designed to assure adequate retirement incomes are imperative. These should offer greater flexibility so as to increase individual options.

Achievement of a golden age in aging will take time. No one knows this better than the older American who has been misled by overly optimistic promises or suffered dashed hopes as he competes unsuccessfully with other demands on our Nation's resources.

The magnitude of the problem, however, is no excuse for delay. Certain actions should be taken now. As a minimum, therefore, we urgently recommend early action by the Congress which will look to:

1. Automatic cost-of-living increases in Social Security benefits to prevent hardships due to inflation.

2. Across-the-board increases in Social Security benefits.[1]

3. One hundred percent of primary Social Security benefits to older widows.

4. Major liberalization of the Social Security earnings test so as to prevent discrimination against those who continue to work, full or part time, especially those with relatively low Social Security benefits.

5. Upward adjustments, actuarially determined, in Social Security benefits for those who defer retirement beyond 65, so that their continuation in the work force will not be penalized.

6. An Older Americans Income Assurance Program offering income supplements to the elderly who otherwise would not be able to attain a decent standard of living or would be forced onto public assistance.

7. Medicare coverage for persons past 65 not presently covered and in need of such coverage.

8. Improvements in medicare service and financing which will reduce excessive burdens improved by current deficiencies.

9. Updating of retirement income tax credit provisions of the Internal Revenue Code.

10. Exclusion, subject to a reasonable ceiling, of medical and drug expenses from older persons income subject to Federal taxation.

11. Adequate financing for research in aging.

12. Sound governmental policies which will help bring inflation, the most universally serious problem for older Americans, under control.

NATIONAL POLICY IN AGING—A LONG VIEW

If we are to achieve the valid objectives of today's older Americans and acceptable roles for those who grow old in the future, it is necessary to develop broad new national policies in aging that recognize how outdated are 19th century stereotypes of older persons.

Implementation of humane and realistic policies will require major changes in attitudes toward aging on the part of government, business, education and all other elements of society including older persons themselves.

Recognition must be given to the expanded ability of persons at all ages to participate as fully as they desire in the Nation's economic and social life and to the growing emotional need of people in their sixties, seventies, and even their eighties of involvement in the mainstream of life.

There should be a reversal of social and economic patterns which force millions of older Americans, usually against their wills, into situations of rejection and dependence.

Rejection as first-class citizens capable of full participation in the responsibilities and rewards of active life is incompatible with the competence which most older people can bring to the challenges facing the Nation.

Dependence for many older Americans is especially abhorrent when, as is often the case, such dependence means inadequate opportunities.

In a nation where demand for skills, wisdom, and experience increases almost daily, it is totally inconsistent to erect barriers which restrict opportunities for individuals possessing such talents from making them available as fully as possible, either for hire or as volunteers.

There should be compassion toward older persons in need, but few older Americans really want compassion. They want to receive what is their's by right. First among these rights is the right to choose.

Maximization of choices open to each older person should be the objective of a new national policy on aging—choices with dignity and independence to which all senior Americans are entitled.

It is to be hoped that the 1971 White House Conference on Aging will seriously address itself to this question. It can be especially important because it is unrealistic to assume that creation of maximum choices can come overnight or without a massive, concerted effort. We cannot, however, ignore immediate consideration of present impediments to decent opportunities for older Americans. Their problems are too serious, too important.

Obviously there is no meaningful choice when millions of older Americans, through no fault of their own, are unable to pay for the barest necessities of life. Correction of this situation deserves highest congressional priority.

There is no choice when individuals are forced against their wills to leave their employment at an arbitrary age without regard for their abilities or desires. Compulsory retirement policies need careful reexamination by every individual and organization with responsibility for employment practices.

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[1] Senator Miller notes that a 15-percent increase in benefits went into effect on Jan. 1, 1970, as that an automatice increase in benefits to keep pace with increases in the cost of living should be adequate, with exceptions to be covered by an Older Americans Income Assurance Program. (see recommendation 6.)

There is little choice in retirement when policies of employers and even Federal programs, such as Social Security, prevent or discourage individual efforts to supplement income with part-time employment.

It is not uncommon for persons to enter retirement with the prospect of 20, 25, or more years remaining in their lives. Most, if not all of these years, may be accompanied by a zest for living which mitigates against nonparticipation.

Many other Americans have concluded that part-time work is essential to their own happy retirement and have accordingly maintained or resumed a modified role in the work force. Many more, particularly men, have been denied opportunities for such participation because of employer attitudes, or have passed up what they regard as desirable opportunities because of their fears as to the effect such work would have on their Social Security benefits.

We believe it is accurate to say that a high percentage of those now past 65 believe a comprehensive review of the Nation's retirement attitude is in order. We believe that such reappraisal, looking at all factors, including economic, social, physical, emotional, spiritual and psychological, should make full use of what retirees themselves think as well as the results of research in these areas.

Countless other items of significance to the future of aging and older Americans deserve review. The time to begin reexamination and change of attitudes is now.

The next three decades, if available evidence is even partially reliable will see further increases in length of life, in physical and mental abilities, and in social and economic appetites among older people as a result of continuing progress.

Serious students of the physiology of aging predict that by A.D. 2000 average life expectancy may be 90 or 100 years. Some researchers suggest even more dramatic shifts. In a century such as this, with serious plans developing for trips to Mars, who can ignore the optimism of science?

If an increase of 20 or 30 years in life expectancy is accompanied by probably improved levels of health and physical-mental potentials at all ages, it is obvious that present attitudes in aging, particularly regarding the proper patterns of retirement, will be completely inadequate. There is serious question as to whether many are not already out of date.

Recent years have seen emergence of a curious paradox in aging. Better health and education are raising abilities of older persons to participate in the Nation's mainstream—and their desire to do so. Simultaneously there has been a marked increase in pre-65 retirement.

If this were proof of America's success in solving the retirement income problem, there would be no grounds for complaint. Such is not the case. If, on the other hand, it represents a failure of society to meet the needs of a revolution in aging, it takes little imagination to see that additional increases in life expectancy will but compound an already serious problem.

Data reviewed by this committee shows that much of early retirement is by persons with lowest incomes—lowest incomes both before and after retirement. Decisions of many persons to "retire" have resulted from loss of jobs and inability to obtain other suitable employment. More have been encouraged to retire by suasions of various retirement programs, reinforced by social pressures to quit, even though personally reluctant to do so. Many, both underprivileged and affluent, have been forced out of their life work prematurely by rigid retirement policies.

Many older Americans have been and are resentful of the negative compulsion applied to them by society during their sixties and seventies. They rightfully feel they should have more choices as long as they live and are capable of enjoying the responsibilities and rewards of life.

Successful response to the highly varied economic, social, physical, and psychological needs of tens of millions of older Americans requires study, thought and imagination. Expansion of choices for each individual should be the objective.

Complexity of the problem, however, in no way justifies delay in congressional action on problems that are obvious and immediate.

SOCIAL SECURITY

As has always been the case, the greatest problem for older Americans is income. Large numbers of persons past 65 obviously do not have the money necessary to meet the costs of decent standards of living. Others have experienced severe losses in purchasing power because of inflation during the last 10 years. Many who retired in comfort now find themselves in or near straitened circumstances.

Our Nation's most immediate goal should be steps to assure all older Americans at least a decent minimum standard of living.

This effort calls for improvements in private pension programs, successful implementation of President Nixon's campaign to bring inflation under control, expansion of opportunities for individuals to supplement retirement income through their own efforts, and a variety of other measures.

Few congressional actions would have more widespread immediate effect, of course, than improvements in Social Security.

The recently adopted 15-percent increase in benefits is commendable, but it only represents a begining in necessary upgrading of the Social Security system.

One improvement which minority members of the Committee on Aging and the Republican Party have long advocated is provision for an automatic cost-of-living increase in benefits to provide immediate response to rising price levels when they occur.

As when introduced first in the Senate by Senator Jack Miller of Iowa, such an automatic escalation in benefits requires no increase in the Social Security tax rates. It would obviate the game of "catch-up" which has characterized Social Security since its inception, a game in which beneficiaries have been consistent losers.

Adoption of this proposal would give assurances to younger potential beneficiaries that their benefits would be payable in amounts at least equivalent to the dollars they are paying in current taxes. This becomes important to the whole system's integrity as evidence grows of reluctance on the part of younger people to support rising costs of the Social Security program.

It is time to quit playing political football with Social Security and the needs of the aging. Too often past increases, actually amounting to no more than living-cost adjustments, have been voted by the Congress only after delay has forced many beneficiaries into inexcusable financial difficulties. Such increases could have been made automatically within the fiscal competence of the Social Security system when the aging needed them most rather than when they offered political advantage to Members of Congress. It is such immediate responses to needs of beneficiaries that is recommended through the proposal for automatic living-cost adjustments.

Precedent has been set for such a policy in other federally supported pension programs. Why should it not be extended at once to the mass of older Americans relying on Social Security?

While living-cost increases are important in modernization of Social Security, they are not a substitute for increasing the overall adequacy of the system in its design to provide income for older Americans. There is also need for across-the-board increases.[2]

The plight of widows and discrimination against them in the Social Security benefit structure likewise deserve prompt attention.

Elsewhere in this Committee on Aging report and repeatedly in those published in the past, it has been observed that no group among the elderly is subject to more severe economic handicap than aged widows. One contributing factor is failure to pay the same Social Security benefits to surviving wives as is paid to surviving husbands. Normally the latter receive 100 percent of primary Social Security benefit on the death of their spouse; the widow, however, receives only 82½ percent. There seems to be no excuse for such discrimination and we recommend its prompt correction.

Two other changes in the Social Security system are of pressing importance if we are to increase choices available to older Americans.

The first of these relates to limitations on earnings by a beneficiary.

Current limitations of $1,680 per year on the amount one can earn without penalty is totally unrealistic. The provision that a beneficiary lose only half of earned income between $1,680 and $2,880 is awkward and cumbersome.

The present limitation discourages many who would like to supplement pension payments with income from part-time work. In times of inflation this can be most important. The restriction virtually prohibits gainful full-time employment by others, often including those whose incomes are lowest and those who derive their greatest satisfaction from employment.

There is evidence the earnings limitation sometimes reduces the amount paid to those who insist on working. Without it, they would receive more money for the same work.

It should be noted, too, that while a person may receive large income from other sources without penalty, the earnings limitation applies as much to those receiving minimum Social Security benefits of $64 a month as to persons receiving maximum benefits.

In any event, this earnings limitation as now applied is seriously and properly objected to by older Americans. Its substantial liberalization would be a major step in increasing choices available to them. We recommend early consideration of such a change.

A second step which would increase choices open to Social Security beneficiaries would be through expanding the program's flexibility for those who choose to continue work after 65.

Without flexibility in the system, it is difficult for individuals to tailor it to personal situations they face in later years of life.

Some flexibility has been gained by changes which permit persons to elect receipt of benefits before age 65. Lower payments are received when such election is made.

When a person elects to defer benefits until age 66 or 68 or 70, however, he gains virtually nothing. Indeed, without increasing his benefits, he is actually required to pay additional Social Security taxes. The inequity of such a practice is obvious.

This discrimination against the person who desires to continue employment not only goes against the personal preference of many senior citizens, but also against professional opinion as to what is best for older persons.

We advocate consideration of improvement in the Social Security system which would permit realistic annual increments in benefits for persons electing to postpone retirement to ages beyond 65.

INCOME ASSURANCE PROGRAM

Important as improvements in Social Security may be, it must be recognized that they have their limitations.

For this reason we urge that Congress give most careful consideration to development of an Older Americans Income Assurance Program, outside the welfare pattern, which will assure at least minimum income, through governmental supplements, to all the elderly

[2] See footnote 1.

who otherwise would not be able to receive a decent standard of living.

Whether such a program should be completely financed and administered by the Federal Government, or involve a combination of Federal and State funds may be subject to argument. The fact remains, however, that some such approach appears necessary if this Nation is to meet its obligation that all older persons enjoy decent standards of living.

One such proposal was offered in the 90th Congress and with modifications again in the 91st Congress by Senator Winston Prouty of Vermont. Senator Prouty's bill, S. 3554, provides that there be a Federal supplement to bring the total income of each unmarried person over 65 up to $1,800 a year and each married couple up to $2,400. The amount of subsidy would be the difference between other income of the individual or couple and the $1,800 and $2,400, respectively.

Some mechanism such as this seems to be the one way that the problem of income inadequacy can be met at a cost in keeping with the willingness of younger people to pay the bill, and this is particularly true if financing occurs out of the general fund rather than through Social Security taxes.

As an income supplement program, the cost to the taxpayer would be substantially lower than that required by any effort to raise Social Security minimum benefits to comparable levels. This is extremely important because there appears to be little disposition on the part of the Congress to raise minimums to such levels in the near future. Congressional reluctance is undoubtedly inspired by the feeling of younger people who must pay the taxes necessary for any Federal program which is financed through Social Security taxes.

Senator William B. Saxbe of Ohio has approached it in another way by offering an amendment to the Administration's proposed Family Assistance Act which would provide for supplements to a minimum of $155 monthly for persons age 72 or over.

However desirable it might be to promise older Americans that their basic economic needs can be met through raising Social Security minimum benefits now to $125 or $150 a month or more, it is grossly unfair to do so. Nothing in the 35-year history of Social Security suggests that Congress will take such dramatic action, regardless of how badly it might be needed. The obvious reason that such promises are unrealistic is the cost and destruction of the concept of Social Security as "insurance" rather than a welfare program.

Sympathetic as they may be to the importance of caring for their seniors, young workers appear unwilling to pay the increased Social Security taxes necessary to support such minimum Social Security benefits. Their attitudes are reflected in the hesitancy of the Congress to pass such proposals.

It is a fact that many young Americans, struggling to meet immediate family expenses, are paying Social Security taxes greater than their Federal income tax liability. Simultaneously, as much as 40 percent of income subject to Federal income taxes is exempt from Social Security taxation, much of it in the hands of persons most able to pay.

For the present, however, the one approach which would be responsive to the needs of the aged and do so with a price tag which could be borne by the young appears to be that offered by an income assurance plan. This could help those who need help most without creating a windfall for those now able to take care of their own financial needs.

A general income supplement program would also serve the many persons not now covered by Social Security, such as some school teachers, State and Federal government employees, and others whose employment is not or was not covered in the past by Social Security. Large numbers of these persons are among those with lowest incomes.

Efforts to provide some protection to persons not covered by Social Security began in 1965 with the Prouty amendment which authorized payments in the amount of $35 monthly (now $46) to such persons age 72 and over who had no other pensions. Even with all the limiting amendments imposed by Congress on this proposal, the problem's magnitude is indicated by the fact that over 600,000 persons qualified. For many it was the only source of cash income.

It should be noted that an income supplement program, however devised, would have an advantage as a mechanism to eliminate abject poverty among the elderly because it would avoid unearned increments to persons, some of them wealthy, who are not in need.

This is why the total net cost to the taxpayer, important to favorable consideration for any proposal, would be much lower than a comparable Social Security minimum benefit.

MEDICARE

After 3 years of operation, the Medicare program obviously is beset by numerous problems. Since these are now under examination by congressional committees with legislative responsibility in these areas, it is unnecessary here to review the numerous shortcomings which have been encountered. Even with Medicaid as a supplement, however, it appears necessary for revisions in delivery of medical care under programs supported entirely or in part by Federal funds to see that they more satisfactorily meet the most critical medical needs of the aged.

Financial and service delivery problems are making it increasingly difficult for Medicare to fulfill promises made for the program. Simultaneously there have been numerous complaints from beneficiaries because of service inadequacies. Difficult as the task may be, it is evident that attention first must be given to correction of these deficiencies as a prelude to broadening provisions of the law. Such revisions should recognize, however, that there are many serious unmet medical needs among the elderly to which careful attention should be given.

One problem of particular concern to us is provision of long-term care to older persons with varying degrees of disability and illness. We believe it imperative that Congress address itself most carefully to this problem so as to ease the heavy burdens now imposed by protracted terminal illness and highly expensive, irreversible chronic disease.

The percentage of older persons, whose disability and illness needs can efficiently be met through institutional care such as offered in homes for the aged, nursing homes and similar institutions, is small. None-the-less the cost of their care remains one of the most frightening possibilities facing older Americans and their families.

We recommend, further, that Medicare be extended to all persons over 65, regardless of Social Security status, who are in need of such coverage. Many persons not now covered have financial need as great as those who are beneficiaries. Financing of such coverage should come from the general fund of the Treasury, otherwise those who pay Social Security taxes will be paying for a program not primarily designed as "Insurance."

TAXATION

One serious problem facing many older persons, as revealed repeatedly in Committee on Aging hearings, is that created by rising taxes.

There are at least two other areas which are clearly subject to effective Federal tax relief.

We recommend updating of retirement income tax credit provisions of the Internal Revenue Code. The retirement income credit section of the code was enacted in 1954. It established for certain retirees a tax benefit similar to that other have by means of the tax-free income they received from Social Security. The retirement income credit was computed on the maximum Social Security benefit. By the language of the tax code, however, the tax base still stands at $1,524 which was the appropriate figure 8 years ago. Since that time there have been several Social Security increases, but no comparable adjustment in the retirement income credit provision. The Congress should consider updating section 37 of the 1954 Internal Revenue Code to provide as nearly as possible equal tax treatment for all retirement income.

We urge action further to simplify that portion of tax return forms related to retirement income credit in recognition of the fact that its present complexity results in many older persons paying taxes in excess of the law's requirements.

We also recommend that medical and drug expenses of older people, including those related to dental services, be made deductible subject to a reasonable ceiling, from income subject to Federal taxation. This could be a reinstatement of deductibility for persons past 65 as applied to Federal income tax prior to 1967.

RESEARCH IN AGING

If our objectives for all older Americans are to be achieved with reasonable speed, the Nation needs facts—facts about the present and facts about what may be in the future.

We strongly recommend increased support, financial and otherwise, for immediate expansion of research in the field of aging.

Doubtless almost all basic and applied scientific research is of benefit to the old as well as the young. There needs to be more careful determination, however, of how the products of such research may be applied to the particular problems of those in middle and later years.

There is need, too, for more effective research directed specifically at the implications of age in order to develop realistic and flexible national policies and attitudes toward aging which can more satisfactorily meet the needs of people.

Obviously the Nation needs more distinguished scholarship such as the work at the University of South Florida, University of Iowa, Drake University, Duke University and the Ethel Percy Andrus Gerontology Center at the University of Southern California. That it be the sense of the Congress that such gerontological centers be encouraged has been called for in Senate Concurrent Resolution 24 introduced by Senator George Murphy of California for himself and other minority members.

Research obviously should range far beyond the physical sciences. Possibly the greatest need may be for research in the economic and social aspects of the aging phenomenon.

Practical research should also permit full expression by older Americans themselves about their problems, desires and estimates of what is needed for the future.

INFLATION

No review of today's needs of older Americans would be complete without reference to the most serious and universal economic problem they face—inflation.

President Nixon deserves highest commendation for placing control of inflation at the top of his domestic objectives.

Any effort to preserve the value of the older American's fixed income should be applauded. We urge the Congress to give the President full support in this campaign.

Minority members of this committee have repeatedly taken the lead in recognizing that the most universal and serious sources of problems of older Americans is the massive loss of real income through inflation.

We have maintained, with wide support from economic experts, that control of inflation can only be achieved through Fed-

eral policies which are fiscally sound and by roll call votes of Members of Congress which are consistent with such policies.

We reiterate our concern for reduction in and postponement of unjustifiable or low-priority Federal expenditures. It is essential that those in control of the Congress face up to their responsibilities and put an end to rising public deficits and debt, which lay the foundation for inflation and high interest rates.

Previous minority reports of this committee have discussed how inflation injures the worker in factory, shop, office, or on the farm. The facts are too evident to require repetition here now. The truth is all citizens, save possibly the very rich, are hurt by rising living costs. None suffer more, however, than older persons.

SUMMARY OF RECOMMENDATIONS, MINORITY VIEWS, SENATE SPECIAL COMMITTEE ON AGING

The following are the *Minority Recommendations, Senate Special Committee on Aging,* as they appear in the introduction of Minority views signed by Senators Prouty, Fong, Miller, Hansen, Murphy, Fannin, Gurney, Saxbe and Smith (Ill.):

1. Automatic cost-of-living increases in Social Security benefits to prevent hardships due to inflation.
2. Across-the-board increases in Social Security benefits.[1]
3. One hundred percent of primary Social Security benefits to older widows.
4. Major liberalization of the Social Security earnings test so as to prevent discrimination against those who continue to work, full or part time, especially those with relatively low Social Security benefits.
5. Upward adjustments, actuarially determined, in Social Security benefits for those who defer retirement beyond 65, so that their continuation in the work force will not be penalized.
6. An Older Americans Income Assurance Program offering income supplements to the elderly who otherwise would not be able to attain a decent standard of living or would be forced onto public assistance.
7. Medicare coverage for persons past 65 not presently covered and in need of such coverage.
8. Improvements in medicare service and financing which will reduce excessive burdens imposed by current deficiencies.
9. Updating of retirement income tax credit provisions of the Internal Revenue Code.
10. Exclusion, subject to a reasonable ceiling, of medical and drug expenses from older persons income subject to Federal taxation.
11. Adequate financing for research in aging.
12. Sound governmental policies which will help bring inflation, the most universally serious problem for older Americans, under control.

WHITE HOUSE CELLAR BOOK OF CALIFORNIA WINES

Mr. MURPHY. Mr. President, Representative DON CLAUSEN and Representative B. F. SISK, both of California, and I recently had the honor, with Mr. Harry Serlis, president of Wine Institute, of presenting to President Nixon a White House Cellar Book of California Wines. The book represented a gift from the Wine Growers of California to the wine cellar of the White House. Wine growing in California is completing its bicentennial celebration, and it is entirely fitting that these excellent wines, the result of 200 years of care and skill, take their proud place in American hospitality.

As the third century of California wines begins, we recognize that wine has been a part of civilized dining for thousands of years, it is a food, a unique beverage, a gentle relaxer and promoter of sociability. It has been praised and honored by great men of the present and the past. It is healthful, moderate, tasteful, and refreshing. As a natural product of the soil, it is directly identified with agriculture as a food.

Americans everywhere can be proud of the recognition and respect that California wines receive from throughout the world. English connoisseurs are considered touchstones in the field of wine because theirs is not a wine growing country. Their reactions in the past few years have provided a superlative accolade for the wines of California.

British writer Hugh Johnson, author of "Wine"—Simon and Shuster, 1965—a standard text in the field, wrote then:

> California's best wines are comparable with the classic wines of Europe.

Mr. Johnson completed a short trip to California earlier this year and reported in the New York Post, April 2:

> It's like somebody discovered a new France; I spend all my time looking for good wines and suddenly I've discovered a wonderland!

British Wine magazine editor K. D. Bourke, after her extensive California visit in 1967, wrote:

> We tried some of their 1963 Chardonnay which connoisseurs swear by and indeed this was a fruity, delicious, rounded, highly individual wine of great character.

Harry Waugh, a director of Chateau Latour, also is well known as a British wine writer. Among his many comments praising California wines is, "How splendid these fine California red wines are."

An English writer, Alec Waugh, has commented:

> California wines are superb—a great achievement for the world of wine.

This is not to say that wine-producing countries have not been highly complimentary concerning our wines. Numerous experts from long-established wine growing countries have praised California wines highly.

A group of Bordeaux wine officials visited California last March, tasted hundreds of wines and found them excellent.

Further evidence of the international respect held for our wines is that each year students and wine industry professionals from around the world came to visit, to study, and to learn from our vintners and from our famed California schools of viticulture and enology. Many of the enological innovations pioneered and proved by Californians have now been adopted in some of the most highly regarded foreign wineries.

Therefore, it was only natural that at the presentation our President expressed his appreciation of the wines of his native State and assured us that for reasons of diplomacy or for other considerations foreign wines are sometimes served; American wines are served proudly at the White House.

SENATOR MURPHY JOINS REPUBLICAN WOMAN IN URGING THE ENACTMENT OF SENATE JOINT RESOLUTION 61

Mr. MURPHY. Mr. President, Mrs. Gladys O'Donnel, a fellow Californian and a close friend of mine, is at present the able president of the National Federation of Republican Women, an organization of half a million dedicated women.

On May 7, in testimony to the Judiciary Subcommittee on Constitutional Amendments, she strongly and forcefully argued for the enactment of Senate Joint Resolution 61, the proposed equal rights amendment. I am a coauthor of this amendment, and along with Mrs. O'Donnell believe that it is indeed time for Congress to take this basic constitutional step to provide equal rights to women across this land.

Mr. President, this year marks the 50th anniversary of the ratification of the 19th amendment to the Constitution, which extended to women the precious right to vote. In those 50 years, women have contributed so much to our political process and to making democracy work. Yet, there remains discrimination against women today. I ask unanimous consent that the complete text of Mrs. O'Donnell's statement be printed in the RECORD. I certainly agree that "favorable action on this simple request could bring historic distinction to Congress and earn for it the lasting gratitude of American women."

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

STATEMENT OF MRS. GLADYS O'DONNELL

On behalf of our Board of Directors and half million members I express appreciation for the opportunity to present the following statement for the National Federation of Republican Women.

The Equal Rights Amendment has long been supported by our organization, and on January 23rd, 1970, to reemphasize our endorsement, it was again approved by a unanimous vote of our Board of Directors.

The extraordinary anachronism of this hearing is that it is taking place in the early twilight of the twentieth century; that it finds women still struggling for equality in an enlightened, libertarian society. One hundred and ninety-four years ago the Declaration of Independence set forth the philosophical tenets of a young nation—"we hold these truths to be self-evident, that all men are created equal, . . ."

Beyond all doubt the word "men" is used in its generic sense and women were not excluded, but we must admit that men are much more "equal" than women.

It has been my privilege to hear two days of testimony in this hearing. Witnesses established with professional skill and clarity the framework for legal and economic consideration of the Equal Rights Amendment. The women who made the presentations deserve profound admiration.

The hearings also provided an unbelievable defense of discrimination against women, first through Biblical quotations to prove their inferiority, and secondly by a slide presentation of chairs, tools and other in-

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[1] Senator Miller notes that a 15-percent increase in benefits went into effect on Jan. 1, 1970, so that an automatic increase in benefits to keep pace with increases in the cost of living should be adequate, with exceptions to be covered by an Older Americans Income Assurance Program. (See recommendation 6.)

dustrial devices to show that they are not suitable for women's anatomy. Neither quality nor excellence is a matter of size or shape. The opposite poles of this argument could be the late, great Babe Didrickson and Tiny Tim.

In this presentation it is my wish to approach the subject as a matter of the heart and spirit and then as a political reality.

This year we celebrate the 50th Anniversary of the 19th Amendment which gave women the right to vote. Last year we honored the State of Wyoming which, as a territory, gave this recognition to women 100 years ago. Mrs. Esther Hobart Morris of South Pass, Wyoming, guided the victory. Shortly thereafter she was appointed justice of the peace of South Pass, the highest honor the West could bestow for a quality it admires most—true grit.

As we prepared a suitable tribute to the women pioneers who carried the crusade for the right to vote, we did considerable research. To know their story is to be acutely aware of the enormity of their legacy; the unwavering, single-minded purpose; the courage of heroic measure. Will we never know women like this again—magnificent women who bring a lump to our throats?

The settlement of the west, or any other part of this country for that matter, owes more to the endless toil of these pioneer women than to all other factors in its history. A character in Edna Ferber's *Cimarron* tells it this way:

"You can't read the history of the United States, my friend . . . without learning of the great story of those thousands of unnamed women . . . women in mud caked boots and calico dresses and sunbonnets, crossing the prairie and the desert mountains, enduring hardship and privation. Good women with a terrible and rigid goodness that comes of work and self-denial. Nothing picturesque or romantic about them, I suppose. . . . No, their story's never really been told, but it's there just the same. And if it's ever told straight, you'll know it's the sunbonnet and not the sombrero that's settled this country."

The greatest of all observers of the American scene mid-nineteenth century, Alexis de Tocqueville, said, "If I were asked . . . to what the singular prosperity and growing strength of the United States ought mainly to be attributed, I should have to reply 'To the superiority of its women'."

The first national convention for women's suffrage was held in Seneca, New York, in 1848. Seventy-two years later, in 1920, the 19th Amendment was passed. It was just a step in a long journey—the struggle continues.

Granddaughters and great great-granddaughters of the pioneers are now in the forefront. Their quest is for the Equal Rights Amendment. It has been before Congress for 47 years. In this interim women have been more quiescent, but now the tide is rising and the mood changing. Predictably the old bromides and cliches are being dusted off. We have heard many of them at this meeting. There is a very special concern about legislation protecting women. If I read the evidence correctly there is a large question about *who* is getting the protection. Too often it turns out to be not protection but insulation—a buffer between women and opportunity, higher wages, faster promotion and positions of leadership.

This is not what women want. We reject it. Women want to be accepted as people, free independent human beings. As such we would have the coinciding benefits—equal opportunity, compensation, recognition and inclusion at policymaking levels. Collectively and individually we would like to be in on some of the take-offs since we are always there for the crash landings.

Women do not desire to dominate what man has so long considered his private domain, and which he is loath to share. We just wonder why man needs so much defense of his masculinity. The great majority of women are happy as homemakers. But those of us who choose a career want to be accepted and treated as equals.

Women make up 40% of the workforce, represent 51% of the population. We have expanded beyond the four walls and roof that once defined our province, and are escaping the psychological conditioning of inferiority that has been imposed upon us since time began.

Varying figures place the preponderance of women over men in the United States at 4½ to 7 millions (voting age). These are politically significant figures and it is ironic that we are here today endeavoring to justify a plea for an Equal Rights Amendment that we should have had long ago as a matter of simple justice. We are tired of being the silenced majority.

Looking back across the years since the 19th Amendment we can see where women erred. Winning the vote was accepted as an end in itself, which it was not. Having won political power, women have never used it. Therein lies our failure.

It is the opinion of many astute women in politics that we will not get any place until we elect more women to high office. This is a major goal of our Federation. We are urging State Federations to seek out qualified women of character, stability and training to become candidates. Once they have been nominated, either by primary election or convention, we will assist in every way in the general election.

Where we do not have women candidates we will screen the potential men who are anxious to run and encourage those who are sympathetic in matters of concern to women. This is in the best political tradition—the way in which every group achieves its political objectives. It is time that women used a little of their abundant political moxie.

The proliferation of women's activist groups across the nation speaks eloquently and sometimes stridently for itself. Approaches vary widely, as at this hearing, but the goal is the same—equal rights and protection under the law, acceptance as persons, and recognition based on individual merit.

How little this is to ask after centuries of patient, enduring servitude and imposed inferiority.

Women can be a powerful force, acting collectively on an issue generating as much heat and polarization as the Equal Rights Amendment. A determined mood long absent from women's groups is spreading—its emotional logic is that nothing less than militancy is effective. We hope this is not true.

Years of experience and costly legal procedures have proved that the 5th and 14th Amendments and Title VII of the Civil Rights Act are not the answer to our need. The void in our Constitution concerning women should be bridged by an Amendment in clear, simple language which recognizes us as first class citizens with equal rights and protection under the Constitution.

Favorable action on this simple request could bring historic distinction to this Congress and earn for it the lasting gratitude of American women. And how wise and ingenious it would be to magnanimously grant this recognition now—while there is still time!

In closing there should be no clearer summation of the objectives of proponents of the Equal Rights Amendment than the slogan of those early pioneers in the movement for women's rights—"Principles, not policy; justice, not favor; men, their rights and nothing more; women, their rights and nothing less."

JUSTICE DEPARTMENT LAUNCHES PILOT PROGRAM TO CONTROL WILD MARIHUANA IN THE UNITED STATES

Mr. GRIFFIN. Mr. President, the Department of Justice today announced initiation of a nationwide program to identify and control the growth of wild marihuana within the United States.

This news is still another indication of the firm resolve of the Nixon administration to deal effectively with the overall drug menace which has afflicted countless thousands of people, particularly the young.

Mr. President, I ask unanimous consent that a news release, issued today by the Department of Justice, be printed in the RECORD.

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

NEWS RELEASE OF DEPARTMENT OF JUSTICE

A nationwide program aimed at the identification and control of wild marihuana during the current growing season was highlighted today by the Department of Justice.

In making the announcement, Attorney General John N. Mitchell pointed to the extensive efforts currently underway by the Federal Government to suppress foreign sources of supply, and cited disturbing reports that marihuana traffickers will increase their efforts to harvest wild growth of domestic marihuana as a replacement. The problem of domestic infestation has been largely attributed to the World War II era when marihuana was cultivated as a substitute for Manila hemp, although subsequently abandoned as a commercial crop.

This board program has been developed as a joint effort by the Bureau of Narcotics and Dangerous Drugs and the Extension Service of the Department of Agriculture. The Department of the Interior and Defense will also participate to ensure coverage of Federally-owned lands.

As part of the overall program, a pilot experimental project has been designed for twenty counties in ten States which are considered representative of the broad central area where marihuana growth is believed to be most prevalent. Those counties selected are: Henderson and Cook (Illinois); Kosciusko and Jasper (Indiana); Mitchell and Adams (Iowa); Jessamine and Fayette (Kentucky); Berrien and Cass (Michigan); Meeker and Blue Earth (Minnesota); Ray and Andrew (Missouri); Warren and Licking (Ohio); Walworth and Columbia (Wisconsin); and Marshall and Riley (Kansas).

Approximately thirty weed control specialists and County Extension Agents from the aforementioned States will meet with representatives of the Departments of Justice and Agriculture in St. Louis, Missouri on June 23 to map final plans for implementation of the program. R. Richards Rolapp, Special Assistant to the Deputy Attorney General and George H. Gaffney, Special Assistant to the Director, Bureau of Narcotics and Dangerous Drugs, will represent the Justice Department at these meetings.

Voluntary support and participation on the part of farmers, ranchers and other land owners, together with agricultural and civic organization, is regarded as the keystone of the project.

THE REAL ENEMY IS HANOI

Mr. HANSEN. Mr. President, the Washington Post carried a story this morning quoting the junior Senator from

South Dakota (Mr. McGOVERN) as saying the Vice President of the United States of America, "has done more to divide and weaken the country, perhaps, than our enemies in Hanoi have done."

This is one of the most remarkable statements of the week.

I am sure that the junior Senator from South Dakota does not mean to imply that the killing of over 42,000 American men by "our enemies in Hanoi" is of less consequence than the call to patriotism by Vice President AGNEW.

And I cannot believe that the junior Senator from South Dakota really intends to equate a few harsh words directed at him by the Vice President, with 141,000 Americans wounded by "our enemies in Hanoi."

I am sure the junior Senator from South Dakota would agree that if there is to be unity, it should be unity of the Nation as a whole rather than unity only on the grounds laid down by the demonstrators, the critics, and those who refuse to support the President of the United States.

Given the opportunity, Mr. President, I am sure the junior Senator from South Dakota would express himself in more temperate terms.

A REALISTIC APPRAISAL OF YOUTH ACTIVISM

Mr. PELL. Mr. President, in the past few months we have heard much commentary from high officials in the executive branch regarding the social and moral condition of their chief critics, the Nation's youth.

This past week a former official of the executive branch, who has recently returned from visits in 10 foreign countries, wrote a very perceptive article on the place of the young in our troubled society.

He makes what I consider to be a very realistic evaluation of the activist movement in the country. Thus, I would recommend his excellent article and his fine suggestions on youth involvement to the Senate.

I ask unanimous consent that an article entitled: "Youth Confronts the System," written by Joseph A. Califano, Jr., and published in the New Leader of June 8, 1970, be printed in the RECORD.

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

THINKING ALOUD: YOUTH CONFRONTS THE SYSTEM

(By Joseph A. Califano, Jr.)

There are as many views on student unrest as there are parents, alumni, professors, school administrators, and students themselves. We hear campus activists characterized as nymphomaniacs, because of their appetite for reform; agitators, owing to their penchant for confrontation; adolescent children, for their endless bickering; anarchist revolutionaries, with respect to politics; and amoral, in terms of sexual behavior. At the same time, they are called the most idealistic youth of the century; the most dedicated to the public good, and offended at the superficial materialism of modern-day society; the most intelligent, informed and politically aware generation in our nation's history.

Despite the obvious contradictions, there is some truth in virtually all of these comments. On the whole, though, I find the revolutionary trend, particularly where it touches large numbers of young people, to be a healthy force. The student movement is at a high emotional pitch, but it is also at an ambivalent crossroads. With some intelligence, a wise measure of understanding from the adult Establishment, and a good dose of staying power from the energetic young, it can become one of the most progressive and enduring catalysts in the last quarter of the century.

This feeling was reinforced by my observations last year in 10 foreign countries. While it must be stressed that my study was impressionistic rather than scientific, I found several common elements among students in the postindustrial countries.

1. The number of hard-core radicals was invariably quite small, rarely exceeding 1–2 per cent. In Japan, for example, with 1.5 million college students, no more than 20,000 could be called radicals; of those, 12,000 were relatively old-line Communists, and only 8,000 qualified as Maoists or anarchists.

2. The radicals' objectives were fuzzy and ill-defined, but their energies were directed at the whole fabric of modern society, not merely the university. Most radicals oppose representative democracy and Communism as inherently violent systems, insisting that both are more or less equally sophisticated in disguising this fact. Their confrontation tactics, argued the radical hard core, merely served to bring that violence into the open.

3. While radicals verbally reflect the influence of the romantic notions of Mao, Castro, Guevara, and Marcuse, they are, in a very real sense, undergoing a crisis of belief.

4. Affluence is unquestionably a significant factor in student unrest. The generally well-to-do society provides greater freedom from work for the young. Perhaps more important, the psychological and spiritual impact of prosperity on their parents—especially its failure to satisfy the purpose of their parents' lives—provides one of the key points of attack and frustration for the young.

(In this connection, we should be clear that "youth" alone is not what is happening to our own country. The median age—that national demographic benchmark—was 16.7 years in 1820. It was 29.2 in 1960, and the Census Bureau does not expect a sharp change following this year's count. But in 1820 the United States did not have 7 million college students; most 16-year-olds were already at work.)

5. In asserting the need for more individual freedom from the complexities of technological, urbanized life, the students have struck an immensely appealing chord across postindustrial societies around the world. Bureaucracy is everywhere—in big government, big business, big labor—and most adults are as offended as the young by its dehumanizing and often humiliating impact.

6. University conditions are generally abominable in Western Europe and Japan. Most universities bear a closer resemblance to our dilapidated and filthy metropolitan high schools than to our institutions of higher learning.

7. The traditional Left, Center and Right parties have failed grievously in two respects. They have virtually abandoned the student as an object of serious political interest, and they have refused to give the universities the resources needed to meet the demands of the population explosion.

8. The immediate conditions which precipitate riots are remarkably similar. A small group of hard-core radical students constantly probes for an issue to broaden its base of support. Instant communications, at least within the relevant geographical area, provide a big assist once this is found. Then the established authorities make a mistake, usually involving unfair discipline. For a first-class donnybrook, it helps to have a few radical professors bring the university's decisionmaking machinery to a state of indecision.

9. I found no international conspiracy among the students. The enormous similarity in their tactics is striking, but I believe it is attributable to the mass media, particularly television, and to the increase in student travel. There were, of course, the occasional assertions that Red Chinese funds are working their way into student movements, but I was unable to find any strong evidence of this.

Traveling from the postindustrial countries to such preindustrial countries as Kenya, Tanzania and, to a large degree, India—or, for that matter, to preoccupied nations like Israel and Czechoslovakia—one is struck by how little student unrest there is as we know it in the United States, Europe and Japan. Students are much more nationalistic, and activism is directed toward traditional concepts of constructive change. "We have a country to build and defend," explained one Israeli student. "We have no time for such nonsense." A Czechoslovakian student in England put it another way: "I cannot understand what the ferment in the Western world is all about. We are fighting for liberty; they seem to be abusing the liberty they have."

If the similarities between the student situation in the United States and the other postindustrial countries are hardly surprising, the differences are certainly striking. To begin with, there were no black-white racial questions at the universities I visited abroad, largely due to the absence of a significant number of black students. Even in France, where many blacks study, they are mostly from Africa and are not pressing to become a part of French society; they intend to return to their own countries, armed with the skills they have acquired at the Sorbonne. Although England is beginning to have its racial problems, black and white students, including South African radicals of both races, are working side by side for change at the London School of Economics.

Second, there is little or no drug problem at the universities abroad, and no significant hippie movement. Mod dress, long hair, dungarees, and fatigue jackets are common, to be sure; but the few instances of drug abuse are mostly attributed to the influence of American students.

Third, the ubiquitous Vietnam issue is not aggravated abroad by an unfair draft which, in our country, alienates the students and contributes significantly to the reluctance of university administrators to expel violent radicals.

Finally, there is no marked tendency among adults abroad—whether parents or politicians—to look upon their student unrest as part of some international (or even national) conspiracy.

Radical students the world over firmly believe the Establishment is involved in some sort of plot against the individual. They see it everywhere: in the military-industrial complex; in the Defense Department research contracts of universities and professors; in the correspondence files they rifle; in the power elite popularized by C. Wright Mills; in the lack of ideologically dominated and divergent political parties.

On the adult side of the equation, it is difficult to discuss student rebels in America at a suburban cocktail party without becoming involved in a discussion of conspiracy and Communism. Abroad, the subject virtually never arises. And when I myself brought it up, the listener was quick to dismiss it and contend that the issue is not whether there are some Communists among the students, but rather why so many bright young people turn to Mao, Trotsky or Marcuse rather than Jefferson, Lincoln or de Tocqueville.

The point is an important one, however much we might like to ignore it. First and foremost, I think, we must recognize that young Americans are experiencing a profound crisis of belief—a crisis many adults share, and for which they are at least partly responsible. For years our students have been subjected in school and at home to a relentless and not always healthy skepticism. As one professor recently explained it, "We have destroyed as myths the political, moral and religious doctrines of Western civilization, and we have failed to provide any substitute."

The crisis of belief goes far beyond radical students, questions about the relevancy of universities and their courses, or arguments on the legitimacy of individual professors to teach and of higher education institutions to continue in their present form. It even goes beyond the validity of existing political and social institutions. For many of our young people it goes to the very purpose of life.

Unlike many of their parents, who have abandoned the search, the students are desperately seeking answers to provide meaning to their existence. A few turn to bizarre life styles revolving around witchcraft, astrology, sorcery, Zen, and Teilhard de Chardin's Omega point. Father Andrew Greeley at the University of Chicago was surprised to learn that they are respected by their peers. The key lies in the comments of one of his students:

"They really believe what they say is true. They really believe that they do have the answer and that they know what is ideologically right and ideologically wrong. It is hard to avoid being affected by their enthusiasm after you have been in a school which really isn't sure what is right or what is wrong."

This crisis of belief is a chord politically radical students can strike with great effectiveness. Rendering harsh but subjectively sure judgments on everything from the university to the world to God, the radicals feel they know what is morally right and are acting sincerely, according to what their consciences dictate as the only acceptable course.

The crisis stems in many ways from the confusion students behold in the minds of their parents and teachers. This disorder of philosophy is more profoundly disturbing to them than the physical violence they witness on the streets, to which some are willing to resort. They are particularly horrified at what they look upon as hypocrisy in the lives of the adults around them.

They see it in professors more interested in consulting the government and corporations than in teaching; more interested in writing books and articles than spending time with individual students; more interested in the esteem of their colleagues than the respect of their students. Outside the university, they see it in political leaders who state that cities must be rebuilt or that law and order must be maintained, but fail to serve up humane programs or sufficient resources to do the job; in businessmen and labor leaders who do not live up to policies they publicly urge on others; in their own liberal white parents, who preach equality for all and yet live in white suburbia and oppose any tax increases.

Adults, in turn, detect at least as much hypocrisy in the young as the young attribute to the Establishment. They feel that the students' rhetorical determination to eliminate poverty, bring peace to the world, and accord justice to all Americans is rarely matched with the kind of personal involvement necessary to accomplish these aims. They note that the young can say, "We don't care about careers; we care about ideals," because adults have made society so affluent the youthful idealists will be able to eat and drink no matter what they do.

The result is backlash, a kind of adult adolescence. Now adolescence is understandable in teenagers; it is difficult to justify in an adult. But it is evident in legislative proposals to outlaw demonstrations or withdraw funds from students who engage in them; on boards of university trustees that fail to understand the complex problems facing their college presidents; among college alumni who threaten to withdraw financial support unless "something is done" about radical students. It is even apparent among university professors who begin to question their own legitimacy, their own authority to teach, merely because their fallible human nature—their very humanity—makes them realize they cannot live up to every single precept they are teaching.

And where immature behavior is reciprocal, it leads too often to superficial concerns and slogans on both sides. What is worse, it creates an enormous area of mutual suspicion far exceeding anything I found abroad. Under such circumstances, the trust essential for the resolution of any difficult problem between students and the Establishment is simply not present. Without that, it is perhaps possible through shrewd tactics to achieve temporary amelioration, but nothing more. Thus the first step toward improving the situation may be to identify some basic level of values the generations can share—a recognition by each, for example, that the other is at least in part finally seeking honest answers and is entitled to some measure of respect.

The proximate, if not ideal, catalyst for this effort could well be the faculties of our universities, particularly the younger faculty members. For they bear a high responsibility in this area and must fulfill it with a special wisdom. A few—small in number, but potent in impact—have failed grievously in this respect. These are the vicarious revolutionaries, who allow their healthy skepticism about society and its institutions as they now exist to degenerate into indiscriminate attacks devoid of proposals for constructive change. Too often, they deflect the disorder the student feels in his own mind onto the problems of society as a whole.

It then becomes a relatively short step for the student to follow this reasoning to its logical conclusion. With youthful energy as his main weapon, he begins—sometimes quite literally—to tear down many of the institutions and ideals that are critical to the functioning of a free society. There is no room in our nation today for the vicarious revolutionary—whether he is on the campus as a young instructor, or on television as a racist demagogue. Too much vital work remains to be done for men of talent to stand aside, egging on others to an essentially nihilist fray.

One of the central problems with the vicarious revolutionary is the ease with which he leaves the mainstream of society. In a relatively short time he is aloof from the real battle, involved only to the extent of the words he spoke or wrote, or the encouragement he gave to the young student. The vicious transformation of his utterances into violent action is something he can greet with a Pontius Pilate attitude. Yet the professor who becomes a vicarious revolutionary can no more wash his hands of responsibility for the student who dynamites a corporate office that he has been taught is a symbol of corrupt capitalism, than the Vice President of the United States can wash his hands of the brutal attack on black school children in Lamar, South Carolina. Both can issue exculpatory statements after the fact, but both must live with whatever they said to help make the fact. The First Amendment protects them legally (as it should); it does not, however, offer moral absolution.

This brings me to several brief suggestions concerning America's youth. I believe students must be given a greater measure of real control over their lives. I would place a young American on every draft board in the country, place students on boards of college trustees, and turn all parietal and disciplinary rules over to student bodies, short of a large demonstration or disorder (where the universities should reserve the right to move in, just as the Federal government does with the states). I would also appoint student assistants to the Secretary of Health, Education and Welfare and the Commissioner of Education, as has been done in France, and I would give students a chance to run at least one or two government programs, such as VISTA. Recent events may make it difficult to find students willing to be associated with the current Administration, but I believe a real effort should be made to get them involved. Indeed, both major political parties need to focus more energy and attention on the students.

As a nation, we must face the fact that a four-year university education is not appropriate, necessary, or fulfilling for every American boy and girl. In many cases it can be counterproductive for the student, not to mention destructive for society. As for those who argue that the university is the place to socialize our young, they are distorting its purpose as grossly as parents who believe the university should do for their children what they themselves failed to do over the first 17–18 years of their children's lives. Finally, I believe the government—Federal, state and local—must provide the resources necessary to finance the burdens placed on universities, high schools and elementary schools by the current student population explosion.

But what does this mean for the survival of the system? It means, above all else, that the rhetorical commitment of the American Establishment must be made real. By action and sacrifice, the Establishment must demonstrate that it believes its own words, for the youth of our nation will no longer be assuaged merely by platitudes and crisis amelioration. There are only so many protest marches, and petitions signed by hundreds of thousands; only so many lobbying and political education efforts that well-educated young America will produce before its energetic impatience turns to significantly worse violence than we have seen to date. And youth's charge of indifference and hypocrisy has greater merit than most adults would like to admit. However magnificent the Establishment's rhetoric of commitment, it is not the language of American reality.

Our most solemn commitments are found in the Declaration of Independence and the Constitution, the Proclamations and Executive Orders of our Presidents, and the preambles and sections of the legislative programs of the late 1960s—for housing, education, manpower training, health, and a host of other urgent domestic problems. Let me cite a few examples, taken from laws enacted by Congress.

Housing.—The Housing Act of 1949 declared that the "general welfare and security of the nation require the elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization . . . of a decent home and suitable living environment for every American family. . . ." In the 1968 Housing and Urban Development Act, Congress recognized that for 20 years the promise had not been kept, noted the failure "a matter of grave national concern," and rededicated itself to "the elimination of all substandard housing in a decade." Yet what has been done to fulfill that commitment to the 26 million Americans who still live in housing unfit for human habitation?

The Cities.—The 1966 Model Cities legislation affirmed that "improving the quality of urban life is the most critical domestic problem facing the United States. . . ." Its stated

purpose was to provide "financial and technical assistance to enable cities of all sizes . . . to plan, develop and carry out locally-prepared . . . programs . . . to rebuild and revitalize large slums and blighted areas." Nevertheless, we continue to stand by while the physical plant of most of our cities further decays or moves toward obsolescence and the postwar suburbs of the '40s enter the first stages of severe deterioration.

Antipoverty—The Economic Opportunity Act of 1964 declared it "the policy of the United States to eliminate the paradox of poverty in the midst of plenty in this nation by opening to everyone the opportunity for education and training, the opportunity to work and the opportunity to live in decency and dignity." Six years later, some 25 million Americans are still locked in poverty.

Crime Control.—The Omnibus Crime Control and Safe Streets Act of 1968 recognized the urgency of the nation's crime problem, calling it a matter that threatens "the peace, security and general welfare of its citizens." The Act made it "the declared policy of the Congress to assist state and local governments in strengthening and improving law enforcement at every level by national assistance." But year after year the crime rate continues its persistent rise, while the Safe Streets Act is funded at 50 percent of its programmed level and the American public is presented with a series of preposterous assurances that preventive detention, no-knock laws and increased wire-tapping will help reduce street crime.

Clearly, young America has good reason to believe our national security is at stake in our domestic problems; Congress has literally legislated that judgment in the bills it has passed. And recent events have, if anything, validated the verdict. Furthermore, our youth has equally sound cause to believe the Establishment does not mean what it has said, since Congress and the Executive have repeatedly refused to furnish the resources needed to take the decisive action required for solving our troubles at home.

Contrast this attitude with the Establishment's reaction when our security is threatened from abroad. We repeatedly hear in the halls of Congress and in the White House how the United States must fulfill its military obligations, and of the need for this or that weapons system, for some base or other here or overseas, for an extra division to make certain that we can meet the "commitments" we have made around the world. There are commitments to our nighbors, commitment for Spanish bases, SEATO commitments, commitments to the United Nations, commitments involving the Organization of American States. And never have we hesitated to provide the resources or make the sacrifices considered necessary to protect our national security from foreign dangers. Yet time after time, we have failed to provide the resources and make the sacrifices that are necessary for all Americans to live at a minimal level of human dignity and spiritual tranquility.

This is what our youth instinctively senses, and articulates inadequately through slogans about the military-industrial complex, the Black revolution and "power to the people." In increasing numbers, they recognize that failure to deal with domestic questions of survival is not due to lack of wealth. Toward the end of this year, the nation is expected to have a Gross National Product (GNP) of $1 trillion. The Federal budget of some $200 billion represents only about 20 per cent of this figure, and the defense budget, even at the current level of roughly $75 billion, is less than 10 per cent. State and local governments, for their part, spend around $100 billion in the public sector. The nation's total commitment for its public needs, therefore, is approximately 30 per cent of the GNP, which is not only far less than we require, but also way below what most European countries expend. England, for example, disburses about 38 per cent of its GNP in the public sector. Were we to do the same, we would have an additional $80 billion a year at our disposal for domestic needs.

So many responsible leaders in both political parties have talked about the inadequacy of funds devoted to urgent domestic problems that I hesitate to repeat their findings here. Still, some brief illustrations are in order.

The Federal government estimates the cost of implementing the Kerner Commission proposals on crime to be at least $30 billion a year more than is now being spent.

The President's Commission on Rural Poverty said we must increase present expenditures by $40 billion if we are to eliminate the condition.

The Violence Commission, merely as a start, recommended that $20 billion be transferred promptly from the Defense Department's budget to the domestic public sector.

To provide funds for the full development of only the domestic programs in existence at the end of the Johnson Administration, plus a few modest new ones, would cost $37.7 billion by the next fiscal year—more than twice the real savings anticipated through ending the Vietnam war. This is not a projection of dreamers, but a careful calculation contained in a December 1968 report to the President, signed by the then Secretaries of the Treasury, Defense, Commerce, and Labor, the Director of the Budget, and the Chairman of the Council of Economic Advisers—the very men who made up the Presidential Committee on Post-Vietnam Planning. As the report expressed it:

"The end of the struggle in Vietnam, together with increased tax revenues resulting from economic growth, will make a sizable volume of real resources available to deal with these [domestic] problems. But for years and years ahead, the peace-and-growth dividend is dwarfed by the magnitude of these needs."

I am not suggesting any large segment of our youth knows, with even the rough precision I have used here, the amount of money required to deal with our public problems. I do contend, though, that they sense that affluent America has become short-sighted and selfish, that general prosperity has somehow debilitated our willingness to sacrifice where our own problems are involved. In short, they feel the ease of life in America has led too many of its citizens to believe its difficulties will be solved without pain by someone else, or will perhaps simply vanish.

These are not idle comments or the concerns of an alarmist group of young people. Our troubles at home represent a greater danger to the survival of the system than any peril from abroad, and it will take more than another repetition of the rhetoric of the past to help us survive.

To turn our declared commitments into *de facto* achievements—the only way we will make them real to the sophisticated young—we must divert literally scores of billions of dollars from the private to the public sector, and react to our domestic needs as we have in the past reacted to foreign threats to our national security. We must begin to establish four- five- or 10-year plans to tackle some of our most urgent problems at home, and commit the funds necessary to make these programs more than marginal. That means we must begin seriously to consider not only wage and price controls, but also sharp tax increases.

This is usually dismissed as impossible by our political leaders, who insist the American people are so fed up with taxes they will not pay any more. A roll call of governors and mayors who have raised taxes and then promptly lost elections is read to illustrate the point, and for further proof, the shocking loss of revenue needed to get relatively modest tax reforms through Congress last year is cited. Yet there is no other reasonable alternative, no cheap and easy way to solve our problems and replace the dream evoked by our national rhetoric with the reality of a national commitment.

In its own cacaphonic style, America's protesting young are beginning to sound this simple theme: The paramount danger we face today is from within, not without. History is on their side; from Edward Gibbon to Arnold Toynbee, historians have warned of the internal doom of great civilizations. As Toynbee noted: "In all the cases reviewed the most that an alien enemy has achieved has been to give an expiring suicide his coup de grace."

It is surely ironic that the only total commitments our nation has been able to make have been in times of war. The two world wars provide classic examples of how economic and human resources and institutional innovation can be harnessed to meet the task of survival. Since the problems we now face at home present no less a peril to our very existence, it is time for America to turn once again to the tools of commitment that brought it through the two largest conflicts in the history of mankind. Applying tax and other economic measures approaching those we use in periods of war may well be the only way to liberate the genius of American science, medicine, industry, labor, agriculture, and all the myriad skills we have developed, on the scale required to solve our problems before it is too late. Conceivably, institutional changes will be impossible under traditional, jealous bureaucracies, operating on a business-as-usual basis. In that case, we have to create, at least on a temporary basis, national and regional powers and institutions that will not be inhibited by artificial state boundaries drawn by settlers of another age.

There may of course be other, less drastic means to deal with our problems, but I have yet to come across any. Perhaps the greatest mistake our leaders can make is to continue to imply that there are cheap and easy ways to solve our financially and socially costly difficulties in housing, health, poverty, the environment, and transportation. The end of the Vietnam war will not provide sufficient funds to cure our material domestic ills. Surely it must be stopped—but there is little gold at the end of that rainbow. Our history indicates that after both world wars and Korea, the assets devoted to the hostilities were promptly returned to the beer and lipstick sector of the economy, not applied to pressing public needs at home.

In any event, substantially more funds than those available from Vietnam, or from cuts of a few billion dollars in the defense budget, are urgently required. To tell our youth and our older citizens that anything short of considerable sacrifice will suffice is to toy with the very survival of our democratic system. My greatest hope for young Americans is that as they take the reins of power, and become makers rather than victims of history, they will muster the courage to face our problems with realism, abandoning at last the mere rhetoric we have known.

PENN CENTRAL RAILROAD

Mr. PERCY. Mr. President, the events of the past 2 weeks with respect to the Penn Central Railroad have been the subject of extensive newspaper and governmental comments. These comments have attributed the Penn Central's problems to the difficulties inherent in mergers, the diversification of the railroad, the great magnitude of the operation,

and to a problem of teamwork within the management. Investigation may suggest that these factors are the crucial ones as the cause of the current difficulties.

However, there is a much broader and more valid set of causes, and it is to these other causes that transportation leaders in and out of Government should promptly consider resolving through meaningful reform. Thoughtful students of the railroad industry for the past 20 years have repeatedly and consistently concluded that the industry's problems were basic and would eventually bring us to the point when it would be necessary to ask whether we prefer meaningful reform or Government ownership. They have concluded that reform is necessary, feasible, and far preferable to the consequences of nationalization of the railroad industry, and I strongly concur with this.

The basic problems are in the relationship of the industry to Federal and State government, the relationship to organized labor, and the challenge of attracting large amounts of urgently needed capital for modernization and technological improvement in spite of very poor earnings in terms of return on investment. With these three basic relationships presenting the difficulty, and continuing to be unresolved, the impact of inflation and the so-called crisis in liquidity combined to bring Penn Central into bankruptcy. It is no exaggeration to say that Penn Central and its two big predecessors have already experienced in great concentration and degree practically all of the difficulties and problems of the railroad industry.

Regulations drawn up originally to deal with different competitive circumstances must be modernized to reflect the plain fact that railroads are now highly competitive, not monopolies. Second, public financing of transportation facilities, such as airways, highways, and waterways must be extended also on an equitable and balanced basis to railways. Public financing for transportation facilities has exceeded $15 billion annually for at least 15 years, with virtually no such public financing for railways. Railroad managements, if we are to leave them in private enterprise and subject them to the disciplines of our economic system, must be given a degree of freedom of management consistent with the financial responsibility which we expect them to carry.

This means that there must be a new relationship worked out between the railroads and their Government, so that they can respond to the challenges of our full economy in much the same fashion as managers of other businesses, rather than with restraints more appropriate to the old monopoly days which are long gone.

The public interest requires that we in Government direct our early attention to progress on the basic problems and remember that there are quite a number of major railroads in serious financial difficulty even though they have not merged, have not diversified, and in the judgment of most experts are not afflicted with undue size or poor management. The public interest also requires us to act promptly on a major reform program that will hopefully maintain our railroad industry in private enterprise on a basis which will permit it to once again resume its historic role of major carriers growing with the country and preparing to do its full share in an efficient and balanced transportation system.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

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

Thereupon, at 10:56 a.m., the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 12 noon, when called to order by the Presiding Officer (Mr. TALMADGE).

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The PRESIDING OFFICER (Mr. TALMADGE). The hour of 12 noon having arrived, the Chair lays before the Senate the unfinished business which the clerk will state.

The BILL CLERK. A bill (H.R. 15628) to amend the Foreign Military Sales Act.

The Senate resumed consideration of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

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

Thereupon, at 12:01 p.m., the Senate took a recess subject to the call of the Chair.

At 12:40 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. NELSON).

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

AMENDMENT NO. 708

Mr. FULBRIGHT. Mr. President, I wish to say a word or two about the pending amendment. I intend to ask to have printed in the RECORD an article published in the Washington Post of yesterday by Mr. Paul Warnke and Mr. Townsend Hoopes, both of whom were formerly Assistant Secretaries of Defense, and have written an interpretation of what the recent developments in Vietnam and Cambodia mean.

But first, with regard to the pending amendment offered by the Senator from West Virginia (Mr. BYRD), I regret that I am unable to vote for it. I shall ask the indulgence of the Senate and vote "Present," not because I attribute to the language the meaning which I am sure some will attribute to it, that it nullifies and neutralizes the Church-Cooper amendment, but because I think it will inevitably lead to misunderstanding and confusion.

It is generally assumed that the Senate—a body which is of some significance under our constitutional system—does not engage in idle gestures or spend many hours debating language which is of no significance; so I am sure that people will search for some significance in this language. They will try to attribute to it some meaning. If there is any meaning to it, it is certainly intended to water down the Church-Cooper amendment.

That, of course, was the purpose of the original Byrd amendment upon which we voted about 10 days or 2 weeks ago; it sought to neutralize the first section of the Church-Cooper amendment—in other words, to leave the President free to reenter Cambodia at any time he pleased.

This was how it was interpreted at the time. I think the significance of the vote in the Senate was that we did not wish to do that.

It is said by some who have agreed to accept the present Byrd amendment that it does not affect the power of the purse, that is, the appropriation of money. But I can imagine, if we adopt it, particularly the last two words of it, it will be interpreted that the President, as Commander in Chief, has the constitutional power to deploy the troops wherever he wishes. That is not written into it, but that is a possible interpretation.

I still believe that a return to the constitutional roles of the executive and the legislative branches is the only hope for the reestablishment of order in this country. Therefore I do not wish to vote for something that can be said to be meaningless, and yet will also be interpreted by others, who wish to so interpret it, as having some significance. It is generally felt, after all, that we do not engage in attaching amendments which have no meaning.

The Constitution speaks for itself. An amendment of this kind cannot change the Constitution. To try to redefine what the constitutional powers of the Presi-

dent are in an amendment of this kind is certainly, in my view, an act of futility. Therefore, I want the RECORD to be very clear that I do not regard this language, which I am told will be accepted, as having any substantive effect upon the Cooper-Church amendment. I would vote for it, except that I am afraid my vote would be misunderstood by those who read only the headlines, or read only how we voted. I am afraid that my own constituents and others might interpret my vote to mean that I have changed my mind, in voting for an amendment which is, after all, essentially the same amendment which I participated in defeating 10 days ago.

I do not wish to confuse or influence others who interpret it in a different way; therefore, I ask that I be permitted to vote "present." I shall not vote against it only out of consideration for some of my colleagues who differ with me as to what it means. If it means nothing, it should not be agreed to. If it means something, it means that of which I do not approve.

Mr. President, the article which I mentioned a moment ago, while it does not relate to the Byrd amendment, most definitely does relate to the Cambodian affair. It relates to the sum and substance of that with which the Church-Cooper amendement is intended to deal. Therefore, I make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. At what point does one draw the line as to what is germane and what is not? The article I have in mind, on which I wish to comment, deals with the substance of the Church-Cooper amendment. Does that make it germane or not?

The PRESIDING OFFICER (Mr. NELSON). The Chair would have to hear what the substance of the article was, in order to make the ruling.

Mr. FULBRIGHT. Well, we have a rule. It seems to me that under the rule, the Chair must rule as to whether it is germane or not germane. In my own view, it is germane because it deals with the subject matter of the Church-Cooper amendment. The Church-Cooper amendment is concerned with keeping the President from ordering troops back into Cambodia. Therefore, it is concerned with whether or not this war can be brought ultimately to a conclusion by a negotiated settlement, and whether or not the expansion of the war in Cambodia is a real expansion of the war, and an enlargement of it. Therefore, it seems to me an article dealing directly with that question would be germane.

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

Mr. FULBRIGHT. Certainly.

Mr. BYRD of West Virginia. Mr. President, based on what the able Senator has said, I do not think there is any Senator who would be inclined to question the germaneness of whatever he wishes to insert in the RECORD. Therefore, I intend to interpose no objection.

Mr. FULBRIGHT. Very well. Mr. President, in the Washington Post of June 21, there appeared what I consider to be a germane and profound discussion of the administration's policy in Southeast Asia. Mr. Townsend Hoopes and Mr. Paul Warnke are well informed about the situation in Southeast Asia, both having spent a number of years studying it as Assistant Secretaries of Defense. They are now, however, free of the restraint which a member of the administration feels, and are free to speak frankly about the matter.

The discussion demonstrates that the present actions in Southeast Asia are not designed to achieve a disengagement and an end to the war on a negotiated basis, but, on the contrary, that they are intended to make the war acceptable and tolerable to the American people, and to continue it indefinitely.

Therefore, I ask unanimous consent to have printed in the RECORD the article entitled "Nixon Is Really Just Digging In," written by Townsend Hoopes and Paul C. Warnke, and published in the Washington Post of Sunday, June 21, 1970.

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

NIXON IS REALLY JUST DIGGING IN

(By Townsend Hoopes and Paul C. Warnke)

President Nixon's speech of June 3 has now made undisguisably clear the aim of his Vietnam policy. It is not a total withdrawal of U.S. forces in the next 12 to 18 months, or even in the foreseeable future; nor does it involve a willingness to accept the consequences of the free play of political forces in Indochina. Mr. Nixon's Vietnam policy involves three basic elements:

Endeavoring to reduce U.S. forces to that level which, in his judgment, will be politically acceptable to American public opinion.

Striving to strengthen ARVN (the South Vietnamese army) to a point where, in collaboration with remaining U.S. forces, an unassailable military posture can be permanently assured.

Hoping to force Hanoi to recognize the enduring nature of that posture, thereby inducing Hanoi to negotiate a settlement in Paris on present U.S. terms.

Behind a smokescreen of ambiguity, that is now the clear shape of the Nixon policy. It is confirmed by the surfacing of U.S.-subsidized Thai "volunteers" for Cambodia and by the lack of administration resistance to indications that ARVN will continue its Cambodian operations indefinitely.

It has been supposed that of the three major considerations said to have produced the April 30 Cambodia decision, what counted most was the concern that continued American force withdrawals depended on "cleaning out the sanctuaries." Even in that context, the Cambodian border crossings were pre-emptive strikes designed not to meet an immediate threat but to reduce enemy capabilities in the area for four to six months, thereby buying time for the "further strengthening" of ARVN.

No doubt that was the thrust of Gen. Creighton Abrams' view (which suggests how unreliable and unpromising ARVN is really regarded by the U.S. command, beneath all the chamber of commerce ebullience about Vietnamization). The President on June 3 made this view his own official explanation for the decision to strike Cambodia.

However, this explanation looks like an after-the-fact rationalization invented by Defense Secretary Melvin Laird. For as Stewart Alsop's look at the President's yellow pad (Newsweek, June 1) made quite clear, Mr. Nixon is still tilting with "international communism" in Southeast Asia and his chief concern on April 30 was that Cambodia might go Communist.

The most revealing point on the yellow pad was the Nixon concern that, if neither side moved, an "ambiguous situation" might arise in Cambodia which would make it very difficult for the United States to hit the sanctuaries—i.e., we would be charged by international opinion with attacking a neutral convention and the degree of disarray special scrutiny.

Specifically his conclusion on June 3 that activities in the Cambodian sanctuaries between April 20 and April 30 "posed an unacceptable threat to our remaining forces in South Vietnam" is belied by Laird's statement to newsmen that the attacks represented "an opportunity" because the North Vietnamese in Cambodia, unsettled by the Lon Nol coup, were at that time facing west. More generally, his concern to act precipitately would seem to reflect a failure to understand that in limited war, there are sanctuaries by definition.

Why attack Cambodia rather than Laos or across the DMZ? Why refuse to acknowledge that a certain mutual respect for sanctuaries is what has kept U.S. air bases in Thailand essentially free from sapper attacks?

There is a further point. One would have supposed that a President who had publicly eschewed the prospect of military victory and who was conducting a strategic withdrawal had long since made the judgment that the particular coloration of petty nongovernments in Southeast Asia did not affect the serious interests of the United States. A statesman who had in fact decided that a genuine U.S. extrication from the area was necesssary would indeed be at pains to foster "ambiguous situations." He would go out of his way to avoid a clear-cut Communist-anti-Communist polarization.

THAT "JUST PEACE"

Mr. Nixon's quite opposite concerns and actions tell us something very important. With respect to Vietnamization, Secretary of State William P. Rogers and Laird have consistently run ahead of the President with their clear implication that the program is primarily a vehicle for total U.S. extrication (even though the war might continue after our forces were gone). Mr. Nixon, however, has always insisted that Vietnamization will lead to a "just peace" and an end to the war.

On June 3, he said categorically: "I have pledged to end this war. I shall keep that pledge." These have been puzzling assertions, since all signs indicate that even successful Vietnamization (i.e., a transfer of the entire military burden to ARVN) could produce nothing better than interminable war. The speech of June 3 and the revelations of the yellow pad now make these assertions a good deal less puzzling.

They show that what Mr. Nixon means by a "just peace" is Hanoi's recognition of a permanent position of U.S.-ARVN military strength in South Vietnam. Since even the White House has in various ways revealed that it has no illusions about ARVN's ability to go it alone, it is a fair inference from a series of official statements that a "just peace" will require the indefinite retention of something in the neighborhood of 200,000 U.S. troops as well as indefinite support for the Thieu regime.

How Mr. Nixon plans to make these requirements politically palatable at home is not yet clear. Until recently he had kept both his aims and his formulations artfully vague, but now the fig leaf has fallen away.

The difficulty with this vision of the future is that it is a gossamer dream on at least two counts: (1) On all the evidence, the American people are not prepared to sustain a sizable military commitment in Vietnam for an indefinite period, especially under conditions that require our forces to go on

winning victory after meaningless victory in the pattern of the past five years; and (2) there is absolutely nothing in the history of the Vietnam war (or in the present or prospective power balance there) to indicate that Hanoi will come to terms with the Thieu regime.

If Mr. Nixon and his advisers really believe that they can force a settlement in Paris on present U.S. terms, then they remain deluded about the most fundamental political-military realities in Vietnam; they also fail to grasp how very narrow are the margins of domestic tolerance for their conduct of the old war, not to mention the new and wider war they have now arranged.

Negotiations in Paris have failed chiefly because our political aims exceed our bargaining power. Hanoi is not prepared to accept arrangements for elections worked out under the auspices of the Thieu government and in which the winner would take all; and the U.S.-ARVN military position, even at the point of its maximum strength, was not sufficient to compel Hanoi to bargain on our terms. The departure of 110,000 U.S. troops and the promised withdrawal of another 150,000 hardly strengthen our military position.

A VULNERABLE PROCESS

Thus strapped to a negotiating position that cannot succeed, Mr. Nixon is thrown back upon Vietnamization. But owing to the very uncertain qualities of ARVN and to the President's unstated (but now undisguisable) insistence that our proxy regime must be permanently secured, the process of American withdrawal is necessarily slow and ambiguous.

Its lingering nature makes it vulnerable to unanticipated intervening events, like the Lon Nol coup, which knock it off balance and create new pressures for compensatory military action—pressures which Mr. Nixon promptly translates into "opportunities" in the permanent holy war against communism. Its conditional nature—the unspoken determination to hang in there until we have ended the war in a "just peace"—precludes a negotiated settlement and also works against a tacit understanding with the other side with regard to lowering the level of violence.

In this mushy situation, the war is considerably enlarged, and with it, American responsibility for the Cambodian government. The setting in motion of imponderable new political forces (in Phnom Penh, Vientiane, Bangkok, Saigon, Hanoi, Peking, Moscow and Washington) indicates that the struggle in Cambodia will be protracted, will probably spread, will reopen old tribal hatreds and will continue to involve us in situations which the American presence can aggravate but can do nothing to resolve.

Meanwhile, American force withdrawals continue, impelled by domestic pressures. As they do, the truth is borne in upon the administration that the gradual and unnegotiated character of the reductions cannot, below certain levels, assure the safety of the remaining forces.

This unfolding denouncement requires that the American people wake up to the self-deception and bankruptcy of the Nixon policy in Vietnam, for it is now a matter of the utmost urgency to bring policy into accord with realities both in Indochina and at home. Our transcendent need at this juncture is for leadership in the White House—and if that is not possible, then in Congress—with the scale of mind and the inner firmness to explain the real choices facing the country.

The task is to lead public opinion toward an understanding that a Vietnam policy based upon these realities is consistent with our national interest, can be carried forward without a traumatic loss of self-confidence and need not cause a lapse into mindless isolation—above all, that such action is infinitely preferable to continued self-deception.

PERSISTENT RHETORIC

We are not getting that leadership. President Nixon seems somewhere between believing in the essential rightness of the war and understanding that the American interest requires its liquidation. He has evolved a policy of substantially reducing, but not ending, the American role.

At the same time, he has been unwilling to abandon the rhetoric that supported our intervention in the first place. One must conclude that either he genuinely believes the rhetoric or is afraid to risk, through candor, even a transient loss of national prestige for the sake of a healthy adjustment to the facts.

Viewed in the light of the political situation in the United States and the military situation in Indochina, the Nixon policy is a grab bag of contradictions, illusions and expedient actions. It seeks objectives that are unattainable while warning that acceptance of anything less would mean "humiliation and defeat for the United States." The increasingly visible gulf between this martial bravado and the known facts is producing a form of official schizophrenia; if unchecked, it could lead to a national nervous breakdown.

Worse still, if the President really does believe his own rhetoric, there is the predictable danger that he will feel compelled to take action more drastic than the Cambodian strikes in certain foreseeable situations—e.g., after U.S. forces have been further reduced but there has been no corresponding improvement of ARVN and no corresponding deterioration of North Vietnamese capability. Indeed, the looming probability of just such a crunch is what makes it imperative for the country to face the realities now while there is still time for dignified, rational, deliberate choice.

If we continue down Mr. Nixon's path, we could easily reach a situation which seriously threatens the safety of our remaining forces. At that point, we would face a constricted choice between immediate escalation and immediate liquidation. Can anyone believe a wise decision could be made in such circumstances? Given the divisiveness, the frayed nerves and the general distemper that now define our national mood, does anyone have confidence that our political system would not be grievously shaken by the consequences of either choice?

THREE MAJOR POINTS

It is now obvious that Mr. Nixon missed a golden opportunity, during the honeymoon period of early 1969, to lead the country firmly away from a decade of self-deception by beginning to uncoil the contradictions and restore the national balance. He could have taken definitive steps toward liquidating the war and binding up the national wounds.

He could have done this without political risk to himself and indeed with positive benefit for his party and the cause of national unity. Though time is running out, it is still not too late for someone—preferably, of course, the President—to take up this vital task. Three points need to be explained to the American people with absolute clarity.

1. That after five years of major combat, we have done about as much as any outside power could do to shore up the government of South Vietnam;

2. That the tangled political issues which divide Vietnam, growing as they do out of long colonial repression and the ensuing struggle to define a national identity, can only be settled among the Vietnamese themselves;

3. That, contrary to the erroneous assumption on which U.S. military intervention was based, the particular constitutional form and the particular ideological orientation of Vietnamese (and Indochinese) politics do not affect the vital interest of the United States.

Adoption of such a posture would lead directly (a) to a policy of deliberate, orderly, unswerving and total withdrawal of U.S. forces to be completed not later than the end of 1971; and (b) thus to circumstances that could bring about a serious negotiation based on our declared intention to depart.

This kind of negotiation would not be unconditional. We would require the return of our prisoners and the safe withdrawal of all our forces; we would seek at the same time to provide, with Russian and other outside assistance, for the restoration of neutrality at least in Cambodia and Laos, and hopefully in Vietnam as well. This approach is fully consistent with plans put forward at different times by Averell Harriman and Clark Clifford.

It must be faced, however, that the Nixon decision to strike Cambodia has moved us further away from the chances of political settlement. For that act has surely deepened Hanoi's suspicion that we do not intend to leave while it has reinforced Saigon's natural resistance to compromise. In addition, of course, it has put into our laps the problem of working out the political future of yet another country.

GIANT IN QUICKSAND

Nevertheless, it does not seem impossible that steady, candid, clearheaded leadership, based squarely upon the three points set down above, could steer the American Leviathan through the dangerous transition without running the ship aground or producing general hysteria. For one thing, there is really no choice about leaving Vietnam; for another, there are enormous advantages ahead if we can by skill and steady nerves make a safe and sane passage.

To change the metaphor, Mr. Nixon's "pitiful giant" of April 30 is pitiful chiefly because his leg is in quicksand up to the midthigh and because he is unresolved about its extrication. But the military, economic and psychological advantages of removing the leg are demonstrable.

With two feet on solid ground again, the country would regain its global poise. Our influence and power would not evaporate. We would not be rendered incapable of defining and defending our legitimate interests. On the contrary, our ability to reassure our NATO and Japanese treaty partners, and our capacity to exert a steadying influence on the smoldering situation in the Middle East, could only be enhanced. Our industrial, technical and cultural achievements would continue to astound and attract the world.

At home, we desperately need a breathing space in which to redefine our vital interests, our military strategy, our basic relationships with the rest of the world. We are still operating essentially within the frame of a foreign policy worked out in the late 1940s.

The main tenets of that policy were strong and valid for their time, but they are now badly in need of revision; among other things, they fail to reflect the fragmentation of the "Communist bloc," the recovery of Europe and the deep divisions in our own society that call for drastic realignment of national priorities. We cannot gain the breathing space, we cannot reconcile the younger generation, we cannot construct a reasoned self-appraisal until the Indochina enterprise is liquidated.

It is important that the American people understand what is going on so that they can effectively assert their right to a policy consistent with their interests.

Mr. COOPER. Mr. President, may I have the attention of the Senator from West Virginia?

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a quorum call, with the understanding that he not lose his right to the floor?

Mr. COOPER. Yes.

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.

Mr. COOPER. Mr. President, I have heard the remarks of the distinguished Senator from Arkansas (Mr. FULBRIGHT), and I can understand that the questions he has voiced have arisen in the minds of many Senators about the pending amendment. I shall develop at this time the history of the debate which has brought us to a vote on this amendment.

Mr. President, the question before the Senate today is whether the second Byrd amendment, now pending, should be adopted. In my view, support of the amendment by the sponsors and supporters of the Cooper-Church amendment, which the second Byrd amendment would amend, depends upon its interpretation and the effect which its sponsors intend that it shall have upon the purposes of the Cooper-Church-Aiken-Mansfield amendment.

I shall try to narrow this issue as simply as I can by reviewing the background of the debate in the Senate over Cooper-Church.

A principal purpose of the Cooper-Church amendment, as its sponsors have declared so often, is to prevent the United States from being engaged in a new war in Southeast Asia for the protection of Cambodia—a country to which the United States owes no obligation of any kind.

A second purpose is to prevent the United States from becoming engaged in an expanded Vietnam war—in a new country and new theater—Cambodia, when the announced policy of the United States is to disengage.

I assume that the Members of the Senate support the President's declared purpose to end American participation in the war in Vietnam. Many of us support his policy of ending American participation in the war, either through negotiation or by Vietnamization.

The sponsors of Cooper-Church drew the amendment to become effective July 1, 1970, the day following President Nixon's announced schedule for the withdrawal of all American forces from Cambodia. Our amendment is not intended to affect and could not affect in any way the U.S. military operation in Cambodia until July 1, 1970. But I want to make it clear again that our amendment intends that after July 1, 1970, there shall be no entry of U.S. forces, or other forces employed by the United States, into Cambodia to extend the Vietnam war into Cambodia or engage in a new war for Cambodia without the consent of Congress.

We are asserting the constitutional authority of Congress. We do not deny categorically that it is possible that the United States might become engaged in combat activities in Cambodia. We only say that the United States shall not become so engaged again in combat activities without the approval of Congress.

The opponents of Cooper-Church have asserted one chief argument during the debate. The argument is basically that the Cooper-Church amendment denies to the President his constitutional authority to protect the Armed Forces of the United States. This argument is contradictory on its face, for his authority as Commander in Chief to protect the Armed Forces of the United States is constitutional; Congress cannot take away this right.

The sponsors of the Cooper-Church amendment know as well as its opponents that the President, as Commander in Chief, has constitutional authority to protect the Armed Forces of the United States in the United States, on or under the seas, in the air, in Vietnam, in Cambodia, or wherever they are, and we have stated our recognition of this authority during the debate. But we have insisted, and insist now, that the opponents of our amendment or others shall not attempt to use language, or the interpretation of language, as the means of giving advance approval to any decision the President might make beyond his constitutional right and duty of protecting our forces.

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

Mr. COOPER. I should like to finish my remarks, because this is the only chance I will have to finish my statement. I will yield, however.

Mr. FULBRIGHT. I did not know whether the Senator was going to finish.

I wanted to pay some attention to this aspect of the matter: Granted that this amendment does not have any effect upon the Constitution in the constitutional sense, if it is adopted, it will be used by its sponsors in influencing the opinion of Senators and Congress on the question of appropriations. The final sanction for the Cooper-Church amendment or any other amendment really is the appropriation of funds.

Mr. COOPER. That is correct; it depends on the denial of appropriation of funds.

Mr. FULBRIGHT. What is happening here is that this phraseology is being used to make it appear—and some are saying—that it has no constitutional significance, and so forth. But it has political significance, and it obviously is intended to nullify, so far as it can, the Cooper-Church amendment. How will that be? Not because of some professor in Harvard ruling that it has no constitutional effect, but by votes that take place in the Senate and in the House. By voting for it unanimously, as some papers say you are going to, you are laying the groundwork for the next step, which is that you cannot possibly deny the money for this operation, when that vote comes up, when you voted unanimously that it was not to interfere with what they say is the President's right to protect the troops. The right to protect the troops is not the issue at all. The issue is the expansion of the war into a neutral country, and they evade that issue altogether.

Mr. COOPER. That is what I am saying.

Mr. FULBRIGHT. But the political effect is that the capacity—the will—of the Senate and the House to deny funds for this purpose will be destroyed if the President does not accept the spirit of it.

Mr. COOPER. I will proceed. I intend to discuss the questions which the Senator has raised. I have said from the beginning of the debate, that the purpose of our amendment is to prohibit the use of authority, whether express or implied to invade a jointly held authority with Congress, to determine whether or not the United States shall enter into a new war for Cambodia or expand this war in Vietnam.

We insist that a decision to engage the United States in a new war for Cambodia, or the extension of the Vietnam war in Cambodia, requires the approval of the Congress.

It is a joint right—of the President and Congress—in which both must share the responsibility of further committing the resources—material, and men in war.

The distinguished Senator from West Virginia has stated in his very scholarly speech that he did not intend that his original Byrd amendment should be construed to provide authority to the President to engage the United States in a new war in Cambodia for Cambodia or to make new commitment with respect to the Vietnamese war. I respect his statement. Nevertheless, the sponsors of the Cooper-Church amendment believed that the amendment was so worded that it could be interpreted as authorizing the President to make such a determination, and that the Senate and the Congress would be approving in advance—any determination that was made—even though it was one which otherwise would have required the consent of the Congress.

We have made it clear that we do not suggest or assume that the President will engage the United States in a new war for Cambodia. We simply assert that the Congress, as the President, has its constitutional authority and duty to join in warmaking decisions beyond those relating to the immediate protection of our Armed Forces in Indochina.

The Senator from West Virginia, Senator BYRD, will recall that his first amendment was attached to subsection (1), of Cooper-Church, which provides that troops shall not be retained in Cambodia after July 1. His first amendment provided "an exception to subsection (1) that it should not preclude the President from making such determination as he might decide necessary for the protection of the troops."

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

Mr. COOPER. I yield.

Mr. CHURCH. Is it not true that the first Byrd amendment took the form of an exception to the limitation on the use of funds?

Mr. COOPER. That is correct.

Mr. CHURCH. And it is the use of funds which the Cooper-Church amendment seeks to limit. This is the power of Congress we are seeking to assert, and the substance of the Cooper-Church amendment prohibits the use of funds after July 1 for the purpose of retaining American forces in Cambodia, or for the

other listed purposes in subsections (2), (3), and (4). Is that correct?

Mr. COOPER. That is correct.

Mr. CHURCH. And the new Byrd amendment is not an exception to the limitation on the use of funds, which clearly is within the power of Congress. It is, rather, an explicit statement, attached to the Mansfield amendment of last week, dealing with the President's constitutional powers as Commander in Chief, is that not correct?

Mr. COOPER. That is correct.

Mr. CHURCH. The Mansfield amendment states that nothing in the Church-Cooper amendment is intended to impugn the President's constitutional authority as Commander in Chief.

Mr. COOPER. That is correct. I will now deal with this subject.

The PRESIDING OFFICER (Mr. NELSON). The hour of 1 o'clock having arrived, the time between now and 2 p.m. is under control.

Who yields time?

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

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. COOPER. Mr. President, after Byrd amendment No. 1 was defeated on June 11, several supporters of the Byrd amendment and of the Cooper-Church amendments expressed a desire to see included in the Cooper-Church amendment language recognizing the constitutional authority of the President as Commander in Chief to protect the Armed Forces. Several Members, among them Senator SPONG of Virginia, Senator PERCY of Illinois, Senator DOLE of Kansas, made valuable contributions through amendments and discussion on the floor toward specifying recognized powers of the President to protect the Armed Forces of the United States.

I believe all agreed that it is difficult to specifically define these powers, for much depends upon the circumstances under which they would be determined. Nevertheless, the discussion pointed out that the powers are essentially defensive—to repel attack sudden and impending—to retaliate, to employ hot pursuit, and take other emergency action. The power of the President and the Congress overlap in a gray area, but I do not believe those who oppose the Cooper-Church amendment or those who support the pending Byrd amendment can correctly argue that the Executive has authority to engage in a new war for Cambodia, or extend the Vietnam war into Cambodia.

Senator BYRD has continued his work to develop an amendment which would recognize the authority of the President to protect the U.S. Armed Forces and he has done so in a very systematic and scholarly fashion.

He developed and submitted to the sponsors of the Cooper-Church amendment at least three amendments—the third being the one pending. The amendment now pending is an amendment to the Mansfield amendment which was adopted on June 11 by the unanimous vote of those present.

I shall read the language of the Mansfield amendment:

Nothing contained in the Section shall be deemed to impugn the Constitutional power of the President as Commander in Chief.

If the Byrd amendment is approved, his language will read as follows:

Including the exercise of that Constitutional power which may be necessary to protect the lives of United States forces wherever deployed.

The original language of the Mansfield amendment is general. It recognizes the constitutional authority of the President—express and implied. The pending Byrd amendment would become a part of the Mansfield amendment, recognizing one of the constitutional powers of the President.

It is correct that the President of the United States has the constitutional authority to protect the Armed Forces of the United States around the world—wherever they are deployed.

Sponsors and opponents of the Cooper-Church amendment asked that the power be recognized. In our talks with the distinguished Senator from West Virginia, Senator CHURCH and I stated that we would not agree to any language which could be interpreted as negating subsections, 1, 2, and 3, or 4.

The pending Byrd amendment is not attached to subsection 1 as was the first Byrd amendment. It does not provide an escape clause to subsection 1 through the word "except" as did Byrd amendment No. 1.

It is a part of the Mansfield amendment—expressing and stating a general power of the President.

That is the way the sponsors of Cooper-Church interpret the pending Byrd amendment, and I believe it is the way Senator BYRD—who developed the amendment—interprets it. I call attention to his statement on page 20417, column 2 of the CONGRESSIONAL RECORD of June 18, following the introduction of the pending amendment, and in answer to a statement I had made giving my interpretation of his amendment. I ask unanimous consent to insert his statement in the RECORD.

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

Mr. BYRD of West Virginia. Mr. President, I share, with the able Senator from Kentucky, the belief that the President should not be given advance approval to enter into any new commitment or to enter into any new war. I would not want any statement I made to be interpreted to mean that the verbiage of the amendment before the Senate would extend such advance approval with respect to a new commitment or a new war.

I have tried to make clear my position to the effect that the President certainly should come to Congress and consult with Congress and get the consent of Congress before entering into any new war, any new commitment, or any involvement in support of or against the Government of Cambodia or the Government of Laos, et cetera.

I want the record to show that I also believe, as does the Senator from Kentucky, that except for those emergency situations which can arise and do arise in time of war—both de jure and de facto wars, if we want to use those terms—the President normally would have time to consult with Congress. I think he should do so. I think we agree that there can be, however, emergency situations wherein the President might have to take action very, very quickly, wherein there might be the element of time and/or the element of surprise, which might have a bearing upon the success of whatever tactical operation might be involved, and when the President might not be able to immediately consult with congressional leaders.

Parenthetically, I do not think that was the case in the instance of April 30. I think that some congressional leaders at least could have been consulted. But that is behind us now.

I do have a feeling that this debate is going to imprint this point so indelibly upon the minds of this President and future Presidents, as they will read the history of it, that every effort will be timely made to properly consult with the leaders of Congress before any action is taken, except in the most dire and impending urgency.

With respect to the language of this amendment, as against the language of the Byrd amendment No. 667: The appropriation of moneys is a positive act in either case. It cannot just flow automatically and without some positive act having been taken by the legislative branch. In the case of amendment No. 667, although it said something to the effect that the "foregoing provisions of this clause" shall not preclude the President from taking whatever action as may be necessary to protect the lives of American servicemen in South Vietnam, that language in and of itself did not tie and could not have tied the hands of Congress with respect to the appropriation of money. That requires a positive act. Regardless of the language of amendment 667, had it been incorporated and adopted and become law, Congress still would have had power over the purse strings; because, under the Constitution, Congress—and only Congress—shall have the power to raise money, to pay the debts, to raise and support armies, and so forth.

So nothing could have been said in the verbiage of that amendment—and there is nothing in the amendment now before the Senate—that could subtract one iota from the power of Congress over the purse.

Mr. COOPER. Mr. President, I am assured by the interpretation of the distinguished Senator from West Virginia, who, over a week ago, and after several drafts, proposed the amendment before us. I must say some of its cosponsors and supporters have interpreted it in the most extreme and inaccurate way.

Here, let me say that I hope the cosponsors will not interpret the Byrd amendment, which is a statement of a recognized general power of the President to protect our troops wherever they are, as a means, or as an instrument which can be used far beyond the constitutional powers of the President, to engage the United States in a new war or an extension of the war in Cambodia.

I do not assert that the President intends to do so. He has said, in fact, that he would not; but it is our duty to look at our own constitutional responsibility and authority.

I have talked with the Senator from West Virginia before and after his amendment was introduced, most recently today, and have advised him that if the sponsors of the amendment stretch its interpretation to the point which was never intended by the Senator from West Virginia, who developed it, I would not feel myself bound to vote for it.

Mr. President, there has been much discussion in the Senate and in the news media about the purpose and effect of the Cooper-Church amendment. I believe that it has had the effect of caus-

ing the Senate and the country to think seriously of the most effective use of the constitutional powers of the President and the Congress to protect American forces, to prevent an expansion of war in Vietnam, a new war in Cambodia, and to arrive at means to assist in the extrication of American forces from Vietnam and Southeast Asia. I believe the administration has given thought to our amendment, for it has been the subject of consultation between the administration and the Senate.

Language may be interpreted in different ways, but I think it clear that the purpose of our amendment is to assert and protect the responsibility of the Congress to participate with the President in decisions which would call for further demands upon the resources of the United States—both in material and manpower. The language of the pending Byrd amendment must be interpreted as a part of the language of the Cooper-Church amendment. It is a part of the Mansfield amendment, expressing the general authority and power of the President as Commander in Chief. It must be interpreted in its relation to subsections (1), (2), (3), and (4). It cannot be used to deny the authority of the Congress to participate in any decision which would approve a new war for Cambodia or an extension of the Vietnam war into Cambodia.

We continue to hope that the war may be ended in a just way, and we believe our amendment is a constructive and constitutional means of achieving that objective.

Mr. CHURCH. Mr. President, I yield 5 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 5 minutes.

REAFFIRMING THE CONSTITUTIONAL POWERS OF CONGRESS

Mr. McGOVERN. Mr. President, when President Nixon on April 30 suddenly and without the slightest consultation with Congress ordered American forces into Cambodia, there were two courses suggested by alarmed Members of Congress: First, to bring impeachment proceedings; or, second, to assert the constitutional powers of the Congress to place certain checks on the Chief Executive.

The first course seemed too extreme to me, largely because it implied that the President was solely reponsible for the arbitrary manner in which the Cambodian invasion was ordered. The truth is that the Congress has invited this kind of arbitrary one-man rule by permitting its own powers to be assumed by the President.

The Church-Cooper amendment is one small step toward restoring our tripartite constitutional system of government. It would give the Congress at least some limited voice in deciding whether or not American forces could be ordered into Cambodia again.

Frankly, I am surprised that every Senator has not quickly seized upon this limited first step toward the restoration of constitutional government. Why are Senators so reluctant to exercise their own constitutional responsibility for war or peace? Why are Senators so eager to transfer that responsibility to the President? Why do Senators talk so much about the powers of the Commander in Chief and so little about their own powers?

It is not the power of the President that has been weakened in the last 30 years. It is the power of Congress that has been neglected. That is not because we have a new Constitution; it is because we in the Congress have not been big enough men to share with the President the burden of decision and responsibility for the great issues of war and peace. That is not what the constitutional fathers intended. The whole thrust of the Constitution was to create a system of checks and balances in which Congress, Court, and President would share the obligations of government and especially matters of war and peace.

I believe the reaction of those who tremble before the mild language of the Church-Cooper amendment is a reaction born of constant surrender of congressional responsibility to the Chief Executive. I believe it is the reaction of congressional weakness and irresponsibility. It is a reaction which sends us whimpering to the President, petitioning him to save us from the burden of decision.

Senators have fretted and filibustered for 6 weeks trying to reaffirm the power of the President over the lives of American young men. But that is not the real issue. The President's powers have been growing enormously in recent decades because he has assumed more and more power. It is the power and the courage of Congress that is in question. What we need is language to make clear that nothing shall in the future impugn the constitutional powers of the Congress.

To those Senators who worry about placing some restraint on the President, I say that the Constitution intended there to be some congressional restraint on the President. That is the difference between an American President and a dictator. I realize that the Byrd amendment is being accepted by the sponsors of the Church-Cooper amendment—not because they like it, but because they regard it as a symbolic reiteration of powers the President already has. I respect this judgment. But I shall cast a symbolic vote against the Byrd amendment because it further proclaims the already recognized power of the President and is silent about the alarming failure of the Congress to exercise its own constitutional powers.

I regard the war in Indochina as the greatest military, political, economic, and moral blunder in our national history. That blunder was compounded by the reckless move into Cambodia. Each new plunge in this long and bloody conflict has given us a wider war and a more troublesome enemy response.

Prior to the fall of Prince Sihanouk and our sudden plunge into Cambodia, the Communist forces in that country were located in a few areas along the Vietnamese border, but since the fall of Sihanouk and our effort to dislodge the Communist sanctuaries, enemy forces have spread out across the face of Cambodia until they now threaten the entire country. We have lost another 1,000 Americans since this unfortunate Cambodian chase began. For that, we have taken in return a few piles of rice and ammunition that will be quickly replaced. And we have sent the Communists out of their border hangouts into a rampage across the country.

Meanwhile, the war goes on in Vietnam with the United States suffering the heaviest casualties in Indochina that we have experienced in the past 11 months.

We had better liquidate this ill-advised venture soon, or it will bankrupt our entire Nation. The war has not only claimed 50,000 of our sons and wounded another 275,000; it has brought us a ruinous inflation, painfully high interest rates, a distorted economy with rising unemployment, and a postponement of such urgently needed efforts as housing, health, education, and antipollution. The war is weakening our Nation and playing into the hands of our enemies. It must be ended now, and that is a decision we should not ask the President to carry alone.

The best way for Congress to protect the lives of American troops is not by giving the President a free hand to send them into battle as he pleases; the way to save our troops is to bring them home from this foolish and hopeless crusade in Asia. Let us worry less about saving the President's face and worry more about saving the lives of young Americans.

Let us not be mental and moral midgets whimpering about the President's responsibility to decide. Let us stand up as men elected by the people of our States and share with the President the burden and the glory of exercising power and responsibility.

Let us pass the Church-Cooper amendment without further dilution and then get on as soon as possible with the amendment I have introduced with the cosponsorship of 24 Senators—the amendment to end the war. The time is long overdue for the Congress to reclaim constitutional government.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD of West Virginia. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. BYRD of West Virginia. Mr. President, I have listened very carefully to the statement of the able senior Senator from Kentucky. And in many respects I feel that the Senator's statement expresses not only his interpretation of the Byrd amendment, but also my own interpretation.

The Senator stated: "A principal purpose of the Cooper-Church amendment, as its sponsors have declared so often, is to prevent the United States from being engaged in a new war in Southeast Asia for the protection of Cambodia—a country to which the United States owes no obligation of any kind."

I believe that to be a principal purpose of the Cooper-Church amendment, Mr. President. And I share the viewpoint of the able Senator from Kentucky that the United States owes no obligation of any kind to Cambodia.

The President has indicated, and the Secretary of State has indicated, that we have no commitments to Cambodia.

And as far as I am concerned, I am not interested in entering into any commitments to Cambodia.

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

Mr. BYRD of West Virginia. I do not yield at this time.

Mr. FULBRIGHT. The Senator was hesitating.

Mr. BYRD of West Virginia. Mr. President, I may continue to hesitate. The Senator will allow me to do that as long as it is on my own time. I shall be glad to yield later.

Mr. FULBRIGHT. Mr. President, I withdraw the request.

Mr. BYRD of West Virginia. Mr. President, the able Senator from Kentucky states in his remarks as follows:

> We have insisted and insist now that the opponents of our amendment or others shall not attempt to use language, or the interpretation of language, as the means of giving advance approval to any decision the President might make beyond his constitutional right and duty of protecting our forces. We insist that a decision to engage the United States in a new war for Cambodia . . . requires the approval of the Congress.

Mr. President, I agree that any decision to engage the United States in a new war for Cambodia would require the prior approval of Congress.

Mr. President, I do not mean for the Byrd amendment to be interpreted as any advance approval for the President to enter into any new commitment or to enter into any new war.

Again, the able Senator from Kentucky states as follows:

> The distinguished Senator from West Virginia has stated in his very scholarly speech that he did not intend that his original Byrd amendment should be construed to provide authority to the President of the United States to engage the United States in a new war in Cambodia for Cambodia . . .

That is correct. It was not the intention of the cosponsors of the original amendment that the amendment be construed to provide authority to the President to engage the United States in a new war in Cambodia for Cambodia.

Mr. President, the same is true with the amendment presently pending before the Senate.

Mr. President, I sought in the debate with respect to the original amendment to convey clearly that it was not intended in any way to cover or modify paragraphs 2, 3, and 4 of the Cooper-Church amendment.

The able Senator today in his statement has made reference again to subsections, as he calls them, 1, 2, and 3.

Mr. President, as I shall state in a few minutes, my interpretation of this amendment, in fact, does not go to paragraphs 2, 3, and 4 at all.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I be permitted to continue for 1 additional minute.

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

Mr. BYRD of West Virginia. Finally, the able Senator said—and I can appreciate his feeling this way about it—that some persons reportedly have tried to stretch the meaning of the amendment and that he would not feel bound to support it.

Mr. President, some persons have reportedly indicated that the Byrd amendment is meaningless. It is not meaningless, as the able Senator from Arkansas (Mr. FULBRIGHT) has already stated. It is not meant to be an empty gesture.

Anyone who says that it is meaningless simply has not read it carefully or thought about it carefully, but has probably listened to the advice of an aide.

Mr. President, I will attempt in a minute to state why the amendment is not meaningless.

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

Mr. BYRD of West Virginia. Mr. President, I now yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I was going to ask the Senator if he would be as precise as possible as to what it does mean. I would appreciate it very much.

Mr. BYRD of West Virginia. Mr. President, I will be very glad to do that.

Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 15 minutes.

Mr. BYRD of West Virginia. Mr. President, on June 11, the Senate rejected, by a vote of 52 to 47 the so-called Byrd amendment, No. 667, which I had introduced in behalf of myself and Senators GRIFFIN, STENNIS, SCOTT, HANSEN, DOLE, ALLEN, BAKER, HOLLINGS, GOLDWATER, and THURMOND.

That amendment reads 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 Vietnam.

The Byrd amendment, when added to the Cooper-Church amendment, would then have read as follows, beginning at the comma on line 4 on page 5 of H.R. 15628:

> 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 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 Vietnam.

Following the defeat of my amendment No. 667, on June 11, the able majority leader offered an amendment to the Cooper-Church amendment. Senator MANSFIELD'S amendment, adopted by a vote of 91 to 0, was as follows:

> Nothing contained in this Section shall be deemed to impugn the constitutional power of the President as Commander in Chief.

Amendment No. 708, the new Byrd-Griffin amendment, is before the Senate this afternoon, and a vote will occur at 2 o'clock thereon. The amendment reads as follows:

> On page 5, between lines 18 and 19, strike the period and insert the following: ", including the exercise of that constitutional power which may be necessary to protect the lives of United States armed forces wherever deployed."

This amendment, if adopted by the Senate, when added to the verbiage contained in the Mansfield amendment—and they must be read together—would read as follows:

> Nothing contained in this section shall be deemed to impugn the constitutional power of the President as Commander in Chief, including the exercise of that constitutional power which may be necessary to protect the lives of United States armed forces wherever deployed.

There are differences as well as similarities between the two Byrd amendments, No. 667, which was rejected by the Senate a few days ago, and No. 708, upon which we are about to vote.

Significant differences are as follows:

First. The first Byrd amendment contained the words "shall not preclude the President from taking such action as may be necessary to protect the lives," and so forth. The words "such action" were intended by me to be grounded in the President's constitutional authority but, as written, they were not confined to that authority. They very well could have been interpreted to derive from the Gulf of Tonkin resolution, Public Law 88–408. As a matter of fact, I think, in looking back, it could rightly be argued that they did not require any specific legal or constitutional authority as an organic base. Rather, they might have been interpreted as constituting a self-generating authority within themselves, because they authorized the President to take "such action as may be necessary." The only qualifications upon the action which could be taken was that it be an action considered "necessary to protect the lives of United States forces," and so forth. I am sure that neither I nor any of the cosponsors meant for the words to be as broadly interpreted and as freewheeling as they might have appeared, but, admittedly, that construction could have been placed upon them were it not for the legislative history which the cosponsors of the amendment laid down. The verbiage of the new Byrd amendment is clear on this point in that it confines any such action to that which derives from the President's "constitutional power," so that we get clearly away from the Gulf of Tonkin resolution or any other wholly statutory or self-generating authorization of power and we depend alone upon the power and authority emanating from the Constitution to be exercised by the President as Commander in Chief.

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

Mr. BYRD of West Virginia. If the Senator will allow me, I would prefer to complete my remarks first.

Mr. FULBRIGHT. Very well. I thought the Senator had said he would yield.

Mr. BYRD of West Virginia. I intend to yield after I have completed my statement.

Mr. FULBRIGHT. I wanted to ask about this particular point.

Mr. BYRD of West Virginia. After I have completed my remarks perhaps I shall have explained it. I shall be glad to yield shortly.

Mr. President, I was discussing significant differences.

Second. A second distinction between the two Byrd amendments lies in the fact that the one on which we will vote today specifically refers to U.S. "armed" forces rather than U.S. "forces" as stated in the first Byrd amendment. The word "forces," as used in the rejected amendment, could very well include CIA people, technical advisers, and perhaps even civilian employees of the military—although it was not intended to be so interpreted—whereas U.S. "Armed Forces" is a more limited term and clearly refers to military personnel, and it is more consonant with the "constitutional power" of the Commander in Chief.

Third. The words "in South Vietnam," as used in the first Byrd amendment were more restrictive than the words "wherever deployed" which appear in the amendment before us. In other words, the words "wherever deployed" are inclusive of South Vietnam but are not limited thereto. I think it is only logical that if the President has the constitutional power—and I say that he does have—to act when necessary to protect the lives of U.S. Armed Forces in South Vietnam, he has the constitutional power to do so elsewhere.

Fourth. A minor distinction—which is really a distinction without a difference—lies in the fact that amendment No. 708 goes to the entire "section," whereas the original Byrd amendment specifically dealt only with paragraph (1) of the Cooper-Church amendment. As far as I am concerned, however, the amendment on which we are about to vote, for all intents and purposes, is, in reality, confined in its thrust to paragraph (1) just as if paragraph (1) had been clearly specified, and that paragraph only. I say this because nobody contends that the President has "constitutional power" to pay the "compensation * * * of United States personnel in Cambodia, who furnish military instruction to Cambodian forces * * * in support of Cambodian forces," as referred to in paragraph (2); he has no "constiutional power" to enter into any "contract * * * to provide military instruction in Cambodia * * * in support of Cambodian forces," as mentioned in paragraph (3); and he has no "constitutional power," as such, to conduct "combat activity in the air above Cambodia in support of Cambodian forces," as referred to in paragraph (4) of the Cooper-Church language.

So much for the significant distinctions between the two Byrd amendments.

Now, as to the similarities. The basic similarity is one of substance. While the first Byrd amendment used the words "shall not preclude" as an affirmative expression with respect to Presidential action to protect the lives of servicemen, the new Byrd amendment does the same thing by clear implication.

Amendment No. 708, upon which we shall shortly vote, must be coupled with the Mansfield amendment in order to get its full meaning. The Mansfield amendment says that "nothing contained in this section shall be deemed to impugn the constitutional power of the President as Commander in Chief." Webster indicates that the word "impugn" means to assail, to deny, to question, to cast doubt upon. Hence, the Mansfield amendment may be said to state that nothing contained in the Cooper-Church language shall be deemed to cast doubt upon or to question or to deny the constitutional power of the President as Commander in Chief. The Mansfield amendment states that we do not impugn the "constitutional power" of the President, but that is not enough. It does not say what power we do not "impugn." It does not specificate. I want to spell it out. The Mansfield language goes part way. Of course, implicit in the words "constitutional power as Commander in Chief" the President has all such power, whatever the bounds of that power which the Constitution reposes in him or imposes on him. But the Mansfield language standing alone fails to state explicitly the most important aspect of that constitutional power and the aspect with which we are most concerned at this time; namely, the constitutional power which may be necessary "to protect the lives of U.S. armed forces wherever deployed"—which includes South Vietnam.

The Byrd-Griffin amendment, No. 708, spells it out in the four corners of the statute, if the Cooper-Chruch amendment should become law.

Moreover, the Mansfield amendment merely recognizes the possession—and I emphasize the possession—of constitutional power by the President as Commander in Chief. The Byrd amendment recognizes not only the possession but also the "exercise" of constitutional power to protect the lives of U.S. Armed Forces.

A key word in the Byrd amendment, therefore, is "exercise." Ergo, looking at the first and second Byrd amendments, I feel that the second Byrd amendment, when coupled with the Mansfield language, achieves in substance the goal which was sought by the sponsors, or at least by the sponsor, of the first Byrd amendment, but it is more clear as to its intent in that it bottoms any exercise of power by the President clearly on the Constitution, and it also presents the other distinctive refinements which I have alluded to already.

One might ask, then, why it is necessary to write into law anything at all with regard to the constitutional power of the President.

Admittedly, the Senate cannot add to or subtract from the constitutional power of the President by anything we might write into any statute. Nonetheless, in consideration of the whole context of the Cooper-Church amendment, those of us who support the Byrd amendment feel that it is absolutely necessary to indicate in the four corners of the law that there indeed is a limitation on what paragraph (1) of the Cooper-Church amendment may appear to do.

Even the authors of the Cooper-Church amendment have said that paragraph (1) is not completely prohibitive in every respect, but I think that the limitation must be explicitly set forth in the cold letters of the statute. I think the President would be under some strain, otherwise, because he would have to go into the legislative history in order to find that there is indeed a limitation.

What is the limitation that we have been talking about all along? I quote from page 19182 of the CONGRESSIONAL RECORD of June 10, 1970. I read the words of the Senator from Idaho (Mr. CHURCH):

> 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.

Then again:

> 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.

On page 19156 the Senator from Idaho (Mr. CHURCH) said as follows:

> The key word in the Cooper-Church amendment is "retaining." Subsection 1 of the amendment prohibits the retention of America 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.

The able Senator from Kentucky (Mr. COOPER) stated, as appears in the same June 10 CONGRESSIONAL RECORD, at page 19156 as follows:

> 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.

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

Mr. BYRD of West Virginia. Mr. President, I yield myself 3 additional minutes.

In the middle column on the same page, the Senator from Kentucky (Mr. COOPER) is quoted as saying:

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.

So the authors of the Cooper-Church language have themselves indicated that paragraph (1) is not completely prohibitive in every respect. As I say, I think the limitation must be explicitly set forth in the cold letters of the statute.

I think there is some satisfaction to be gained from the fact that most of the legislative history in which reference is made to such a limitation grew out of the debate on the first Byrd amendment. Without that debate, I am just not sure that even the legislative history would have indicated that the intent of paragraph (1) of the Cooper-Church amendment leaves some room for the exercise of constitutional power by the President to act in an emergency situation, without prior consultation with Congress, to protect the lives of American servicemen. So, I think it will be reassuring to the President—to any President in any administration under any political party—to see it spelled out in the law that the President does have some flexibility in the exercise of his constitutional power to act in an emergency situation to protect the lives of American servicemen, and without prior consultation with Congress.

Moreover, and perhaps even more important than this, it seems to me it is imperative that the North Vietnamese and the Vietcong not be left under any illusions as to what the intent of the Cooper-Church amendment will be if enacted. I think if the Byrd amendment is incorporated in the statute, the enemy will not be as prone to miscalculate, or to misconstrue and misinterpret the intent of the Congress as might otherwise be the case without the Byrd amendment.

Additionally, I think the American people, and especially the parents and relatives of American servicemen—to say nothing of the servicemen themselves—will feel better about our action if the Byrd-Griffin amendment is incorporated into the Act.

Now, I want to make it clear beyond reasonable doubt that the Byrd amendment is not intended to relieve the President of the necessity of consulting with the Congress whenever it is possible to do so before taking what might otherwise be a controversial action—even though he may have the constitutional power and authority to do so. As I have said repeatedly, I believe that the President's failure to consult with Congressional leaders in advance of the April 30 Cambodian operation was an error of political judgment. It was a congressional relations mistake, and it subjected him, quite rightfully, to some of the criticism which has been directed at him following the action he took. I do not believe, however, that his action to protect the lives of American servicemen in South Vietnam was an abuse of constitutional authority, but that is a little bit beside the point. The point I am making here and now is that the President should consult with Congress about these matters whenever it is possible for him to do so, and, in looking back, I think that it was possible in respect of the Cambodian operation.

The Byrd amendment is not intended to relieve him in this regard. I must be frank to say that I do not think he is bound, by the Constitution or otherwise, to consult with congressional leaders every time he makes a tactical decision as Commander in Chief. For him to be so bound would be to hamper and restrict him in the proper exercise of his constitutional duty to protect the lives of American forces. In a critical emergency situation, he may have to act with great speed. The element of surprise may be a vital factor. So, I do not view it the constitutional prerogative of the Congress to require that the President first clear every such action with the legislative branch, because this could very easily compromise the success of any tactical action designed to save lives of American Armed Forces.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. BYRD of West Virginia. Mr. President, I yield myself 2 minutes.

But it is not intended by this amendment to relieve the President of what is a very clear responsibility of his, in my judgment, to consult with the Congress and to get its approval and its support before entering into any new war or any new commitment. Here, I think the constitutional authority of the legislative branch to declare war, to raise and support armies, to provide and maintain a navy, to make rules for the Government and regulation of the land and naval forces, and so forth, clearly reposes in Congress, and in Congress alone, the authority to enter into new commitments and into new wars, for example, a war in support of Cambodia. In other words, I cannot envision it to be the constitutional power or authority of the President to enter into a new war or into a new commitment to fight for another country without prior consent of Congress as being necessary to save the lives of American servicemen, except in the ultimate extreme, and a suddenly developing situation which would require—hopefully it would never happen—pressing the nuclear button as the absolute last resort to preserve the lives of American servicemen from instant annihilation by a hostile nuclear power.

So, let there be no misunderstanding and intent of the cosponsors of the Byrd amendment. We do not intend it to provide a loophole for new commitments or for entrance into new wars. But we do intend that it be a recognition of that constitutional power and authority which it seems to me everyone should agree is reposed in the President to take action which may be necessary to protect U.S. Armed Forces in perilous and dangerous situations, and to do so without the requirement of consultation when it would be impracticable and unreasonable to expect consultation.

Of course, it is the Commander in Chief who would decide when such an emergency situation exists.

So, I think that the Byrd amendment rounds out the whole of the equation. The Cooper-Church amendment goes a long way toward avoiding new involvements in new wars without prior approval of Congress. But the Byrd amendment, when coupled with the Mansfield language, fills in the rest of the picture and recognizes the authority and duty of the Commander in Chief to play his proper role as the protector of our troops without undue, unreasonable, or impracticable restrictions placed upon him in emergency situations which can and do arise in wars, whether those wars be de jure or de facto, or whether those wars be undeclared or formally declared. And frankly, I do not want any more wars of either kind.

One final point should be made. It is wrong to say that the Byrd amendment is unnecessary, and it is even a greater mistake to imagine—as some have indicated—that it is meaningless. To do so is to indicate that one has not carefully read and studied the amendment. It goes as far as the first Byrd amendment was intended by its cosponsors to go, it achieves what the cosponsors of that amendment endeavored to achieve, but, in my judgment, it is an improved amendment over that phraseology—an improvement which has come with debate, with conference and with study.

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

Mr. BYRD of West Virginia. Mr. President, I yield myself 1 minute.

Mr. FULBRIGHT. Mr. President, will the Senator keep 1 minute for a question?

Mr. BYRD of West Virginia. We will not vote until 2 o'clock. Perhaps the Senator will yield to me on his time.

Mr. FULBRIGHT. I do not have any time yet.

Mr. BYRD of West Virginia. As I said in my June 18 Senate speech on this amendment, constitutional power is constitutional power. But definition and interpretation of the term will differ and will vary from Senator to Senator and from President to President. But there is no mistaking what it means if, in plain English, we insert into the law words of common understanding, stating that it includes 'the exercise of that constitutional power which may be necessary to protect the lives of U.S. Armed Forces wherever deployed."

As the able Senator from Arkansas has said, Congress is not presumed to do a useless act. Every word in a statute is presumed to have been placed there by Congress for an intended purpose. By adopting this amendment, the intent of Congress, in my judgment, cannot be misunderstood or misconstrued by friend or foe, because that intent will have been expressed in no uncertain terms in the statute itself—namely, that nothing in the Cooper-Church amendment shall be deemed to impugn or question the constitutional power of the President as Com-

mander in Chief "including the exercise of that constitutional power which may be necessary to protect the lives of U.S. Armed Forces wherever deployed."

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I am pleased to yield 2 minutes to the distinguished chairman of the committee.

Mr. FULBRIGHT. Mr. President, I said a moment ago I would vote "present." After hearing the Senator from West Virginia speak, I shall vote "nay."

I wanted to ask the Senator what he understood the effect of his amendment to be, but he was not inclined to yield. I intended to ask the Senator whether he believes it changes the Constitution.

This is not a constitutional amendment. This is what I would call a political maneuver. It is similar to the Gulf of Tonkin resolution, which did not give the President any power he did not have, as President Johnson readily admitted. What it did do was remove the freedom of action of the Senate and the House of Representatives. It was a political trick to neutralize the efforts of Congress to assert its constitutional power.

This amendment does not give the President any power. Its sponsors say it is just empty verbiage. It is not empty, however, in this sense: It will make all Senators who vote for it feel that they are committed, when it comes time for appropriations, not to deny appropriations. The only real, serious, unquestionable power of Congress to stop the war or to limit it is to cut off the money.

This amendment, while it will not have a constitutional effect nor a legal effect, will, I think, have a psychological effect. Furthermore, it is very unlikely that this whole matter will pass the House of Representatives and go to the President. Everyone recognizes that. But the Cooper-Church amendment is very significant as an expression of the Senate's views about Cambodia, and it ought to be taken into consideration as such by any President.

The evil of the kind of verbiage contained in the pending amendment, which, on the one hand, some say means nothing, but which on the other hand does mean something, as the Senator from West Virginia has stated, is that it has a very questionable political effect, and I do not wish to be a party to it.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I am happy to yield 2 minutes to the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, I thank my distinguished colleague from Idaho.

Inasmuch as the hour is late and time is running out, I shall be brief. It is interesting to observe how two such well-intentioned, interested, and studied Senators as the distinguished Senator from West Virginia and the distinguished Senator from Arkansas can vary in their interpretation of this language. Perhaps my interpretation differs a bit from that of either of the distinguished Senators, but I certainly concur in the remarks of the Senator from Arkansas that it is indispensable, that the representatives of the people reassert their constitutional powers under article I, section 8, which we have permitted to lapse, or at least to lie dormant for too long.

Rather than read the speech which I have prepared discussing the constitutional aspects of the Byrd amendment, I ask unanimous consent that I be permitted to have it printed in the RECORD. It is a brief discussion of the constitutional questions raised by the exercise of Congressional authority to declare war and to raise armies and the exercise of the President's powers as Commander in Chief. This is the question we find ourselves debating in the final analysis.

Mr. FULBRIGHT. Mr. President, reserving the right to object—and I shall not object—I have no objection to the Senator's request, but I do object to one expression he used, and that is the constitutional power of Congress has lapsed. It has not lapsed; we may not have asserted it, but it certainly has not lapsed.

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

Mr. BAYH. The original Byrd amendment would have added to the Cooper-Church proposal an exception, approved by Congress in advance that: The foregoing provisions of this clause [Cooper-Church] shall 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 facilitate the withdrawal of United States forces from South Vietnam.

On June 10, 1070, in a statement on the Senate floor, I pointed out that if the Byrd amendment was intended simply as a restatement of the President's constitutional powers as Commander-in-Chief, then it was unnecessary.

Congress cannot legislate restrictions on the President's authority as Commander-in-Chief; nor can it expand those powers by statute. We are all agreed that the President has the responsibility to protect our forces in the field. To do so, however, he does not require advance Congressional approval. For that reason, the Senate saw no need to hedge on the restriction adopted last year on American combat operations in Laos and Thailand.

The original Byrd amendment, however, did leave unanswered the critical question of whether its adoption would constitute another blank check from a pliant Congress—similar to the disastrous Gulf of Tonkin Resolution—sanctioning any actions the President might take in Southeast Asia. Because there was some doubt as to its meaning, I voted against the Byrd amendment.

The defeat of the Byrd amendment raised, in some minds, the question of whether the Senate was attempting to infringe on the President's constitutional authority. In order to allay these unfounded fears, the distinguished Minority Leader [Mr. Mansfield] offered an amendment that sought to clarify the Senate's action. The Mansfield amendment, approved 91–0, was a general statement of intent. It said:

"Nothing contained in this section shall be deemed to impugn the Constitutional powers of the President as Commander-in-Chief."

The distinguished Senator from West Virginia [Senator Byrd] is now seeking to amend the Mansfield language by adding: "including the exercise of that constitutional power which may be necessary to protect the lives of the United States Armed Forces wherever deployed."

The addition of this language, it seems to me, in no way alters the substantive provisions of the Cooper-Church amendment. It merely makes more explicit the statement of Congressional intent already approved by the Senate.

I will vote for the amendment offered by my distinguished colleague from West Virginia [Mr. Byrd]. But I want to restate my firm belief that the substantive provisions of the Cooper-Church amendment will remain intact and be binding on the President. The new Byrd amendment should not be mistaken for Congressional approval of future Presidential actions in Southeast Asia.

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

Mr. BAYH. May I have 1 minute?

Mr. CHURCH. I yield the Senator 1 additional minute.

Mr. BAYH. I think if the Senator from Arkansas had listened carefully, he would have heard me change "lapse" to "lie dormant," which I think he will agree is a more accurate expression.

I also ask unanimous consent to have printed in the RECORD two or three quotations from the concurring opinion of Justice Jackson in the case of Youngstown Sheet & Tube Co. against Sawyer, back in 1952. This involved a constitutional question as to whether the President, acting as Commander in Chief, had the right to take possession of the steel mills during the Korean war. I think in that opinion there is as cogent a discussion of the war powers of Congress and the President as I have seen. I believe that it may be useful to someone who may be trying to sort out the issues we are discussing here to review the statement I made on June 10, prior to the vote on the original Byrd amendment, incorporating Justice Jackson's opinion.

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

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 apply 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 in 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 two years. Alexander Hamilton, himself an ardent advocate of a strong executive, explained the importance of the two-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 two-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, "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 reemphasize 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. CHURCH. Mr. President, I yield 2 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I shall take my 2 minutes to ask a question of the distinguished author of the amendment.

The Senator from Arkansas (Mr. FULBRIGHT) has stated that he does not see anything in this amendment but "color." I see more in it than color, and it worries me. The Senator from West Virginia, in his amendment, includes the language "that exercise of constitutional power which may be necessary," and so on.

In short, this whole question of power is undefined, both as to that of the President and that of Congress. We are defining it. The idea that we are defining it to include whatever constitutional power is necessary to protect the lives of U.S. Armed Forces, wherever deployed, is a very attractive concept. But, question: A Commander in Chief can sacrifice 20 men to save a million. That is the right which the amendment discusses. But is there no limit on this whatever? Or is this another Gulf of Tonkin resolution? I think we ought to know that. Suppose Congress, in its majesty, does not assent to 6 years of war to save 50 American troops. Are we conceding that the definition of the President's constitutional authority is solely what he defines it to be? That is the question I ask the proponent of the amendment. Does he construe this as a finding or definition by us which in any way excludes the power of Congress, whatever it may be under the Constitution, to also determine whether it does or does not wish to sacrifice whatever lives may be necessary, as is often the case in war, in order to save many more? What is the concept of the proponent of the amendment on this subject?

Mr. BYRD of West Virginia. Mr. President, Congress and the President share the war powers. The amendment clearly does not express our approval of any new commitment or new war.

The PRESIDING OFFICER. The Senator has 1 more minute.

Mr. JAVITS. So the Senator defines his amendment as stating that he does not intend thereby to define—not create; we cannot create anything by law as it affects the Constitution—but to define his language to mean that Congress still retains whatever power it has under the Constitution, even to stop a President, or whatever power it has with relation to the saving of American lives wherever deployed? We have a right in that, too, as well as the President. Does the Senator define his amendment that way?

Mr. BYRD of West Virginia. Mr. President, the amendment recognizes the war powers of Congress and the power of the President, as Commander in Chief under the Constitution.

Mr. JAVITS. I understand. In other words, the Senator does not feel that he is curtailing in any way the power of Congress on the same subject?

Mr. BYRD of West Virginia. Nor am I curtailing the constitutional power of the President.

Mr. JAVITS. Neither one? Is the answer to that "Yes?"

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

Mr. JAVITS. Can the Senator yield time for an answer to that question?

Mr. CHURCH. Mr. President, my time is nearly exhausted.

Mr. JAVITS. Can the Senator say "yes" or "no" to the question?

Mr. BYRD of West Virginia. I think I have.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I yield myself whatever time I have remaining.

In recent days, I have heard the junior Senator from West Virginia compare the powers of the Congress and the powers of the President to two separate vessels, each filled by separate grants of power under the Constitution. It is, I believe, an apppropriate analogy. Congress cannot, by passage of a mere bill, add to or detract from the President's own constitutional powers. But it can, through the exercise of its own constitutional powers, withhold the means, in this case, the money, for certain actions which the President might otherwise deem to be within the scope of his authority. That is what our system of checks and balances is all about.

Congress, of course, can permit its constitutional power to erode away, or accrete to the President through inaction and acquiescence. Most Presidents have been inclined to seize these opportunities to extend the reach of the executive branch at the expense of a weak and docile Congress.

Unfortunately, there have been all too many constitutional red herrings strewn along the path of the debate on the Cooper-Church amendment. It has been alleged repeatedly that the amendment is an attempt to usurp the constitutional powers of the President, particularly his powers as Commander in Chief.

The Cooper-Church amendment does not address itself to the powers of the President but to the powers of Congress. It says, in effect, "Mr. President, after July 1, 1970, there will be no funds available to you for retaining U.S. forces in Cambodia; for sending U.S. military advisers into Cambodia to instruct or assist Cambodian forces; for hiring military advisers or combat forces of third

countries to assist Cambodia; or for U.S. air suport to Cambodian forces."

As the record of this debate clearly shows, the sponsors of the amendment have always contended that the amendment is in no way intended—nor is it possible for it—to affect the Constitutional power of the President as Commander in Chief to protect American troops in the field. The amendment is addressed to the powers of Congress, in particular, the power of controlling the purse. Let me repeat, first, what the amendment does not do, and then what it does do.

The Cooper-Church amendment does not prevent use of U.S. air power to attack the sanctuary areas in Cambodia.

The amendment does not prohibit retaliatory sorties across the Cambodian border—or protective reaction as Secretary Laird might call it—in response to enemy attacks on our troops in South Vietnam originating from across the border.

The amendment does not bar hot pursuit of enemy forces which cross into Cambodia.

The amendment does not prevent such action as may be necessary to repulse an immediate attack on our forces in South Vietnam even if it means striking a blow across the Cambodian border.

Finally, the amendment does not, in any way, restrict the President in the constitutional use of his discretionary power as Commander in Chief to take action of an emergency nature to protect the lives of American forces.

The amendment offered last week by the majority leader, and approved 91 to 0, said all of this implicitly. Now the amendment offered by the Senator from West Virginia says it explicitly. But the new Byrd amendment neither confers additional authority to the President nor creates a loophole by way of an exception to the limitations contained in subsections (1), (2), (3), and (4) of the Cooper-Church amendment. These all relate to the expenditure of money, over which Congress has exclusive powers.

It is simply a more explicit statement of what this body unanimously agreed upon last week. It is a far cry, in my judgment, from the previous Byrd amendment rejected by the Senate which would, in effect, have excepted from the monetary restriction contained in the Cooper-Church amendment any action the President later decided to take in Cambodia, as long as it was done in the name of protecting U.S. troops in South Vietnam, or in the name of expediting their withdrawal from that country.

Now that I have recited what the Cooper-Church amendment does not do, let me spell out what it will do.

The amendment denies congressional endorsement in advance to any future action that the President might take in Cambodia in the name of either protecting our forces in Vietnam or expediting their withdrawal from that country. In any future military actions in Cambodia, the President would have to act within the limits of his constitutional power as Commander in Chief, not under any claimed authority of a congressional waiver, as tendered by the original Byrd amendment.

The Cooper-Church amendment prohibits use of funds to retain American troops in Cambodia after July 1, without congressional approval. The word "retaining" was chosen very carefully and means just that—the prohibition was clearly meant to exempt limited emergency operations along the border, such as those in hot pursuit of the enemy.

The amendment will prevent involvement by U.S. personnel, military or civilian, in combat activities with, or in rendering advisory services, to Cambodian forces.

The amendment will prohibit the use of U.S. funds for hiring third-country mercenaries to fight in Cambodia, or for engaging in those other activities in behalf of the Cambodian Government which U.S. personnel are prohibited from doing directly.

Finally, in summary, the basic objective of the Cooper-Church amendment is to prevent the United States from becoming involved in a war in Cambodia, or from becoming tied to the defense of the new Cambodian Government without the approval of Congress.

Although Congress cannot directly add to or diminish the President's constitutional power as Commander in Chief, it does have the right and the responsibility, principally through the congressional control of the purse strings, to affect the exercise of the President's power. To have it otherwise would permit a President to take any action, no matter how preposterous, in the name of protecting American troops, and thus bind Congress to furnish automatically whatever amount of money was needed to pay for the adventure. Ours is still a system of checks and balances and the congressional key to the Treasury is a valid restraint—if used—on the President's exercise of his power as Commander in Chief.

Alexander Hamilton, an advocate of strong executive power, wrote in the Federalist Papers:

> 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.

I repeat Hamilton's words that—

> The raising and regulating of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature.

Throughout our Nation's history, some Presidents have exercised their power as Commander in Chief in a most aggressive manner, reaching further, in certain cases, than constitutional scholars believe proper. The Supreme Court itself has struck down, in an least two cases, what is regarded as the proper exercise by the President of his constitutional powers as Commander in Chief. In most of these cases, however, Congress has chosen to acquisece. As a consequence, the congressional prerogative, which the Nation's Founding Fathers intended to control the use of the Armed Forces, has been permitted to atrophy.

The Cooper-Church amendment does not address itself to the question of whether the President had either constitutional power or congressional sanction to order U.S. troops into Cambodia on April 30—or whether the action was necessary, wise, or justified. At that time, it is clear, Congress had laid no restraints upon the President as to his use of public funds appropriated for the purpose of financing the war. Therefore, that question is irrelevant to the issue now before the Senate.

I believe Congress has the duty to use its power of the purse to guarantee against our involvement in a wider war in Southeast Asia. But Congress must make it clear that it intends to exercise its power of the purse if it expects the executive branch to respect that intention. "The tools belong to the man that can use them," Napoleon is reputed to have said. Only Congress, by exercising its Constitutional powers, can prevent them from passing into other hands.

The Cooper-Church amendment is but an effort to utilize the long dormant and rusty tools available to the Congress. The Constitution wisely divided the power of our Government among many men and several institutions in order to forestall that concentration of power which leads to tyranny.

Prof. Ruhl Bartlett of the Fletcher School of Law and Diplomacy in testimony before the Foreign Relations Committee 3 years ago, stated the issues embodied in the Cooper-Church amendment. He said:

> Perhaps in conclusion I may be allowed a judgment on the basis of my study of human affairs and of American history. It is that the greatest danger of democracy in the United States and to the freedom of its people and to their welfare—as far as foreign affairs are concerned—is the erosion of legislative authority and oversight and the growth of a vast pyramid of centralized power in the executive branch of the Government. The fear of the framers of the Constitution that executive power unless properly curbed could develop along monarchical lines was fully justified, but they provided curbs. There is no constitutional basis for the assumption that substantive powers were conferred on the President as the Executive. As one Supreme Court Justice remarked, if this were true no human intelligence could "define the fields of the President's permissible activities. A masked battery of constructural powers would complete the destruction of liberty." The same kind of comment applies to the idea that the President has authority as Commander-in-Chief to replace the authority of the Congress to declare war or to determine the use of the Armed Forces, or that he has the authority to define and execute treaties in any way he desires. The arguments of immediacy, expertness, superior information, and greater wisdom are equally fallacious as bases for enlarged Presidential authority. The framers of the Constitution bequeathed to the American people a great heritage, that of a constitutional, Federal, representative Government, with its powers limited in scope and divided among its three separate branches, and this system was devised not because it would produce efficiency or world dominion, but because it offered the greatest hope of preventing tyranny.

The concentration of authority over matters of war and peace in the hands of the President has thrown the carefully

devised system Prof. Ruhl Bartlett spoke of so eloquently severely out of balance. The Cooper-Church amendment will help to right that balance.

Only a year ago this month, the Senate by a vote of 70 to 16 passed a national commitments resolution as a step toward restoring the Senate's proper role in the making of foreign policy. Six months ago, by a vote of 80 to 9, the Senate passed an amendment—supported by the administration—to prohibit the sending of U.S. ground troops into Laos or Thailand without congressional approval.

In approaching the issue of the Cooper-Church amendment Senators should set aside the events of the long years of this war—and especially those of the last 2 months—and view the amendment as the institutional question it is. Make no mistake about it—the Senate as an institution is on trial here. I hope that in voting on the Cooper-Church amendment, the Senate will live up to the great expectations of the authors of the Constitution, who saw Congress as the people's bulwark against one-man rule.

Mr. President, in summary, if the Senate adopts the present Byrd amendment every substantive subsection of the Cooper-Church amendment, dealing with restrictions on the use of public funds, will remain intact. The Byrd addition to the Mansfield amendment explicitly recognizes the President's powers as Commander in Chief. These are not within the reach of Congress. Yet, money is within the reach of Congress, and the limitations imposed by the four subsections of the Cooper-Church amendment remain intact, operative, and whole.

The Cooper-Church amendment is a valid assertion of congressional power to prevent the United States from becoming engaged in a new war in Cambodia, for Cambodia. This was the original objective of our amendment 6 weeks ago and continues to be what we seek.

For these reasons, Mr. President, I see no objection to the amendment, in its new form, offered by the Senator from West Virginia. It is consistent with the action the Senate took more than a week ago when it adopted the Mansfield amendment by a unanimous vote of 91–0. I will, therefore, cast my vote in favor of the new Byrd amendment.

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

Mr. CHURCH: I yield.

Mr. MANSFIELD. Mr. President, I wish to join my distinguished colleague, the senior Senator from Idaho, in what he has just said.

To me, what the Byrd-Griffin amendment does is in no way comparable to the Gulf of Tonkin resolution. If I had even the slightest suspicion that that would be the result of this amendment to the Cooper-Church amendment, I would vote against it unhesitatingly.

On the basis of the explanation made by the distinguished Senator from West Virginia (Mr. BYRD) and because of the different questions that have been raised here and answered, and because of the statements made by the distinguished Senator from Kentucky (Mr. COOPER) and the distinguished Senator from Idaho (Mr. CHURCH), it appears to me that we have no fear that this will impinge on or impugn in any way the President's constitutional responsibilities as President, including those of Commander in Chief.

What Cooper-Church with the Byrd amendment does say is that the Senate and Congress have a part to play, have a constitutional responsibility in connection with preventing the spread of the war into Cambodia. What we are endeavoring to do in the Cooper-Church amendment is to try to revive something which I think has lapsed, something which I think has lain dormant, and something for which I think we have been responsible.

What we are endeavoring to do is to extend the hand of cooperation, to strengthen the position of the President with regard to terminating the U.S. involvement in the war in Indochina, even though there are Members in this Chamber who will not believe it. I think Cooper-Church with the proposed Byrd amendment is one way it can be done, one way it should be done, and I unhesitatingly favor the adoption of the pending amendment.

Mr. JAVITS. Mr. President, will the Senator allow me to finish a question that the Senator from West Virginia did not answer?

Mr. CHURCH. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. CHURCH. I yield 4 minutes to the Senator from New York.

Mr. JAVITS. I should like to restate the question to the Senator from West Virginia. Is there anything in his amendment, in his judgment, which will impugn or abridge the authority of Congress with regard to the preservation of the lives of American troops, wherever deployed?

Mr. BYRD of West Virginia. No. At the same time, it recognizes that the Commander in Chief has authority, constitutionally given, to act to protect American lives in emergency situations and in some situations which would be so dire and immediate as to rule out any prior consultation with Congress.

Mr. JAVITS. But whatever authority Congress has, it keeps. Is that correct?

Mr. BYRD of West Virginia. Of course.

Mr. JACKSON. Mr. President, I shall join the sponsors of the Cooper-Church amendment, and the Senator from West Virginia, in voting for the pending amendment.

I am at a loss to discover why such an amendment is necessary. Surely no one in the Congress would vote for an amendment that attempted to restrict the constitutional power of the President, any more than one would vote for an amendment to increase the power of the President beyond that laid down in the Constitution.

However, it hardly seems appropriate to oppose language expressing the constitutional authority of the President to protect the lives of U.S. Armed Forces. For this reason I am able to join in this amendment. I am disturbed, however, at the considerable potential for discord and dispute that may well arise out of the interpretation of the Cooper-Church amendment—a potential for more, rather than less, rhetoric that is in no way diminished by the pending amendment.

Mr. President, it is one thing for the Congress to debate the wisdom of Presidential action and quite another to debate the legality of action taken by the Commander in Chief.

Debate over the wisdom of the President's action in Southeast Asia, with the best possible arguments put forward on both sides, is a central responsibility of the Congress. So is the exercise of constitutionally sound limitations on the discretionary power of the President. But I am convinced, Mr. President, that an extended debate on the floor as to the legality of Presidential action—which could well result from varying interpretations of the Cooper-Church amendment, serves neither the development of wise policies nor the resolution of the deep and divisive differences that cloud the search for wise and prudent policies.

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

Mr. CHURCH. Mr. President, I am prepared to yield back the remainder of my time.

Mr. BYRD of West Virginia. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. BYRD of West Virginia. Mr. President, may I express appreciation to the authors of the Cooper-Church amendment. I have discussed this amendment with them. Never at any time did I seek to have them believe that I was about to offer meaningless verbiage. They knew of my concerns, and I knew theirs. Together, we think we have come up wth language which protects the proper exercise of constitutional powers by both the President and the Congress.

In summing up, the able Senator from Idaho has said that the Cooper-Church language addresses itself to the powers of Congress. It does. Yet, by implication, I think it could be interpreted in a way that would contravene the constitutional power of the Commander in Chief to act in emergency situations to protect the lives of American troops. The Byrd amendment would not convey any authority to enter into any new commitment or any new war. It merely recognizes that the President, as Commander in Chief, may act in emergency situations to protect the lives of American forces, and, admittedly, he would decide—he would be the one to decide—when such an emergency situation existed which made it impracticable for him to first consult with Congress. He is the Commander in Chief, and to him would be left that decision.

The PRESIDING OFFICER. Does the Senator from Idaho wish to yield back the remainder of his time?

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

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

ADDITIONAL COSPONSOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the name of the distinguished Senator from South Carolina (Mr. THURMOND) be added as a cosponsor of the pending amendment.

All time on the amendment has now been yielded back.

The PRESIDING OFFICER (Mr. HOLLINGS). All time on the amendment has now been yielded back.

The question is on agreeing to the amendment, No. 708, of the Senator from West Virginia (Mr. BYRD).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. RIBICOFF (after having voted in the negative). On this vote I have a live pair with the Senator from Rhode Island (Mr. PASTORE). If he were present, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. BIBLE), the Senator from Georgia (Mr. RUSSELL), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Connecticut (Mr. Dodd), the Senator from Tennessee, Mr. GORE), the Senator from Nevada (Mr. CANNON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK) and the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Illinois (Mr. PERCY) is absent on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from South Dakota (Mr. MUNDT), and the Senator from Illinois (Mr. PERCY) would each vote "'yea."

The result was announced—yeas 79, nays 5, as follows:

[No. 160 Leg.]

YEAS—79

Aiken	Byrd, Va.	Eastland
Allen	Byrd, W. Va.	Ellender
Allott	Case	Ervin
Anderson	Church	Fannin
Baker	Cook	Fong
Bayh	Cooper	Goldwater
Bellmon	Cotton	Gravel
Bennett	Cranston	Griffin
Boggs	Curtis	Gurney
Brooke	Dole	Hansen
Burdick	Eagleton	Harris
Hart	Metcalf	Smith, Ill.
Hartke	Miller	Sparkman
Holland	Mondale	Spong
Hollings	Montoya	Stennis
Hruska	Moss	Stevens
Inouye	Murphy	Symington
Jackson	Nelson	Talmadge
Jordan, N.C.	Pearson	Thurmond
Jordan, Idaho	Pell	Tower
Kennedy	Prouty	Tydings
Long	Proxmire	Williams, N.J.
Magnuson	Randolph	Williams, Del.
Mansfield	Saxbe	Young, N. Dak.
Mathias	Schweiker	Young, Ohio
McCarthy	Scott	
McGee	Smith, Maine	

NAYS—5

Fulbright	Hughes	McGovern
Goodell	Javits	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Ribicoff, against.

NOT VOTING—15

Bible	Hatfield	Packwood
Cannon	McClellan	Pastore
Dodd	McIntyre	Percy
Dominick	Mundt	Russell
Gore	Muskie	Yarborough

So the amendment of Mr. BYRD of West Virginia (No. 708) was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 743) to authorize the Secretary of the Interior to construct, operate, and maintain the Touchet Division, Walla Walla project, Oregon-Washington, 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 House to the bill (S. 2062) to provide for the differentiation between private and public ownership of lands in the administration of the acreage limitation provisions of Federal reclamation law, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16516) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

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 amendment of the Senate to the bill (H.R. 17138) to amend the District of Columbia Police and Firemen's Salary Act of 1958 and the District of Columbia Teachers' Salary Act of 1955 to increase salaries, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and they were signed by the Acting President pro tempore (Mr. METCALF):

H.R. 16298. An act to amend section 703(b) of title 10, United States Code, to extend the authority to grant a special 30-day leave for members of the uniformed services who voluntarily extend their tours of duty in hostile fire areas; and

H.R. 17241. An act to continue until the close of June 30, 1972, the existing suspension of duties on certain forms of copper.

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.

AMENDMENT NO. 715

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

AMENDMENT NO. 715

On page 9, insert after line 21, the following new section:

"SEC. 14. The joint resolution entitled 'Joint resolution to promote the maintenance of international peace and security in Southeast Asia', approved August 10, 1964 (78 Stat. 384; Public Law 88-408), is terminated effective upon the day that the second session of the Ninety-first Congress is adjourned."

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, as debate on the Foreign Military Sales Act has progressed over the past weeks one point has emerged upon which there has been nearly universal agreement. That point is the superfluous nature and irrelevancy of the so-called Tonkin Gulf resolution.

The Tonkin Gulf resolution is inappropriate to today's realities in Southeast Asia. It is a vehicle of escalation and widening involvement, whereas U.S. operations in Southeast Asia are today directed toward deescalation and reduced involvement in combat. It is the policy device of a previous administration which sought to expand the American presence in Vietnam; whereas the Nixon administration has never relied upon nor invoked the Tonkin Gulf resolution in policy.

The Tonkin Gulf was variously and inconsistently interpreted after its adoption. Some saw it as a purely defensive and narrow-ranged response to a specific incident. Others saw it as a carte blanche mandate with which to enmesh the United States in a full-scale commitment to the South Vietnamese Government. Some considered it a virtual declaration of war.

In the wake of these differing interpretations, the Tonkin Gulf resolution now stands as an obsolete and unused vestige of our foreign policy. It has been rejected by the Nixon administration, and it serves no useful purpose other

than as a reminder of its past abuses and their consequences.

Since the resolution was subjected to such abusive interpretation, it's presence on the statute books presents a clear and not altogether fanciful danger that some other and equally vexatious reading might be given it in the future.

Recent Senate debate has repeatedly emphasized the responsibility of Congress to assume its obligations in the formulation and conduct of foreign policy. While care should be taken to avoid actions which would appear to limit or transgress upon the President's prerogatives in this field, Congress, the Senate in particular, has a significant role to play in establishing policy objectives and guidelines. By repealing the Tonkin Gulf resolution we can exercise our powers and fulfill our responsibilities in a positive and meaningful way. Having provided the peg upon which the Vietnam escalation was hung, we can make a start at exerting congressional influence and wisdom by removing that peg and clearing the way for other worthwhile achievements in defining foreign policy and national priorities.

Several Senators addressed the Chair.

Mr. DOLE. Mr. President, I yield to the Senator from New York.

Mr. JAVITS. Mr. President, first, if the Senator is willing, I would like to be joined as a cosponsor of his amendment.

Mr. DOLE. Mr. President I ask unanimous consent that the name of the Senator from New York be added as a cosponsor of the amendment.

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

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

Mr. DOLE. I yield.

Mr. JAVITS. Mr. President, this Gulf of Tonkin termination measure was reported by the Committee on Foreign Relations, based upon a measure introduced by the Senator from Maryland, (Mr. MATHIAS) and the Senator from Montana (Mr. MANSFIELD) and a measure introduced also by the Senator from Rhode Island (Mr. PELL) and me.

This measure is eminently deserving and essential to what we are about. The only really questionable point of difference on the Byrd amendment—which we have just decided so overwhelmingly, and I understand it perfectly—is the question of what is the division of constitutional power between Congress and the President.

In view of the fact it is only the Gulf of Tonkin resolution which stands in the way of a resolution of that question on the merits—because that is the only authority Congress has given, and the President agrees it is obsolete and he is not using it; if President Johnson had felt the same way our lives would have been simplified and he may have been a candidate for President—I welcome very much the utilization of the vehicle of this bill, which has taken so much debate already. The Gulf of Tonkin resolution stands next in line.

I see the distinguished majority leader on his feet and I shall complete my remarks in 30 seconds.

I hope very much the Senate will do what must be done to clear the decks and then we can deal with the Vietnam war on its merits. In that way we can proceed to the most critical question before our country: What is the definition of the power of the President and what is the definition of the power of Congress in respect of the power of making war.

I think the Senator from Kansas, especially because of his position on the Cooper-Church amendment, has rendered a real service in enabling us to terminate the Gulf of Tonkin resolution. I thank the Senator for adding my name as a cosponsor of the amendment.

Mr. DOLE. I thank the Senator from New York.

Mr. President, I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I commend the Senator from Kansas for offering this amendment. He is putting into practice what he has said repeatedly with respect to his intentions about the repeal of the Gulf of Tonkin resolution. I would like to express the hope, if I may, that instead of making it operative at the end of the second session of this Congress that it should be made operative upon the enactment of the pending bill. That would be facing up to the issue without delay and also, I believe, it would be more in accord with what the distinguished Senator from Maryland (Mr. MATHIAS) had in mind when he took the lead in offering a similar resolution which was reported unanimously by the Committee on Foreign Relations.

Mr. DOLE. I took the language reported by the Committee on Foreign Relations, I would change it; but it is the precise language in the repealer approved by the Committee on Foreign Relations.

Mr. MANSFIELD. Then, I was under a misapprehension because I thought the Mathias resolution was applicable on the date of enactment. Still, I think it would be a good idea to bring it up to date rather than to wait until the end of the session.

Mr. President, I commend the Senator from Kansas for a good job. I am glad at long last the Senate is facing up to this situation.

Mr. DOLE. Mr. President, I thank the Senator.

I yield to the Senator from Kentucky.

Mr. COOK. Mr. President, I request of the Senator from Kansas that my name be added to the cosponsors of his amendment.

I wish to say that frankly I am sorry the Senator's amendment does not go as far as the original Mathias measure which not only would have repealed the Gulf of Tonkin resolution but also would have repealed the resolution of this Congress in regard to Taiwan, Cuba, and the Middle East, because I feel what we do when we repeal this measure, in essence, is reacting rather than acting. I think it is incumbent on the Senate to act. I hope in the future the Senate will give serious consideration to the repeal of all such resolutions presently on the books so that we can put ourselves in a position of acting and not reacting after a situation has occurred.

Not too long ago I placed in the RECORD a statement that the Gulf of Tonkin resolution was passed overwhelmingly by Congress by a vote of 502 to 2. I am sure that with the words of praise I have heard for this amendment that we are standing in a position now to react to what occurred in 1964. While we are reacting we might look at the books and reread the debates made at the time of the Gulf of Tonkin resolution of 1964 to see the other outstanding resolutions on the books that give the President an absolute commitment to commit Armed Forces of the United States under the authority he has already, into many other sections of the world which are presently in a state of turmoil.

Mr. DOLE. I thank the Senator.

Mr. President, I ask unanimous consent to add as cosponsors of the amendment the names of the Senator from Alaska (Mr. STEVENS), the Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from California (Mr. MURPHY).

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

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

Mr. DOLE. I yield to the senior Senator from Kentucky.

Mr. COOPER. Mr. President, I am repeating what the distinguished Senator from New York has said, but the resolution was introduced by the Senator from Maryland (Mr. MATHIAS) on the floor, and in it, he asked for the repeal of Tonkin Bay and several other resolutions.

I remember he was joined immediately by the Senator from Montana (Mr. MANSFIELD). The resolution came before the Senate Foreign Relations Committee. It was finally decided that various resolutions which were sought to be repealed would be separated, and the reported concurrent resolution repealing the Tonkin Bay resolution was sponsored by Senators MATHIAS and MANSFIELD, and JAVITS, and PELL, who had introduced a similar proposal to repeal the Tonkin Bay resolution.

I want to pay particular tribute to the Senator from Maryland (Mr. MATHIAS), who first presented the proposal on the floor of the Senate and in the Foreign Relations Committee hearings. I commend, also the Senator from Kansas for this initiative.

It has been said several times during this debate that the pending bill would never become law if the Cooper-Church amendment is maintained. I do not know whether this is correct, but in the event it does not become law, we proceed with the resolution reported by the Foreign Relations Committee.

I want to make a statement in connection with the repeal of the Tonkin Gulf resolution. I appreciate what my colleague the Senator from Kentucky said about reaction and action. I have never said that I did not understand the import of the Tonkin Gulf resolution. I doubt that any of us in the Senate at that time, foresaw its consequences, and believed that we would be drawn into a great war in Vietnam.

But I cannot claim any exemption from knowledge at the time that it was possible that we could be brought into such a war. I said on the floor of the Senate during the debate that it was

possible that we could be brought into a large war, that we would invade North Vietnam, that we would bomb North Vietnam. While I hoped we would not become involved in such a way, I knew that the Tonkin Gulf resolution could be used by President Johnson as authority for such future action. I make this statement in connection with this movement.

I turn to the amendment which has been before us, the Cooper-Church amendment. No matter what was said about its effect today, I hardly think it will be denied that its chief purpose was and is to prevent the United States from being bogged down in another war in Cambodia, in the way we became involved in war in Vietnam.

I hope very much, before we consider the necessity of repealing the Tonkin Gulf resolution, Members of this body will realize that we are trying, in the introduction and passage of the so-called Cooper-Church amendment, to prevent a similar involvement in Cambodia.

Mr. DOLE. Mr. President, I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank the distinguished Senator from Kansas, author of the amendment that is now before us, for yielding to me. I think much meat was contained in the observations made by the distinguished junior Senator from Kentucky (Mr. COOK), also, when he said that presenting the Senate with an opportunity to act upon the repeal of the resolution gives us an opportunity to act rather than to react, as I believe he stated. If I misquoted him, I apologize, but I think he was saying that it is very easy to look back and see what mistakes we have made in the past; it is far more difficult to look ahead and project what can be the results of actions which we now take that, in all good conscience, we believe will be in the best interests of the United States.

With that particular thought in my mind, I should like to read from an editorial which appeared in the National Observer, June 22, 1970, because I think it addresses itself to the very point that has been touched upon by a number of Senators this afternoon, including the distinguished junior Senator from Kentucky. The editorial in the National Observer reads:

BUTTING IN, BUTTING OUT

This newspaper is neither pro-Israel nor anti-Israel. We believe that America's national interest is the only basis upon which American foreign policy should be made. If what is good for the United States is also good for Israel, that is well and good. If what is good for the United States is bad for Israel, that reality is acceptable. There is no reason to believe that American and Israeli interests are always the same or even similar.

Public officials and commentators are well aware of the energetic Israel lobby in this country. Any statement or suggestion that seems even remotely contrary to Israeli interests is set upon with passion. This newspaper recently received scores of hostile letters after publishing a news report about Zionist activities in the United States. Many letters charged us with anti-Semitism.

While we appreciate the emotional ties some of our countrymen have with Israel, we don't think such ties are a sound basis for making public policy. As for the anti-Semitism charge: Name calling is a practice preferred by those without a sound and rational argument.

As we see it, there are two important differences between the situation in Southeast Asia and the situation in the Middle East. First of all, Israel has asked to buy arms from the United States—it has not asked for free help and it has not asked for American military personnel. Secondly, the Israeli government is considered "liberal" whereas the governments of Arab countries and indeed those of South Vietnam and Cambodia are considered "conservative."

As for the first difference we feel reasonably confident that as time goes on and if events go against Israel, that country would eventually ask for any kind of American help that would save it from defeat. If that proposition is baseless, it would be useful if Israel's friends in this country were to explain why.

With regard to the second difference, is the real issue among American liberals one of war or peace—as they have so steadfastly claimed—or is it rather a political matter? Should the United States have one foreign policy for liberal countries and another for conservative ones?

The ways of the political left in America are getting curiouser and curiouser. Many members of the dove contingent of the United States have signed a letter to Secretary of State Rogers urging that more fighter planes be sent to Israel forthwith.

Let me digress from the editorial to say that I also joined in that letter. I joined in it because I felt it was something we could do in this country to help maintain the balance of power between the so-called nations of the Free World and those countries of the Communist World. I do not back up one bit for my having urged, along with 70-odd other Senators, that we should supply planes to Israel. I want to make that clear.

But, to continue with the editorial:

This move is enthusiastically championed even though it represents another step toward a direct U.S.-Soviet confrontation in the Middle East.

After all the liberal oratory about the urgency of winding down the war in Indochina, we find it peculiar that the same peace-lovers are so ardent in their desire to see the United States escalate the war in the Middle East.

We find it equally peculiar that many liberals automatically assume America's interests would be better served by helping Israel rather than in maintaining and improving America's relations with the Arab countries.

It is true, of course, that Russia is leading the escalation spiral by supplying equipment and some military personnel to Egypt. But Russia also has been supplying aid to the Vietnamese Communists, and when the United States responded to that challenge the doves ignored the Moscow-Peking escalation and simply rallied against the American reaction to it.

Some questions suggest themselves.

If, as the liberals contend, the United States' vital security would not be hurt by disinvolvement in Indochina, wouldn't the same conclusion apply to the Middle East?

Does the United States have more to fear from the Arab states than from the Indochina Communists? What have the Arab countries done to America to deserve the hostility of so many U.S. senators?

Would it be wise, considering the passion for peace within the United States, to stumble out of one war only to stumble into another? How far are the liberals prepared to see America go in defending Israel?

It seems obvious to us that America's national interest would not be served by deliberately alienating the entire Arab world. Beyond that it would be reckless indeed to get involved in another society-rending foreign war. And it would be utter madness to proceed to a final confrontation with Russia in Russia's back yard because of a local feud between countries that pose no threat to American security.

Regarding the frequently heard assertion that the United States has a "moral" obligation to protect Israel, we would simply suggest that if the liberals are right in denying an American moral obligation toward the non-Communist countries of Indochina, the same position is entirely applicable in relation to Israel. Did the United States approve the establishment of the state of Israel? Yes, just as in another fashion it in fact approved the establishment of the state of South Vietnam. We fail to see why that fact—assuming, which is debatable, that it should have approved those establishments—in either case commits the United States to help protect those countries indefinitely.

Perhaps we're wrong, but we somehow recall many American liberals saying that it is no longer realistic for the United States to consider itself the world's policeman. The statement, although difficult for many people to accept, does reflect the actualities of international politics in the 1970s.

Nor is there an absolute "rightness" in Israel's cause to which the United States must give ultimate priority. There are, after all, hundreds of thousands of Palestinian refugees who were made homeless when a group of non-Arab countries took it upon themselves to create a non-Arab state in the heart of the Arab world.

Make no mistake about it. We do not wish to see the end of the state of Israel; we do not take glee in its plight. It would be a poor student of human history who didn't appreciate its people's claim to an eminent place in the story of civilization; it would be hard to discount the bravery and industry of its people.

But we believe Israel has misguidedly followed a policy that can only be called expansionist since the Six Day War. Its policies are militant and dangerous, threatening a Soviet-U.S. holocaust. There is ample room, we believe, for Arab-Israeli conciliation and political settlement. It is in this direction that the United States should move—not in further escalating the situation.

However much the hard realities distress many of our countrymen, it would be worse than absurd for America to butt into the Middle East at the very time it is trying so hard to butt out of Southeast Asia.

That concludes my reading of the editorial. I should like to add in summation that it seems to me that the editorial has raised some questions that may be difficult for some of the so-called doves in this country to answer. If it is true, as we are encouraged to believe it is, that the real danger in the Middle East comes not from the warmaking desires of the Arab countries, but rather from the Communist support that Soviet Russia is believed to be contributing to those countries—in fact, the challenge is posed by communism, by Communist Russia—I would simply point out that I think that is the same country that we have considered to be our antagonist in Southeast Asia.

So I hope that as we continue the debate, we may have the courage, the insight, and the candor to face up forthrightly to the question: Whom are we fighting? Is the enemy in Southeast Asia different from the enemy we are fighting in the Arab world? Then we should try,

in the context of that sort of question, to ask ourselves: What should be our policy? To go back to what the distinguished Senator from Kentucky (Mr. COOPER) said, should we act or should we react? If we can identify who our potential foes are, we may then be better able to avert the miscalculations of history that have caused us such pain in the past. We might then hope to be better guided by a policy or a plan that will serve America's interests first.

In saying that, I should also say that I have been most sympathetic to the valiant efforts made by Israel. I joined in the letter to the President asking that planes be made available to Israel, because I thought it was clearly and abundantly demonstrated by Russia's actions that Russia sought to upset the balance of power that has existed in the Middle East.

I thank the distinguished Senator from Kansas for yielding.

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Maryland.

Mr. MATHIAS. Mr. President, I should like to contribute to the discussion begun by the distinguished Senator from Kansas (Mr. DOLE), who I think is performing a highly useful service to the Senate by bringing up his suggestion to repeal the Tonkin Gulf joint resolution at this point in the debate on the Cooper-Church amendment.

As the Senate will recall, I have long been an advocate of repealing the Tonkin Gulf joint resolution and had formally proposed such action in a package of foreign policy actions to be considered by the Senate in Senate Joint Resolution 166, which is cosponsored by the majority leader, the distinguished Senator from Montana (Mr. MANSFIELD). But I think that the proposal made today by the Senator from Kansas has the virtue of being both timely and entirely consistent with the tenor of this debate. So I believe that the Senator from Kansas should be supported. I think his amendment contributes much. I hope that the other body will agree that the Tonkin Gulf joint resolution should, indeed, be repealed.

I would suggest, however, that there should be one difference in the language which the Senator from Kansas has offered, which, as he has read in his speech to the Senate, was adopted from the language of the concurrent resolution reported to the Senate by the Committe on Foreign Relations and provides that the termination of the Tonkin Gulf joint resolution should be upon the date when the second session of the 91st Congress is adjourned.

The legislative history of that language is, of course, that it apply to the first proposals in this area, not only to the Tonkin Gulf joint resolution, but also to the other resolutions which were also the subjects of Senate Joint Resolution 166—the Formosa, the Lebanon, and the Cuba resolutions.

In view of the fact that this was a major foreign policy development, it was felt, when these repealers were first offered, that it was desirable to allow an interim period in which the Executive might be permitted to propose alternative policies which might be required. It seems to me that that situation is not operative here.

Therefore, I ask unanimous consent that the amendment offered by the Senator from Kansas may be modified so that the words following the word "upon" be striken and that the words "the date of enactment of this act" be substituted.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maryland?

Mr. HOLLAND. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MATHIAS. Mr. President, I think it is unfortunate that we cannot proceed to make this amendment effective immediately upon enactment, because I think that serves the whole purpose and direction of this debate. I think, however, that if we succeed in the repealer which is effective at the conclusion of the 91st Congress, the message will be perfectly clear to the whole world. I sincerely hope that the amendment will be adopted.

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

Mr. MILLER. I thank the Senator from Kansas for yielding.

Mr. ERVIN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. ERVIN. Can the Senator hold the floor and give other Senators permission to speak? Is that not the prerogative of the Chair?

The PRESIDING OFFICER. Under the rule, if the regular order is called for, the Senator from Kansas cannot yield except for a question.

Mr. ERVIN. I do not want to call for the regular order with respect to the Senator from Kansas, but I think that some Senators might want to obtain the floor under the rules of the Senate rather than by permission of the distinguished Senator from Kansas.

Mr. DOLE. Let me respond to the distinguished Senator from North Carolina. I will yield very briefly to the Senator from Iowa, and then I will yield the floor.

I yield to the Senator from Iowa for a question.

Mr. MILLER. Mr. President, I thank the Senator from Kansas for yielding. I do have some questions.

I support the pending amendment to repeal the Gulf of Tonkin resolution. I want to remind my colleagues that back on March 7, 1968, while most of the Senators were present in this Chamber, we had a rather long discussion about the way the war was going and something about the Gulf of Tonkin resolution, which we had passed some years before.

As shown in the CONGRESSIONAL RECORD, volume 114, part 5, page 5646, the distinguished Senator from Arkansas (Mr. FULBRIGHT) yielded, and I stated:

Mr. MILLER. Mr. President, I thank the Senator.

At the time we had before us the Gulf of Tonkin resolution I cast my vote in favor of it and I did so on the assumption that the military action taken by the President of the United States in the conduct of a war would be according to the best traditions of our military service. If at that time someone had told me that the conduct of a war after the Gulf of Tonkin resolution would be a prolonged war strategy, and if someone had told me that the Preparedness Investigating Subcommittee 2 years later would have found in 1966 that of the thousands of sorties flown over North Vietnam less than 1 percent would be directed at key chief of staff targets, I would not have supported the Gulf of Tonkin resolution.

Mr. President, there may have been reasons for the prolonged war strategy. No doubt there were. But, periodically and publicly, I called upon the former President to take the American people into his confidence and tell them why he was using a prolonged war strategy. I warned that the longer the war went on, the more casualties there would be and the more problems there would be. I regret to say that my plea never was heeded.

I feel the same way today as I felt at the time of the remarks I have just quoted from the RECORD. As a matter of protest to the way the war was conducted for nearly 5 years after the Gulf of Tonkin resolution, I propose to vote for the repeal of the Gulf of Tonkin resolution, which is the pending amendment.

There is another point to be made. There is some language in the Gulf of Tonkin resolution with respect to which I would trust that action on this amendment would not constitute a repudiation. In the first place, we have a treaty on the books known as the SEATO Treaty, and that is the supreme law of the land. It was duly negotiated and ratified by a two-thirds vote of the Senate; and it is my understanding that we cannot just out of hand repeal the SEATO Treaty, certainly by a simple majority vote in the Senate. The Gulf of Tonkin resolution recites that pursuant to the authority and the commitment made in the SEATO Treaty, Congress resolves to support the President in whatever his determination and his actions may be with respect to the situation in Southeast Asia.

I recall that at the time this was being debated, the Senator from Kentucky (Mr. COOPER) asked the manager of the Gulf of Tonkin resolution, the distinguished chairman of the Committee on Foreign Relations, whether the authority granted in this resolution could lead to a war; and the response from the distinguished chairman of the Foreign Relations Committee was: "That is the way I would interpret it."

With this legislative history, plus the wording of the Gulf of Tonkin resolution, I do not have any question that there has been a de facto declaration of war by Congress. The Constitution requires that Congress declare a war, and what really counts is that Congress express its will. The Constitution does not say that it has to be a formal declaration, with a lot of ribbons on it. The Constitution certainly makes clear that Congress must indicate its will, and that was done with the overwhelming vote in favor of the Gulf of Tonkin resolution, plus the legislative history to which I have just referred.

Now that we are in a war and we

have had a de facto declaration of war indicated by the overwhelming vote by Congress, my question to the Senator from Kansas is whether or not he thinks that by adopting his amendment, we can undeclare the war.

Mr. DOLE. I invite the Senator from Iowa's attention to section 3 of the Gulf of Tonkin resolution, approved by Congress on August 10, 1964, which reads:

This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

The proposed legislative action would be more effective and more meaningful than a concurrent resolution. It is provided specifically in the Gulf of Tonkin resolution that, of course, Congress "may" do what it wishes by appropriate action not just by concurrent resolution.

With the President indicating his support for repeal of the Gulf of Tonkin resolution, since it is no longer used for a vehicle of escalation; since he is de-escalating the war in Southeast Asia and South Vietnam; that we have every right, in fact the responsibility, if we intend to do as we say to share the burden and responsibility with the President. I happen to believe that this is one way we in the Senate can indicate we share the President's view with reference to de-escalation.

Therefore, I answer the Senator's question in the affirmative.

Mr. MILLER. Does not the Senator agree, whether we like it or not, that we are in a war and it has been duly declared, at least de facto, by Congress, and that the Commander in Chief now has troops to lead in the field of battle, and that a simple repeal of a declaration of war by Congress does not mean that the Commander in Chief's powers under the Constitution are thereby abolished and that he has no power in the field?

Mr. DOLE. That is another reason it can be safely repealed. We have discussed this for 35 days now, as to the rights and powers of the President vis-a-vis the rights and powers of Congress. Certainly the President had powers prior to the adoption of the Gulf of Tonkin resolution. He had those same powers, on the same day that resolution was adopted as he had the day before. The resolution did not add or detract from those powers one iota.

I therefore feel that repeal of the Gulf of Tonkin resolution would have no effect except that it would be an indication by Congress of its interest in and its intent and hope that at least we are really on the way out of Southeast Asia.

Mr. MILLER. Let me tell my distinguished friend from Kansas why I shall support his amendment. I am not going to support it with the idea that it is just an empty gesture, that it more or less indicates we would like to have the war shortened and ended on an honorable basis as soon as possible. I do not think we need to engage in floor activity here for that purpose because, I would guess, all 100 Senators feel that way and have said so many times.

As I indicated, I shall vote for the Senator's amendment because this will be the first chance I have had legislatively to indicate my protest over the way the war was conducted for nearly 5 years following adoption of the Gulf of Tonkin resolution by Congress—conducted according to a strategy which prolonged the war and, in my judgment, a war which could have been ended much sooner.

I want to make it clear that just because I vote to repeal a de facto declaration of war does not mean that the constitutional powers of the President are altered thereby. He still has these powers as Commander in Chief, with a war on his hands which he inherited, to try to dispose of the war as effectively as possible. I am sure there is no intention on the part of the distinguished Senator from Kansas to change that policy.

Mr. DOLE. Let me reassure the distinguished Senator from Iowa that there is no intention on my part to change that policy. I would underscore that policy and that power that any President may have.

I would add that at the time the Gulf of Tonkin resolution was being considered in Congress, I was serving in the other body. It passed there 414 to 0 and it passed in the Senate by 88 to 2. At the time, there was a need to underscore the rights and powers of the President and, at that time also, to escalate the war if necessary, to defend America's interests and to protect American troops.

Mr. President, at this point, I ask unanimous consent to have the Gulf of Tonkin resolution printed in the RECORD.

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

SOUTHEAST ASIA RESOLUTION [1]

Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

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.

SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

SEC. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

[1] Text of Public Law 88-408 [H.J. Res. 1145], 78 Stat. 384, approved Aug. 10, 1964.

Mr. DOLE. Mr. President, the text of the Gulf of Tonkin resolution provides a clearer explanation of what was intended at that time by Congress and by the President, in a proper sharing of responsibility.

Now, almost 6 years later, we are under different circumstances insofar as the war is concerned, but not insofar as the President's powers and rights are concerned. They are unchanged. They are as valid today as they were on August 10, 1964.

The debate here for the past 35 days has been most meaningful in that regard because there has been an indication by nearly everyone that the President is the Commander in Chief; that he is in charge of tactics on any battlefield, and certainly there is nothing intended by offering repeal of the Gulf of Tonkin resolution to add or detract from those Presidential powers under the Constitution.

Mr. MILLER. On a somewhat different subject, I would hope that a favorable vote on this amendment would not be interpreted by the proponent of the amendment, the distinguished Senator from Kansas, to indicate any legislative disagreement with certain recitals in the Gulf of Tonkin resolution.

For example, one recital is,

Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

I trust that the Senator does not intend favorable action on his amendment to repudiate that statement.

Mr. DOLE. That certainly is not the intention of the Senator from Kansas.

Mr. MILLER. I thank the Senator. Also, there is the further statement in the Gulf of Tonkin resolution.

Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way;

I trust that there is no implication in a favorable vote on the amendment to indicate congressional disfavor with that.

Mr. DOLE. Again the sponsor of the amendment, the junior Senator from Kansas, would state that during the past month we have underscored the opposite intent and meaning.

However, repeal would not, insofar as the junior Senator from Kansas is concerned, have that effect.

Mr. MILLER. I appreciate that response because I think that action on

this amendment should be in that perspective, and, if it is in that perspective, then our friends and people in that part of the world who have relied upon our treaty commitments would understand that we are not reneging on our treaty commitments, but——

Mr. ERVIN. Mr. President, will the Senator from Kansas yield?

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from Kansas has the floor.

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

Mr. DOLE. I yield to the Senator from North Carolina.

Mr. ERVIN. I was going to ask the Senator if he does not know that under the SEATO Treaty, the United States does not obligate itself to come to the armed defense of anyone over there except in the exercise of its constitutional principles——

Mr. MANSFIELD. Dual constitutional processes.

Mr. ERVIN. Under its constitutional processes. The Gulf of Tonkin resolution was an exercise of one of our constitutional processes, the power of Congress to declare a state of war. If we were to repeal that Gulf of Tonkin resolution, we would repeal the authority Congress gave the President to put our troops in combat in Southeast Asia.

The SEATO Treaty put no obligation upon the United States to do that. So the Senator's amendment, if adopted, would be a repeal of the authority of the President to command our troops in combat in that area of the world.

Mr. STENNIS. Mr. President, will the Senator from Kansas yield briefly? I have an emergency telephone call to take.

Mr. DOLE. I yield.

Mr. STENNIS. I should like to put my statement in the form of a question, but first preface it by asking: Does the Senator from Kansas propose—I could not be here on the floor before—to add as an amendment to the Cooper-Church amendment words that will in effect repeal the Gulf of Tonkin resolution?

Mr. DOLE. In reply to the Senator from Mississippi, the Senator from Kansas would state that he offered an amendment or a new section to the Military Sales Act, section 14, which does have that effect.

Mr. STENNIS. A new section. Is it not a fact that we have pending now on the calendar a resolution that would reach the same end and that that resolution has been considered and reported by the Finance Committee with a report? Is that a correct statement?

Mr. DOLE. That is a fact; yes.

Mr. STENNIS. Does not the Senator think this is such an important matter that it would be better to take it up in the regular course of business so that it could be considered, testimony could be presented in the proper way, those who were opposed could present their views, and the matter acted on? Would that not be a better way to consider the subject?

Mr. DOLE. Mr. President, let me say that it occurs to me that since we have been discussing this very subject for 5 weeks, we have perhaps covered about every aspect.

This would be a way to expedite the business of the Senate. It was offered in that spirit. I made mention of that possibility two or three times in the past 30 days.

I would hope when debate is included on the Cooper-Church amendment, the bill can be passed by the Senate and the Senate can move on to some other business.

I am not attempting to usurp the powers of anyone in the Senate. I believe the amendment is a proper amendment and the Senate can work its will.

I happen to believe that the Tonkin Gulf resolution should be repealed and am prepared to vote for repeal today.

Mr. STENNIS. The Tonkin Gulf resolution was passed by an almost unanimous vote in the Senate, and it was used by the President of the United States as a basis for his action in Vietnam. And that action was generally accepted as being within the purview of that language.

The resolution was not agreed to by everyone. There was dissent. But for a long while there was no real effort made to change it or to repeal it. And now, having gone for all these years, at least on a partial basis for about 4 years by former President Johnson and for a year and a half by the present President, President Nixon, it seems to me that before the whole world and before a great majority of our people, it is looked upon as at least constituting a major part of the basis for the authority under which we have acted.

With respect to saying that that matter is a debatable question, it seems to me, with all respect, that we would be far from exercising a sound judgment if we were to jerk it up here now at the last minute, after a fairly minor bill, the Military Sales Act, has been pending here for all these weeks and add a major policy of this kind as an amendment to a minor bill. It would jerk the rug out from under the authority that has been exercised for all of these years, in a way, and lives have been lost in battle under that authority. In part, that resolution was at least the considered basis for the authority for this war.

I am not trying to dodge the issue. We have a responsible committee that has weighed the evidence and considered this matter. The committee respectfully made its recommendations and has come forward with a responsible report on the resolution. It is certainly a debatable matter. It involves a major policy matter. As I say, we have fought a war pursuant to this authority.

I respectfully submit that I hope the Senate will not consider this as being so small a matter or so minor or so significant as to warrant being added on as an amendment to the bill.

Frankly, my judgment would be that the President would not want it handled in that way. However, I have no communication with the White House. I do not speak for him. I do not know why all of a sudden it is proposed here. However, apart from all those things, I hope that the Senate will see fit to reject the amendment.

For my part, I would be ready then to proceed immediately in the proper way so that this matter of repealing the resolution could be weighed by the press, by the people, and by the Members of the Senate.

I am most grateful to the Senator for yielding to me.

Mr. DOLE. Mr. President, I have great respect, as the Senator knows, for his judgment. Certainly, as the Senator indicated earlier, I have offered it now to expedite the business.

I realize that there are many experts on the committee. The matter can be debated, and there is no effort on my part to rush this matter through the Senate without full and complete debate.

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

Mr. DOLE. I yield.

Mr. COTTON. Mr. President, the Senator from New Hampshire has carefully refrained from participating in this debate all these weeks. However, he does want to say a word on this amendment.

The Senator from New Hampshire finds himself—with the great respect that he has for the Senator from Mississippi—completely of a contrary opinion.

Mr. President, 6 years ago at the request of the President of the United States, the Senate, with rather brief debate, approved the so-called Tonkin resolution. And that resolution has remained in effect for 6 years as the only formal, official action on the part of Congress in regard to the hostilities in South Vietnam, with the possible exception of some restriction in an appropriations bill regarding Laos.

Mr. President, the Senator from New Hampshire was present and was one of 88 Senators to vote for that resolution.

The Senator from New Hampshire as long as 3 or 4 years ago publicly, in sackcloth and ashes, expressed his repentance.

If the Senator from New Hampshire were compelled to mention the one vote that he regretted the most in the 16 years he has served in the Senate, he would have to say that it was the vote he cast for the Tonkin Gulf resolution.

I have been waiting now for 3 years for a chance to vote to repeal the measure.

It is no excuse or comfort for the Senator from New Hampshire to say that 87 other Senators also voted in favor of the resolution. The Senator from New Hampshire thinks they made the same mistake he did. It is no excuse for any Senator to say that he did not realize or understand that that resolution gave the approval of Congress to practically unlimited actions by the President of the United States.

We can all read. The resolution provided that the President could take such measures as he saw fit to protect American interests in Southeast Asia.

I suppose we, in reading that, fixed our attention on it and believe it had to do with action that would be taken in regard to the attack on one of our naval vessels.

But the resolution went on to say, "to keep the peace in Southeast Asia."

In my book, it is not the unilateral duty of the United States of America to keep the peace in Southeast Asia. In fact, I must say frankly, with all due respect to my President, the present President, that when I was listening to

his news conference not long ago, I shuddered when I heard him—perhaps not calculatingly—refer to us as the peacekeeper in Southeast Asia.

It seemed to me that the logical, first step to have been taken by the Senate and by the House of Representatives when this problem was highlighted and brought to the attention of Congress and the people in such a sharp way by the action in Cambodia, was to repeal the Tonkin resolution which has remained for 6 years as a formal expression of approval by Congress for almost any kind of action in Southeast Asia. That should have been the first step before we proceeded to the consideration of the more drastic step or expedient of exercising our power of the purse and attempting to shut off, under a given set of circumstances, the pay, the support, the arming, and the protection of American troops serving in Southeast Asia.

Therefore, I am glad that the able Senator from Kansas has offered this proposal as an independent amendment to the Military Sales Act, not attached, as I understand it, in any way to the so-called Cooper-Church amendment.

I hope we will be given an opportunity to vote on this measure. I shall most certainly vote to repeal the Gulf of Tonkin resolution and thereby seek to rectify the error that I consider I made and have bitterly regretted since that resolution was originally adopted.

I do not mean to claim that such action represents the whole solution for the problem now before us, or necessarily that it discharges the full duty of Congress or the Senate to deal with that situation. But I am saying it is the logical first step and I would like to see it taken. I think it is both logical and reasonable that we take that step before we go on to the consideration of the Cooper-Church amendment or any other amendment that has to do with control of the situation in Southeast Asia by the control of the purse strings.

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

Mr. DOLE. I have the floor. I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I am in accord with what the distinguished Senator from New Hampshire has said. I would point out we have had a measure reported unanimously by the Committee on Foreign Relations seeking in a concurrent resolution to bring about rescinding of the Gulf of Tonkin resolution. There is some feeling that the concurrent resolution should be given consideration because it had been considered in committee and it has been on the calendar for some weeks.

As far as I am concerned I intend to vote for the Dole amendment and I intend at some time to call up the concurrent resolution so that we will have two shots at it to make absolutely sure the Gulf of Tonkin resolution, which I think was carried to an extreme under a previous administration, is liquidated once and for all.

Mr. COTTON. I thank the distinguished majority leader.

Mr. President, I shall be only a moment.

Mr. FULBRIGHT. Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. BELLMON). The Senator from Kansas has the floor.

Mr. FULBRIGHT. Is he yielding for a question?

Mr. DOLE. Yes; I am waiting for it.

Mr. COTTON. I shall ask the question in just a moment.

Mr. President, I am thoroughly in accord with what the distinguished majority leader has said. I have only one reservation, and I would ask the majority leader if this is not a reasonable reservation so that I will not be violating the rules of the Senate. If we could dispose of this matter now by adopting the Dole amendment, then we do not run the risk, when we have finally voted on the Cooper-Church amendment, of having to start all over again to deal with the Gulf of Tonkin resolution.

Mr. DOLE. Mr. President, I share the views of the Senator from New Hampshire.

Since there has been some reference to the committee report, I wish to read from the committee report:

> The Committee on Foreign Relations, to which was referred the concurrent resolution (S. Con. Res. 64) to terminate certain joint resolutions authorizing the use of the Armed Forces of the United States in certain areas outside the United States, having considered the same, reports favorably thereon with an amendment and recommends that the concurrent resolution, as amended, do pass.

That is the extent of the committee statement in the report. That language is followed by a recitation of the committee amendment and the recitation of other amendments offered by a number of other Senators, and this is followed by comments from the Department of State with respect to the various resolutions.

I would say to those who indicate that perhaps we should set this aside and discuss what might be in the committee report, the statement which has just been referred to by the junior Senator from Kansas is the total statement of the committee.

But I share the views expressed by the distinguished majority leader and so expressed myself before.

Mr. President, because of the importance of the debate on the Gulf of Tonkin resolution, I ask unanimous consent that it be printed in its entirety in the RECORD.

Mr. FULBRIGHT. Mr. President, reserving the right to object, is the Senator referring to the report?

Mr. DOLE. I refer to the Senate debate on the Gulf of Tonkin resolution on August 6 and 7, 1964.

Mr. FULBRIGHT. I shall not object. I wish to inquire of the Senator if he is planning to hold the floor all afternoon.

Mr. DOLE. No. I am ready to yield the floor in about 1 minute.

Mr. FULBRIGHT. I do not object.

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

[From the CONGRESSIONAL RECORD, Aug. 6, 1964]

MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY IN SOUTHEAST ASIA

Mr. MANSFIELD. Mr. President, I ask that the Vietnam resolution be laid before the Senate. It has been cleared with the chairmen of the Committee on Foreign Relations and the Committee on Armed Services, with the ranking members of those committees, with the distinguished minority leader [Mr. DIRKSEN], and with the distinguished senior Senator from Oregon [Mr. MORSE], who is interested in the subject.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the joint resolution (S.J. Res. 189) to promote the maintenance of international peace and security in southeast Asia.

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

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Mr. President, is it agreed that a vote on the treaty with Belgium will be had at 2 o'clock?

The PRESIDING OFFICER. The Senator is correct.

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

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Mr. President, is it further understood that it is the intention to call up the so-called Vietnam resolution following the vote on the treaty?

Mr. MANSFIELD. Mr. President, I wish to make a few remarks on the Vietnam resolution.

The President has acted against repeated Communist provocations in the Tonkin Gulf. He has acted in the hope of preventing an expansion of the conflict in Asia, in the hope of minimizing the American involvement on that continent.

He has weighed the degree of military response to the degree of military provocation. He has taken military steps for legitimate defense and, at the same time, he has brought the matter to the conference tables of the United Nations, as a matter of urgency in connection with the maintenance of world peace.

He has counseled with the congressional leadership, the relevant committee chairmen and ranking minority members and the Republican candidate for President. Two nights ago he informed the entire Nation of his action.

The President, in short, has acted with a cool head and a steady hand in a most critical situation. He has acted as the leader of a great free nation, fully aware of a great nation's responsibilities to itself, to freedom, and to the peace of the world.

Let no man make light of what has been done in the past 72 hours. What has been done is no automatic or certain solution to the difficulties. A reasoned approach to this situation on our part is no assurance that others will have the same capacity. Our own restraint is no guarantee of the restraint of others. Our wish for peace is not necessarily the wish of others.

But the President has acted in the hope of restraining the dogs of war. It remains to be seen, now, whether others will act in the same fashion. Escalators go up as well as down and, in this instance, our hand is not the only hand on the control. We hope for the best. But let us also be prepared for the worst. The situation may well become more critical—far more critical—before its resolution becomes visible.

One would hope that those who have acted with provocation will now cease so to act. One would hope that the United Nations will be helpful. One would hope that those na-

tions deeply concerned but not directly involved in Indochina will redouble their efforts to find a peaceful solution to all of the difficulties which have beset the peninsula for almost two decades and ourselves for 10 years.

But those are matters which are not in our own hands alone. For us, it is sufficient at this time to know that the President has set a course for the best interests of the Nation, for Democrats and Republicans alike, for the Government and people of the United States. He asks for and he will have, in this endeavor, the support of the Congress and the people of the United States. Let there be no doubt of that in any nation in Asia or in any part of the world. What needs to be done to defend ourselves will be done. What can be done by us to give human freedom a chance in southeast Asia will be done. It will be done not alone by the President. It will be done not alone by the armed services which he commands. It will be done not alone by Democrats or by Republicans. It will be done by an entire Nation united in their trust and in their support of the President of the United States.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to correct the text of the resolution. There was a technical mistake, an omission on line 10, page 2, as follows, following the words "consonant with the Constitution," the words "of the United States" were inadvertently left out. It is perfectly obvious that it was the Constitution of the United States that was being referred to. I ask unanimous consent that it be corrected.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. FULBRIGHT. Mr. President, pursuant to the order of the Senate on yesterday, the Committee on Armed Forces, headed by the distinguished Senator from Georgia [Mr. RUSSELL], and the Committee on Foreign Relations met jointly this morning to take testimony on Senate Joint Resolution 189.

Mr. President, I recommend the prompt and overwhelming endorsement of the resolution now before the Senate. The resolution, which has been approved by the Committees on Foreign Relations and Armed Services with only one dissenting vote, endorses the wise and necessary action of President Johnson in ordering the 7th fleet and its air units to take appropriate measures in response to the unprovoked attacks on American naval vessels by North Vietnamese torpedo boats. The resolution further expresses the approval and support of the Congress for the determination of the President to take such action as may be necessary, now and in the future, to restrain or repel Communist aggression in southeast Asia.

The action taken by the United States in retaliation for the North Vietnamese torpedo boat attacks must be understood both in terms of the immediate situation and in terms of the broader pattern of Communist military and subversive activities in southeast Asia over the past 10 years. On both levels the North Vietnamese regime is patently guilty of military aggression and demonstrably in contempt of international law.

As stated in the report of the joint committee on the resolution:

"The North Vietnamese campaign against the South has increased in scope and tempo. It has added a new dimension to traditional concepts of warfare and aggression—the dimension of subversion and terror on a planned, centrally directed, and coordinated basis. This new kind of aggression is not symbolized by armies marching across frontiers with bands playing and flags waving. But it is no less outrageous international behavior."

The facts of the immediate situation are clear. On August 2 the U.S. destroyer *Maddox* was attacked without provocation by North Vietnamese torpedo boats in international waters in the Gulf of Tonkin. The American vessel, with the support of aircraft from the U.S.S. *Ticonderoga*, fired back in self-defense and drove off the attackers. The United States thereupon warned the Hanoi regime of "grave consequences" in the event of further military attacks on American forces. On August 4 the *Maddox* and another destroyer, the *C. Turner Joy*, were again attacked by North Vietnamese torpedo boats in international waters. The attack, which lasted for over 2 hours, was without any doubt a calculated act of military aggression. The United States thereupon responded with air strikes against North Vietnamese torpedo boats and their supporting facilities at various points on the coast of North Vietnam.

The American action was limited and measured in proportion to the provocation which gave rise to it. It was an act of self-defense wholly consistent with article 51 of the United Nations Charter and an act of limited retaliation wholly consistent with the international law of reprisal. The single, most notable fact about the American action was its great restraint as an act of retaliation taken by a great power in response to the provocation of a small power.

The action taken by the United States was appropriate as policy as well as justified in law. An act of unambiguous aggression cannot be tolerated or ignored without inviting further provocations, especially when the act is committed by a regime which has been engaged in consistent and repeated aggression against its neighbor states.

Had the attacks on the *Maddox* and the *C. Turner Joy* been isolated occurrences it might have been appropriate to respond by a lesser act of force than that employed, or even by measures short of force. This, however, is not the case. The North Vietnamese regime has made an international career of aggression almost since its inception in 1954. Certainly supported and quite possibly incited by Communist China, North Vietnam has persistently engaged in subversion and more direct hostilities against the duly constituted governments of both Laos and South Vietnam. It has done these things in gross violation of the Geneva Agreement of 1954 and of the Geneva Agreement of 1962 pertaining to Laos. It has done these things in violation of international law, in contempt of the United Nations Charter, in malice toward its neighbors, and in reckless disregard of the requirements of peace in southeast Asia.

Under these circumstances, it was incumbent upon the United States to act, as it did, in a manner proportionate to the provocation. Viewed in the context of the immediate provocation, the retaliatory measures taken by the United States were necessary and justified. Viewed in the context of a decade of reckless and irresponsible behavior on the part of the North Vietnamese regime, the action taken by the United States was the minimum consistent with its own vital interests and with its obligations to its allies and partners in southeast Asia.

The situation in southeast Asia illustrates an extremely important principle of foreign policy—that the challenges which confronts us in the world are widely varying in character and intensity and must be dealt with accordingly by a wide variety of instruments and policies. Just as it is a mistake to assert that force is the only proper response to every challenge of Communist power, it is no less a mistake to assert that military action is never a necessary instrument of policy. Whatever the outcome of the present crisis in southeast Asia, it is important for us to refrain from making sweeping generalizations as to both the provocation and our response to it. Special combinations of circumstances suggest special patterns of response, which may or may not be valid in different situations.

The point which I wish to make is that while we must be consistent in the objectives of our foreign policy, we must be flexible in the instruments we use to attain them. We must bear in mind that military force is not an end but an instrument, a dangerous and repugnant one which is never desirable but sometimes essential. It is equally unwise to assume that force must never be used and to assume that its successful use in one instance warrants its use in any or all others.

The current crisis in southeast Asia, I believe, is one in which the use of limited American force has been necessary and may be necessary again. It is essential, however, that we evaluate this crisis in its global context. That context is one in which hopeful tendencies toward peace are on the rise despite events in crisis areas such as Vietnam. It would be a great mistake to allow our optimism about promising developments in our relations with the Soviet Union and Eastern Europe to lead us to any illusions about the aggressive designs of North Vietnam and its Chinese Communist sponsor. It would be no less a mistake to allow our concern with baleful events in southeast Asia to drive us to actions and attitudes which would undermine current progress toward the relaxation of tensions with the Soviet Union and the European Communist regimes. At all times, but especially at this moment of crisis, we must be extremely clear about the different policies pursued by different Communist regimes, about the different challenges which they pose and the different responses which they warrant. We must have the wisdom and the discrimination to be able, when necessary, to engage simultaneously in the local prosecution of hostilities and the global pursuit of world peace.

In southeast Asia itself, we must leave no doubt in the minds of both adversaries and friends as to what our objectives are and what they are not. It should be clear to all concerned that our purpose is to uphold and strengthen the Geneva Agreements of 1954 and 1962—that is to say, to establish viable, independent states in Indochina and elsewhere in southeast Asia, states which will be free of and secure from the domination of Communist China and Communist North Vietnam. It should be emphasized that we wish the nations of southeast Asia to be free of and secure from domination by Peiping and Hanoi, but not necessarily hostile to these regimes. It should be further emphasized to all concerned that our objective is not to establish our own military power in Indochina or in any way to bring the nations of Indochina under our domination or even to bring them into an American "sphere of influence."

It should be made clear to the Communist powers of Asia, if it is not yet sufficiently clear, that they can enjoy peace and security as long—but only as long as they confine their ambitions within their own frontiers. It should also be made clear that whenever the Communist powers show a willingness to settle the problems of southeast Asia by peaceful and lawful means, these problems can then be placed largely or entirely under the jurisdiction of the United Nations. It should be made equally clear to these regimes, if it is not yet sufficiently clear, that their aggressive and expansionist ambitions, wherever advanced, will meet precisely that degree of American opposition which is necessary to frustrate them. The resolution now before the Senate is designed to shatter whatever illusions our adversaries may harbor about the determination of the United States to act promptly and vigorously against aggression. For this reason, Mr. President, I urge its prompt and overwhelming adoption by the Senate.

Mr. President, in addition to the strong support of the Congress, there have been expressions of widespread support for the President's action in the country and in the press. I ask unanimous consent that there be inserted in the RECORD at his point a number of newspaper editorials which are illustrative of the general support for President Johnson's actions in southeast Asia.

There being no objection, the editorials were ordered to be printed in the RECORD.

[From the Philadelphia Inquirer, Aug. 6, 1964]

A NATION UNITED

In this grim, dark hour—when the issue of peace or war hangs precariously in the balance—President Johnson has called upon the American people to meet the test of courage and determination that has been thrust suddenly and irrevocably upon us all by a treacherous foe.

The Nation must stand firm and united in unwavering support of the President at this crucial juncture in the history of mankind.

We are confident that Americans, irrespective of political party, shall do so—in keeping with the highest traditions of this country in times of crisis.

In his solemn address to the world on Wednesday, at Syracuse, Mr. Johnson reiterated and expanded upon points he made late Tuesday night in his report on the swift succession of ominous events in southeast Asia.

The President is right, beyond any question in making it clear to the leaders of Communist North Vietnam, and to any other government bent on unprovoked aggression, that America's earnest desire for peace is not to be misconstrued as weakness.

Delivering one of the finest addresses of his long career in public service, Mr. Johnson summed up the situation succinctly at Syracuse in these terse phrases: "The attacks were deliberate. The attacks were unprovoked. The attacks have been answered."

After the North Vietnamese torpedo boats had opened fire against U.S. naval craft in international waters, for the second time in 3 days, it was unmistakably clear that the American reply, in action as well as words, needed to be prompt and appropriately forceful—commensurate with the seriousness of the North Vietnamese challenge and the flagrant disregard they showed for the rights of our vessels to sail the seas without interference.

These rights have been hard won, over many years, by valiant Americans. Freedom of movement on the oceans must be defended.

Retaliatory U.S. air strikes against North Vietnamese torpedo boat bases and other installations, as reported by Defense Secretary McNamara, unfortunately have resulted in the loss of American planes and, possibly, American lives. This sorrowful and tragic development underlines not only the perils that must be faced in the battle zone but the sacrifices that all of us must be prepared to accept.

"Aggression unchallenged is aggression unleashed," the President said at Syracuse. This is undeniable truth. To retreat from or even to tolerate, armed attack against vessels of the U.S. Navy would be to invite steadily bolder assaults that would lead us surely and inevitably down the path of war.

Mr. Johnson's notation of broken promises made by the North Vietnamese Government, in pacts signed by them in 1954 and 1962, is a timely reminder of the demonstrated untrustworthiness of the Red regime in Hanoi. It is fitting also that the President, while reaffirming this country's commitments to allies, has reminded those allies that the fight for freedom ought not to be the sole burden of any one nation but should be a collective responsibility. Our allies—in NATO, in the Far East, and elsewhere—can help the cause of peace by giving unqualified endorsement to U.S. action against North Vietnam.

Freedom and peace remain our goals—but let those forces of enslavement and armed aggression abroad who have unleashed their fire against us give pause. They will do well to show a healthy respect for America's resolve to defend, by whatever means necessary, our rights on the high seas and to carry out, by whatever action required, our obligations abroad in the struggle against Communist aggression.

[From the Washington Post, Aug. 6, 1964]

STERN CRISIS

President Johnson has earned the gratitude of the free world as well as of the Nation for his careful and effective handling of the Vietnam crisis. The paramount need was to show the North Vietnamese aggressors their self-defeating folly in ignoring an unequivocal American warning and again attacking the American Navy on the high seas. This Mr. Johnson did by means of a severe but measured response deftly fitted to the aggression: retaliation against the boats and bases used in the attack.

The air strikes did not merely decimate Hanoi's fleet, leaving it unable to defend its own coast, and demonstrate North Vietnam's vulnerability to American power. The counterattack smashed the "paper tiger" myth, providing the U.S. readiness to use whatever means necessary to stand up for its interests in the Far East and underlining the reliability of its commitment to its friends there.

Most immediately, the reprisal rendered obsolete the old terms of the debate on whether to carry the guerrilla war in South Vietnam back to the aggressors in the North. Long reluctant to do this itself on the ground, or to have Saigon forces do it, the United States has now acted alone, by sea and air. Whatever restraint has previously been exercised through lack of precedent or provocation has been removed by the events in the Tonkin Gulf. No one can tell at this point the precise form which the Vietnam war will take, but it is bound to be a new form, and the newness would seem inevitably to be on the side of more direct American participation and more direct action against the North.

To a capital and a world sensitive to the uses of power by an American President, the crisis—the first major foreign-policy crisis faced by President Johnson—has found him not wanting in toughness or in nuance. But the crisis has also pointed up the office of the Presidency as the single center of control and responsibility for American power. It is worth remarking that this respect for the Presidency has been conveyed even by those who believe that, for instance, local military commanders should be given discretion for important decisions in the field.

Military measures were only a part of President Johnson's response. He coordinated them with the other constituencies and communities of which he is the leader. He asked and got from Senator GOLDWATER a promise of nonpartisanship. The Senator, like the patriot he is, instantly foresook politics and stood by his side. He also went calmly, to the people, both American and foreign, offering information and reassurance in appropriate degrees.

The President went to Congress too for a resolution of national unity and support, and to the United Nations, for international backing. The request to Congress, like his approach to Senator GOLDWATER, may later affect the election campaign, but the seriousness of the situation warrants these expressions of confidence and cooperation. The U.N. plea forces the Soviet Union to a climactic choice between the conflicting interests in the Communist and Western worlds. But regardless of the Security Council's stance on the torpedo attacks, a condign response has already been meted out to Hanoi.

The impressive orchestration of American policies contrasts revealingly with the fragmented and tardy reactions of the different communist states. This broken pattern, including the fact that Premier Khrushchev was out in the Soviet hinterlands, suggests how unexpected Hanoi's attacks were to some Communists and how unexpected Washington's reprisals were to others. There is still no convincing explanation of why Hanoi would challenge the United States under conditions so patently unfavorable to it. One notes, however, that there is in Hanoi a war weariness conducive to desperate heroics; that Hanoi has seemed to share Peiping's distorted vision of the American "paper tiger"; and that the Tuesday attack fell on the anniversary of the test ban, a Soviet-American agreement based on the fact that the "paper tiger" has nuclear teeth.

This element of uncertainty in Hanoi's intentions is what makes the crisis potentially dangerous. The fear is, of course, that Hanoi's harassments may be a prelude to escalation of the war in Vietnam, perhaps drawing in Peiping. It was the President's awareness of these ominous possibilities than made his management of the crisis so significant and correct.

[From the New York Herald Tribune, Aug. 6, 1964]

THE RIGHT RESPONSE

President Johnson spoke clearly and acted with prompt decision in reply to the second torpedo attack on American ships in the Tonkin Gulf. The reasons behind the wanton North Vietnamese provocations are still mysterious, but there is nothing obscure about Mr. Johnson's firm statement that "there can be no peace by aggression and no immunity from reply"—especially against the background of the sharp and effective American air assault on the North Vietnamese naval bases.

The United States has a chain of sentries around the world; lonely men in Korean trenches, lonely planes over the Arctic wastes, lonely ships in distant seas. They keep watch over an uncertain peace. But their vigil would have no meaning if it were not that power stands leashed behind them, power ready to be used swiftly and with vigor for peace. That power, and the equally essential will to use it, found expression in the action ordered by President Johnson against North Vietnam.

The power was still on leash. The air action against the aggressor's bases was a limited action. And in that fact, no less than in the speed and efficiency of the response, lies much of the effectiveness of the policy put into effect by the President. As he said, the overall strength of the United States is "vast and awesome." But it is not a monolithic mass, like the European armies before World War I, impossible to guide or check by diplomacy once the initial impetus is given. It is not just "the button," whose rejoinder must be nuclear war or supineness. It can be used to pinpoint and punish the immediate offenders—in this case, the North Vietnamese mosquito fleet.

Thus, whoever planned the torpedo-boat attacks, for whatever purpose stand warned. If they were probing the intentions of the United States, of Red China, of the Soviet Union, they at least know that the United States will resist aggression, and that it has the capability of doing so.

At the same time, the rest of the world knows that this capability will be used with restraint; that force will be used in proportion to the need. The United States can, as Mr. Johnson said, welcome and invite the scrutiny of all men who seek peace, "for peace is the only purpose of the course we pursue."

The controlled force of the American counterblow has clearly made its impact on the world. From its friends, this country has received such congratulations as that of

Japan (very directly concerned with the problem of Communist expansion in Asia) and such encouragement as that of Britain in the Security Council. From the Soviet Union has come denunciation—but it is oddly perfunctory. In asking that North Vietnam come to the United Nations, even the Soviet delegate on the Security Council seemed to be trying, in some earnestness, to find out what has been going on in the Tonkin Gulf.

The United States, too, is puzzled by much of what has been happening in southeast Asia. But it stands as one behind the President's action. The hearteningly prompt support given Mr. Johnson's course by Senator GOLDWATER is only the most striking of many evidences of the unity of Americans in the face of this strange kind of terrorism on the high seas.

[From the New York Times, Aug. 6, 1964]

WIDER WAR

On July 24, President Johnson said that "the United States seeks no wider war" in Vietnam, but he warned that "provocation could force a response." That provocation—twice repeated—now has brought a response that has been, in the President's words, "limited and fitting." Whether this ends the incident now is up to North Vietnam and to Communist China. The United States plans no further military strikes if there are no further Communist attacks. President Johnson has made it clear that "we still want no wider war."

Whether or not the confrontation stops there, the crisis in southeast Asia has been altered in fundamental ways—all involving great uncertainties and even greater dangers.

The United States has become a direct combatant on a significant scale, even if only briefly. The sword, once drawn in anger, will tend to be unsheathed more easily in the future.

Congressional authority for future military action will, in effect, be delegated to the President by the joint resolution scheduled to be voted today. The President has rightly asked that the resolution express a determination that "all necessary measures" be taken.

The concept of a Communist "privileged sanctuary," heeded hitherto both in Korea and Indochina, has been breached. The circumstances under which North Vietnam may be struck again remain undefined. But the rules of the war have undergone a basic change—a change that applies to Communist China as well as to Hanoi. President Johnson was clearly addressing Peiping when he warned "any who may be tempted to support—or to widen—the present aggression" that "there can be no peace by aggression and no immunity from reply."

Hanoi's sea patrol fleet largely has been wiped out and, lacking an air force, North Vietnam has been shown to be virtually open to hostile air attack. Hanoi's willing allies in Peiping are now under pressure to provide new means for sea and air protection—and even, perhaps, to intervene directly. Hanoi's reluctant allies in Moscow are under pressure, as yesterday's Soviet statement showed to demonstrate their backing for North Vietnam before world Communist opinion.

Ranks have been closed in the United States with Senator GOLDWATER's open support for administration action. If Hanoi's attacks were an attempt to exploit political and racial division in the United States, the American reaction has proved this futile. Vietnam, in fact, has been taken out of the presidential campaign for the moment. The attempt to keep it out, by retaining Republican support, means that President Johnson henceforth will find firmness politically easier to emphasize than restraint.

American reluctance to go to an Indochina peace conference, as urged by President de Gaulle, is strongly reinforced. If Hanoi's purpose was to force such a conference, it could not have been more poorly advised.

These are some of the political and military realities after the Tonkin Gulf exchange. The lines have hardened. A highly dangerous period has opened. It is a time that calls for coolness, as well as determination, for restraint as well as firmness.

We still have no real idea of what prompted the North Vietnamese to launch their potentially suicidal adventure. The Nation's united confidence in its Chief Executive is vital. No one else can play the hand. That confidence will be best maintained by a continued adherence to the principles the President himself has enunciated of firmness but a firmness that will always be measured—a firmness whose mission is peace.

[From the Baltimore Sun, Aug. 6, 1964]

PEACE THE PURPOSE

At Syracuse University yesterday, while the world waited for further developments in southeast Asia, President Johnson set forth the central concern of this Nation for all to see. "We welcome—and we invite—the scrutiny of all men who seek peace, for peace is the only purpose of the course we pursue." Only hours before, after a second Communist attack on American naval vessels, the President had ordered an air strike against the torpedo-boat bases along the coast of North Vietnam. The attack had been carried out, and the bases lay in ruins. Two American airmen had been lost. In its promise to repulse aggressors the United States had not been bluffing. Of that there could no longer be any doubt.

It is not an easy thing to loose even a small fraction of the military power available to the Commander in Chief, but in this case there was no choice. "Aggression unchallenged," the President said, "is aggression unleashed." In striking back at a time of grave provocation, the United States hoped not to spread the fighting but to pinch it off before it got out of hand. To reasonable governments the message should be clear, but American forces are being deployed in such a way as to respond appropriately if somewhere there is a misreading. That, too, is a statement of American purpose.

If there has been a suspicion abroad that the American people are dangerously disunited, this episode is proof to the contrary. Crisis always draws Americans together, and on this issue support for President Johnson is without reservation. Senator GOLDWATER set the pattern for his party, and congressional leaders, briefed early at the White House, have responded with the traditional closing of ranks. When the Nation is under the gun, politics loses all coloration. The quick rush of support from America's allies also has been gratifying.

None can foretell the perils that lie ahead. North Vietnam is an annoyance, but it is not the major consideration. The key to peace in Asia is hidden in Communist China, in the course it may essay alone, or with the encouragement of Moscow. Yesterday's convoking of a United Nations session was intended not only as a report to the nations but as an assessment of the intentions of the Soviet bloc. Whatever the dangers, the United States will face them with the courage possessed only by those who are both free and strong.

Mr. MCGOVERN. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. I yield.

Mr. MCGOVERN. Without in any way casting any doubt on the wisdom of the resolution, there are a few brief questions that I should like to address to the Senator from his comments, if he would be willing to comment.

All of us have been puzzled, if not baffled, as to why a little state such as North Vietnam should seek a deliberate naval conflict with the United States with the overwhelming naval and air power that we have in that area. In an effort possibly to throw some possible light on that question, Mr. Murrey Marder, in his column in the Washington Post yesterday, made the following statement in the closing paragraph of his column:

"North Vietnam on Sunday charged that the United States and South Vietnam had sent warships 'to shell the Hon Me and Hon Ngu islands in the territorial waters' of North Vietnam. Those islands are near the area where the *Maddox* was attacked Sunday. Hon Me is used as a naval base, American sources said, and Communist PT boats have been seen in the area.

"The United States has denied that any of its warships shelled the islands of Hon Me and Hon Ngu. However, despite some reports published yesterday, the State Department denial did not equally exculpate South Vietnam. It only denied American participation.

"SPECULATION ON ATTACK

"There are some indications, however, that the South Vietnamese may in fact have attacked the two islands. American officials have declined to discuss that, although U.S. warships on occasion reportedly have escorted South Vietnam vessels part way to their targets."

I wonder if the Senator from Arkansas could shed any light on the possible explanation for the North Vietnamese attack.

Mr. FULBRIGHT. In dealing with warfare, which essentially is an irrational business, it is dangerous to speculate as to the motives of one's enemies or adversaries. However, in this case, first, the Secretary of Defense himself stated, after the first attack on the *Maddox*, that he did not expect a repetition of the attack. He made that statement publicly. That showed how wrong he was. He said he could see no motive for it, and none of us at the first meeting we had on the question could explain why that kind of attack by a few torpedo boats against the elements of the 7th Fleet should take place, whether it was an isolated action or an impulsive action by the local commander.

But after the action was repeated, it was shown to be clearly calculated. It is my understanding, as best I can interpret what actually happened, that there were some South Vietnamese raids, if they might be so-called—coastal raids—by South Vietnamese junks or naval vessels—the only kind of naval vessels they have. My information is that they have relatively small PT boats, comparable to those of North Vietnam, plus what are called motorized junks, and those from time to time have engaged in what are called hit-and-run raids, none of them of a major nature, by South Vietnamese boats with South Vietnamese crews.

Our own naval vessels, such as the *Maddox* and other associated vessels, have never engaged in any attacks on those islands or anywhere else in North Vietnam.

The best information that I have from high officials in our Government in this field is to the effect that our boats did not convoy or support or backup any South Vietnamese naval vessels that were engaged in such attacks.

Mr. MCGOVERN. The Senator would say the implication of the article is probably in error?

Mr. FULBRIGHT. It has been asserted by others that the *Maddox* was backing up or convoying the smaller vessels of the Vietnamese.

The testimony I am familiar with shows that this is not a fact.

I am reminded also that it was asked whether or not the junks of the South Vietnamese had American personnel in the nature of advisers or otherwise. We were advised they did not, that they were manned by non-Americans in all cases. In other

words, the patrol duty by such ships as the *C. Turner Joy* and the *Maddox* was an operation for patrol, to keep our own forces informed about the activities in this very critical area, and was entirely unconnected or unassociated with any coastal forays the South Vietnamese themselves may have conducted.

Mr. McGOVERN. I should like to put one other question to the Senator Over the past few days, possibly the past 2 or 3 weeks, there have been statements in the press quoting General Khanh, the South Vietnamese leader, as saying that the war had to be won by carrying it to North Vietnam. Almost simultaneously our administration leaders have been quoted as saying that the only way the war can be won is by taking on the guerrillas in South Vietnam, and that our policy is not one of extending the war to the north; quite to the contrary, that the victory must be had in the south and that we will take all reasonable steps to confine the war to South Vietnam.

Does the Senator think there is any danger in this resolution that we may be surrendering to General Khanh's position our attitude as to where the war should be fought?

Mr. FULBRIGHT. I do not think there is any danger of that. There is, of course, a danger in this whole area, and there has been for 10 years. It is dangerous. The policy of our Government not to expand the war still holds. That is not inconsistent with any response to attacks on our vessels on the high seas where they have a right to be.

Mr. McGOVERN. I agree.

Mr. FULBRIGHT. I do not think the policy that the war be confined to South Vietnam has changed. I think it is still the policy. I think it is the correct one. What causes difficulty is that fact that this is a new type of war. It is not a war in the orthodox sense. This is subversion, inspired and conducted through infiltration of supplies and men by a neighboring country without a declaration of war. It does not fit the pattern of the traditional way we think of war. It is, nevertheless, aggression—a modernized, specialized kind of aggression, brought to a high degree of perfection by the leader of the Chinese Communists, Mao Tse-tung, who established the basic theory of how to conduct this type of warfare.

It is difficult to adjust our concepts to warfare of this kind. I think it is just as savage and as much in violation of international good behavior and law as is an overt invasion by troops. I tried to make this point in my remarks. North Vietnam has been an aggressor against South Vietnam; and I do not think so merely because of the testimony in the past 2 or 3 days. Over several years, we have received testimony about what the North Vietnamese were doing in Laos and to a much higher degree in South Vietnam.

They had two major ways of approaching South Vietnam, one by sea, and one by ground. The sea approach was the easiest way to supply the Mekong Delta. So we helped the South Vietnam Government try to interrupt the transfer of men and supplies to the Mekong Delta. Junks were built up for that purpose. The boats that may have struck at the coastal areas of North Vietnam may have been supplied by us. We have been helping South Vietnam arm itself. I do not know about the specific boats.

I personally think this is a perfectly legitimate and proper way to defend oneself from the kind of aggression South Vietnam has been subjected to for many years.

Mr. McGOVERN. I am inclined to agree with the Senator. I did not want my remarks to be interpreted as prejudicing the case for aid——

Mr. FULBRIGHT. I am glad to try to clarify the situation. It is difficult and confusing.

Mr. McGOVERN. There have been references in the press to the effect that General Khanh was in political trouble and that one way he thought he could get out of it was to divert attention from failure in the conduct of the war in the south to some kind of strike in the north, presumably largely underwritten by the United States. It was because of my concern with that possibility that I raised these questions.

I thank the Senator for yielding.

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

Mr. FULBRIGHT. I yield.

Mr. ELLENDER. The Senator has stated that in the last 2 or 3 days the committee has had some hearings. Can he tell us how long these ships of ours have been in that area?

Mr. FULBRIGHT. On patrol?

Mr. ELLENDER. On patrol, yes and at whose request?

Mr. FULBRIGHT. We have had patrols in the Tonkin Gulf for about 18 months.

Mr. ELLENDER. At whose request were these patrols made?

Mr. FULBRIGHT. These are international waters. Our assistance to South Vietnam is at the request of the South Vietnamese Government. The particular measures we may take in connection with that request are our own responsibility. The particular ships on this particular patrol are there at our own decision.

Mr. ELLENDER. Are they part of the 7th Fleet, which protects Formosa?

Mr. FULBRIGHT. Yes.

Mr. ELLENDER. The Senator says our ships have been in that area for a year and a half.

Mr. FULBRIGHT. Yes.

Mr. ELLENDER. In the Gulf of Tonkin?

Mr. FULBRIGHT. In the Gulf of Tonkin. I can be corrected on this by the distinguished chairman of the Armed Services Committee. My recollection is that they have been in that particular area a year and a half.

Mr. RUSSELL. Mr. President, elements of our fleet have been in this gulf periodically for about 1½ years.

Mr. ELLENDER. Why?

Mr. RUSSELL. These waters are the high seas. If in our general patrolling throughout the world and in the movements of our fleet on the high seas everywhere we saw fit to send our ships there. Certainly no foreign nation has a right to challenge our use of the high seas. We have a right to be there.

Mr. ELLENDER. Was any action taken by any of our ships to prevent the carrying of war materiel to the Mekong Delta?

Mr. FULBRIGHT. Does the Senator mean ships flying our flag and manned by our personnel?

Mr. ELLENDER. Why?

Mr. FULBRIGHT. It is my understanding that that operation was conducted entirely by Vietnamese ships and personnel.

Mr. ELLENDER. Were we there to protect them?

Mr. FULBRIGHT. No; what happened here happened on patrol duty. As the Senator from Georgia has said, these ships were there in accordance with our responsibility and our rights in this general area. The ships were not assigned to protect anyone. They were conducting patrol duty. That question was asked specifically of the highest authority, the Secretary of Defense and the Secretary of State.

They stated without equivocation that these ships, the *Maddox* and the *C. Turner Joy*, were not on convoy duty. They had no connection whatever with any Vietnamese ships that might have been operating in the same general area.

Mr. ELLENDER. Was their presence in the delta area at the request or suggestion of the South Vietnamese Government?

Mr. FULBRIGHT. They were not in the delta area. Does the Senator mean in the Gulf of Tonkin area?

Mr. ELLENDER. I understood that this—

Mr. FULBRIGHT. The delta area is north of the gulf area.

Mr. ELLENDER. I am trying to discover if our forces could have done anything which might have provoked these attacks. You say the ships were not engaged in any activity near the Mekong Delta?

Mr. FULBRIGHT. No; where they were is hundreds of miles north of the delta area.

Mr. ELLENDER. The ships that were attacked?

Mr. FULBRIGHT. Yes.

Mr. ELLENDER. The patrols carried out in the delta area were to give protection or confidence to the junks and patrol boats that were there to prevent the North Vietnamese from carrying materials of war to the South Vietnamese. Is that correct?

Mr. FULBRIGHT. That was not the duty of the *Maddox* or the *C. Turner Joy*. They were on patrol duty in the Gulf of Tonkin—not near the Mekong Delta. They had nothing to do with the interruption of such traffic as may be carried on between North Vietnam and the delta. This duty was assigned to a fleet of junks and small craft of the South Vietnamese Navy. That is still their function. They stop and examine thousands of people in order to identify them and see what they are up to. They have found a good many North Vietnamese who were coming down to carry on guerrilla warfare.

Mr. ELLENDER. Is the Senator satisfied from the evidence presented to the committee that our Armed Forces, that is, our naval forces, did nothing to invite the attack that was made in the last few days?

Mr. FULBRIGHT. Nothing that they are not entitled to do. Their very presence in the Gulf of Tonkin could be said by someone to invite an attack, but they had every right to be there, and they were not shelling the coast or intervening in any of the legitimate operations of the Government of North Vietnam. In an area in which there is tension and in which there has been this very bloody kind of guerrilla warfare or irregular warfare, one might say, broadly speaking, that their presence could be a provocation. I do not think so. I do not believe that can be rightfully said. They had every legitimate right to be there.

Mr. ELLENDER. I do not question that fact at all. My question was directed to whether or not the evidence showed any act on our part which might have provoked this attack.

Mr. FULBRIGHT. I would say categorically that that was not shown. Whatever provocation there may have been arose, if it did arise, from the activity of the North Vietnamese ships.

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

Mr. FULBRIGHT. I yield.

Mr. BREWSTER. I had the opportunity to see warfare not so very far from this area, and it was very mean. I would look with great dismay on a situation involving the landing of large land armies on the continent of Asia. So my question is whether there is anything in the resolution which would authorize or recommend or approve the landing of large American armies in Vietnam or in China.

Mr. FULBRIGHT. There is nothing in the resolution, as I read it, that contemplates it. I agree with the Senator that that is the last thing we would want to do. However, the language of the resolution would not prevent it. It would authorize whatever the Commander in Chief feels is necessary. It does not restrain the Executive from doing it. Whether or not that should ever be done is a matter of wisdom under the circumstances that exist at the particular time it is contemplated. This kind of question should more properly be addressed to the chairman of the Armed Services Committee. Speaking for my own committee, everyone I have heard has said that the last thing we want to do is to become involved in a land war in Asia; that our power is sea and air, and that this

is what we hope will deter the Chinese Communists and the North Vietnamese from spreading the war. That is what is contemplated. The resolution does not prohibit that, or any other kind of activity.

Mr. BREWSTER. I thank the distinguished chairman.

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

Mr. FULBRIGHT. I yield.

Mr. MORTON. Mr. President, first I say to the distinguished Senator from Arkansas that I approve the action that has been taken, and I approve this resolution. On the matter which was the subject of the colloquy between the chairman of the Foreign Relations Committee and the distinguished Senator from Louisiana, can we not associate our presence in the Gulf of Tonkin to a degree with our own interpretation of our obligations under the SEATO Treaty?

Mr. FULBRIGHT. Yes. I made mention of it. That is a further responsibility that we undertook in alining ourselves with other countries in trying to bring peace and stability into this area. That was another obligation which we undertook. It fortifies our right or responsibility for being in the Gulf of Tonkin.

Mr. MORTON. I believe the action taken by the President helps to avoid any miscalculation on the part of either the North Vietnamese or the Chinese Communists. I believe the joint resolution gives that policy further strength. In my opinion, the three major wars in which we have been involved in this century have come about by miscalculation on the part of the aggressor.

I believe Congress should speak loud and clear and make it plain to any would-be aggressor that we intend to stand here. If we make that clear, we will avoid war, and not have to land vast land armies on the shores of Asia. In that connection I share the apprehension of my friend the Senator from Maryland [Mr. BREWSTER].

Mr. FULBRIGHT. The Senator has put it very clearly. I interpret the joint resolution in the same way. This action is limited, but very sharp. It is the best action that I can think of to deter an escalation or enlargement of the war. If we did not take such action, it might spread further. If we went further, and ruthlessly bombed Hanoi and other places, we would be guilty of bad judgment, both on humanitarian grounds and on policy grounds, because then we would certainly inspire further retaliation.

This situation has been handled in the best way possible under the circumstances, so as to calm the situation, and not escalate it into a major war.

Mr. MORTON. I thank the Senator from Arkansas.

Mr. FULBRIGHT. I yield to the Senator from Ohio.

Mr. LAUSCHE. I should like to add something to the answer that was given to the Senator from Louisiana [Mr. ELLENDER]. In my opinion, the evidence is very clear that our Government did not design or manipulate a situation which would precipitate violence. The proof shows clearly that the commander of the *Maddox*, when the patrol boats were following it, called the commander of the *Ticonderoga* and informed him that the North Vietnamese patrol boats were following him and were indicating all the purposes of violence. It was not until the patrol boats fired upon the *Maddox* that the *Maddox* took any action. We waited; and no action was taken by our Government until the torpedoes were set into motion. Our ship turned seaward.

Second, the island of Hainan is in the gulf. Chinese aircraft and military bases are on that island. Our ships were patrolling the gulf, surveying the activities that were going on in the gulf. My answer is that not to have been there would have been a disservice to our country. We were where we had a right to be. We did nothing to precipitate this unwarranted action. The action of violence was not on the part of our Government, but on the part of the North Vietnamese against us.

What were we to do? Were we to allow them to fire at us and take no action? The commander of the *Maddox*, when he contacted the commander of the *Ticonderoga*, acted with complete restraint and indicated no purpose of engaging in violence. Not until we were fired upon did we fire back.

Furthermore, to conclude that we developed a design to precipitate this violence is not supported by any testimony whatsoever. To make the pronouncement that we manipulated the situation, that we designed a set of circumstances that would give us an excuse to fire, is wholly unwarranted. Not one syllable of testimony supports that conclusion.

Mr. FULBRIGHT. Will the Senator from Ohio allow me to answer questions? Then he may speak on his own time.

Mr. LAUSCHE. Just half a second more.

Mr. FULBRIGHT. I thought the Senator wished to ask a question. But I have no objection to his concluding his statement.

Mr. LAUSCHE. I wanted to give my understanding of this very important, crucial aspect of the dispute. I repeat: There is not a single bit of testimony warranting the conclusion that we manipulated or designed the situation.

Mr. ELLENDER. Mr. President, I was questioning the Senator from Arkansas merely to seek assurance that the evidence shows there was no possibility that our forces took any action, even accidentally which might have provoked an attack. Certainly I did not intend to intimate that the commanders of our ships were at fault, or that we were looking for an excuse to attack North Vietnam.

Mr. LAUSCHE. I understand, Mr. President. I merely wanted to make plain that our forces were not at fault in any way; that our ships had a perfect right to be in those waters, and that there is absolutely no evidence of any design or manipulation involved in the chain of events which took place. I did not wish to allow that impression to stand in the RECORD.

Mr. JAVITS. Mr. President, will the Senator yield? I wish to ask a question.

Mr. FULBRIGHT. I should like to yield the floor.

Mr. JAVITS. I wish to ask a question, and a rather serious one.

I shall support the resolution, because I think we must defend freedom in that area, or else see the balance of a large segment of the population of the world tipped against freedom. The degree of our resistance under the action that may be taken in southeast Asia, under the resolution, will determine not only future events in Vietnam, but also the freedom of Malaysia, India, Pakistan, and Indonesia, and perhaps even Australia and New Zealand.

My question is this: To the extent that the Senator may know—and be permitted to disclose—are we not implementing the Southeast Asia Collective Defense Treaty? This treaty has eight countries who are parties to it including the United States—three in the area, the rest in Europe, Australia, and New Zealand, and ourselves. The inclusion of Cambodia, Laos, and Vietnam is by protocol. That is, the protection of the treaty is extended to them, though they are not parties to it.

The question I address to the Senator is this: Are we to assume that the action which the President has taken with respect to reacting to the attack on American vessels is the result of a consultation with our allies who are parties to the Southeast Asia Collective Defense Treaty? If it is, what are we to assume with respect to the future progress of the action which we authorize under the resolution, which is admittedly a broad action? Is it that the President may take all necessary steps, including the use of Armed Forces, to assist any member or protocol state, which would include Laos, Cambodia, and Vietnam, in the Southeast Asia Collective Defense Treaty, that may request assistance in defense of its freedom?

What I wish to know from the Senator is, first: Have we consulted with our allies? Second, what are we to look to from our allies in the way of assistance, aid, comfort, partnership, and the future implementation of the resolution? It is one thing to stand alone; it is another thing to stand with seven other countries, three of them in the area, implementing a solemn commitment, which is just as binding on them as it is on us. I am sometimes inclined to agree with those who say that we cannot be the policeman or guardian of the whole world. We cannot lead it by the hand. We can be the linch pin; but what are we to accept from the others?

Mr. FULBRIGHT. That is quite a question. It has several facets, all of them of pertinent interest.

First, this particular action was not taken in consultation with the other signatories of the Southeast Asia Treaty. It was an act for which we took the responsibility. It had nothing to do with the treaty. The fact that we are present in the area grows, at least in part, out of our obligations under the treaty. That is one of the reasons why we are in the area, and have been for a number of years. But we would have the right to be there without the treaty.

As to the contribution of the protocol states—there are three, as the Senator from New York has said. Under the Laotian Agreement of 1962, Laos is out of the treaty. Cambodia has renounced any desire to be protected by the United States. So actually this is a technical way of saying that we are assisting South Vietnam, because that country is all that is left. That phrase means South Vietnam.

As to contributions by other members of SEATO, they have been too little. There has been consultation in the past on numerous occasions, in an effort to persuade the other countries to bear a greater share of the burden. The question has been asked, "What are the others doing"? We were informed as late as this morning, and on other occasions in the past several days, that they are not doing very much. Pakistan is preoccupied with its own problems with India, so I do not believe Pakistan is doing anything.

The French are doing a good deal in the way of investment. France has a traditional relationship there. France supplies some personnel, but the major part of her contribution is in the form of investment.

Australia's contribution has been small, but Australia is building up her contribution of advisory and military personnel and some contribution of technical assistance. The same is true of New Zealand. The Thai, of course, are there in the area and they are, I am sure, anxious to do what they can. Who else is there?

Mr. JAVITS. The Philippines and the United Kingdom.

Mr. FULBRIGHT. The Philippines have not made a large contribution. The United Kingdom has been more than occupied with its responsibilities in Malaysia and has made no contribution.

Mr. JAVITS. That is in the right direction——

Mr. FULBRIGHT. An indirect contribution, yes; but it is in Malaysia. The greater part of the burden has been borne by this country. Unfortunately, we find this to be true in other areas as well. Until recently, within the past several years, we were the only major free country capable of doing it. Now the other countries that are becoming more capable have not yet assumed what I consider to be their proper part of an overall effort to defend free countries.

Mr. JAVITS. I should like to ask one follow-up question of the Senator from Arkansas.

Mr. FULBRIGHT. I am ready to yield the floor so that the distinguished Senator from Georgia [Mr. RUSSELL] can give the Senate much more light on the situation, but I am glad to yield to the Senator from New York.

Mr. JAVITS. I believe that the Senator will agree that we are dealing with pretty substantial matters.

Mr. FULBRIGHT. They are very important. I consider this situation to be a facet of the most important matter now before the country.

Mr. JAVITS. I agree with the Senator. Let me ask one further question: May a Senator voting for the resolution assume that the United States, with all its means, diplomatic and otherwise, will continue, first, to keep the SEATO Treaty in effect by continuing consultations even if for the moment it does not get enough assistance from our partners; second, it will continue to press for maximum contributions compatible with their own capabilities and their own national security from their other partners; third, that it will continue to utilize all the organs for international peace which are mentioned here, including the United Nations, in order to secure freedom in that area. And because the President gets the resolution, we are not going to vote on that one proposal and make everything else perfunctory.

Mr. FULBRIGHT. We have had positive assurance from the Secretary of State about the very matter the Senator is discussing. I approve of that policy. Much has been said about bringing the United Nations into it. I am sympathetic to that. One of the Members of this body has had a great deal to say about that. I approve of it, with this reservation, or this qualification, that it is not timely, when one is in dire straits, to turn over a situation such as this to a body which is not equipped to assert the kind of power I believe to be necessary to stabilize the area.

At the present time, this is not a quarrel in which a "yes" or "no" to the United Nations would bring them in to control and direct this effort. Having assumed this burden, and the situation having deteriorated as it has, I believe that we have to establish some sort of stability before we can say to the United Nations, "You take it."

I look forward to the time when this can be done. I believe that if we could ever stabilize the situation and there were some reasonable assurance that North Vietnam and the Chinese would leave these people alone, we could take it to the United Nations with some assurance that it would work.

Mr. JAVITS. With the thoughts and the principles I have laid out, can the Senator commit himself, as chairman of the Foreign Relations Committee, to bring our "sentinel," to follow through on these matters, after the joint resolution is passed.

Mr. FULBRIGHT. I shall do everything I can, within the limits of my capacity and my position on the Senate Foreign Relations Committee, because I really agree with this philosophy. I am not looking for an expansion of war. I am looking, in any way that I can, to bring in with us both our allies and the United Nations, when and if conditions can be created that that would be a feasible procedure to follow. I believe that this particular action is well designed to help stabilize the entire area.

Mr. JAVITS. I agree with the Senator, provided we would have some feeling in our heart that there will be a really manful follow-through, which we have sometimes lacked before.

Mr. FULBRIGHT. The Senator did not ask me this precisely, but I must say that the Secretary of State has performed extremely well.

Mr. JAVITS. I agree with the Senator.

Mr. FULBRIGHT. The Secretary of State is an indefatigable worker. He has consulted with the members of SEATO on numerous occasions. The Senator has read about it in the past. I do not know how he stands up under the constant schedule of visits and consultations that he has endured during the past 3 years. I believe that he is committed to the proposition the Senator has stated. I certainly am. I hope that we can work this problem out. I believe that we have had some success in the past. We tend to forget every instance of success in working with countries on situations somewhat like this one—perhaps not quite so threatening, but we have had some bad ones, and they have faded into the past.

Mr. JAVITS. The Senator is correct.

Mr. FULBRIGHT. The combined judgment of the military and the civilian branches of the Government has worked extremely well in this instance. They all seem to be in agreement. The Chairman of the Joint Chiefs testified that they were unanimous in their recommendation. There seems to be no division within the highest circles of our Government. I thought it was very encouraging.

Mr. JAVITS. I shall detain the Senator no longer. I shall vote with the Senator from Arkansas on this basis.

Mr. MILLER. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. I am glad to yield to the Senator from Iowa.

Mr. MILLER. I also support the resolution. However, there is some phraseology in the resolution which troubles me somewhat. I should like to ask a question about it. On page 2 of the resolution, there is a clause which reads:

"That the Congress approves and supports the determination of the President * * * to prevent further aggression."

I was wondering whether there was any particular design in the wording of that clause, or if we intend to not only talk about further aggression, but also the President's determination to put an end to present aggression?

Mr. FULBRIGHT. That whole phrase reads—

"* * * to take all necessary measures to repel any armed attack—"

That is one we have just had—

"against the forces of the United States and to prevent further aggression."

I am sure that we took action calculated to prevent further aggression, because it was a very good, positive, and affirmative action.

Mr. MILLER. It is left open. It does not say aggression against whom. It is broad enough so that it could mean aggression against the United States, or aggression against the South Vietnamese Government, which I would suggest certainly fits in with the President's determination——

Mr. FULBRIGHT. I believe that both are included in that phrase.

Mr. MILLER. I would hope so.

Mr. FULBRIGHT. I would so take it.

Mr. MILLER. If that is so, then we are talking about further aggression against the South Vietnamese, but it seems to me that we should be talking about present aggressive action. We should be talking about the President's determination to put an end to present aggression as well as further aggression. I am sure that this is his determination, but I do not believe that we have said it. I merely call this to the attention of the Senator from Arkansas, because I thought it was perhaps——

Mr. FULBRIGHT. I do not believe that the Senator should look solely at that part. Section 2 is important and is related to this question.

Mr. MILLER. Section 2—it covers it very well. My own regret is that we do not also cover it in the first part of the resolution.

Mr. FULBRIGHT. Would that not be unduly repetitive and make the resolution longer than necessary? The original resolution proposed to certain members of both committees was quite long and involved. On the advice of members of the committee, the Department cooperated in reducing the resolution to what we thought would be its bare essentials, both as to its "whereas" clauses and to the resolution itself. We thought it would be much clearer and more positive to make it as concise and limited as possible. If there is fault to be found with the resolution because it is too limited, I believe that I, along with some of my colleagues, must bear a part of that responsibility.

Mr. MILLER. I know that it is difficult to draft a resolution of this kind to satisfy everyone and keep it concise. I know that conciseness is a virtue, but all I should like to do is to point out what I have done and, also, to inquire whether there will be any change in the resolution. I leave that up to the distinguished chairman of the committee. I affirm the opinion of the Senator from Arkansas that we are supporting the President's determination not only to prevent further aggression, but also to put an end to present aggression. I would appreciate his expression on that policy.

Mr. FULBRIGHT. Section 1 deals, in general, with the attacks on U.S. forces and the aggression against us. Section 2 deals with the attacks on SEATO, of which we are a part. We have a dual role. We are a sovereign power. Our forces are in the Gulf of Tonkin, and the aggression there is one thing. We are also part of SEATO. This is not spelled out, but that is the general idea, I believe, that is expressed in the two sections.

Mr. MILLER. But there is no intention expressed other than to prevent further aggression and stop the present aggression in southeast Asia.

Mr. FULBRIGHT. That is correct.

Mr. MILLER. I did not think there was. But I wanted to make that crystal clear.

Mr. FULBRIGHT. The Senator is correct.

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

Mr. FULBRIGHT. I would be glad to yield. But I am embarrassed not to turn the floor over to the Senator from Georgia [Mr. RUSSELL].

Mr. RUSSELL. The Senator need not be embarrassed. He can handle the situation.

Mr. HOLLAND. Mr. President, if either of the two questions that I shall ask concerns matters that the distinguished Senator from Arkansas [Mr. FULBRIGHT] thinks the Senator from Georgia [Mr. RUSSELL] should answer, I shall be glad to refer them to the Senator from Georgia.

My first question is, Based upon the knowledge that we all have, that Malaysia has a long frontier with Indonesia and Burma with Red China, am I correct in my understanding that neither Malaysia nor Burma is a party to or a protocol state of the Southeast Asia Collective Defense Treaty?

Mr. FULBRIGHT. That is correct. In the report, on page 3, there is a statement with regard to the SEATO and protocol members. A statement was made about the protocol members.

Mr. HOLLAND. I heard the statement. I want the record to be very clear that Congress is not being asked by the joint resolution to make any advance commitment relative to these two states.

Mr. FULBRIGHT. The Senator is absolutely correct in his statement. In the preliminary meeting which was concerned with the drafting of the resolution, this very point was brought up. This language does not cover either Malaysia or Burma.

Mr. HOLLAND. I thank the Senator. I have one more question. I note in section 3, with interest and with approval, if I correctly understand it, the provision that, in effect, Congress reserves the right to terminate any advance expression or commitment in this field by the passage of a concurrent resolution upon which the President would not have to pass. Am I correct in that understanding?

Mr. FULBRIGHT. That is correct. This whole joint resolution can be terminated at any time by a concurrent resolution of the Congress. That is taken verbatim, I believe, from the Mideast resolution.

Mr. HOLLAND. Mr. President, I thank the Senator. I believe that is a very proper matter to be included here. It shows clearly that while Congress is giving various assurances and approval of certain acts, if necessary, by the President in the fields covered by the resolution, it delimits those fields clearly. Then it further reserves to itself the right to terminate, for any cause sufficient to itself, this advance expression or commitment.

Mr. FULBRIGHT. The Senator is correct. That was put there for that purpose.

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

Mr. FULBRIGHT. I yield.

Mr. NELSON. I could not hear all the colloquy between the Senator from Arkansas [Mr. FULBRIGHT] and the Senator from Iowa [Mr. MILLER]. I heard a part of it.

As I understand, the mission of the United States in South Vietnam for the past 10 years, stating it in the negative, has not been to take over the Government of South Vietnam, and has not been to provide military forces to do battle in place of South Vietnamese forces. To state it in the positive sense, our mission has been to supply a military cadre for training personnel, and advisory military personnel as well as equipment and materiel—our objective being to help in the establishment of an independent stable regime. And, if my memory is right, we had about 1,000 troops there the first 5 or 6 years, up to 1960. There are now approximately 16,000 troops there. In addition, it is now proposed that this number be expanded to, I believe, 21,000.

Looking at sentence 6 of the resolution, I understand it to be the position of the Senator from Iowa [Mr. MILLER] that Congress is saying to the President that we would approve the use of any might necessary in order to prevent further aggression. Am I to understand that it is the sense of Congress that we are saying to the executive branch: "If it becomes necessary to prevent further aggression, we agree now, in advance, that you may land as many divisions as deemed necessary, and engage in a direct military assault on North Vietnam if it becomes the judgment of the Executive, the Commander in Chief, that this is the only way to prevent further aggression"?

Mr. FULBRIGHT. As I stated, section 1 is intended to deal primarily with aggression against our forces. "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."

This means to me that it is with regard to our own forces. I believe section 2 deals with the SEATO area, which we are committed to protect under our treaties, particularly when they ask for our assistance.

If the situation should deteriorate to such an extent that the only way to save it from going completely under to the Communists would be action such as the Senator suggests, then that would be a grave decision on the part of our country as to whether we should confine our activities to very limited personnel on land and the extensive use of naval and air power, or whether we should go further and use more manpower.

I personally feel it would be very unwise under any circumstances to put a large land army on the Asian Continent.

It has been a sort of article of faith ever since I have been in the Senate, that we should never be bogged down. We particularly stated that after Korea. We are mobile, we are powerful on the land and on the sea. But when we try to confine ourselves and say that this resolution either prohibits or authorizes such action by the Commander in Chief in defense of this country, I believe that is carrying it a little further than I would care to go.

I do not know what the limits are. I do not think this resolution can be determinative of that fact. I think it would indicate that he would take reasonable means first to prevent any further aggression, or repel further aggression against our own forces, and that he will live up to our obligations under the SEATO treaty and with regard to the protocol states.

I do not know how to answer the Senator's question and give him an absolute assurance that large numbers of troops would not be put ashore. I would deplore it. And I hope the conditions do not justify it now.

Mr. NELSON. We may very well not be able to nor attempt to control the discretion that is vested in the Commander in Chief. But the joint resolution is before the Senate, sent to us, I assume, at the request of the executive branch.

Mr. FULBRIGHT. The Senator is correct.

Mr. NELSON. It was sent to the Congress in order to ascertain the sense of the Congress on the question. I intend to support the joint resolution. I do not think, however, that Congress should leave the impression that it consents to a radical change in our mission or objective in South Vietnam. That mission there for 10 years as I have understood it, has been to aid in the establishment of a viable, independent regime which can manage its own affairs, so that ultimately we can withdraw from South Vietnam.

Mr. President, we have been at the task for 10 years. I am not criticizing the original decision to go into South Vietnam. I do not know how long that commitment should be kept in the event we are unable to accomplish our mission. And I would not wish to make a judgment on that question now. But I would be most concerned if the Congress should say that we intend by the joint resolution to authorize a complete change in the mission which we have had in South Vietnam for the past 10 years, and which we have repeatedly stated was not a commitment to engage in a direct land confrontation with our Army as a substitute for the South Vietnam Army or as a substantially reinforced U.S. Army to be joined with the South Vietnam Army in a war against North Vietnam and possibly China.

Mr. FULBRIGHT. Mr. President, it seems to me that the joint resolution would be consistent with what we have been doing. We have been assisting the countries in southeast Asia in pursuance of the treaty. But in all frankness I cannot say to the Senator that I think the joint resolution would in any way be a deterent, a prohibition, a limitation, or an expansion of the President's power to use the Armed Forces in a different way or more extensively than he is now using them. In a broad sense, the joint resolution states that we approve of the action taken with regard to the attack on our own ships, and that we also approve of our country's effort to maintain the independence of South Vietnam.

The Senator from Wisconsin prompts me to make a remark which perhaps I should not make. He has said that we might be mistaken in our action. If any mistake has been made—and I do not assert that it has been—the only questionable area is whether or not we should ever have become involved. That question goes back to the beginning of action in this area, and I do not believe it is particularly pertinent or proper to the debate, because in fact we have become involved. However, the Senator has mentioned it. As an academic matter, the question might be raised. But having gone as far as we have in 10 years, it seems to me that the question now is, How are we to control the situation in the best interest of our own security and that of our allies? I believe that what we did was appropriate. The joint resolution is appropriate, because it would fortify the strength of the Executive and the Government. It would put the Congress on record—and we are the most representative body that we have under our system—as supporting the action. If anything will deter aggression on the part of the North Vietnamese and the Chinese, I believe it would be the action taken together with the joint resolution supporting the action. That is the best I can do about justification of the resolution: In frankness, I do not believe the joint resolution would substantially alter the President's power to use whatever means seemed appropriate under the circumstances. Our recourse in Congress would be that if the action were too inappropriate, we could terminate the joint resolution, by a concurrent resolution, and that would precipitate a great controversy between the Executive and the Congress. As a practical question, that could be done.

Mr. NELSON. I have a couple of additional questions. But first I wish to say that I did not suggest that by the use of hindsight I would now conclude that the intervention in 1954 was wrong. I do not know. I understand the necessity for the United States, since it is the leader of the free world, to do all it can in furtherance of the protection of the idea of freedom and independence, and that, to do so, we must take gambles. We shall lose some; we shall win some. I believe the public is slow to recognize that we have vast responsibilities, and they expect to win every gamble that we take. I do not expect that. And I do not now rise here to criticize the original decision.

But I am concerned about the Congress appearing to tell the executive branch and the public that we would endorse a complete change in our mission. That would concern me.

Mr. FULBRIGHT. I do not interpret the joint resolution in that way at all. It strikes me, as I understand it, that the joint resolution is quite consistent with our existing mission and our understanding of what we have been doing in South Vietnam for the last 10 years.

Mr. NELSON. Did I correctly understand the Senator from Arkansas to say a while ago that the language of the resolution is aimed at the problem of further aggression against our ships and our naval facilities?

Mr. FULBRIGHT. I think that is the logical way to interpret the language. It makes reference to the armed attack against the forces of the United States which has just taken place, and to prevention of further aggression against our forces. Then the joint resolution passes on to our obligations under the treaty, which involves other countries.

I believe also that it is implicit, if not explicit, in the next section that the intent is to prevent the continuing aggression that now exists against South Vietnam.

Mr. NELSON. If the Senator would permit, I should like to ask a few brief additional questions. I could not hear the colloquy between the Senator from Arkansas and the Senator from Louisiana. In relation to international boundary waters, can the Senator tell me what distance offshore we recognize in respect to North Vietnam and Red China?

Mr. FULBRIGHT. Three miles is the established principle that we recognize.

There is some difference among countries. Some countries try to assert a distance greater than that. Some assert a greater distance for reasons such as the ownership of minerals, for example, but do not assert it for political reasons, such as control of the surface of waters. They agree that another country has the right to be there.

Recently an effort has been made to divide the North Sea for purposes of exploration for oil. It is not being divided in the sense that we would be excluded from crossing the North Sea. It is still the high seas.

But we recognize the 3-mile limit for political purposes. We might recognize a boundary a greater distance from a country if that country wished to drill for oil. We have done so in other places.

One of the reasons given for sending the *Maddox* in closer than 12 miles from the shore was that in doing so the action would demonstrate that we do not recognize the 12-mile limit.

Mr. NELSON. That was to be my next question. Does the Senator know how close to the North Vietnam coast or the Red China coast our ships were patrolling?

Mr. FULBRIGHT. It was testified that they went in at least 11 miles in order to show that we do not recognize a 12-mile limit, which I believe North Vietnam had asserted.

Mr. NELSON. The patrolling was for the purpose of demonstrating to the North Vietnamese that we did not recognize a 12-mile limit?

Mr. FULBRIGHT. That was one reason given for going in to a point 11 miles from the coast. The patrolling as such was not for that purpose. That action was in execution of our mission and our responsibility in that area under the SEATO treaty. As I said a moment ago, we have a right to go where we like on the high seas. The reason we are in this particular area is that we have assumed responsibilities under the treaty as well as bilaterally with South Vietnam.

Mr. NELSON. Recognizing, as we all do, the great sensitivity of all countries, especially enemies, or those hostile to each other, what purpose in the promotion of our mission in South Vietnam is served by having our ships go within 11 miles of the North Vietnam coast?

Mr. FULBRIGHT. This strikes me as a question that raises a difficult problem, with which I tried to deal in describing modern war. The Senator refers to the sensitivities of the North Vietnamese. What about the fact that the North Vietnamese have for years been sending in trained personnel, material, guns, and ammunition, to attack their neighbor? Why should the United States be so careful about the sensitivities of North Vietnam? Of course, we were there for the purpose of observation of what went on in that area, because our people felt it necessary as a part of our activities in protecting and helping to protect South Vietnam.

The problem is difficult. Who is the aggressor in this area? It has been asserted on the floor, and elsewhere, that the United States is the provocateur, the aggressor, and that we ought to be ashamed of ourselves. I do not subscribe to that view. I know it is difficult to go into a person's motives. There is a rule about doing so on the Senate floor. So far as I know of this situation, we have been trying, in good faith, to help these countries establish their own independence.

I have no doubt in my own mind that the moving party in this matter has been North Vietnam, supported by Red China. They feel this is an area over which they should have domination. It is an area over which many centuries ago they did. I have no doubt that in the long run it is an area where they will have great influence. We do not profess or expect to dominate that country or annex it or control it in any way.

We have adopted the principle that we shall do what we can to enable the people there to have an independent life and control their own affairs. We have tried, in good faith, to do it in this area. We have been interferred with, in a most material and vicious and savage way. The program of terror has been almost unprecedented. I suppose there has been some precedent for it, but it has been long continued, violent, and vicious.

We have tried our best to control this situation. We have supported the Government of South Vietnam. We had every right to have patrols in the Gulf of Tonkin to see what was going on and to be informed about any movements—the usual function of patrol in a critical area. I do not see why we should be so responsive to the sensitivities of the North Vietnamese. I am sure that the presence of our ships there is bothersome and irritating to them, but they brought it on themselves. For my part,. I do not apologize for it at all. I do not believe they are in any position to question our right to be in the Gulf of Tonkin, or in any position to question our right to assist South Vietnam, however irritating it may be to Ho Chi Minh.

Mr. NELSON. Let me repeat that I presently intend to support the joint resolution. I do not think we should give up recognized international rights. I do not suggest that we need to apologize to anybody. I do suggest—and this is what I do not understand—if patrolling that close has no necessary bearing upon the mission we have insisted we have in South Vietnam, it would seem to me that perhaps it is not the exercise of our best judgment to do it.

Let me put the question another way.

Mr. FULBRIGHT. I apologize to the Senator. I was diverted for just a moment. I did not hear what he said.

Mr. NELSON. What I said was that, recognizing what we assert to be our rights, I am suggesting that if patrolling that close does not have a direct, necessary bearing upon the accomplishment of our mission, I am wondering whether we should be taking the risk of the sinking of our ships.

Mr. FULBRIGHT. That is a legitimate question. All I can say is that, from the best information I have, it most certainly has an important relevance to our mission in the observation of the traffic that goes through the area.

Whenever there is a state of tension such as exists between us and South Vietnam on the one hand, and North Vietnam, on the other, I think it is traditional that the activities of the adversary be observed as closely as possible. This is one of the principal sea routes for the supplying of North Vietnam. The information we would normally find there is important.

I do not see how the Senator could believe that this was not relevant to our efforts to assist South Vietnam, or, to put it another way, to restrain the activities of North Vietnam, and especially to be forewarned if there were a possibility of a major blow.

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

Mr. FULBRIGHT. I yield.

Mr. RUSSELL. May I say to the distinguished Senator from Arkansas that it is extremely irritating to me, and I believe to millions of American citizens, that Soviet Russian ships should patrol the waters and sail in the waters off our coast, 3 miles from our shores, near some of the most sensitive installations we possess. It irritates me no end, but I have not advocated, and very few Americans have advocated violating international law by moving out and making attacks on those Russian ships because they are in highly sensitive areas for us. This kind of activity is carried out by all nations of the world that have any navy worthy of the name. If it is not done by warships, it is done by ships in other guise, to try to get information. The mere fact that to have a ship of a nation one does not like, within international waters, off that country's shores, is irritating, seems to me to be scanty excuse for the attacks in these two cases. It so happens that in the second attack, as I understand it, the ship was 60 miles offshore.

Mr. FULBRIGHT. Mr. President, I would like to yield the floor.

Mr. SCOTT. Mr. President, will the Senator yield to me before he yields the floor?

Mr. NELSON. Mr. President, I simply am asking questions to be sure I am adequately informed.

Mr. FULBRIGHT. I understand. I do not quarrel with the Senator at all. He is perfectly within his rights to ask for information.

Mr. NELSON. I would conclude by saying that no two situations are comparable, but it would be mightly risky, if Cuban PT boats were firing on Florida, for Russian armed ships or destroyers to be patrolling between us and Cuba, 11 miles out. It would be a grave risk for her to be testing our viewpoint about her patrolling that close when Cuban boats were firing on Florida. So the question was whether the patrolling that close was really necessary to the accomplishment of our mission. We are, after all, dealing with the possibility of incinerating the whole world.

Mr. FULBRIGHT. As the Senator from Georgia pointed out, Russian ships come within 4 or 5 miles, although not within 3 miles, of our shores.

Mr. NELSON. I referred to the assumption of Cuban boats firing on Florida.

Mr. FULBRIGHT. We are not firing on Cuba, nor they on us. I do not see how the case is analogous. There is a new state of modern warfare that is not orthodox. It is subversion and guerrilla warfare. These people are, for all practical purposes, engaged in a war, without a declaration of war, that is going on between South and North Vietnam.

Mr. NELSON. I have taken enough time. I merely wish to add that it is not quite correct to say that we are not firing on North Vietnam.

Mr. FULBRIGHT. We are not firing on Cuba, I said.

Mr. NELSON. I said assume a situation in which Cuba was firing on the coast of Florida with PT boats. It would be a risky thing for Russia to be out there testing our viewpoint about their patrols within 11 miles of our coast.

Mr. FULBRIGHT. I do not deny that it is risky. The whole operation is risky. It is full of risks.

Mr. NELSON. I hope we do not take risks that are unnecessary for the achievement of an objective that we have asserted to be ours for the past 10 years.

Mr. FULBRIGHT. I hope so.

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

Mr. FULBRIGHT. I yield.

Mr. SCOTT. I support the resolution. I was glad to hear the chairman say that there is nothing in the resolution which limits the right of the President to repel any attack or prevent further aggression within the areas described in the resolution.

Mr. FULBRIGHT. That is correct.

Mr. SCOTT. That is one of the reasons I support the resolution. As I understand it, the question of so-called privilege sanctuaries has always been a question of how long such sanctuaries remain privileged if the security of the United States is menaced by vessels operating out of such privileged sanctuaries. I believe the President has quite properly and rightly announced that the United States is authorized and seeks approval of Congress to continue to act to defend the United States, even if it be against a so-called or hitherto described privileged sanctuary. Is that not correct?

Mr. FULBRIGHT. I think that is correct. The retaliatory action taken against the bases from which these ships came fits that description.

Mr. SCOTT. I do not have the experience that the distinguished Senator from Arkansas has. However, I have heard the President, in off-the-record discussions, refer to the pros and cons of privileged sanctuaries generally, without reference to a specific country.

I understand he is doing now what he was

at any time prepared to do if in his judgment it was necessary to do it.

Mr. FULBRIGHT. It was wise and proper to do it. It is difficult to generalize about these matters. I believe that under the circumstances which existed in this situation he was wise. The action was well calculated and designed to achieve his purpose. I hesitate to generalize too far, because the conditions under which these things are done must be understood. We should not ruthlessly attack a country under different circumstances, perhaps, than these. I have reference to the Greek rebellion. Senators will remember that we had forces there seeking to maintain the independence of Greece. The Communists had a sanctuary across the border. By persistence we finally brought the affair to a successful conclusion. When that border was closed, the rebellion stopped, and Greece went on its way quite successfully as an independent country. That is what we hope to bring about here.

Mr. SCOTT. I believe we all have confidence that the President was right under international law to do what he did, whether it be called hot pursuit or anything else, in order to protect this country.

Is it not a fact that our naval planes, in the course of reconnaisance along the Chinese mainland, have received—and this is not classified information, and it has been published in the newspapers—numerous warnings and, in fact, a series of warnings, for having proceeded within the 12-mile zone, which, of course, we do not recognize, but these warnings were based on our penetrating what the Communists call a 12-mile zone. That is nothing new. There have been a whole series of similar objections. However, we have been engaged in this process for the purpose of protecting the 7th Fleet and protecting our lines of communication and protecting our roles and missions and protecting the security of the United States.

Our vessels had every right to be where they were within the 12-mile limit and without the 3-mile limit. That is what I understood the Senator to have said.

Mr. FULBRIGHT. I said it so happens—I say this to keep the record straight—that the actual attack, according to my information, took place far beyond the 12-mile limit. The first attack was approximately 25 miles out, and the second was about 60 miles.

Mr. RUSSELL. I believe it was 30 and 60 miles.

Mr. FULBRIGHT. Yes.

Mr. RUSSELL. I might add that our vessels had turned away from the South Vietnam shore and were making for the middle of the gulf, where there could be no question, at the time they were attacked.

Mr. FULBRIGHT. At the time of the first attack they were steaming away from the shoreline. The second attack came at night. The first one was in the daytime. Our ships were not within the 12-mile limit, so called, at the time of the attack. I have stated that from time to time we did go deliberately within the 12-mile limit simply to emphasize our nonrecognition of the 12-mile limit, or, to put it another way to establish and reaffirm our right to go there.

Mr. SCOTT. That clarifies the situation. I am glad the President has acted. The action was very much indicated. I believe it helps to make our Nation more secure. I intend to support the resolution.

Mr. COOPER. Mr. President, will the Senator yield for two questions?

Mr. FULBRIGHT. Yes.

Mr. COOPER. I know the Senator has been on his feet for a long time.

Mr. FULBRIGHT. It is not that. The Senator from Georgia would like to say something.

Mr. RUSSELL. My remarks will be very brief.

Mr. FULBRIGHT. I am perfectly willing to continue. I believe the Senator from Georgia should have an opportunity to say something.

Mr. COOPER. I thank the Senator. I ask these questions for two reasons: One is to get the opinion of the chairman of the Foreign Relations Committee and of the chairman of the Armed Services Committee as to the extent of the powers that are given to the President under the resolution. The second is to distinguish between a situation in which we act in defense of our own forces, in which without question we would risk war, and the commitment to defend South Vietnam.

My first question goes to the first section of the resolution—the operative part which, as the chairman has said, applies to any armed attack or any aggression directed against the forces of the United States.

Mr. FULBRIGHT. That is correct.

Mr. COOPER. In that case, of course, we confirm the power that the President now has to defend our forces against an immediate attack.

Mr. FULBRIGHT. The Senator is a very distinguished lawyer, and I therefore hesitate to engage in a discussion with him on the separation of powers and the powers of the President. We are not giving to the President any powers he has under the Constitution as Commander in Chief. We are in effect approving of his use of the powers that he has. That is the way I feel about it.

Mr. COOPER. I understand that, too. In the first section we are confirming the powers.

Mr. FULBRIGHT. We are approving them. I do not know that we give him anything that he does not already have. Perhaps we are quibbling over words.

Mr. COOPER. We support and approve his judgment.

Mr. RUSSELL. Approve and support.

Mr. FULBRIGHT. Approve and support the use he has made of his powers.

Mr. COOPER. The second section of the resolution goes, as the Senator said, to steps the President might take concerning the parties to the Southeast Asia Collective Defense Treaty and the countries under the protocol—which are, of course, Laos, Cambodia, and South Vietnam. The Senator will remember that the SEATO Treaty, in article IV, provides that in the event an armed attack is made upon a party to the Southeast Asia Collective Defense Treaty, or upon one of the protocol states such as South Vietnam, the parties to the treaty, one of whom is the United States, would then take such action as might be appropriate, after resorting to their constitutional processes. I assume that would mean, in the case of the United States, that Congress would be asked to grant the authority to act.

Does the Senator consider that in enacting this resolution we are satisfying that requirement of article IV of the Southeast Asia Collective Defense Treaty? In other words, are we now giving the President advance authority to take whatever action he may deem necessary respecting South Vietnam, and its defense, or with respect to the defense of any other country included in the treaty?

Mr. FULBRIGHT. I think that is correct.

Mr. COOPER. Then, looking ahead, if the President decided that it was necessary to use such force as could lead into war, we will give that authority by this resolution?

Mr. FULBRIGHT. That is the way I would interpret it. If a situation later developed in which we thought the approval should be withdrawn, it could be withdrawn by concurrent resolution. That is the reason for the third section.

Mr. COOPER. I ask these questions——

Mr. FULBRIGHT. The Senator is properly asking these questions.

Mr. COOPER. I ask these questions because it is well for the country and all of us to know what is being undertaken.

Following up the question I have just asked and the Senator's answer, I present two situations that might arise.

Under the first section of the joint resolution, the President is supported and approved in action he may take "to repel any armed attack against the forces of the United States and to prevent further aggression."

It has been reported that we have already sent our planes against certain ports in North Vietnam. I am sure that the reason is "to repel armed attack and to prevent further aggression" against U.S. forces.

Under section 2, are we now providing the President, if he determines it necessary, the authority to attack cities and ports in North Vietnam, not primarily to prevent an attack upon our forces but, as he might see fit, to prevent any further aggression against South Vietnam?

Mr. FULBRIGHT. One of the reasons for the procedure provided in this joint resolution, and also in the Formosa and Middle East instances, is in response, let us say, to the new developments in the field of warfare. In the old days, when war usually resulted from a formal declaration of war—and that is what the Founding Fathers contemplated when they included that provision in the Constitution—there was time in which to act. Things moved slowly, and things could be seen developing. Congress could participate in that way.

Under modern conditions of warfare—and I have tried to describe them, including the way the Second World War developed—it is necessary to anticipate what may occur. Things move so rapidly that this is the way in which we must respond to the new developments. That is why this provision is necessary or important. Does the Senator agree with me that this is so?

Mr. COOPER. Yes, warfare today is different. Time is of the essence. But the power provided the President in section 2 is great.

Mr. FULBRIGHT. This provision is intended to give clearance to the President to use his discretion. We all hope and believe that the President will not use this discretion arbitrarily or irresponsibly. We know that he is accustomed to consulting with the Joint Chiefs of Staff and with congressional leaders. But he does not have to do that.

Mr. COOPER. I understand, and believe that the President will use this vast power with judgment.

Mr. FULBRIGHT. He intends to do it, and he has done it.

Mr. COOPER. I do not wish to take more time now, because the distinguished Senator from Georgia wishes to speak, and I want to hear him.

Mr. FULBRIGHT. I have no doubt that the President will consult with Congress in case a major change in present policy becomes necessary.

Mr. COOPER. I will speak further later in the day. I wish to say this now: I know it is understood and agreed that in the defense of our own ships and forces any action we might take to repel attacks could lead to war, if the Vietnamese or the Chinese Communist continued to engage in attacks against our forces. I hope they will be deterred by the prompt action of the President.

We accept this first duty of security and honor. But I would feel untrue to my own convictions if I did not say that a different situation obtains with respect to South Vietnam. I know that a progression of events for 10 years has carried us to this crisis. Ten years have passed and perhaps the events are inevitable now, no one can tell. But as long as there is hope and the possibility of avoiding with honor a war in Southeast Asia—a conflagration which, I must say, could lead into war with Communist China, and perhaps to a third world war with consequences one can scarcely contemplate today—I hope the President will use this power wisely with respect to our commitments in South Vietnam, and that he will use all other honorable means which may be available, such as consultations in the United Nations, and even with the Geneva powers.

We have confidence in the President and in his good judgment. But I believe we have

the obligation of undersanding fully that there is a distinction between defending our own forces, and taking offensive measures in South Vietnam which could lead progressively to a third world war.

Mr. FULBRIGHT. The question concerns the kind of actions taken in this instance. I think the President took action that is designed to accomplish the objective the Senator from Kentucky has stated. That is what I have tried to make clear. I join in the Senator's hope that all-out war can be avoided.

Mr. MCGOVERN. Mr. President, will the Senator yield for one question?

Mr. FULBRIGHT. I shall yield for one question; then I shall yield the floor.

Mr. MCGOVERN. The Senator may recall that about 10 years ago, on December 2, 1954, the United States signed with the Nationalist Chinese Government a mutual defense treaty. In effect, we committed ourselves to joint defense for security interests in the western Pacific.

Shortly after that agreement was signed, there was a considerable amount of anxiety expressed in the United States that perhaps we in effect had surrendered control of our foreign policy in that part of the world to the Nationalist Chinese. Partly to offset that anxiety, there was an exchange of notes between Secretary Dulles and the Nationalist Chinese Minister of Foreign Affair, in which the two gentlemen agreed in effect that if there were to be any action by military forces on the part of either the Nationalist Chinese Government or ourselves in the western Pacific, the two countries would consult with each other, and that any such action would be taken only after mutual agreement.

I am wondering whether there is any similar protection written into the security arrangements that we have with reference to South Vietnam. Is that kind of protection, for example, written into the SEATO agreement, or in any of the notes which have been exchanged between our Governments, so that we would not, in effect, be surrendering control of our actions in southeast Asia to the Government of South Vietnam?

Mr. FULBRIGHT. I do not believe we are surrendering control to them. Under the SEATO Treaty, as I recall it, we take our own actions according to our constitutional processes. I do not believe that we have surrendered control of our actions. However, as a practical matter our influence upon the Government of South Vietnam is a matter of relations between our Ambassador and General Khanh. We consult daily, I believe, with regard to the conduct of our mutual affairs in that area. To give a short answer, I know of no exchange of notes, or anything of that kind. I do not recall any testimony on the precise point the Senator has brought up.

Mr. MCGOVERN. What I am getting at is, suppose the Government of South Vietnam, for whatever reason, should decide to launch a major military attack on North Vietnam, would we be obligated in any kind of arrangement we have with South Vietnam?

Mr. FULBRIGHT. No. We have no obligation to follow through with a situation which we believe to be unwise, stupid, or silly. We could disavow it and withdraw and have nothing to do with it. We have no treaty agreement or any other agreement that I know of that binds us to follow through with that.

Mr. LAUSCHE. The southeast Asia treaty provides specifically that it is applicable only when aggressions are committed against members of the treaty, and is not applicable should members of the treaty commit aggressions against countries other than those who are members of the treaty. That is written into the treaty.

Mr. FULBRIGHT. I believe that it also applies only to aggression from Communist countries.

Mr. MORSE. It covers the protocol countries.

Mr. MCGOVERN. I was not a Member of the Senate at the time, and I know that the Senator from Arkansas knows infinitely more about it than I do, but when the Formosa resolution was approved by Congress early in 1955, I believe that the approval for that resolution was secured partly because of the exchanges of notes which had taken place months before, in which both Nationalist China and the United States agreed that neither country would undertake any kind of military action in the Pacific without making it a joint action. It is on the basis of that assurance that the Formosa resolution was approved. So that is why I rose to ask my question.

Mr. FULBRIGHT. I know of no exchanges in this case.

Mr. MCGOVERN. I thank the Senator.

Mr. FULBRIGHT. Mr. President, I yield the floor.

Mr. RUSSELL. Mr. President, I shall be very brief in my comments in support of this resolution

Mr. STENNIS. Mr. President, would the Senator from Georgia wish to suggest the absence of a quorum?

Mr. RUSSELL. I do not think so. I thank the Senator, however for his thoughtfulness.

Mr. President, this resolution has precedents in those that were adopted at the time of the crisis in Formosa, at the time of the crisis in the Middle East, and also in connection with Cuba. These other resolutions will be remembered by many Members of the Senate.

Some reservation has been expressed about the grant of power—which is broad power—to the President. The language that grants this power to the present President of the United States is almost identical with the language used in granting similar power to President Dwight D. Eisenhower in the case of Formosa and Matsu and Quemoy—the two islands just off the Chinese mainland held by Chiang Kai-shek against the wishes of Red China. The Red Chinese had been shelling those islands intermittently and there was great apprehension that they were about to launch an attack to capture them.

Congress granted President Eisenhower almost the identical power that would be granted in section 2 of this resolution, to enable him to protect those islands, in the event that he concluded they were important and vital to the maintenance of international peace and security, and the vital interests of the United States.

What became of that power?

It is in existence at this very moment.

Senators refer to the new power which is being granted today. But the power granted to President Eisenhower existed during the tenure in office of John Fitzgerald Kennedy, and resides at this very moment in Lyndon Baines Johnson at the White House—power which is very similar, except for the geographic area involved, to that which we propose to grant today in the case of North Vietnam.

The same is true with respect to the Middle East resolution. We granted certain power to President Eisenhower in March of 1957, in connection with the situation in the Middle East, by approving a resolution that reads:

"The President is authorized to undertake in the general area of the Middle East military assistance programs with any nation or group of nations in that area desiring such assistance. Furthermore, the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use Armed Forces to assist any such nation or group of nations requesting assistance against armed aggression from any country controlled by international communism."

What became of that power?

It is in existence today. It has never been terminated or annulled by the means set forth in the resolution. The same situation is true in the case of the Cuban resolution. The power that was originally granted to President Kennedy, the assurance of support from the Congress, is in existence today and resides in the Chief Executive.

Unless some steps should be taken to cancel it, the power granted in this resolution with respect to the vast difficulties in Vietnam—and I do not underestimate them, neither do I undertake to underrate them—will continue for whoever is elected President in November.

Mr. President, the spirit of crisis and impending danger that hung over this Chamber when we were considering the Formosa resolution was far greater than it is at this very hour. But in that instance, and when we approved the other similar resolutions, our national solidarity and our steadfastness in the face of crisis prevented much more serious and much broader military action.

I am sure that all of us who intend to vote for the joint resolution pray that the adoption of the resolution, and the action that may be taken pursuant to it, will achieve the same purpose and avoid any broadening of war, or any escalation of danger.

This resolution does not alter the constitutional separation of responsibility for the conduct of foreign relations for the command of our Armed Forces and for the establishment and maintenance of our Armed Forces. Instead, the resolution is intended to demonstrate that Congress approves the retaliatory action that has been taken in defense of our flag and our Armed Forces, and that Congress shares in the determination that this country will do everything necessary to defend our national interests, wherever they may be endangered.

The events that bring the resolution before us are too well known to require detailed repetition. Suffice it to say that U.S. naval vessels have been attacked while in international waters. The President has authorized a response. That response was, in a way, commensurate with the attacks up to this point. If there is further unprovoked military action against our forces, response under this resolution will undoubtedly be tailored to fit the facts and needs of that situation.

There is, of course, the hope that the outrageous attack which gave rise to this resolution is only a spontaneous, irresponsible action by the North Vietnamese without the direction and approval of any of their Communist associates. The rulers of North Vietnam must know that any further belligerency toward us or our forces can lead to their destruction. If they prove to be so irresponsible as to continue these unprovoked attacks, they will be inviting consequences of the direct sort.

In the present circumstances, it will serve no useful purpose to debate the wisdom of our original decision to go into Vietnam. It is unnecessary for me to state that I had grave doubts about the wisdom of that decision. It would certainly do no good to dwell on those doubts here today. Indeed, second guesses about our foreign policy, and what it should be in that area, or whether our support to South Vietnam has been too much, or has been too little, are not involved directly in the question before us. What is involved is our right as an independent state to operate our vessels upon international waters that have been recognized as free to all states for many centuries. Involved also is our national honor. Our national honor is at stake. We cannot and we will not shrink from defending it. No sovereign nation would be entitled to the respect of other nations, or, indeed, could maintain its self respect, if it accepted the acts that have been committed against us without undertaking to make some response.

Our Armed Forces are capable of a broad

range of reaction. In the instant case, the President selected one so limited that no reasonable and objective observer could assume a desire on our part to escalate the war or to broaden its scope. I shall say, however, that if future events demand a more vigorous response, this Nation has the power, and I believe our people have the will, to use that power. The portents of this resolution are great. No action whatever can be taken in the field of international relations in today's troubled world that does not involve some danger. But I submit to this body the view that I firmly believe there is much more danger in ignoring aggressive acts than there is in pursuing a course of calculated retaliation that shows we are prepared to defend our rights.

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

Mr. RUSSELL. I yield.

Mr. SALTONSTALL. Mr. President, unfortunately I have been at a legislative appropriation conference. I have not heard all of the discussion. But I know that the chairman of the Committee on Foreign Relations and the chairman of the Committee on Armed Services have gone into the broad aspects of this problem very thoroughly. I join the Senator from Iowa and with the two committee chairmen in sponsoring this resolution. I believe it is of fundamental importance to our prestige in the world today and to the prestige of our armed services.

Mr. President, from the beginning of our Nation, Massachusetts men have always gone down to the sea in ships. We are proud of our Navy. We know its strength and effectiveness in preserving our country and our defenses.

Its prestige and the prestige of our country in the eyes of the world is at stake.

It is the responsibility of the President to take immediate action to defend our country when he believes that it is under attack in one way or another.

As the representative of all our people, he now asks Congress to support him in the position he has taken in this instance where our Navy had been fired upon. He made the decision to retaliate for the attack.

The resolution before us today lends support to the President's decision to defend our Navy and to build up and to maintain its prestige in the eyes of the world.

I support it wholeheartedly and hope that the Senate will adopt it by an overwhelming vote. Because I believe in the sentiments and principles set forth in the resolution, I joined in sponsoring it.

I believe it is one of the most fundamental propositions to come before the Senate since I have been a Member of this body and I hope there will be little opposition to it.

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

Mr. RUSSELL. I am glad to yield to the Senator from Missouri, who happens to be the only Member who serves on both committees that met jointly to consider the resolution today.

Mr. SYMINGTON. Mr. President, I have listened with great interest to the remarks of the distinguished senior Senator from Georgia, the leading civilian military authority in this town today. I would associate myself with his remarks, as well as with those of the distinguished chairman of the Committee on Foreign Relations, one of the truly great scholars of those matters having to do with foreign affairs.

It seems to me this is a relatively simple matter we are discussing this afternoon.

I would agree that it is not as serious as other recent crises and most certainly it is not as serious as the Cuban confrontation, where a possible aggressor had nuclear weapons.

The matter for decision is whether the United States accepts an attack on one of its ships 65 miles offshore or should defend itself against this clearly planned aggression.

If we allow these attacks to proceed without any response, the position, the prestige of the United States abroad in that part of the world, very possibly in all other parts of the world, would suffer a serious loss of respect. The free world continues free today because of the physical, economic, and above all spiritual strength of the United States, although we welcome any and all support from our allies. It is a privilege to be on the floor of the Senate and hear my chairman once again express his pride and confidence in the future of America. It is also a privilege to associate myself with his remarks.

Mr. RUSSELL. I thank the distinguished Senator for his very kind words.

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

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

Mr. RUSSELL. I shall yield first to the Senator from Louisiana, and then I shall be glad to yield to the Senator from Iowa, who is a member of the Foreign Relations Committee.

Mr. ELLENDER. Mr. President, I am in thorough agreement with the views expressed by my friend the senior Senator from Georgia (Mr. RUSSELL).

I should like to ask whether or not the Senator knows if any effort has been made by us in the last few days or in the past to get our allies to join us in our effort, and whether any insistence has been made by his committee in order to effectuate that endeavor.

Mr. RUSSELL. Mr. President, that question is not primarily within the purview and jurisdiction of the Armed Services Committee, but I may say to my distinguished friend that no one feels more deeply than I do—about the fact that when the United States intervenes, many others who have equal responsibility have tended to say, "Let Uncle Sam do it." I will say that I have been assured by both the Secretary of State and the Secretary of Defense that they have endeavored to get assistance. The Senator is familiar, of course, with the peculiar conditions that exist with respect to France at the present time.

France is a nation that had more familiarity with this area of the old colonial days than any of the other nations of the Western World. Great Britain is a tried and trusted friend. But they are engaged at the present time in the Malaysian operations. Their armed forces are not as large as I should like them to be. But their military strength is on a standby status under the threats that have been issued by Sukarno against the new state of Malaysia.

Australia has increased its assistance in Vietnam within the past 6 or 8 months. They actually have personnel in the field now as advisers with military units, just as American military personnel serve with those units.

I do not make any of those statements to indicate that I think our associates are doing as much as they can or as much as they should. But there has been some increase at least, and I hope and earnestly pray that this will be a harbinger of willingness to assume a fairer share of the great responsibility of protecting the free world from domination by international communism.

Mr. ELLENDER. Does not the Senator think that it is incumbent upon us as members of the SEATO organization to make every effort to get assistance from the members of SEATO? As I understand, France, the United Kingdom, Pakistan, New Zealand, Australia, the United States, the Philippines, and Thailand are members of SEATO. Is it not incumbent upon us to have a meeting of SEATO before we go too far? The reason I make that statement is that I fear that we shall once again be left holding the bag alone, unless we do something along those lines.

Mr. RUSSELL. I share the Senator's feeling. The Senator knows that SEATO meets at regular intervals. We have been assured that our representatives have urged increasing assistance. The question is important, not only from a military standpoint, but also from a psychological standpoint. It is important that all countries associated in SEATO make a more substantial contribution to this deplorable condition that exists in Vietnam.

As I said at the outset, the question is one which is more within the jurisdiction of the Foreign Relations Committee than that of the Armed Services Committee, but I have been concerned about it. I have done what I could to encourage our representatives to insist upon greater participation.

Mr. ELLENDER. I express the hope that action will be taken soon, and that we shall not have a repetition of what happened in South Korea. As the Senator knows, we carried most of the burden there—in fact, over 90 percent of it—and in excess of 90 percent of the soldiers who died in South Korea, other than South Koreans, were American.

Mr. RUSSELL. We carried more than 90 percent of the financial and logistical cost.

Mr. ELLENDER. Yes, indeed, we did. Unless we take action now to try to get our allies to assist, the chances are that the burden will fall upon us.

Mr. RUSSELL. I thank the Senator. I now yield to the distinguished Senator from Iowa.

Mr. HICKENLOOPER. Mr. President I thank the distinguished Senator from Georgia. I shall not repeat the philosophical and political arguments that have taken place on the floor of the Senate in support of the resolution. They have been amply presented by the Senator from Georgia, the chairman of the Armed Services Committee, and by the Senator from Arkansas, the chairman of the Foreign Relations Committee. As one of the cosponsors of the joint resolution, I merely wish to approve the basic arguments underlying the submission of the joint resolution and its purposes, its necessity, and its justification.

We are in a serious situation. Any time a question of this kind comes up it is of the utmost seriousness. I shall not go far enough to say that it is a question of extreme situation. I do not know whether I dare use that word or not. But it is of the greatest seriousness. I will say that. Therefore we must act, not only in defense of the national honor and the prestige of the United States, but also in defense of the basic principles which we will either defend or see destroyed and eroded away by our inaction.

I have always felt that it was a little bit silly, if a fire started in one of the main buildings of a town or in someone's house, to call a meeting of the town council to determine whether the fire department should be called. Meanwhile, the fire is burning down the building. Someone must get a bucket or a hose and put out the fire.

We are up against much the same situation here on the question with which we are confronted. As the Senator from Georgia has pointed out, the proposed action is not without precedent. In my experience, which has encompassed the various resolutions to which the Senator has referred in his argument, we have joined with the President on various occasions in certain defined areas of the world for the purpose of protecting the interests of the United States and the protection of freedom. On certain principles involved in Presidential action, involving force, I am not in full agreement with all of my colleagues; I am in agreement with some and in disagreement with others as to the inherent power of the President or the extent of such power.

In this case there is not the slightest question in my mind that the President not only has full authority, but has a responsibility, to protect American institutions and interests when they are attacked, without having to come to the Congress for that authority.

At a future date, the question of use of

American force may give rise to some persuasive arguments, perhaps on both sides of the question. However, a resolution of this kind forecloses that argument and joins the Congress with the President of the United States in unity in saying that when our forces are attacked, when we are endangered, we are united, not only in repelling, but, if necessary, in attacking the source of that infection or difficulty that is threatening us. That is why I say it is our responsibility. That is why I have joined as a cosponsor of the resolution.

I, as I am sure every Member of the Senate, regret that we must take this action, but we must let not only our enemies but our friends in the world know that there is a line beyond which the United States will not tolerate destruction or endangering of freedom.

If we are to survive in a world of freedom—if that is to be our objective—we will keep our commitments and hold our heads high, as we always have, and defend our liberties and rights.

While this issue could become emotional, I hope we are approaching it with considerable calmness and objectivity. I am sure the overwhelming majority of the Members of this body are approaching it with objectivity and calmness, but sincere determination and unity on any issue must be shown not only to our enemies, but to our friends.

I join the Senator from Louisiana in the earnest hope and desire that our allies and associates will come in with us. That is very true. But again, if someone is drowning and another has the power to save him, he does not say, "I won't jump in and get you out unless you and you and you also jump in with me and help me get the person out of durance vile and a state of extremus."

When something like that happens, we have a responsibility to ourselves, to our civilization, and to the cause of freedom, to do something about it. I think that is the way we are approaching the issue here.

We must invite and urge all freedom-loving nations to join with us, if possible, but a dangerous situation exists now. That is why the resolution is urgent and essential. It is why I support it. As the President pointed out, similar authority exists in other areas, and it will only enlarge those powers for this section of the world, under the circumstances which exist there.

I congratulate the Senator from Georgia for the clarity of the statement he has made.

Mr. RUSSELL. I thank the Senator from Iowa. I have been privilged to serve with him for many years. He approaches these problems without the slightest hint of partisanship. He is a great patriot and Senator. No more loyal or dedicated patriot has ever served in the Senate.

Mr. GRUENING. Mr. President, it is always difficult not to accede to a request from the President of the United States especially one which is couched in terms of high principle and national interest. I have no doubt that the President fervently believes that the course he is pursuing in southeast Asia is in the best interests of the Nation.

By long established practice, the Executive conducts the Nation's foreign policy. But the Congress and particularly, by constitutional mandate, the Senate has a right and duty in these premises to "advise and consent." Especially is this true when it is specifically called upon by the Executive, as is the case now, for its participation in momentous decisions of foreign policy. Therefore we in the Senate would be derelict in our duty if we did not individually express our views if those views embody doubt or dissent, and where a vote is called for, to cast that vote as our conscience directs.

As early as March 10, nearly 5 months ago, I took the floor and in an address of considerable length urged that the United States get out of South Vietnam, at least to the extent of participation by our soldiery. Since that time, I have discussed U.S. participation in this area of the world repeatedly. I have stated and restated my view that this was not our war; that we were wholly misguided in picking up the burden abandoned by France 10 years ago after the French had suffered staggering losses running into tens of thousands of French young lives and vast sums of money to which the United States contributed heavily, and thereupon entering upon a policy which would be bound to result, as it has resulted, in the sacrificing of the lives of our young Americans in an area, and in a cause that in my reasoned judgment poses no threat to our national security.

I have repeatedly called attention to the pertinent fact that we, the United States, are going it all alone; that our SEATO allies, the United Kingdom, France, Australia, New Zealand, the Philippines, Pakistan, and Thailand, are not taking part, despite our earnest pleas for them to do so, which pleas may, in recent days, have resulted in a few slight token gestures which are wholly insignificant. I have called attention to the fact, and do again, that whereas American boys are dying in combat although presumably they are there as advisers, no British boys are on the firing line; no French boys are any longer at the front, they appear to have learned their lesson; no Australian youths are being killed; no New Zealand youngsters are being sacrificed; no Philippine casualties are being incurred; and the same may be said for the Pakistanis, despite the fact that we have given them close to a billion dollars in military aid.

In any event, I am convinced that peace will not be established by military means. Sooner or later the issue is bound to be settled at the conference table. Eventually, why not now?

While I am deeply convinced that American security is not involved, the allegation that we are supporting freedom in South Vietnam has a hollow sound. We have been supporting corrupt and unpopular puppet dictatorships which owe their temporary sojourn in power to our massive support. They have scant support from their own people, who have shown little disposition to fight. Hence our steadily increasing involvement. Yet we have persistently alleged that the war cannot be won except by the South Vietnamese. It is not happenning nor will it.

Some weeks ago I urged on the floor of the Senate that the United States take the lead in seeking a cease-fire, and that this be accompanied and implemented by a United Nations police force, as has been done in the Congo and is being done in the formerly troublesome border between Israel and Egypt. It has worked there. It has largely put an end to border strife and killing. Why not try it in South Vietnam, where the cost in lives has already proved infinitely greater?

But the United States has not pursued peace as it has pursued and carried out armed intervention on an ever-increasing scale.

The latest episode—the attack by North Vietnam vessels—on U.S. naval vessels, I consider an inevitable development of the U.S. steady escalation of our own military activities in southeast Asia in recent weeks. I do not justify or condone that attack on our ships. It was both stupid and outrageous. I do not at all disagree with the administration's policy of countering this attack and of not merely repelling the attackers but destroying them and giving them the same medicine which they seek to inflict on our vessels.

But that does not mean that I can approve the whole U.S. policy of active, unilateral military intervention in southeast Asia, and I have expressed myself repeatedly to that effect in the Senate.

I repeat now that I do not consider this our war and that I feel that all Vietnam is not worth the life of a single American boy. We inherited this putrid mess from past administrations, and we should have made, and should now make, every effort to disengage ourselves. We have lost altogether too many American lives already. Unless we reverse our policy, their number will steadily increase.

I regret, and consider it a pity, that both our political parties appear now to be committed to a policy of war in southeast Asia. Yet American public opinion, judged by my mail, is overwhelmingly committed to a different policy—a policy of peace. It apparently at this time has no spokesman in the high councils of either major political party. My mail pours in with virtual unanimity on this subject. It comes from all over the country. It comes from a truly representative cross section of the American people. It includes bishops, deans of schools and colleges, university professors, business executives, teachers, retired Army officers, and it comes from every State of the Union.

The case against the pending proposal to endorse our southeast Asian policy of steadily increasingly escalation, which despite the President's expressed desire not to extend the war, has taken place and will take place inevitably, the case against this pending resolution, was admirably, and in my view—wholly convincingly—set forth in great detail yesterday by the distinguished senior Senator from Oregon, WAYNE MORSE.

I would hope that every Member of this body would have read his comprehensive analysis of how the situation has reached its present tragic involvement before each casts his vote. No one, in the Senate, or elsewhere, can consider himself fully informed to pass judgment on the momentous decision we are asked to make and its involvement of our country without hearing both sides of the argument. The press has given very little of this other side.

Senator MORSE has presented the case for not voting approval of the administration's course. I have long supported a similar view. I do suppport enthusiastically the taking of the latest episode; namely, the attack by North Vietnamese vessels on U.S. naval vessels, and our reprisal, to the United Nations.

But not merely this serious incident which is a part of the undeclared war in southeast Asia, should be considered. The United Nations should not be limited to consideration of that incident by itself. I do not see how it can logically do so. Let us hope—and I do hope—that out of this may come a complete investigation by the United Nations of the whole southeast Asian situation, and that from this may emerge a referral of that situation to the council table.

The joint resolution, Senate Joint Resolution 189, which we are considering in section 2, bases its case in part on the charter of the United Nations. The drafters of this resolution seem to have disregarded several other provisions of the United Nations Charter, which seem to me highly pertinent, indeed far more pertinent.

Article 33 provides:

"The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice."

I submit, Mr. President, that the United States, as well as North and South Vietnam, have totally ignored this specific mandate. Have any of these three parties to this dispute, as this article requires, sought "a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice"?

Mr. President, I ask this question:

Has the United States, has South Vietnam, has North Vietnam, obviously parties to the long-standing dispute, or have any of our SEATO presumed allies, following the clear prescription of article 33 of the United Nations Charter, sought "first of all"—let me note that the charter says "first of all"—a solution by negotiation?

Have they sought a solution by inquiry?

Have they sought a solution by mediation?

Have they sought a solution by conciliation?

Have they sought a solution by arbitration?

Have they sought a solution by judicial settlement?

Have they sought a solution by "resort to regional agencies or arrangements"?

Have they sought a solution by resort to "other peaceful means of their own choice"?

Obviously, they have not. Obviously, none of the parties to the dispute, "the continuance of which" is certainly "likely to endanger the maintenance of international peace and security," sought any one of the eight means which the United Nations Charter spells out so clearly.

The United States has not only not done so. It has not even attempted to do so.

South Vietnam, whose policies and very existence the U.S. controls, has not done so.

North Vietnam has not done so.

Obviously, the United States, far from being, as Senate Joint Resolution 189 asserts in section 2, "consonant with the Charter of the United Nations," has flagrantly disregarded it.

But to have done otherwise, to have resorted to these peaceful means, namely, "first of all" to "seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means," would have been precisely the policy which I deeply believe we should have followed.

At the very least we should have tried.

But, instead, we have become more and more enmeshed in the folly of an inherited policy, with steady enlargement of the area, of conflict, a steady increase in American participation, and a mounting loss of American lives.

Despite the President's declared worthy purpose not to expand the conflict, the conflict has been and is being steadily expanded. We are adding more advisers, and we are increasing our participation by all three branches of the service—Air Force, Navy, and Army. And with these increases, there will be inevitably an increasing loss of American lives.

It is a difficult and painful decision for me to make, but in good conscience I cannot do other than to vote "no" on the pending resolution.

Mr. KUCHEL. Mr. President, I ask unanimous consent that the text of Senate Joint Resolution 189 be printed in the RECORD at this point in my remarks.

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

"Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

"Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

"Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military, or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

"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.

"SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

"SEC. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress."

Mr. KUCHEL. By way of emphasis I wish to read section 2 of the resolution, as follows:

"SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

Mr. President, this is not the first time that the legislative branch of our Government has been called upon to recognize and to confirm in the President the authority, the duty, and the responsibility resting in him to take such steps as he deems appropriate under our Constitution, to defend our country and our people, and to discharge America's solemn obligations as they may arise through our agreements for collective security with like-minded free nations all around the globe.

I remember the Middle East resolution. I remember the Formosa resolution. Both came to Congress from President Eisenhower. Both were requested so that all might know that the people's representatives in this branch of the Government agreed with the Chief Executive of the United States with respect to the authority he possessed and the circumstances under which he would be compelled to utilize his power.

Those two resolutions demonstrated to all the world the unity, dedication, and solidarity of purpose not only among the representatives of the people in Congress and the President, but among the people of our country as well.

Once again a storm is gathering over a long tormented area of this weary world. Ominous and ugly are the threat and thrust of communism in southeast Asia. The storm may yet be dissipated, but only if the Red regime unmistakably understands that the United States will honor its pledge and assist her SEATO allies in time of peril.

That is the plain intent of the joint resolution now about to be passed by Congress. Let friend and foe alike understand that we—America—shall keep the faith. Our country stands together in the fact of danger. That is the clear meaning of our message. If Communist Asia, even at this late time, carefully assesses the high cost of her contemplated marauding aggressions, peace can return to the lands of her peaceloving neighbors, and the sun will shine again.

Mr. CHURCH obtained the floor.

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

Mr. CHURCH. Mr. President, without losing my right to the floor, I yield to the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the Senator for yielding.

Few persons have had more concern than I during the last 10 years about the growing menace and threat by the Communists to freedom in Vietnam. I have recently taken sworn testimony, classified, from some of our pilots who have been on duty in Vietnam during the last 2 years. I can say with solemnity, but with certainty, that a grave and serious situation already exists on the mainland of Vietnam. We are involved to an appreciable degree.

Someone has suggested that the conditions necessitating this joint resolution are not nearly so serious as those which confronted us when the Formosa joint resolution was before Congress. On the whole, I suppose I would agree. Still, I believe we would make a great mistake if we minimized in any degree the graveness and seriousness of the situation confronting us now.

I do not believe the American people have been sufficiently warned and informed about the gravity of conditions there.

I remember that when the Formosa resolution was before the Senate for consideration a few years ago, a Member of this body, who is no longer with us, said he believed that if the resolution were passed, the United States would be at war in 90 days. That prediction proved to be erroneous. On the contrary, I believe the Formosa resolution helped us to avoid war. I believe this one will, too. That is one of the major reasons why it deserves support.

Today we have no choice. Our flag has been attacked, and our country has been challenged in international waters—on the high seas—where we had a right to be. Our flag and our men have been fired upon. Many hundreds, if not thousands, of our naval personnel could have lost their lives had the torpedoes been more accurately aimed and hit one or more of the destroyers.

We properly gave the aggressors fair warning after the first shot. Then they hit us again. Very properly, we then struck back.

The matter has now been referred to Congress, to see what we will do; whether or not we believe the action taken was right; whether we shall stand on that realistic policy in the future; and whether we are united. Either we must stand our ground or run away. That may be oversimplicity; but if we do not send such a message as that, we are in reality inviting another attack from any nation, large or small, who might wish to push us around.

We have already struck the aggressors a severe blow. Section 1 of the resolution merely expresses the attitude of Congress that we will stand by it and will strike again, if necessary. I believe this firm course, if we take it, may be our last or only chance to avoid what could quickly develop into full-scale war. The joint resolution shows our unity as well as our determination. It also shows that no one dares to attack us without paying a heavy price therefor.

I emphasize that the situation is serious; but it will become far worse if we show the slightest weakness or hesitation. If we must have a showdown, it is far better that it comes before Red China obtains nuclear weapons. Our honor, our safety, and our security are at stake.

For these reasons, I shall vote for and support the resolution. None of us are happy about the situation in Vietnam and about our position there. But that bridge has long since been crossed. We are already there. We dare not run away, certainly not while we

are under attack. I am sure the people will support this position. They will be given the opportunity to understand more about what is happening in Vietnam.

I commend the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. RUSSELL), the Senator from California (Mr. KUCHEL), and other Senators for their remarks and their position on this grave matter and endorse their position.

Mr. CHURCH. Mr. President, the ominous events that have taken place in the Gulf of Tonkin merely serve to emphasize how close we are living to the fuse of war. Whether those events have lighted that fuse remains for the future to disclose.

None of us has any doubt about why this joint resolution is before the Senate. It results directly from the Communist attack on the American destroyers. Those ships, when attacked, were on the high seas, where they had a legal right to be. Those ships, from all that we have been told, were not engaged in any aggressive action directed against the shores of North Vietnam.

Our reply to the first attack upon the *Maddox* was confined to the immediate defensive needs of the destroyer. When a second, clearly premeditated attack upon the President chose not to confine over counteraction to the immediate defenses of the ships involved, but to retaliate in kind. Having twice been stung by bees, he chose to strike back at the hive itself. Still the retaliation was limited to the PT base on the North Vietnamese coast, and to the petroleum tanks that fueled the PT boats themselves.

The President is to be commended for the restraint, as well as for the promptness and effectiveness of the American retaliation.

In the narrowest sense, the joint resolution could be supported on grounds of ratifying the action already taken, our right to free access to the seas, and our duty to defend ourselves, in appropriate ways, against attacks upon us.

Mr. President (Mr. SALINGER in the chair), I believe that on such grounds alone Congress would be justified in its support of the joint resolution, upon the principle that the punishment was fitted to the crime.

The President has emphasized—and I believe properly so—that in the retaliatory action we have taken, there is not to be read any change of purpose on the part of the United States. He has stated that it is not our policy or our purpose to expand the war. If that expansion occurs, then it will be the choice of others—not our own. I am in wholehearted agreement with the emphasis he has given to the peaceful goals we hope to serve, and to the fact that it is not the policy of the United States to extend the war in southeast Asia.

But, Mr. President, it would not be either candid nor correct to consider this resolution on such narrow grounds.

It is necessary to recognize that our situation today must be viewed within the context of American policy in the Far East; otherwise, our ships would not be in the Gulf of Tonkin, and the serious events of the past few days would not have occurred.

I have had doubts about American policy in southeast Asia. I have expressed those doubts from time to time, in this Chamber, in interviews for publication in newspapers, and in magazine articles I have written. My doubts have not been eradicated by the attacks made upon American destroyers in the Gulf of Tonkin. My misgivings have not been dissipated by the ominous events of the past few days. Rather, they have been intensified. Because who can say that these events are not the natural consequence of the hazards we have assumed by the policy we have adopted in this part of the world?

We had every reason to expect that some such incident might occur. It is a risk we assumed, necessarily, when we chose to intervene, following the defeat of the French, in that great peninsula which was once French Indochina—when we assumed an American responsibility for the future of this remote region of the world.

I have entertained and continue to entertain, serious misgivings about the correctness of American policy in southeast Asia. It seems to me that this policy is more the product of our own addiction to an ideological view of world affairs—an affliction which affects us as well as the Communists—rather than a policy based upon a detached and pragmatic view of our real national interests.

However, my dissent, to the extent that I hold it, and to the degree that I have been able to define it, is not appropriate for this occasion. This is not a time to decry the policy. A country must live with the policy it adopts, whether it be wise or foolish.

We have adopted the policy. It was initiated under the Eisenhower administration, when the original decision was made for the United States to intervene actively in South Vietnam. It has been inherited and upheld by the Kennedy administration, and by the Johnson administration, in the years which have followed.

Congress shares its responsibility for that policy. If we have not formulated it, we have funded it, from year to year, with our votes. Who is there to say that we have not acquiesced in it down through the years?

So, Mr. President, we must accept the consequences of our own actions. We must now face the fact that the difficulties in which we find ourselves are our responsibility, in having chosen to pursue a course of action which exposed us to such hazards.

It is in this spirit that I approach the pending joint resolution. Under the circumstances, we must unite behind the President.

The attack upon us cannot be justified. It was an act of aggression. When this country, or its ships, or its military personnel are made targets of attack, then Congress will uphold whatever action the President takes in defense of American interests and American lives.

I shall vote for the joint resolution in the belief that President Johnson will wisely use the authority conferred by the resolution, and that he will have the same attitude toward it that he has displayed in other crises; namely, an attitude of reason, responsibility, and restraint.

I believe that President Johnson is a man of peace. I believe that he is sincerely interested in doing everything possible to keep the war from spreading, in this seething and dangerous area of the world.

At the same time, I believe that he will uphold the honor and the good name of the United States against any nation that would make itself our enemy.

Mr. President, it is with a heavy heart, with a genuine concern about the future of American policy in Asia, and with a zealous desire that we might examine all of its tenets in the days ahead, that I shall vote for the joint resolution, confident that in a time of crisis the President's hand must be upheld, and that the lives and interests of the U.S. citizens must be protected against all her enemies.

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

Mr. CHURCH. I yield.

Mr. GORE. I wish to congratulate the Senator upon an able, candid, courageous, and eloquent address.

With him, I have attended many executive sessions of the Senate Foreign Relations Committee for the past few years in which the subject of U.S. policy and action in the Indo-Chinese Peninsula was under discussion.

The able Senator has lucidly put forward his reservations and doubts. Although I have not publicly voiced my doubts, as has the Senator from Idaho, nevertheless, in the performance of the duty of a Senator to advise and consent, I have, in the executive sessions of the committee, expressed deep concern and I have raised critical questions as the Senator from Idaho will recall, about U.S. policy in Vietnam.

Perhaps I was remiss in not giving public expression to these views. But every Member of this body performs his duty as he sees it. It had been my view that I could perform best and most responsively in executive sessions of the committee.

Now, however, when U.S. forces have been attacked repeatedly upon the high seas, as I said immediately upon the convening of the Senate after the second attack, whatever doubts one may have entertained are water over the dam. Freedom of the seas must be preserved. Aggression against our forces must be repulsed.

I compliment the Senator and associate myself with almost all the sentiments he has expressed.

To go further back, I was one of those who did not think it wise for the United States to undertake this burden after the fall of Dienbienphu. That, too, is history. We must act today in light of facts today.

I join the Senator in the conclusion he reaches in support of the joint resolution. I join him, too, in confidence that President Johnson will act with prudence, caution, and wisdom, and with the courage necessary for the eventualities that may come.

Mr. CHURCH. I thank the Senator very much for his remarks. I appreciate them more than I can say.

VICTORY AND PEACE IN SOUTHEAST ASIA

Mr. SIMPSON. Mr. President, whatever the reasons may be for some Senators opposing either the language or the purpose of the resolution before the Senate, I am sure that there can be no disagreement on one point—that party lines cease to exist on issues affecting the national security of the United States and of the free world. I rise to lend my whole-hearted support to this resolution. I was heartened by the decision to strike against the naval bases from which the unprovoked attacks on our naval ships were launched. At long last perhaps here is the beginning of the initiative that has been totally lacking in our southeast Asian effort, for it is our purpose not only to "assist in defense," as the resolution states, but to assist in achieving victory against an avaricious enemy bent upon the total conquest of all of southeast Asia.

Mr. President, I support this resolution because in Vietnam there is a crisis in which politics has no part. But, let me say that I sincerely hope that the next time Soviet missiles are implanted in Cuba or the next time Cuban exiles attempt to exercise their rightful prerogatives in fighting for the freedom of what was once known as the Pearl of Antilles the United States will act with spontaneity, enthusiasm, and force comparable to what we have done in Vietnam.

It is tragic that a response as dramatic as our destruction of naval bases upon the territory of a sovereign Asian state was not executed in our own hemisphere in October of 1962 or even earlier—in April of 1961. Had we responded then with arms as well as metaphors, we could have struck a significant blow for freedom and independence in our own hemisphere.

I support wholeheartedly the military action of this Government against the North Vietnamese naval bases, and I support this resolution in the sincere and reverent hope that it indicates an end of our policies of indecision, vacillation, and compromise, and heralds the beginning of that measure of commitment which will forge victory from the Communist-fomented chaos of southeast Asia.

Mr. PELL. Mr. President, I support the pending resolution.

Not only is it important to stand behind our President in this time of tension, when unity is above partisan debate, but I have confidence in President Johnson's prudence and in his determination to avoid any unnecessary widening or escalation of military clashes.

I have full confidence that the President with his wide experience and his intimate knowledge today of the facts of this situation will even further strengthen our efforts toward peace as he seeks to avoid any weakening of our position and purpose.

Still, let us think ahead as we support this resolution. Ho Chi Minh's action cannot have been by error or accident. Therefore, let us practice prudence and play our hand with reason and calmness. If we overrespond, we can, by destroying installations considered vital by Communist China to her national interest, induce an outpouring of Red Chinese soldiers as happened in Korea.

In the days and weeks ahead, this current crisis may—and probably will—worsen. Let us act—and wisely. And, let us resolve here and now, today, in wisdom, and for the sake of our people and Nation, to keep this issue removed from the arena of political conflict and ambition. Rather, let us support this issue in the reasoning place of men's minds which have helped establish for this purpose—the United Nations.

I would hope, too, that other freedom-loving Asian nations, particularly Pakistan, the Philippines, and Japan, might help us carry some of the burdens for keeping the peace in the Far East. It is also their responsibility to participate in this endeavor, which is vital to their safety and security as well. It is my hope that such a sharing of the load may also emerge from the United Nations Security Council.

This country's policy cannot, and must not, be pummeled for the sake of political gain. As an American, I urge leaders of both political parties to exert every effort to keep Vietnam out of this campaign.

I trust the people and press of the world will be aware that as the world's strongest nation and defender of freedom, we will not stand for unprovoked attack or aggression, but at the same time be aware we do not seek material or territorial gain. We only desire freedom, for ourselves, and for peoples of other nations.

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

The PRESIDING OFFICER. Will the Senator withdraw that request?

Mr. MORSE. I shall withdraw it on the condition that the Senator from Kentucky [Mr. COOPER] asks for a quorum call at the close of his remarks, unless I am back on the floor.

Mr. COOPER. That is agreeable.

Mr. MORSE. Mr. President, I withdraw the request for a quorum call.

Mr. COOPER. Mr. President, I appreciate the courtesy of the Senator from Oregon.

A few moments ago I directed several questions to the chairman of the Foreign Relations Committee, and I spoke briefly on the joint resolution. I wish now to raise some considerations which I know have addressed themselves to the President of the United States, but which we have the duty, in this debate, to convey to the President of the United States.

I intend to vote for the joint resolution. I shall vote for it not merely because we are required to do so because of recent events. I shall vote for it because it expresses the unity of one purpose to defend our country.

The first section of the resolution supports the President and approves his determination to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression. That is his right and authority. If we have any power to confirm it, we do confirm it. We support him in his power to protect the security of our country and its honor. I join other Senators wholeheartedly in asserting our support of the President.

Earlier, I raised questions about the second section of the joint resolution, although I know it is practically impossible to separate the objectives of the first section from those of the second section. In response to my questions, the distinguished chairman of the Foreign Relations Committee, the Senator from Arkansas [Mr. FULBRIGHT], and I believe, the chairman of the Armed Services Committee, the Senator from Georgia [Mr. RUSSELL], confirmed my viewpoint that in passing this joint resolution we would satisfy the conditions of the SEATO treaty, and would exercise our constitutional function to give the President of the United States authority to do what he determines may be proper and necessary with respect to any situation which affects our security in South Vietnam.

I believe that is the essence of the second section. At least that was the meaning and interpretation given to it by the chairman of the Foreign Relations Committee.

There is no choice so far as the first section of the joint resolution is concerned. If there is any attack upon our troops, our vessels, or our installations, we have the duty, for our security and our honor, to defend our own forces.

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

Mr. COOPER. I am glad to yield.

Mr. MORSE. I am not sure I understand the meaning of the Senator's comment on the SEATO treaty. Is the Senator arguing that the SEATO treaty gives us the authority to do what we have done in South Vietnam?

Mr. COOPER. No. What I said is that article IV of the SEATO treaty provides that in the event of an armed attack upon one of the parties to the SEATO treaty, or upon the countries such as South Vietnam included in the protocol, the United States, or any party to the treaty, could take action after resorting to its constitutional processes—which I would assume would mean coming to the Congress for authority.

Earlier today I asked the chairman of the Foreign Relations Committee and the chairman of the Armed Services Committee whether they considered that, by enacting the resolution, the Congress would be exercising its constitutional process, providing to the President power to take such action as he determined proper in South Vietnam in the future?

Mr. MORSE. I shall not interrupt the Senator further. I shall discuss the point in detail later. I only wish the Senator to know that, in my opinion, we have violated the United Nations Charter time and time again in South Vietnam, and that we cannot justify it on the basis of carrying out the SEATO treaty.

Mr. COOPER. A few minutes ago the Senator from Mississippi [Mr. STENNIS] said that the situation is not simple. We are in a crisis.

I hope that this joint resolution, connected with the resolute action the President has taken, will have effect in bringing the North Vietnamese and the Communist Chinese to their senses, and that they will know that to continue to take aggressive measures could lead to consequences which can hardly be contemplated. And we must know for ourselves the extent of the determinations we are making. Whether we dislike saying it—and there is a tendency to dislike making the statement—it must be said that there is great danger in the situation. The two attacks upon our destroyers indicate a system in the action of North Vietnam or the Communist Chinese.

We remember that, during the early days of the Korean war, the threats of Communist China were not believed—but they were carrid out. We must contemplate, hoping that it will not be true, the possibility of an expanded war. And with an expanded war, which again we hope will not occur, there is the possibility of a great war.

I make this statement because the President has, with respect to our action in South Vietnam, a certain maneuverability, and avenues of negotiation which should be assiduously used, however they may be received.

I have confidence in President Johnson. I know that he is a man of good judgment. I know that he speaks truly when he says it is not our intention to expand the war except as it would be in our own defense. And I know that he is a man of peace. But I hope very much that he will continue to make every effort to find, if it is possible, some solution for the situation in South Vietnam, without the choice of war.

I may not be joined by others in the statement I am about to make, but I have not believed that southeast Asia is the chief area of interest to the United States. We are committed in Europe and believe our chief interest is in the Western Hemisphere and Europe. In the Pacific we are committed to the defense of Formosa, Korea, Japan, and the Philippines. I do not know how widely we can spread our resources and our men in the military forces. It may be argued that this decision has been made, because for 10 years we have been on the present course, in South Vietnam. But I shall still emphasize my hope that the President of the United States will use all of the great powers of his office and of our country to find some peaceful and just solution in South Vietnam, slender as the chance may be.

The Senator from Oregon has argued the subject for months; I have spoken on it. There is still the possibility of reference to the United Nations. There is still the possibility of action through the Geneva powers; and these courses must not be overlooked.

Like many other Senators, I have had some experience in war, an experience which I value above all others. Anyone who has had such experience knows, awesome as it is, that it does not make one less afraid or less courageous. It makes one determined to protect the security and honor of his country. But it makes one also more determined and more thoughtful about seeking out every honorable and just course to avoid the possibility of a great war, and the awful eventuality of a nuclear war with all the sorrow and disaster it would bring to our country and humanity.

I am hopeful that the joint resolution and the President's action will bring reason to the North Vietnamese and the Communist Chinese, and that they will cease their aggressions. But I state my conviction that the President and the Congress have the responsibility to continue to work for ways, consonant with our honor and security, to avoid the great catastrophe of war. If we cannot do so, we stand together to defend, at whatever cost, our country and freedom.

Mr. JAVITS. Mr. President, I should like to support the position just enunciated, with his usual heart and humanity, as well as wisdom, by my colleague from Kentucky. I rise not necessarily because he needs any support. His word is strong enough in the Chamber and in the world. I rise only because the discussion ties in so closely with the questioning of the Senator from Arkansas on the real meaning and implication of the Southeast Asia Collective Defense Treaty. We who support the joint resolution do so with full knowledge of its seriousness and with the understanding that we are voting a resolution which means life or the loss of it for who know how many hundreds or thousands? Who knows what destruc-

tion and despair this action may bring in the name of freedom? I hope we shall be very sober in our judgment, as befits the great historic tradition of this body.

We have a right to expect from the President of the United States, who will receive this great grant of confidence, which I am sure the Senate will give by an overwhelming vote, and from the Foreign Relations Committee, which has direct charge of these matters in this body, as vigorous a diplomatic effort as we are authorizing in the other field. We have every right to believe that the nations in the SEATO treaty have interests in this region as great as ours. They may not be able to muster the military power we can, but they certainly can muster some help which will give them a sense of participation. We know they can muster great moral strength. There is a great population in that area. Pakistan has a population of more than 100 million. India, though in dire trouble, is still the counterweight to Communist China. She has a profound interest in what happens in that area. Indonesia, Malaysia, and Thailand have considerable influence. All those strengths must be mustered, in a physical and moral sense. The same is true of France, Great Britain, and others.

I thoroughly agree with the Senator from Oregon [Mr. MORSE] as to the moral strength—although I do not agree with him as to what we have to do in this situation—that must be mustered by the United States, constantly and continuously, to appeal to the conscience of the world, in order to give the world an opportunity to bring about a sense of justice and morality, and an opportunity to act in its own freedom.

In fundamental aspect, the prize that the Chinese Communists are seeking is the possession of the great arsenal of production in Asia, including Japan. The aim of Communist China in respect of Japan is parallel to that which the Soviet Union, in its worst Stalinist days, had toward Germany. They seek a ready-made arsenal in order to develop it quickly——

Mr. LAUSCHE. Mr. President, will the Senator yield? Will he repeat what he just said? I think it is important.

Mr. JAVITS. I thank the Senator. The objective of the Chinese Communists is the great arsenal of production which is Japan, just as the objective of the Soviet Union in its Stalinist days—and probably still is—was the great arsenal of production which was Germany. They are the main bases which the Communists are seeking to capture.

We must understand the deep feeling of every American and every American family on this question. I have already received in my office, as I am sure all other Senators have, numerous telegrams since yesterday on this subject. I was awakened three times between 12 o'clock and 3 in the morning—and I do not complain; I understand the feelings of the families involved—by people in New York telling me how deeply concerned they were and with what prayer and devotion I must determine how to act on the joint resolution.

For those people we have a pledge to use every instrument of diplomacy, as we are willing to use every element of force, necessary to preserve freedom.

We have also another pledge. The Senator from Kentucky [Mr. COOPER] said it was expected that these means should be used with the greatest moderation and understanding of the vital issue with which we are dealing.

Also, and finally, we have the sad duty which generals have in war, of comparing the number of casualties we are willing to endure in order to achieve an objective which will save even greater casualties. Does anyone think that President Truman had an easy decision to make about dropping the bomb on Hiroshima? Yet history records that a million or more lives were saved, devastating as the dropping of that bomb was.

These are dread decisions which great powers must make. They must make them with morality, and with a willingness to walk the extra 10 miles—to paraphrase President Eisenhower—and consider every avenue that means an "out," even if we have to swallow a little pride, in dedicating ourselves to using every means of diplomacy and persuasion on the people of the world, while they have yet time to exercise a choice.

I hope the joint resolution will be administered in that spirit by the President and by the Foreign Relations Committee, which also bears a heavy responsibility as the trustee of all of us here.

It is under those conditions that I shall, with deep knowledge and notice of what I am doing, cast my vote for the joint resolution.

Mr. LAUSCHE. Mr. President, I wish to make some comments with respect to what was said by the Senator from New York dealing with what we obligate ourselves to do by this resolution. Earlier today the Senator from New York made some inquiries on this subject. Other inquires have been made by other Senators.

Under the first section of the resolution, we commit ourselves and authorize the 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.

In other words, under the first section, we contemplate that our Government shall repel any armed attack against the forces of the United States and will take such action as is necessary to prevent further aggression.

Section 2 has been rather widely discussed this afternoon. I wish at this time to call attention to certain articles of that section. It deals solely with the Southeast Asia Collective Defense Treaty, SEATO. It empowers the President to determine, limited by the authority of SEATO, what action we shall take in protecting the rights of the members of SEATO. Our obligations under SEATO are divided into two parts.

Part I, in substance, declares that the Government of the United States will join in the protection of its fellow members against any aggression. I wish to emphasize that under the first part of article IV of the SEATO Treaty our Government is only obligated to lend its military forces in instances in which our allies are attacked and such attack endangers the security of our country. I wish to read the first part of article IV, which is applicable to the statements which I have thus far made:

Each party—

That means each party that has subscribed to the SEATO Treaty—

recognizes that aggression—

I emphasize the word "aggression"—"by means of armed attack in the treaty area against any of the parties or against any State or Territory which the parties by unanimous agreement may hereinafter designate, would endanger its own peace and safety, and agrees that it will in that event—"

The question is, What event? The answer is in the event of attack and that in addition thereto it endangers the security of the United States of America, our country will—"act to meet the common danger in conformity with its constitutional processes."

Under article IV of SEATO we are obligated only to give military help to our allied members of SEATO when they are attacked from without. We are not obligated to give them help if they attack nations which are not members of SEATO.

The first half of article IV makes it abundantly clear that under the SEATO Treaty our Government is not obligated to come to the aid of any country unless that country, a member of SEATO, has been attacked by an enemy and that attack endangers our security. Probably I ought to add that the treaty makes it conditional that the countries which attack, and upon which we are allowed to impose our military strength, are Communist countries.

Now we come to the second half of article IV of the SEATO Treaty. The second half deals with no attack upon members. It deals with conduct that does not constitute an attack but which endangers the security of the member countries.

I read the provisions of the second half of article IV:

"If, in the opinon of any of the parties, the inviolability or the integrity of the territory or sovereignty or political independence of any party in the treaty area or of any other State or territory to which the provisions of paragraph 1 of this article from time to time apply, is threatened—"

I wish to repeat that—

"is threatened in any way other than by armed attack or is affected or threatened by any fact or situation which might endanger the peace of the area, the parties shall consult immediately in order to agree on measures which should be taken for the common defense."

The second half of this article, dealing with our obligations, provides, in effect, that if one of our allies is not attacked but is subjected to threats and conduct that endanger the security of the country and ourselves, we do not have the obligation to impose our Armed Forces in order to secure a settlement of that threat.

In the second instance, our obligation is only to sit down with the members and consult. We say to the members in that consultation: "None of us has been attacked. Therefore, there is no obligation to impose our arms according to our constitutional processes." In effect, it is further stated that, though we have not been attacked, the practices and the activities to which we have been subjected are a danger to the security of the individual and the composite countries.

In the second half of the section, the members are obligated to consult and determine what the course shall be.

Now I get down to what I term to be the significant aspect of section 2 of the resolution. To the President, Congress assigns the rights that are vested in Congress itself. In the event there is an attack upon an allied country, the United States is obligated to come to its aid against that attack (provided such an attack in the opinion of the United States endangers the security of the United States). In the event there is no attack, we have no obligation whatsoever, except the obligation to consult. I have discussed this aspect of the problem, because today a number of Senators asked questions implying that it was their belief that if South Vietnam attacked North Vietnam, under the SEATO treaty we were obligated to give South Vietnam help. That is not true. We are not obligated at all. We are obligated only when an attack has been made by North Vietnam on South Vietnam. That attack must be in an offensive and, of course, belligerent nature.

I ask unanimous consent that articles IV and the second part of article XI be made a part of the RECORD.

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

"ARTICLE IV

"1. Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately

reported to the Security Council of the United Nations.

"2. If, in the opinion of any of the Parties the inviolability or the integrity of the territory or the sovereignty or political independence of any Party in the treaty area or of any other State or territory to which the provisions of paragraph 1 of this Article from time to time apply is threatened in any way other than by armed attack or is affected or threatened by any fact or situation which might endanger the peace of the area, the Parties shall consult immediately in order to agree on the measures which should be taken for the common defense.

"3. It is understood that no action on the territory of any State designated by unanimous agreement under paragraph 1 of this Article or on any territory so designated shall be taken except at the invitation or with the consent of the government concerned.

"UNDERSTANDING OF THE UNITED STATES OF AMERICA

"The United States of America in executing the present Treaty does so with the understanding that its recognition of the effect of aggression and armed attack and its agreement with reference thereto in Article IV, paragraph 1, apply only to communist aggression but affirms that in the event of other aggression or armed attack it will consult under the provisions of Article IV, paragraph 2."

Mr. LAUSCHE. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. 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. RANDOLPH. Mr. President, there is no reluctance and no reservation in my support for the pending resolution. The President of the United States has acted with firmness and wisdom. The course of action followed—and apparently decreed for the immediate future as well—has the merit also of embracing directness and objectivity without involving the danger of unlimited hostile activity. There should be maximum unity within the Government on this issue—and this degree of unity is as incumbent on the Congress as on the executive branch.

I believe the President was right in requesting that there be an emphasis in the resolution—indeed, an expressed determination that "all necessary measures" be taken. In effect, congressional authority for future military action in southeast Asia would be delegated to the President—and properly so—by this resolution.

Columnist David Lawrence calls attention today to U.S. Ambassador Adlai Stevenson's speech in the United Nations Security Council yesterday in which he said the attacks on the U.S. Navy vessels in international waters of the Tonkin Gulf were "part of a larger pattern with a larger purpose."

And, as the New York Times this morning declared editorially:

"The lines have hardened. A highly dangerous period has opened. It is a time that calls for coolness as well as determination, for restraint as well as firmness."

Although we can suspect, as Ambassador Stevenson indicated, that the attacks were part of a larger pattern with a larger purpose, I agree with the Times' further editorial comment:

"We still have no real idea of what prompted the North Vietnamese to launch their potentially suicidal adventure. The Nation's united confidence in its Chief Executive is vital. No one else can play the hand. That confidence will be best maintained by a continued adherence to the principles the President himself has enunciated of firmness, but a firmness that will always be measured—a firmness whose mission is peace."

Mr. THURMOND. Mr. President, I rise in support of the resolution which is the pending business before this body.

It is not the United States of America which is the aggressor in southeast Asia. The Communist aggressors launched the attack on U.S. Navy forces in the Bay of Tonkin, and they are the aggressors in Laos and in Vietnam. The United States had no alternative but to retaliate against the unwarranted and unprovoked attack by North Vietnamese on U.S. destroyers.

It is fitting that the Congress express its approval and its support of the determination of the President to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

Mr. President, the approval and support which the Congress now expresses for the President to take necessary measures to repel any armed attack against the forces of the United States is not new. This authority the President now has, and, indeed, he has been exercising this authority as well as the authority to assist our southeast Asian allies to repeal armed attacks against their nations and their armed forces.

The resolution which we are considering today does approve a new element which has not, prior to this week, been exercised, and that is the taking of all necessary measures to prevent further aggression. I sincerely hope that the President will take all necessary measures to prevent further aggression, not only against our own military forces, but also to prevent further aggression against our southeast Asian allies. If he does so, it will mean that we are at last abandoning our purely defensive posture in favor of a "win policy" in the war which the Communist aggressors have initiated and are continuing.

It is imperative that victory, not stalemate, be our objective in dealing with Communist aggression in southeast Asia.

Mr. HUMPHREY. Mr. President, I wish to state my support of the joint resolution before the Senate, Senate Joint Resolution 189. I know that this matter is of serious consequence, but I also know that the precedent of a joint resolution to promote the maintenance of international peace and security is well established. I well recall, as I am sure other Senators have in the debate, that in the instance of the Formosa crisis, and in the instance of the Middle East crisis, Congress joined the President in a statement of national security policy relating to our national security interests in those areas. The joint resolution before us follows very much the same guidelines and the same form as the other resolutions to which I have referred.

It is my view that the President has the authority under the Constitution to order the Armed Forces of the United States to protect the vital interests of this country whenever those interests are threatened. In other words, the President was acting fully within his authority when orders were given to the destroyer *Maddox* to repel the PT boat attack from the North Vietnamese.

The President, as Comander in Chief, not only has the authority under the Constitution to use the Armed Forces of the United States for the protection of our freedom and security; he has the duty to do so. In the day and age in which we are living, attacks upon our country often come swiftly. They frequently come at a time and a place in which only a swift response will achieve the purpose of the action. Delayed response would be of no avail.

We live at a time when communications make it possible for an enemy to strike serious blows at our country and to adversely affect our vital interests, and to do it so rapidly and so decisively that unless we can respond quickly, we shall suffer defeat before we even have an opportunity to evaluate what has happened.

So I believe that President Lyndon B. Johnson, in ordering our aircraft to destroy certain facilities of the North Vietnamese regime, facilities which have been used to harass American shipping and to attack units of the American fleet, did what he should have done. He is to be commended for having done it, and is to be respected for the manner in which he took this decision action.

The joint resolution now before the Senate, in the "whereas" clauses, states the facts. It reads:

"Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

"Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

"Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no teritorial, military, or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it"

All those statements in the "whereas" clauses are facts—known facts of foreign policy and known facts of international life.

This Nation has an obligation to fulfill its treaty responsibilities. This Nation, as a leader of peoples in the free world and of free nations in the world, has the responsibility of assuming the heavy burdens of leadership, which at times includes the defense of helpless people, the defense of defenseless people.

Therefore, Mr. President (Mr. BREWSTER in the chair), the joint resolution before the Senate makes note of the fact "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."

I do not believe that anyone would disagree that such measures are necessary.

Surely, we cannot permit an unprovoked attack upon the forces of the United States without response. Surely, the Congress would not condone a pattern of international conduct that would deny the fleet of the United States the use of international waters. It is a part of our national history and our national heritage to support freedom of the seas—from the time of George Washington, through the administration of Thomas Jefferson and the incidents with the Barbary pirates, up to this very hour. As a great maritime power, we must insist upon a strict application of international law, insofar as the high seas and international waters are concerned.

Therefore, the attack which was made upon our vessels had to be repulsed; and in repulsing that attack it was essential that the particular facilities in the haven from whence the attack took place should be destroyed.

The second section of the resolution recites once again what has been the policy of this Nation since 1954, insofar as Southeast Asia is concerned.

It states very directly and simply for all to understand.

"The United States regards as vital to the national interest and to world peace the maintenance of international peace and security in southeast Asia."

We are signatories to the SEATO treaty. The South Vietnamese Government—the

government of a free country—has asked for our assistance. We have a mutual assistance pact with them. We have given assurances, since the days of the Eisenhower administration, through the Kennedy administration, and now into the Johnson administration, that the obligations of the mutual assistance agreement will be fulfilled.

It is my view that the minute we back away from commitments we have made in the defense of freedom, where the Communist powers are guilty of outright subversion and aggression on that day the strength, the freedom and the honor of the United States starts to be eroded.

I remember a Senator once saying in this Chamber that he doubted very much whether the Communist nations intended to blow the world to pieces; that he thought possibly they intended to pick it up piece by piece.

The more I think of that expression, the more truth there seems to be in it.

The aggressor seeks to bite off piece by piece the areas of freedom. They seek to do it through terror, subversion, and persistent aggression.

We have seen this happen in our own hemisphere. We have watched, for example, how the Castro Communist regime in Cuba used every conceivable means to destroy the free government of Venezuela through subversion, terrorism, assassination, propaganda—every conceivable method, military, economic, and political.

I am of the opinion that what is going on in southeast Asia is a persistent attack on the part of the Communist forces to nibble away at certain areas in southeast Asia which we can call free and independent, to take them one by one—this would include Laos, Cambodia, Vietnam, in the southeast Asia peninsula.

Let us not forget for a single moment that only a few months ago an international agreement was arrived at in reference to the country of Laos, and a man by the name of Souvanna Phouma, who was a neutralist, was elected as the Premier. I can recall when Souvanna Phouma was looked upon as less than desirable to the Government of the United States. But he is the Premier of Laos, and he is attempting to keep the obligations and to fulfill the commitments of the international agreement. All the forces in that little country were supposed to have come together and were supposed to follow the commitments and the terms of the agreement—the rightist forces, the neutralist forces, and the Pathet Lao.

What has happened?

The Pathet Lao, the Communist forces, have waged a relentless attack upon the established regime. Were it not for the Government of the United States resisting, were it not for the Government of the United States attempting to maintain the strength of the established regime and government of Souvanna Phouma, Laos today would be only another Communist-bloc country.

I do not believe that we show any love of peace by letting the Communists take the world over piece by piece. We show no love of peace by permitting unprovoked and unadulterated aggression to take place against friendly and peace-loving nations, or against the Armed Forces of the United States.

What this joint resolution does is to place the elected representatives of the American people in Congress assembled on record as supporting the actions of the Commander in Chief in defense of American sovereignty, in defense of American Armed Forces, and in fulfillment of our treaty obligations and commitments.

A great power must be an honorable power. A great nation must be willing at times to make great and difficult decisions. I would be the last to say that this decision did not have within it the possibilities of even greater troubles ahead. But I do not believe that we can duck these troubles. I do not believe that we can avoid them by pretending they are not there.

I do not believe, if the fleet had been withdrawn from Tonkin Bay area where it was attacked, that it would have made the Chinese any more peaceful, or the North Vietnamese any more considerate of the legitimate rights of the people of South Vietnam. On the contrary, I believe that were we to have withdrawn, or had we pretended it was nothing more than a little incident, all it would have done would have been to feed the beast of aggression. North Vietnam, in concert with the Communist Chinese regime, would have continued to build up its airfields, its depots, its supply lines, and its bases.

So we did what we had to do.

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

Mr. HUMPHREY. I yield.

Mr. CHURCH. Would not the Senator agree with me that there is a proper time to question the merits of a national policy, whether it be in southeast Asia or anywhere else in the world? One of the functions of the Senate is to keep our foreign policy under continuing surveillance.

There is a time to question the route of the flag, and there is a time to rally around it, lest it be routed. This is the time for the latter course, and in our pursuit of it, a time for all of us to unify.

Mr. HUMPHREY. Mr. President, the Senator from Idaho, in his usual and brilliant manner, has stated the case precisely and succinctly. There is not only a time, but there is an obligation on the part of Members of this body to question policy, to express concern if we have a doubt, or to express approval. That is what the Senate of the United States is for. That is why we have the committee structure. That is why we have committee hearings and testimony. There is a time when we can get up and say that the policy ought to go in another direction, and suggest alternatives. And Senators have done so.

But there comes a time when the aggressor may feel that because of our discussions, we are disunited, and he then could launch an attack.

The power that we have today is to be used for the cause of peace and justice. The power that the American people have in their great military establishment is to help other people as well as ourselves in their pursuit of freedom and in their pursuit of national independence and national dignity.

I believe that we are using it for this purpose. I commend the President of the United States, not only the present President, but the others—the late beloved President Kennedy, and former President General Eisenhower—not only because they were at times willing to use the power, but also because they had the moral character to restrain the use of power that was in their hands when that restraint was necessary.

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

Mr. HUMPHREY. I yield.

Mr. CARLSON. Mr. President, the Senator from Idaho [Mr. CHURCH] has just made a statement. I think I would be less than frank if I did not state, as a member of the Committee on Foreign Relations, that I had several times questioned the policy of this country in southeast Asia.

It seems to me that that time has passed. It seems to me that the President has a responsibility, and that Congress has the duty to insist that our Nation's rights of protection on the high seas be observed, that none of our vessels are fired on, and, that we defend ourselves by retaliatory action.

It seems to me that in dealing with international problems, we must show firmness. We must show strength. For that reason, I support the President's decision in this matter. I shall vote for the resolution.

I had hoped that there would have been some way that we could have arrived at an arrangement in southeast Asia without continually seeming to be escalating the war.

I have watched the progression of this situation for about 10 years. I know that every other member of the Committee on Foreign Relations has, too. It has concerned me greatly. It seems that we take step after step that involves us in a situation from which it is most difficult to extricate ourselves, even by conferences in the United Nations, or meetings in any other area of the country that we might select.

I associate myself with the remarks of the Senator from Idaho. We have reached a place where we have not only to support the President, because he has the responsibility, but we have a duty and a privilege today, and we should exercise it.

Mr. HUMPHREY. Mr. President, I thank the Senator from Kansas. Lest I be misunderstood, I, too, on occasion have expressed concern over certain aspects of our policy in southeast Asia. I have tried to make at times what I thought were constructive suggestions to modify, to complement, or strengthen that policy.

I believe that this must be done. Our objective must be made crystal clear. Our Government is not attempting to accelerate a conflict. Our objective is to achieve stability in the area so that we can then go to the conference table. But we ought to make it clear to the world that we do not intend to sit at the conference table with a Communist gun at our heads.

We do not intend to sit at the conference table while the Communist forces continue acts of aggression against ourselves or against our allies. The Communists must learn sometime that the United States of America and other nations associated with it are not going to be blackmailed by Communist subversion, Communist aggression, and Communist power tactics. They must learn that we are perfectly willing to assume the role at the conference table of negotiation and diplomacy, but only under circumstances in which there is a respect for law and order, and in which there is a respect for national sovereignty.

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

Mr. HUMPHREY. I yield.

Mr. SPARKMAN. I think we can all subscribe to the views expressed by the Senator from Idaho (Mr. CHURCH) as affirmed by the Senator from Kansas (Mr. CARLSON). Of course, we are not supposed merely to take things without questioning. The thought occurred to me that down in the Foreign Relations Committee, where we meet so often, we exercise the power of questioning. When we have briefings and conferences, the individual members of the committee express themselves and ask questions. Most of the time we gain a pretty fair understanding among ourselves and the representatives of the State Department, the executive department, and the military who come before us. I do not know of any problem that has been considered more frequently and more vigorously than the problem of southeast Asia, not merely Vietnam, but also Laos, Cambodia, Thailand, and the entire area of southeast Asia, but particularly the Indochina states.

It has not been one that we merely accepted. Some of the thoughts that have been exchanged in the Foreign Relations Committee have been helpful to the State Department and the Defense Department in trying to meet the problems. I fully agree with the Senator from Kansas that this is a responsibility of the President. When Presi-

dent Eisenhower proposed, in 1953, the Formosa Straits resolution, I spoke on the floor of the Senate regarding that resolution. At that time I said that the resolution was not necessary, that the President had full power and authority to pronounce this policy and to carry it out. I related it back to the Truman doctrine in the Greece-Turkey situation in 1947. The Senator will remember that President Truman came before Congress and said, "This is what I have done. This is the program. I wish you to appropriate the money to carry out."

I have always felt that the President had such power. However, I supported President Eisenhower's resolution on the Formosa Straits issue, and I supported the resolution on the issue involving the Near East, because the President made it clear, as it is made clear at the present time, that what he wanted was a show of unification on the part of the country. Such an expression is provided in the joint resolution before the Senate. It is inherent in it, and it certainly has been in the expressions of the President.

There is one provision in the joint resolution which particularly pleases me, and it follows up closely the resolution relating to the Formosa Straits, the Near East resolution proposed by President Eisenhower, and the Cuban resolution proposed by President Kennedy. It recognizes the power of the President to do these things in defense of our country on the high seas. But it calls for support from the Congress and from the people of the United States. For that reason I believe it is a good resolution, and I think it fully complies with the requirements that all of us would expect.

Mr. HUMPHREY. I say to the Senator from Alabama that the analysis of the joint resolution and the work of the Foreign Relations Committee, not only at times in the offering of such resolutions or in passing upon them, is exactly my understanding of the constitutional powers of the President and the reason for this type of joint resolution. The President does have the power. The joint resolution in no way would weaken his constitutional prerogatives or powers, but it would place behind the President, as a demonstration to the American people, and to the world the fact that the Congress of the United States, representing the people of the United States, supports the action that has been taken. Indeed it not only supports it but, is strongly behind it.

I think that is very important. I call to the attention of the Senate the fact that the Communists have a way throughout history of engaging in aggressive attacks during our election years.

They have some sort of feeling that possibly the country is disunited. One of the most revealing experiences each time is how, regardless of party preference or individual views, the American Congress and the people of our country unite. That has been true in the present instance. The President of the United States consulted and spoke with members of both parties who were called to the White House. Officials of the Government have been to the Congress. The President of the United States was in contact with the standard bearer of the Republican Party. All united in support of the action that was taken and the joint resolution.

Mr. SPARKMAN. It is a mobilization of the strength of democracy.

Mr. HUMPHREY. Mr. President, I should like to yield to the Senator from Montana.

ORDER FOR LIMITATION OF DEBATE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 3 hours on the pending joint resolution, 2 hours to be given to the Senator from Oregon [Mr. MORSE], and 1 hour to be divided between the majority leader and the minority leader, and that a vote on the joint resolution occur at 1 o'clock tomorrow afternoon.

I ask unanimous consent that the provisions of rule XII, clause 3, requiring a quorum call, be waived.

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

The unanimous-consent agreement, subsequently reduced to writing, is as follows:

"UNANIMOUS-CONSENT AGREEMENT

"*Ordered*, That effective at 10 a.m. on Friday, August 7, 1964, debate on the joint resolution (S.J. Res. 189) to promote the maintenance of international peace and security in southeast Asia shall be limited to 3 hours, of which 2 hours shall be allocated to the Senator from Oregon [Mr. MORSE], and 1 hour to the majority and minority leaders, and that a vote on the passage of the said joint resolution shall be taken at the hour of 1 p.m. on said day, August 7, 1964.

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

Mr. HUMPHREY. I yield to the Senator from Alaska.

Mr. BARTLETT. I have had deep doubts about the wisdom of our policy in Indochina, with particular reference to Vietnam. I have expressed those doubts many times on the floor of the Senate and elsewhere.

I have feared that there might be an escalation of the war, but I never dreamed that its possibility would come from such causes as have been noted during the past several days.

Mr. President, it has seemed to me that the basic need—that of inspiring the people of South Vietnam to fight for their freedom, to bring into being a government of stability, a government that would be free of Communist influence—has been too often lacking, despite the massive help that we have given in that far-off land.

The distance between the United States and southeast Asia has been one of the basic difficulties we have encountered. It has been said repeatedly that that part of the world is vital to our national security. There can be doubt on that point. I have never felt, that the proposal as advanced by President de Gaulle, that the war in southeast Asia should be negotiated, was worthy of derision from us or from anyone else. I thought that the proposal should be considered carefully. I believe that; and I have had no reason to change that view, that in the long run the only satisfactory one of concluding what is a desperate situation, not only for the South Vietnamese, but also for us, could be arrived at around the conference table. But it has been apparent from the start—so far as I was concerned at least—that we should not go to the negotiating table from a stance of weakness. We must, first, set up a system there through military strength, through desire on the part of the South Vietnamese themselves, where negotiations might be conducted on a basis of equality.

But whatever my views or the views of others on this sorry situation may have been, the fact remains that they now must be considered in the light of what has happened this week. For me there will be no difficulty in voting for the joint resolution which is now being considered by the Senate. All Americans must unite behind their President and behind their Government in the hope, as the President has so frequently expressed during the past few days, that there will be no further developments in the war, that the strikes which we have made, after acts of aggression have been committed against us, will constitute a sufficient warning, and that even now, in this hour of crisis, the dangers will be resolved, and that at a date not too far distant, peace may be restored to those unhappy lands.

Meanwhile, it is my intention to vote tomorrow for the joint resolution.

For me, there is no alternative.

I wish we had never committed ourselves to the course of action upon which we embarked several years ago. But we did. And now we have been attacked. Our honor, our integrity, our vital interests are assuredly now at issue. We can do but one thing as I see it—unite behind the President.

Mr. HUMPHREY. Mr. President, I thank the Senator from Alaska for his comments. I conclude by saying that the Senator from Minnesota will vote for the joint resolution.

I invite the attention of our countrymen to the fact that the desire of the Government is for peace with justice; the desire of the Government is for the cessation of hostilities in any part of the world; the desire of the Government is not to extend or to expand the struggle or the war in southeast Asia; the desire of the Government is to have nations live by their commitments, their treaty obligations, and to respect the sovereignty and independence of the nations in that area. This Government has as its objective the fulfillment of its treaty obligations; and our action in southeast Asia is directed toward that purpose.

I commend the President and hope that the joint resolution will be overwhelmingly supported.

Mr. BYRD of West Virginia. Mr. President, I rise to support the joint resolution to promote the maintenance of international peace and security in southeast Asia. The deliberate and unprovoked military attacks by the North Vietnamese upon our naval vessels created a situation in which the President was forced to take immediate and firm action. The action was taken, and all Americans can be proud of the firmness which our military forces have displayed. It has been a firmness, without giving the appearance of being tough, and I feel that the exercise of restraint, in the use of the overwhelming power which we possess in the area immediately affected, has created a very favorable impression throughout the free world.

While the initial incident appeared at first to be an isolated event, subsequent aggressive action by the North Vietnamese indicated that the attacks were planned and carried out for purposes concerning which we are not fully aware even at this moment. For the United States to have vacillated or hesitated would have encouraged further acts of aggression, and, in my judgment, we had only one course to pursue in the upholding of our country's honor and in the protection of its immediate and long-term security. That course was taken. We should be under no illusions as to the grave consequences which may follow in the train of events which have recently transpired. We may be confronted with an escalating Vietnamese war, and the danger of deeper U.S. involvement must be faced up to. We know not what lies ahead. We do not know what the next Red move may be, but we can hope that the resoluteness and determination which have already been displayed by our Commander in Chief and our military forces will duly impress the North Vietnamese and Red China and indeed the Soviet Union, and that the Communist regimes in those countries will not dare to discount the danger to world peace involved in further provocative behavior.

The people of America share with other freedom-loving nations the fervent hope that reason will prevail and that peace can be restored in the Far East. Nonetheless, the unity and determination of the American people, through their representatives in Congress, should be manifested in terms which are certain and clear. It is imperative that the resolution be adopted unanimously and with promptitude. As a member of the Senate Committee on Armed Services. I voted this morning to favorably report the resolution, and I am now ready to support its adoption

by the Senate. Our country is not interested in the plunder of aggrandizement, but our country is bound to resist every peril to our security and the security of the free world. Action, not words, should be the order of the day.

Mr. MORSE. Mr. President, as the record of the Senate already shows, the majority leader and I had a conference a few moments ago, in which a unanimous-consent agreement was reached that the Senate would resume tomorrow morning at 10 o'clock, that we would vote at 1 o'clock tomorrow afternoon, that the senior Senator from Oregon would be allowed 2 hours of that time, and that the other hour would be divided equally between the majority and minority leaders.

I shall make my major rebuttal speech at that time, but for just a few moments tonight there are certain facts I want to put into the RECORD, so that they will be in the RECORD tomorrow.

Yesterday I made a major speech in opposition to the pending resolution. I now incorporate that speech by reference and stand on every word I uttered.

In that speech I said the United States was a provocateur, along with South Vietnam, North Vietnam, Red China, and the Pathet Lao in Laos, and possibly on some occasions, Cambodia, and that the United States must assume and be charged with its share of responsibility for a series of provocations that have led to the crisis which now exists in Southeast Asia.

I repeat it tonight. I am satisfied that there is no question about it.

Mr. President, we have stood in violation of the United Nations Charter for years in South Vietnam. Even the neutral commission composed of representatives from India, Canada, and Poland found North Vietnam and South Vietnam in violation of the articles of the Geneva accords. The South Vietnam violation was due to the military operations of the United States in South Vietnam. That is our provocation.

As will be seen before I finish these brief remarks tonight, we have not reported our military buildup in South Vietnam to the United Nations under article 51, which is a clear treaty obligation of the United States. We have never done it, Mr. President.

So the senior Senator from Oregon does not modify in one iota his charge that contrary to its treaty obligations, the United States has been a provocateur in southeast Asia along with South Vietnam, North Vietnam, Red China, the Pathet Lao in Laos, and possibly Cambodia.

No one can possibly justify the attack on American ships in Tonkin Bay off North Vietnam. The senior Senator from Oregon, from the very beginning, has been highly critical of it and has condemned it.

As in domestic criminal law, crimes are committed, but they are sometimes committed under provocation. The provocation is taken into account by a wise judge in imposing sentence.

Some provocative factors were involved, which I mentioned yesterday, but I want to mention them again tonight for the record. On Friday, July 31, South Vietnamese naval vessels—not junks but armed vessels of the PT boat type made available to South Vietnam by way of our aid program—had bombed two North Vietnamese islands. One island is approximately 3 miles and one approximately 5 miles from the main coast of North Vietnam.

As I made clear this morning in the committee meeting, the United States did not act in a vacuum with respect to that bombing. The United States knew that the bombing was going to take place. The United States has been in close advisory relationship with the military dictatorship we have been supporting as a military protectorate in South Vietnam for quite some time. We knew for quite some time that the dictator of South Vietnam has wanted to go north. We know that recently there was a big demonstration in Saigon, staged pretty much by students, but there were others, and in response to a speech made by Dictator Khanh, the cry was, "Go north, go north, go north," which meant that the cry was for escalating the war into North Vietnam.

We also know that as a result of that incident, which ended in an incident of some riot proportions, in that the rioters pulled down some memorials which had been erected to the French dead in Saigon, General Khanh and Ambassador Taylor had some diplomatic conversations. Most Senators have read that the latest diplomatic conversation had taken place at a party out in the country, at an estate, which Khanh and the Ambassador had attended. The stories which came out of that meeting were to the effect that they had resolved their differences and that there was a recognition on the part of the general that the United States would not favor an extension and expansion of the war to the north.

On Friday, July 31, the war was escalated to the north. That is not a matter of junks seeking to bring in supplies. That is not a matter of South Vietnamese intelligence people being slipped into North Vietnam or of North Vietnamese intelligence agents being slipped into South Vietnam. This was a well thought out military operation. These islands were bombed.

When these islands were bombed American destroyers were on patrol in Tonkin Bay, and they were not 60 or 65 miles away. What I am about to say I can say without revealing the source and without violating any secrecy.

It is undeniable that in the patrolling operations of our destroyers in Tonkin Bay the destroyers have patrolled within 11 miles and not more than 3 miles off the coast of North Vietnam. The reason that these are the figures is that there is a conflict between the United States and North Vietnam. North Vietnam claims that her national waters go out to 12 miles. She is not the only country in the world that claims it. The United States takes the position that national waters extend only 3 miles. I believe our position is absolutely right. I believe the weight of international law is in favor of us. I think the so-called exceptions which are often cited in international law cases, which certain proponents seek to use to throw doubt over the whole principle, are exceptions which apply in geographic locations in the world and are special in their nature. Some Latin American neighbors claim not only 12 miles, but, in some instances, more than 12 miles, particularly when they think extending the national waters beyond 12 miles may give them great commercial advantages in respect to fishing rights.

I only mention it in passing to show that this fact is a point of international law which is frequently under considerable dispute and controversy.

I repeat my premise. There is no question about the fact American naval vessels, in their legitimate rights of patrol in Tonkin Bay, patrolled within an area of 3 miles for 11 miles in extent.

They patrolled under 12 miles to demonstrate that we did not recognize any 12-mile limit, and stayed beyond 3 miles to make it clear that we respected and abided by what we thought was the international law right of North Vietnam.

We had the international right to do that. The senior Senator from Oregon has never taken the position that we have no right to patrol in Tonkin Bay in international waters. It ought to be done with discretion. If we wish to argue in one breath that we are against escalating the war, we have a little difficulty in the next breath justifying, in my judgment, the course of action that we followed in respect to South Vietnamese bombing of the two islands 3 to 5 miles off the coast of North Vietnam, and then having American naval vessels, a part of our Navy, so close to the North Vietnamese coast, although in international waters, as they were on Friday, July 31, when the bombing took place.

Oh, Mr. President, the Pentagon and the State Department throw up their hands in aggrievement if anyone suggests, as I did in my speech yesterday, that their very presence there is subject to the interpretation that they were a backstop. All the protestations on the part of the State Department and the Pentagon cannot change a physical fact. The Presence of those ships in that proximity to the North Vietnamese coast, while an act of war was being committed against North Vietnamese coast by the bombings of those islands, was bound to implicate us. We are implicated.

One can deny, deny, and deny, but the fact that the ships were that close while the bombing took place is bound to be interpreted as a provocation, and also must be considered when we look at the matter of the reaction to it as an extenuating fact.

Mr. President, I do not know exactly the mileage location of the American naval vessels while the bombing took place. I do not know whether it was 4 miles, 11 miles, or 20 miles. But the very fact that these ships were in that general area of Tonkin Bay, where they could have given, if it became necessary, protection, in my judgment implicates the United States.

It is bound to be looked upon by our enemies as an act of provocation; and it makes us a provocateur under the circumstances.

It is difficult to find out exactly what happened in regard to the ultimate attack on the *Maddox* on Sunday. The bombing took place on Friday. But I think I violate no privilege or no secrecy if I say that subsequent to the bombing, and apparently because there was some concern about some intelligence that we are getting, our ships took out to sea; that is, they changed their course, instead of remaining close to the mainland of North Vietnam, as they had a perfect right under international law to do. But as a result of the concern that was caused by the bombardment by the South Vietnamese—our ships went a considerably greater distance from the shores of North Vietnam. Approximately 60 miles offshore was the point at which the attack by the North Vietnamese PT boats took place.

That was an act of aggression on their part against the United States. There is no question that we were clearly within our rights in replying with force and sinking their ships, if we could. Apparently we did sink one of their ships. That closed that incident.

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

Mr. MORSE. I shall be glad to yield.

Mr. LAUSCHE. The Senator just made the statement that, on the basis of certain intelligence received by, I assume, the commander of the *Maddox*——

Mr. MORSE. I am not going to comment on that. I think I have said all that I have a right to say within the proprieties.

Mr. LAUSCHE. There has been no proof of any kind whatsoever that any intelligence was received, except as to the pursuit by the PT boats of our *Maddox*. So my question is, On what basis does the Senator from Oregon say that we received certain intelligence that our ships were being attacked?

Mr. MORSE. I did not say that. Read the record. Have the record read back.

Mr. LAUSCHE. Will the Senator please state, then, what his understanding——

Mr. MORSE. If it will help the Senator, I will repeat what I said. I had pointed out that after the bombardment of the islands,

the American ships, from the point where they were, took out to sea a greater distance.

Then I made the comment that it was my understanding that on the basis of intelligence reports there was some concern about the situation. I did not say what the Senator said I said. I do not think I should say it. I do not believe the Senator from Ohio should say it, either.

Mr. LAUSCHE. I am glad to have the Senator's information.

Mr. MORSE. I do not think the Senator from Ohio should say it either; but on the basis of intelligence reports, a decision was made that our ships should go farther out to sea. That is all I have said.

Mr. LAUSCHE. Does the Senator mean on the basis of knowledge, or on the basis——

Mr. MORSE. It is on the basis of what the Senator from Ohio and I heard in a secret session of the committee. I think I have said all I should say. I merely say that there was a change in our patrol policy, that our patrol boats went farther out to sea and were followed by the PT boats of North Vietnam.

Finally, on Sunday, they were close enough together for the engagement to take place.

Mr. LAUSCHE. So that we may have an understanding, our *Maddox* did go out to sea; but according to my recollection, that had no relationship to what had happened on the islands. It had a relationship to the pursuit that was being made by the PT boats of our *Maddox*.

Mr. MORSE. I have not said it had a relationship to what had happened in the islands. I am merely saying—the conclusion I am about to make in a moment is—that we had naval craft in the area of Tonkin Bay, where the enemy, in my judgment, had good reason to believe that there was a cause-to-effect relationship between the bombardment and our naval boats, and that our authorities knew of the bombardment. It does not make any difference whether the *Maddox* knew of the bombardment. Our authorities had the right to put the *Maddox* wherever they wanted to put her. The fact is that our authorities knew of the plans for the bombardment. The conclusion I was about to make is that they made a great mistake, in my judgment, in having our ships as close as they were to the mainland of North Vietnam when that bombardment took place, for they assisted the North Vietnamese to draw the conclusion that there was a relationship between the American patrol boats and the boats bombarding the islands. I think that was the only interpretation we could expect the North Vietnamese to make; and it would be exactly the same interpretation the United States would make under reverse circumstances.

Mr. LAUSCHE. Mr. President, will the Senator from Oregon yield further?

Mr. MORSE. I yield.

Mr. LAUSCHE. The exchange of our words will not solve this problem. However, I am obliged to say that my recollection of what has been testified to is completely inconsistent with what the Senator from Oregon has stated.

Mr. MORSE. The Senator from Ohio is entitled to his interpretation of what we both heard. I am satisfied that my interpretation is unquestionably correct as to what happened to those ships.

The point the Senaor from Oregon is making is that if we had knowledge—and we did have knowledge—that there was to be a South Vietnamese bombardment of the islands, we should not have had our ships anywhere in the area. In my judgment, we ought to have had them well beyond the 60 miles where the engagement finally took place. But there is no question that they were much closer to the North Vietnamese coast before that engagement took place. In fact, they were trailed out to 65 miles by the PT boats.

My point is, if we are to talk about provocation, that the United States was a provocateur by having any ships anywhere within striking distance or bombing distance; and the South Vietnamese boats did bomb those islands. We should have been completely out of the scene.

If Senators want my opinion, a "snow-job" is being done on us by the Pentagon and the State Department in regard to that bombardment. Not only had we full knowledge of it, but it was being done with our tacit approval. If we did not want to escalate the war into North Vietnam, that was the time for the United States to stop escalating.

Mr. LAUSCHE. I recognize the absolute sincerity of the Senator from Oregon in the statement he had made. I hope that he will also recognize that I am trying to be sincere.

Mr. MORSE. No one could be more sincere than the Senator from Ohio. We are just poles apart in regard to what our obligations and actions ought to be in South Vietnam. The Senator from Ohio favors the program that we are following, which, in my judgment, is a historic mistake. I oppose it. Two men could not be more sincere.

Mr. LAUSCHE. I should like to state my judgment as to what the evidence shows. Our Government had no knowledge of any nature about the attacks which were made upon the two islands by the North Vietnamese. The *Maddox* was miles——

Mr. MORSE. Do not talk about the *Maddox;* talk about our American officialdom in Saigon, and our American officialdom in the Pentagon and the State Department. I state categorically that they knew the bombardment was going to take place before the ships ever moved up there.

Mr. LAUSCHE. Let me state to the Senator from Oregon that there is not a syllable of such testimony in the record which has been taken in the several days we have been listening to witnesses supporting the declaration made by the Senator from Oregon.

Mr. MORSE. There was complete admission that that was known.

Mr. LAUSCHE. It is the judgment of——

Mr. MORSE. It was written out in cold print.

Mr. LAUSCHE. It is the judgment of the Senator from Oregon based in a measure upon his wish that that happened, because that is in conformity with the position that he has taken. There is no testimony in the——

Mr. MORSE. I shall ignore the——

Mr. LAUSCHE. Of any kind that——

Mr. MORSE. I shall ignore the implications of that snide remark.

Mr. LAUSCHE. That is not a snide remark.

Mr. MORSE. It certainly is a snide remark, but I shall ignore the implications of it and state categorically that high officials of this Government have admitted on the record that they were aware of plans for the bombardment, but that they had nothing to do with it, they said—but they were aware of it.

Mr. LAUSCHE. There is no testimony to that effect whatsoever. That is an inference made by the Senator from Oregon as to the——

Mr. MORSE. Get permission of the State Department or the Pentagon to publicly release the whole of the transcript without a single word deleted and let the country know what they said.

Mr. LAUSCHE. I should like to discuss this subject a little further, but we shall not reach any conclusion, except I must say that I disagree fully with the statements made by the Senator from Oregon.

Mr. MORSE. I know that the Senator from Ohio has good hearing, but on that occasion I do not believe that he was hearing very well.

I yield 1 minute to the Senator from Pennsylvania.

Mr. CLARK. I shall be brief.

I shall be unavoidably absent from Washington tomorrow, having been of the view that the vote on this resolution would take place tonight. I have been unable to change my plans.

I state for the record that I strongly support the pending joint resolution. Were I present here, I would vote for it. I dislike to make the statement to the distinguished Senator from Oregon (Mr. MORSE) that my prognosis is that the resolution will pass.

Mr. MORSE. The resolution will pass, and Senators who vote for it will live to regret it.

Mr. President, to pick up where I left off, the point I am making is that I believe that when the United States became aware of the fact that South Vietnamese planned to bomb the two islands, the United States should have moved in and done everything it could to prevent an escalation of the war.

In my judgment, that act constituted a major escalation of this war. The escalation has been speeding up at an increased tempo ever since. I had made the point that there were naval boats in Tonkin Bay in much closer proximity to the two islands, 3 to 5 miles from Vietnam, than the 60- to 65-mile location which the *Maddox* had reached on Sunday when the attack took place, the bombardment taking place on Friday.

Mr. President, I wish to make it clear that it is quite irrelevant and immaterial whether the captain of the *Maddox* knew anything about the bombardment of the island. He was not conducting a war. He was under orders. I am taking the criticism that, in my judgment, American armed vessels should not have been as close to the islands as they were on Friday, July 31. In my judgment, that gave cause for the North Vietnamese to assume that there was a cause-and-effect relationship between the bombardment by the South Vietnamese vessels and the presence of the American naval patrol boats in Tonkin Bay at the location where they then were.

I repeat that I believe we not only had every right, but we had the clear obligation to protect our men aboard, to protect the vessels, and proceed with the military action by way of the response that our vessels gave to the PT boats of the North Vietnamese who were attempting to torpedo them.

On Tuesday, the next incident occurred. I agree with those who have expressed perplexity as to why the North Vietnamese on Tuesday night in a storm after 9 o'clock, apparently at night, attempted another armed attack on our vessels.

It certainly was within our right, and I believe our clear duty in order to protect the men aboard and the vessels, to respond with military action designed to sink the attacking vessels.

Mr. President, that action on both Sunday and Saturday night was completely within the realm of international law. We were completely engaged in acts of self-defense. We had every right to respond with force.

I now come to the delicate question. I come to the one, Mr. President—and I make the statement respectfully—about which many people wave the flag into tatters. That is the subsequent action, when our ships were not under fire, in which the United States escalated the war to the mainland of North Vietnam, and the United States selected for itself targets on the mainland of North Vietnam to bomb. We know that that was substantial bombing. We know that that involved the bombing of the areas where their naval vessels were harbored, and that it involved the bombing of ammunition dumps and oil locations.

I do not care how one tries to spell it. I do not care with how much political fervor by way of semantics we attempt to describe it. The fact is that the United States was not protecting any ships at that time.

Mr. President, we either believe in settling

international disputes by resort to the procedures of international law or by resort to war. We cannot cut this one both ways. After the second attack in defense of our ships in which we engaged, unless we expect to be charged with engaging in acts of aggression, we should have immediately laid our case under the United Nations Charter before the Security Council of the United Nations. In my judgment, we were dead wrong in proceeding to bomb the establishments on the mainland of North Vietnam and then out of the corners of our mouths saying, "Well, we are not seeking to expand the war. We do not want to widen the war. We are just going to defend ourselves."

Mr. President, bombing those sites was not necessary for self-defense at that point. At that point the United States was guilty of an act of aggression. The United States could no longer after that say that the war was being escalated only by South Vietnam, for the United States then escalated the war into North Vietnam. It is my judgment that it violated its obligations under the United Nations Charter, for there is nothing in the United Nations Charter that justifies such an act of aggression under those circumstances.

What a much stronger position we would be in keeping with our oft-repeated professing that we believe in the substitution of the rule of law for the jungle war of military might as a means of settling disputes between nations.

Mr. President, we should have resorted to the United Nations then.

Oh, say some in their patriotic speeches, that would have been putting our tail between our legs and running.

What nonsense. I should like to use an argument by analogy in the field of domestic law. We lawyers know that there are few controversies between people that can be more heated than a dispute over a boundary line between property owners. The lawbooks are full of remarkable accounts of what human frailties cause people to do sometimes over a dispute involving boundary lines. So let us take my farmers A and B. They have one rough argument over a boundary line. The disputes took place for some time. Finally one day A and B met in the area of the disputed boundary. A pulled a gun on B, shot at him, and missed him. B, exercising his right to defense, knocks him down, takes the gun away from him and beats him up, and B goes back home. On his way back home he says, "I have more guns."

Now, A was in the right and B was in the wrong. B was the aggressor; A was the aggressed upon, and he had a just cause for assault or a more serious crime—assault with intent to kill. Instead of taking his charge to the courts, going down and getting the sheriff to take jurisdiction and proceeding to take the course of judicial process, suppose A decided he would invade B's home and destroy the guns that he might have in his home. We know what would happen under domestic law to Mr. B under those circumstances. In the second case he would now be the aggressor.

I use the analogy, but I do not apply it beyond the point that I now make, and that is that after the second attack, there is no question that we had North Vietnam dead to rights in any charge we might bring before the United Nations. And that is where we should have gone. Let us face the foreign policy that we decided to follow. That is what I meant yesterday when I pointed out that apparently the line of American foreign policy in southeast Asia is the line that we shall demonstrate to them that we shall use force, and that there will be more force to come if they do not desist from violations of their international obligations. When I say "they," I mean North Vietnam, Red China, the Pathet Lao, and others on that side of this war.

That is the policy that the United States apparently has been trying to get away with. It is a policy that asserts that if we merely use enough force, and make clear by way of enough threats that it will be pretty bad and hard on them if they do not fold and yield to our threats—if we follow that course of action, we shall avert the danger of war. Under that policy we greatly increase the risk of a full-scale war in Asia. But whether we did or not, that policy cannot be justified as a matter of principle, because that policy cannot be reconciled with our obligations under the United Nations Charter. In my judgment, we ought to abide by our treaty obligations.

Although I know the point I have just made is highly unpopular with those who think we ought to do just as we please under the circumstances and then, after we dominate the battlefield, go to the United Nations, and that that is the policy of my Government. It is dead wrong. It is wrong in principle. It is wrong in morality. It is wrong also because it cannot be reconciled with our professing that we do not believe in the use of military might as the weapons to be used to settle disputes that threaten the peace of the world. To the contrary, we claim a belief in a resort to the rules of reason as they are embodied in treaties we have signed, such as the United Nations Charter.

So I say we are a provocateur. My colleagues become excited and seem to think I am guilty of some heinous accusation without any substantiation in fact. We would have been in a stronger position before the eyes of the world tonight if, after we had responded, as we had a right to respond Tuesday night, to the attack on our ships, we had on Wednesday laid that issue before the United Nations and asked the United Nations to proceed to take action encompassed under the jurisdiction of the United Nations. Oh, no. We had to proceed to bomb the mainland of North Vietnam on the basis that we had the right to do it in self-defense because they had attacked our ships on the high seas.

We have a right to do it if we want to make war, but then we should not deny that we have a policy of war when we say we are seeking peace. It is hypocrisy to say out of one side of one's mouth, "We only want peace," but to say from the other side of the mouth, "But we are justified in committing acts of war."

Issues of international litigation are involved in this case. There would not be a system of justice on the domestic front if we allowed people to shoot each other up while a trial was being conducted to determine whether the shooting of A by B was justified.

Mr. President, other arguments were made today. Several Senators think they help their case by voting for the joint resolution if they make statements in the RECORD such as were made today, to the effect "We want it understood that, although we are going to vote for this resolution, it is very important that we make clear to our allies that they come in under the SEATO Treaty and be of help to us."

They asked questions as to whether or not the resolution gives assurance of it. There is not a word of it in the resolution. There is not a word in the resolution that involves any commitment by anybody that there is going to be any help under the SEATO Treaty. All we say is that, because of the SEATO Treaty, we are going to do certain things.

It was said by one of my good colleagues that Great Britain was involved elsewhere, and that Pakistan and India are involved elsewhere. With hundreds of millions of dollars of American military aid under the foreign aid of past years, they are maneuvering themselves into a position where they can conduct a war against each other—with American equipment—if somebody pulls the trigger and a battle starts over Kashmir.

As I have been heard to say on the floor in recent weeks, even the foreign minister of Pakistan stood up in the Press Club in Washington, D.C., and publicly stated that they had no intention of helping us in South Vietnam. As the CONGRESSIONAL RECORD will show, I made the statement that we should make it clear that we are cutting off military assistance. That would be a good thing, anyway, from the standpoint of maintaining peace between India and Pakistan, because they could not carry on a war very long if the United States did not constitute to pour millions of dollars of the American taxpayers' money into those countries by way of foreign aid.

We were told that Australia is stepping up its assistance and that she is going to increase the number of men she has sent there. He forgot to say that the offer of Australia was to increase the manpower contribution to the war in Vietnam from 30 to 60. Mr. President, do not think you misunderstood me. That is the figure—from 30 to 60 men.

As I said to the Secretary of State when he made the announcement some weeks ago, he insulted my intelligence and the intelligence of the American people.

There was one other condition in that great offer on the part of Australia to expand its contribution and help in South Vietnam. Perhaps, in 4 months, they may be able to have six cargo planes available.

Of course, if there is one thing we can get along without, it is cargo planes. We have our own surplus of them.

Mr. President, when we run down the list of allies, we find none of them offering to send boys to do any of the dying in South Vietnam. The dying will have to be done by American boys and South Vietnamese boys.

If any Senator thinks he is a face saver, in connection with a vote from this joint resolution, on the basis that the resolution is going to help increase the cooperation of our allies under SEATO in the conduct of the operations in South Vietnam, I say there is not a word in the resolution that would justify any such hope or implication.

Another Senator thought, in the early part of the debate, that this course would not broaden the power of the President to engage in a land war if he decided that he wanted to apply the resolution in that way.

That Senator was taking great consolation in the then held belief that, if he voted for the resolution, it would give no authority to the President to send many troops into Asia. I am sure he was quite disappointed to finally learn, because it took a little time to get the matter cleared, that the resolution places no restriction on the President in that respect. If he is still in doubt, let him read the language on page 2, lines 3 to 6, and page 2, lines 11 to 17. The first reads:

"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 does not say he is limited in regard to the sending of ground forces. It does not limit that authority. That is why I have called it a predated declaration of war, in clear violation of article I, section 8 of the Constitution, which vests the power to declare war in the Congress, and not in the President.

What is proposed is to authorize the President of the United States, without a declaration of war, to commit acts of war.

It is not a new position for the senior Senator from Oregon. I opposed the Formosa resolution in 1955. I opposed the Middle East resolution in 1957. I will say something about those resolutions in a moment.

Let us go to section 2 of the pending joint resolution. Line 9 reads:

"Consonant with the Constitution and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia collective defense treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed forces—"

It does not say "excluding the use of the Army." It does not say "including the use only of the Navy." It does not say "including the use of the Air Force." It says, "including the use of armed force." That is all branches of the Military Establishment, and nuclear as well as conventional weapons "to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

Mr. President, it is as broad as the Military Establishment. A Senator cannot get any consolation out of that by hoping that, if he votes for it, the President cannot send out large numbers of ground forces.

U.S. FORCES TO BE COVERED INCLUDE THOSE IN SOUTH VIETNAM

I was very much interested in the comments of several Senators in the debate this afternoon in regard to the SEATO Treaty. I say most respectfully that the SEATO Treaty will not help any Senator, either. The resolution supports "all necessary measures to repel any armed attack against the forces of the United States."

We have forces of the United States in South Vietnam. I should like to ask the proponents of the joint resolution, before the debate is over, to tell us whether the language "all necessary measures to repel any armed attack against the forces of the United States" includes our Armed Forces in South Vietnam, which now include troops, vehicles, tanks, and aircraft. Apparently we are pouring more in. There is no question that we have more than 20,000 troops there tonight. Does this language mean an authorization to become full combatants in the civil war if there is an attack on any segment of our forces in South Vietnam?

Let us face the issue. I do not believe there is any doubt that we are being engaged, in an increasing tempo, in escalating this war into North Vietnam. I am not sure that we shall be able to stop there. We may take it into Red China before we are through. I am also satisfied that we shall become combatants along with the South Vietnamese in the civil war. That is exactly what they would like.

They have done a very poor job settling their own civil war.

Here is a country, as I stated in my speech last night, of 15 million population. Here is a country, with its armed forces of 400,000 to 450,000 men, engaged in a civil war with a group of Vietcongs—South Vietnamese, too—of not more than 35,000. The testimony before our committee is that it is probably in the neighborhood of 25,000. Fifteen million people, with an armed force of 400,000 to 450,000 soldiers, cannot bring under subjugation a dissident group of 25,000 or 35,000 people, in spite of the fact that the American taxpayer has poured $3½ billion into South Vietnam. Whom do they think they are fooling? They will not fool the American people indefinitely.

The French Government tried that. For 8 long bloody years they did a pretty good job of fooling the French people. But after 240,000 casualties, including 90,000 killed, and thousands upon thousands badly wounded, the French people pulled down the government. They said, "We have had enough. We are not going to sacrifice any more French manhood."

Unpopular as it is, I am perfectly willing to make the statement for history that if we follow a course of action that bogs down thousands of American boys in Asia, the administration responsible for it will be rejected and repudiated by the American people. It should be.

Mr. President, this problem in Asia cannot be settled by war. The problem in Asia requires a political and economic settlement. It requires a negotiated settlement. It requires a conference table settlement. It requires the application of reason, not bullets.

I cannot understand what is happening to my country. I cannot understand what makes people think that way. There are not many at the grassroots of America who think that way. People in positions in Government think that we can entrench ourselves as a military power in Asia and bring about a peaceful solution of the problem. The result will be that the yellow race will hate us more than it hates us already. If the yellow race has not made clear to the white man that Asia is not his fort, I do not know what the white man has to learn by way of an additional lesson.

The place to settle this controversy is not by way of the proposed predated declaration of war, giving to the President the power to make war without a declaration of war. The place to settle it is around the conference table, the only hope mankind has for peace; namely, the United Nations.

With all its shortcomings, if we destroy it—and we would destroy it with a war—not much hope will be left.

NO LIMITS ON WORDS "FURTHER AGGRESSION"

Before the debate is over tomorrow I should like to have the proponents of the resolution comment on the fact that the resolution continues with the words "and to prevent further aggression."

I should like to have the proponents spell that out. Further aggression against whom? Further aggression by whom?

I should like to have them spell out the provisions of the SEATO Treaty and the United Nations Charter with which our actions are consonant. If we are engaged in helping South Vietnam repel an armed attack, we are obliged under the SEATO Treaty and under article 51 of the U.N. Charter to report it to the Security Council. We have not done that through all the years.

Some of my colleagues in the Senate object to my calling the United States a provocateur. Our constant, repetitious violation of our treaty obligations under the U.N. Charter, which I set out by documentation yesterday in my speech on the floor of the Senate, is clear provocation. We have said to our potential enemies, "We are going to do what we want to do, and you can like it or not." Not so many weeks ago Adlai Stevenson lent his lips in the Security Council to say, in effect—in my judgment to his historic discredit, and it would have been better if he had resigned as Ambassador—as the representative of the United States at the United Nations that the United States was going to do what it wanted to do in Asia, and they could like it or not.

That is not the world statesman for whom I campaigned in 1952. No, Mr. President; we are a provocateur nation. We have provoked trouble because we have not even kept our commitments, either under SEATO or article 51 of the United Nations Charter, by carrying out the requirement of the reports that we are pledged to make, and by placing the issue before the U.N.

Yet we are saying to the world, "All we want is peace." Our Secretary of State says that we will have peace if the countries of North and South Vietnam will do exactly what we want them to do. In essence, that is what the position of the Secretary of State adds up to. There would not be lawsuits, either, if one of the parties would do what the other wanted him to do. That is what the controversy is all about.

FIRST OBLIGATION IS TO FOLLOW U.N. CHARTER

I do not agree with the North Vietnamese. I do not agree with the Vietcong. But we must face up to the fact that they, too, have their international rights; and the place to settle the controversy over international rights and obligations in this modern day is not on a battlefield, but around the conference table, where the procedures or authorities that set forth the rules of international adjudication will prevail.

The great Senator from Alaska [Mr. GRUENING] in his speech this afternoon, cited that important article of the United Nations Charter that places upon every signatory thereto the obligation, first—that is spelled "f-i-r-s-t"—to seek to resolve disputes by way of adjudication or mediation or arbitration or conciliation or negotiation. In that great speech, the Senator from Alaska cited the disputes, and then, in one rhetorical question after another, asked: Have we taken it to arbitration? Have we taken it to conciliation? Have we taken it to mediation? Have we taken it to negotiation? Have we taken it to conference? The answer is that the United States has a grade of zero on that examination. We have flunked the course.

To Senators who object to my suggesting that the United States is a provocateur nation, I say we have a dismal record—so dismal that it spells out the word "provocateur." I listened to a couple of my colleagues on television last night. They had heard the senior Senator from Oregon charge that we are a provocateur nation. So I was all ears. I thought I was going to hear the case that we are not. But there was no case.

It is so easy to say that these things should not be said; that they create disunity and misunderstanding. So long as there is any hope to win a peace and stop a war, the senior Senator from Oregon will state the facts as he honestly believes them to be. When those facts involve misdoings of my own country, it is all the more important that they be stated.

Mr. President, we have a great historic opportunity to strengthen the cause of the rule of law in the world. But we cannot strengthen it and make war at the same time.

The Senator from Alaska [Mr. GRUENING] said again today, as he said a few weeks ago, that what is needed is an agreement to enter into a cease-fire order. Why have we not proposed it? That is the kind of speech Adlai Stevenson should be making at the United Nations. I am greatly disappointed that the other signatories to the United Nations Charter have not been proposing it.

Are we so powerful that they dare not bring up a case to which we are party without our consent? I am exceedingly disappointed that North Vietnam, South Vietnam, the Pathet Lao, the United States, and Red China have not had the rules applied to them in connection with the war in southeast Asia, because that war cannot be reconciled with the United Nations Charter and the obligations in respect thereto by the signatories thereof.

But, say Senators, Red China is not a member of the United Nations. Red China does not have to be a member of the United Nations for the signatories thereto to take jurisdiction over a threat to peace of the world. Where do Senators get the idea that the United Nations does not go into action unless all the countries involved in a threat to the peace of the world are members of the United Nations? Senators should re-read the Charter of the United Nations. I have read it for the benefit of the Senate. It has occurred time and time again during the last 5 months.

I say with great sadness in my heart that many of the signatories to the United Charter have failed mankind by not having brought before the United Nations this threat to the peace of the world in Asia, in all of its aspects.

Some Senators said to me today, "What is the matter with you, WAYNE? Don't you know that we now have this situation in Tonkin Bay before the Security Council?"

Certainly. We had another one before the Security Council a while back, when the little prince in Cambodia kicked us out of Cambodia, and said, "We have had enough of you. Get out. We don't want any more of your aid." Then he filed charges against us for violating his borders, after we had been

caught redhanded and had a helicopter shot down after it had dropped a fire bomb and burned a village, killing 16 civilians. Unfortunately, the American boy who was flying that helicopter was sacrificed. We quickly apologized. But, as I have said does anyone think that that apology would have been forthcoming if we had not been caught? We would not have heard about the incident. I am satisfied that that was not the only violation of Cambodia's borders by both South Vietnam and the United States. We heard about this one only because we got caught.

What about all the threats and actions and incidents that preceded that in the Gulf of Tonkin? Why have they never been submitted to the Security Council?

Here we are about to authorize the President of the United States to do whatever he wishes and use any armed force he likes, not in the Gulf of Tonkin, but anywhere in southeast Asia. But there is no "southeast Asia" question before the U.N.

Why not? If there is not a breach of the peace and a threat to international peace and security there, I do not know what is.

All of South Vietnam for the last 3 years has been a threat to the peace. Why is not that situation placed before the U.N.?

We do not get much consolation out of our sorry record of not having reported our courses of action under article 51 of the United Nations Charter. I hope some Senators tomorrow will have something to say about that. I have a long list of interesting fallacious arguments and exhibitions of wishful thinking that were expressed in the debate this afternoon; but I shall reserve them for tomorrow.

Mr. President (Mr. HART in the chair), I close by commenting only on previous resolutions passed in the Senate: Formosa, the Middle East, and Vietnam.

I ask unanimous consent to have printed in the RECORD in parallel column form, as shown in the paper which I hold in my hand, a comparison of those resolutions.

There being no objection, the statement was ordered to be printed in the RECORD.

VIETNAM

Whereas naval units of the Communist regime in Vietnam, in violation of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace;

Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom;

Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area but desires only that they should be left in peace to work out their own destinies in their own way; now, therefore, be it

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.

CUBA

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "to extend their system to any portion of this hemisphere as dangerous to our peace and safety"; and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any state against an American state shall be considered as an attack against all the American states, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations"; and

Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from contracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union; and

Whereas the international Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

FORMOSA

Whereas the primary purpose of the United States in its relations with all other nations, is to develop and sustain a just and enduring peace for all; and

Whereas certain territories in the west Pacific under the jurisdiction of the Republic of China are now under armed attack, and threats and declarations have been and are being made by the Chinese Communists that such armed attack is in aid of and in preparation for armed attack on Formosa and the Pescadores,

Whereas such armed attack if continued would gravely endanger the peace and security of the west Pacific area and particularly of Formosa and the Pescadores; and

Whereas the secure possession by friendly governments of the western Pacific island chain, of which Formosa is a part, is essential to the vital interests of the United States and all friendly nations in or bordering upon the Pacific Ocean; and

Whereas the President of the United States on January 6, 1955, submitted to the Senate for its advice and consent to ratification a Mutual Defense Treaty between the United States and the Republic of China, which recognizes that an armed attack in the west Pacific area directed against territories, therein described, in the region of Formosa and the Pescadores, would be dangerous to the peace and safety of the parties to the treaty: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be and he hereby is authorized to employ the Armed Forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa and the Pescadores against armed attack, this authority to include the securing and protection of such related positions and territories of that area now in friendly hands and the taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores.

MIDDLE EAST

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be and hereby is authorized to cooperate with and assist any nation or group of nations in the general area of the Middle East desiring such assistance in the development of economic strength dedicated to the maintenance of national independence.

VIETNAM—continued

SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any protocol or member state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, and shall so report to the Congress, except that it may be terminated earlier by a concurrent resolution of the two Houses.

CUBA—continued

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.

FORMOSA—continued

This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, and shall so report to the Congress.

MIDDLE EAST—continued

SEC. 2. The President is authorized to undertake in the general area of the Middle East, military assistance programs with any nation or group of nations of that area desiring such assistance. Furthermore, the United States regards as vital to the national interest and world peace and preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use armed force to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism; *Provided*, That such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States.

This joint resolution shall expire when the President shall determine that the peace and security of the nations in the general area of the Middle East are reasonably assured by international conditions created by action of the United Nations or otherwise except that it may be terminated earlier by a concurrent resolution of the two Houses of Congress.

Mr. MORSE. Mr. President, in connection with these resolutions, several Senators stated this afternoon that the United States was not asking for any more in the resolution now before the Senate than has already been asked for in the past, as though that were a sound argument. What has that to do with whether or not we pass the pending joint resolution? If we made mistakes in the past—as we have done, in my judgment—we should not make another one now.

I did not make those mistakes. With that great liberal, the former Senator from New York, Herbert Lehman, who in my 20 years of service in the Senate has had no peer, I joined in 1955 in opposition to the Formosa resolution. At that time, I pointed out, as I have done in the course of this debate, that it, too, was a preventive war resolution. By a preventive war resolution at that time, we meant that it was a resolution that, first, sought to give the Secretary of State and the Chairman of the Joint Chiefs of Staff the authority to make a strike against the mainland of China before an act of aggression had been committed by China against the United States.

As a result of the argument in committee over that statement, Mr. President, the Senate will remember that we received the famous Eisenhower White House statement, in the course of that debate, to the effect that the President and he alone, would make the decision as to what course of action would be followed under the resolution.

I stated that that was not good enough for me. I do not intend to give to any President the power to make war by way of a predated declaration of war. I argued then, as I have argued in this historic debate, that the power to make war is vested in the Congress and not in the President. I voted against it.

With reference to the Formosa resolution there was a reference to the President, and I quote from it:

"That the President of the United States be and he hereby is authorized to employ the Armed Forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa and the Pescadores against armed attack, this authority to include the securing and protection of such related positions and territories of that area now in friendly hands and the taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores."

The same principle is embodied in the pending joint resolution.

The Middle East resolution was another predated or undated declaration of war resolution, giving to President Eisenhower predated declaration of war power in the Middle East. That will be found in the Middle East resolution:

"Furthermore, the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end if the President determines the necessity thereof, the United States is prepared to use Armed Forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism."

Clear authorization of what I stated at the time, and repeat tonight, was an unconstitutional power to be vested in the President of the United States.

CUBAN RESOLUTION DELEGATED NO POWER TO PRESIDENT

Now we come to the Cuban resolution. The interesting thing is that the Cuban resolution was not a resolution designed to vest any power in the President. That fact has been lost sight of in debate this afternoon. Senators have stated that we did this in the Cuban resolution. The answer is that we did not.

I voted for the Cuban resolution. I voted for the Cuban resolution because that constitutional power of Congress was not delegated to the President in that resolution.

In a statement I wrote to my constituents on October 2, 1962, discussing my vote on that Cuban resolution, I stated:

"On September 21, I joined 85 other Senators in voting for the following resolution on our relations with Cuba: 'The United States is determined (a) by whatever means necessary, including the use of arms, to prevent the Marxist-Leninist regime in Cuba from extending, by force or threat of force, its aggressive or subversive activities to any part of this hemisphere; (b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and (c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.'

"Earlier, I had joined in signing a unanimous joint report from the Foreign Relations and Armed Services Committees, recommending adoption of this resolution. The report was made following hearings at which we heard from Secretary of State Rusk and William P. Bundy, Director of the Office of International Security Affairs of the Defense Department.

"They described in some detail, in closed session, the nature and technique of the sea and air surveillance we maintain over Cuba, and over activities on this narrow island. It was from this observation that they were able to say that the military activities in Cuba are still of a defensive nature and not now an offensive threat to the United States.

"The resolution, unlike the Formosa and Middle East resolutions, is not a delegation of warmaking power to the President. It is a statement of U.S. foreign policy. It is one I heartily endorse, and one which should be read carefully and with sober consideration in both Havana and Moscow."

Mr. President, I close by reading the full language of the Cuban resolution. I have just made a distinction between the Cuban resolution, the Formosa and the Middle East resolutions—and now the southeast Asia resolution, which is as different as night from day.

The Cuban resolution provided:

"Whereas President James Monroe, an-

nouncing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers 'to extend their system to any portion of this hemisphere as dangerous to our peace and safety'; and

"Whereas in the Rio Treaty of 1947 the parties agreed that 'an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations'; and

"Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: 'The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union'; and

"Whereas the international Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence: Now, therefore, be it

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

"(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

"(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

"(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination."

Mr. President, there is not one word authorizing any power to be vested in the President of the United States.

Senators have forgotten the record made when we debated, in connection with the Cuban resolution, what is proposed under the southeast Asian resolution. That question was debated on the floor of the Senate.

I say with sadness, in view of the situation in the Senate tonight, that when the Cuban resolution was being considered, a substantial number of Senators served clear notice that they would not vote for it if it sought to authorize any power in the President of the United States.

Out of deep affection and great love for President Kennedy, I say that President Kennedy did not ask to have any authority authorized in that resolution as far as the Presidency was concerned. I have no quarrel with that statement of foreign policy. I would have no quarrel with that statement of foreign policy applied to southeast Asia.

Under that statement of policy, doors are left open and the obligations remain clear, to resort to the peaceful procedures set forth in the United Nations treaty, and set forth in our other treaty obligations.

I close, Mr. President, by saying, sad as I find it to be to have to say it, that in my judgment there is no course of action that I could possibly follow in keeping with my conscience and my convictions in regard to my constitutional obligation under the oath that I took four times when I came into this body, but to vote against the joint resolution tomorrow. In my judgment, this resolution, no matter what semantics are used, spells out the ugly words: "Undated declaration of war power to be vested in the President of the United States."

Congress has no constitutional power to grant such authority to the President of the United States. The only difficulty is that under our constitutional system, I know of no way that we can get it before the Supreme Court for a constitutional determination.

Mr. President, I yield the floor.

[From the CONGRESSIONAL RECORD, Aug. 7, 1964]

MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY IN SOUTHEAST ASIA

The Senate resumed the consideration of the joint resolution (S.J. Res. 189) to promote the maintenance of international peace and security in southeast Asia.

Mr. MANSFIELD. Mr. President, yielding myself still more time under the limited arrangement, I ask unanimous consent to have printed in the RECORD a telegram sent by Joseph J. Lombardo, commander in chief of the Veterans of Foreign Wars of the United States, to President Johnson on August 5, on the subject of action in the Tonkin Bay; a telegram sent to President Johnson by E. H. Reeder, rear admiral and national president of the Reserve Officers Association on August 5; and a copy of a WTOP editorial, which was broadcast on August 5.

There being no objection, the telegrams and broadcast were ordered to be printed in the RECORD.

The PRESIDENT,
The White House,
Washington, D.C.:

I take this occasion to express to you the unreserved support of the Veterans of Foreign Wars of the United States for your decision to take prompt retaliatory naval action against vessels and supporting installations in Communist North Vietnam. Such deliberate Red attacks on our ships in international waters were a threat to our national security and our Nation's prestige that could not go unchallenged. The V.F.W., with a membership of 1,300,000 oversea combat veterans, firmly believes that the only language Communist aggressors understand is the language of power. Thus your decision to retaliate against the Communist bases should have a sobering effect on the Red leadership seeking to destroy freedom in southeast Asia and undermine the security of the United States.

JOSEPH J. LOMBARDO,
Commander in Chief, Veterans of Foreign Wars of the United States.

The Honorable LYNDON B. JOHNSON,
President of the United States,
The White House,
Washington, D.C.

MY DEAR MR. PRESIDENT: The Reserve Officers Association of the United States wishes to convey to you the unqualified support of its members in the courageous action you have taken in defense of our Nation's position in Vietnam.

E. H. REEDER,
Rear Admiral, USNR,
National President.

EDITORIAL BROADCAST, AUGUST 5, 1964, OVER WTOP TELEVISION AND RADIO

This is a WTOP editorial.

The aggravated crisis in the Far East may very well be a corollary to the recent pattern of events in that part of the world. During the last several months the United States has assumed an increasingly active role in the defense of South Vietnam, with an ever-greater application of military strength. Everything that has been said recently by highly placed American officials indicates a growing unwillingness to tolerate any prospect of defeat. The defense of the free areas of southeast Asia has become a vital American interest, and the war in South Vietnam is not a major—not a subsidiary—American effort.

It can be speculated that these changed circumstances have drawn a deliberate Communist response in the Gulf of Tonkin. There, the attacks on American destroyers might be interpreted to a Communist probe to learn whether, in southeast Asia, we really mean what we say and whether our policy has turned a good deal tougher. Under this reasoning the incidents in the international waters of North Vietnam are a test of the credibility of our intentions.

If this is the case, the U.S. actions this week ought to be wholly convincing—perhaps more convincing than Hanoi and Peiping bargained for. President Johnson, with bipartisan concurrence, ordered a sharp counterattack on a limited number of North Vietnamese shore installations. And by so doing, the President—faced with his first serious international flareup—has proved his readiness to use force when force is required.

Of course, this is a risky business, as international confrontations always are. But there are occasions when an act of war can be a step toward peace. And as President Johnson has told the Nation, "Our mission is peace"—that, and the defense of American commitments which cannot be abandoned.

This was a WTOP editorial, Jack Jurey speaking for WTOP.

MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY IN SOUTHEAST ASIA

The Senate resumed the consideration of the joint resolution (S.J. Res. 189) to promote the maintenance of international peace and security in southeast Asia.

Mr. MANSFIELD. Mr. President, on my own time, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

The PRESIDENT OFFICE (Mr. SALINGER in the chair). Without objection, it is so ordered.

Mr. MORSE. Mr. President, I shall proceed to discuss briefly the points that I did not cover in detail last night with regard to the pending joint resolution.

The PRESIDING OFFICER. How much time does the senior Senator from Oregon wish to yield himself?

Mr. MORSE. I yield myself such time as I may need.

Mr. President, in view of the debate which took place last night, which we did not contemplate at the time we entered into the unanimous-consent agreement, as I have stated to the majority leader, I wish now that we had fixed the time to vote at 12 o'clock today. There is little remaining to add, by way of rebuttal, to what I said last night, except the points that I shall cover this morning. However, I do want to discuss in some detail the predated declaration of war aspects of this unfortunate resolution.

I hope, as I said to the majority leader, that the defenders of this unfortunate resolution will come to the floor of the Senate and give a defense of it in answer to the points that I made in rebuttal last night and shall amplify this morning. I am waiting for their replies.

I have a little reply of my own to make this morning to the Washington Post. There is a very fallacious editorial in this morning's Washington Post entitled "Democracy's Response." I ask unanimous consent that it be printed at this point in the RECORD.

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

"DEMOCRACY'S RESPONSE

"Congress is responding with commendable promptness and with an almost unanimous voice to President Johnson't request for support in the Southeast Asian crisis. The

President consulted the leaders of both Houses and then asked for a supporting resolution not only because he felt the necessity for congressional approval of what is being done, but also because he wished to demonstrate before the world the unity of the American people in resisting communist aggression. The unity has been demonstrated despite the reckless and querulous disent of Senator MORSE.

"There is no substance in Senator MORSE's charge that the resolution amounts to a 'predated declaration of war.' On the contrary, it reaffirms the longstanding policy of the United States of aiding the States covered by the Southeast Asia Collective Defense Treaty in the protection of their freedom as a contribution to international peace. It pledges military action only to resist aggresion against American forces in that area. Of course, the President has authority to respond to attacks upon American forces without any approval in advance by Congress. So the resolution means only a recommitment of the Nation to the policy it has been following—an almost unanimous recommitment in the fact of the inexplicable North Vietnamese challenge.

"This means of reasserting the national will, far short of a declaration of war, follows sound precedents set in other crises. President Johnson noted in his message to Congress that similar resolutions had been passed at the request of President Eisenhower in connection with the threat to Formosa in 1955 and the threat to the Middle East in 1957. The same course was followed in 1962 at the request of President Kennedy to meet the missile threat in Cuba. None of these emergencies led to war. Rather, the firm action that this country took interrupted Communist maneuvers that might otherwise have led to war.

"Congress ought to be very pleased with the now firm establishment of this mechanism for meeting an emergency with a united front. Reliance solely upon the power of Congress to declare war as a last resort would not be appropriate in these days of repeated crises short of war. A resolution of support for the executive arm in meeting an emergency has all the virtue of rallying national strength behind a firm policy—without taking the calamitous step of war in this nuclear age. We surmise that the almost unanimous sentiment behind this resolution on Capitol Hill reflects appreciation for the President's sharing of responsibility as well as support for the tough punishment for aggression that he initiated."

Mr. MORSE. The Washington Post has demonstrated in editorial after editorial that it does not have a good constitutional lawyer on its editorial staff. The editorials published in the newspaper demonstrated that fact constantly. In an editorial which appeared in this morning's issue of the newspaper there appears the following statement:

"There is no substance in Senator MORSE's charge that the resolution amounts to a 'predated declaration of war.' "

One wonders whether or not the editorial writer has ever read the joint resolution. No one can read the joint resolution and the authority proposed to be given the President in the joint resolution without recognizing that it would clearly authorize the President to proceed to follow whatever courses of action are necessary in his opinion; and such action would constitute authority to conduct war.

I should like to make an additional comment on a statement in the editorial in reference to resolutions passed by previous Congress. In the body of the editorial the statement is made:

"President Johnson noted in his message to Congress that similar resolutions have been passed at the request of President Eisenhower in connection with the threat to Formosa in 1955 and the threat to the Middle East in 1957. The same course was followed in 1962 at the request of President Kennedy to meet the missile threat in Cuba."

The editorial writer apparently had not read, or certainly had not read recently before he wrote that editorial, the Cuban resolution, for there is no similarity between the Cuban resolution on the one hand and the Formosa, the Middle East, and the pending resolutions on the other hand.

But returning to the comment of the Washington Post that there is no substance in Senator MORSE's charge that the resolution amounts to a "predated declaration of war," I should like to read for the benefit of that unenlightened editorial writer of the Washington Post page 2 of the joint resolution:

"Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President."

Not the Congress, but 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."

The joint resolution thus gives the President warmaking power.

I shall come to another section of the resolution—same item in a moment. The Commander in Chief, the President of the United States, has the inherent constitutional power immediately to defend the United States in case of an attack, but he does not have the inherent power after that immediate defense to proceed to make war. That is the distinction which this unenlightened editorial writer of the Washington Post has never grasped.

Mr. President, the right of immediate defense is something quite different from the right to proceed to lay out a campaign of war. Under the joint resolution the President would be given the authority to go beyond immediate self-defense of the United States and proceed with a war campaign. That is why I say today, as I said in 1955, and as I said at the time of the Middle East resolution, that such resolutions constitute a predated declaration of war. The Washington Post editorial writers ought to consult with Senators who occupy high positions in the Senate on the other side of the issue in connection with the defense activities of the country. They might be surprised to learn that they are not quarreling with the Senator from Oregon in regard to the effect of the joint resolution. The joint resolution does propose to give to the President of the United States authority beyond the inherent authority that he already possesses to act immediately in national self-defense.

Mr. President, that is a very important distinction in constitutional law. The Senator from Oregon repeats that, under the Constitution, the President has no power to wage war until a declaration of war is passed by the Congress. The joint resolution is a contravention of article I, section 8, of the Constitution, just as the Formosa resolution and the Middle East resolution were contraventions of the Constitution and caused the senior Senator from Oregon in the debate on those two resolutions to take a stand in opposition. As one of the Armed Services Committee leaders of the Senate told me this morning, "Wayne, there is no difference between the position that you are taking today and the position that you have taken consistently with regard to the other resolutions. No one can really quarrel with your conclusion that the joint resolution does go beyond the inherent authority of the President to act in the self-defense of our country and does vest in him authority to proceed to carry out a campaign that amounts in fact to the waging of war."

Mr. President, I do not believe we should do it. It is not necessary to do it. There is inherent power in the President as Commander in Chief under the Constitution to meet an attack immediately, and then come to the Congress of the United States asking for a declaration of war. We should require those steps, rather than give the President blanket authority under the joint resolution to proceed to wage war without a declaration of war.

Ah, but it may be said, and is said, by some in conversations with me, "But, WAYNE, a President would not do *that for* very long."

I do not care whether he does it for a short time or a long time. It is not necessary for him to do it, so long as he has the inherent authority to meet attack with immediate self-defense actions.

As I said in 1955, I believe it is important in these trying times that we not extend and expand the authority of the President of the United States beyond the limits of the Constitution.

It may be said that if the President should commit an unconstitutional act under the joint resolution, or if the joint resolution in effect, as argued by the Senator from Oregon, is an attempt to give to the President an unconstitutional power, he can be checked. I wish I could say that he could be. The difficulty in relation to these constitutional questions as they involve the Presidency of the United States is that we do not have a procedure for having them tested in the U.S. Supreme Court. That has been the subject of great discussion, concern, and debate among constitutional lawyers for many decades. It is difficult to bring the President of the United States before the U.S. Supreme Court. Our constitutional fathers provided for other procedural checks upon the President of the United States, one of which is impeachment, which, of course, is unthinkable when we have a President who seeks only in the exercise of his powers—though he may be mistaken in regard to having exceeded an inherent power—to protect the interest of the United States. But that is a check that is provided in the Constitution. Then, of course, we check the President in regard to the purse strings by way of appropriations.

We have the authority, of course, to check the President by way of appropriations, with his ancillary check on Congress of the veto. It is not impossible to eventually get a case before the Supreme Court involving the warmaking powers of the President, but the legal road could be long and tortuous. The time consumed would make the question moot by the time it was decided as far as the emergency is concerned will give rise to the issue in the first instance.

When Congress passes a joint resolution such as this, it is practically impossible—in fact, I think it impracticable—procedurally to have the power checked, on constitutional grounds, before the U.S. Supreme Court. I do not know, and I know of no constitutional lawyer who has ever been able to point out, a procedure by which we could bring the President before the Court on the charge that he was making war unconstitutionally. I can hear the Court, in refusing jurisdiction, say, "Congress will have to follow the procedures set out in the Constitution for checking the President."

So I am concerned about the resolution in respect to its giving to the President what I honestly and sincerely believe is an unconstitutional power—that is, the power to make war without a declaration of war. It feeds a political trend in this country that needs to be checked. For some time past in this Republic we have been moving in the direction of a government by executive supremacy.

It is very interesting to listen to the arguments that one hears for extending and expanding the power of the White House. It is extremely important—and I speak soberly and out of a depth of great sincerity—that we never grant a single power to any President, I care not who he is, that in any way cannot be reconciled with that precious

fundamental foundation of our Republic; namely, a system of three coordinate and coequal branches of Government.

It is dangerous to the freedoms and liberties of the American people to vest in any President, at any time, under any circumstances, power that exceeds the constitutional concept of three coordinate and coequal branches of Government.

The American people will quickly lose their liberty if you do not stop feeding the trend toward Government by executive supremacy. In my opinion, the joint resolution would do just exactly that. It would give to the President of the United States an authority which, in my judgment, he does not need, by any stretch of the imagination. He has inherent power to react, in the self-defense of this Republic, in the event of an immediate attack.

It is particularly essential that we continue to require a President of the United States to conform to article I, section 8, of the Constitution, in regard to making war, and that we continue to hold any President—I care not who he is—under the strictest restraint with regard to the making of war.

We have entered an era of civilization in which an unconstitutional act of war on the part of a President of the United States can lead to nuclear war and the end of this Republic, no matter how sincere a President may be in his intentions in respect to exercising the power to make war.

We need to be on guard in respect to vesting power in the White House. The White House has plenty of power under the Constitution. I am for giving the White House no more power than the Constitution gives him.

I have heard sincere colleagues on the floor of the Senate—and I respect them—differ with me in regard to the effect of the joint resolution. There are also colleagues on the other side of the issue who have come to me and said, as did one who discussed it with me this morning, "WAYNE, there is no doubt as to the effect of the resolution that you are pointing out, and that you pointed out in 1955. It bothered me in 1955; but we have every reason to count on the fact that the President of the United States will not abuse the power."

Mr. President, I do not think he would deliberately abuse the power, but he could most sincerely exercise the power in a manner that would result in great damage to this Republic.

There is an elementary rule of law which states that when we come to deal with procedural matters, if a procedure is subject to abuse we had better change the procedure.

My majority leader, who always is courteous to me and was exceedingly courteous to me in arranging the format for this debate, has heard me say many times as we have served together in this body that we should never forget that our substantive rights are never any better, and can never be any better, than our procedural rights. Our procedural rights determine our substantive rights. There are no substantive rights unless there are procedures for implementing them.

I have said many times—and the statement should be applied to this issue, because it is applicable—let me determine the procedure of any human institution or the administration of any law, and I will determine all the substantive rights anyone may have under that law, that tribunal, or that administrative body. Let me determine the procedure of any courtroom, and I will determine all the substantive rights that can be adjudicated in that courtroom."

Although some critics will say that this principle involves a legalistic abstraction, nevertheless the great principles of so-called legalistic abstraction are principles that determine, in the last analysis, whether one remains a free man or not. This is true because the procedures of our Government written into the Constitution and the laws of our country determine our substantive rights as free men.

In my judgment, the pending joint resolution tinkers with and impairs the great procedural rights of the American people written in article I, section 8 of the Constitution—namely, that the power and the right to declare war is vested in the Congress, and not in the President of the United States.

War cannot be declared speculatively; war cannot be declared in futuro under article I, section 8 of the Constitution. War cannot be declared to meet hypothetical situations yet to arise on the horizons of the world. War is declared in relation to existing operative facts of the moment of the call for a declaration of war.

In the resolution before the Senate—and I shall read the section to which I have referred and another section momentarily—the President of the United States would be given power to make war in relation to operative facts not now in existence, but which may come into existence in futuro. That cannot be reconciled with article I, section 8 of the Constitution.

For the education of the unenlightened editor of the Washington Post who wrote the ignorant editorial in respect to this constitutional point, I hope he will reread article I, section 8 of the Constitution, and that he will read again—assuming that he ever read the resolution before he wrote the editorial—the section to which I have referred and read, and which I repeat. That part of the joint resolution reads:

"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."

Let us analyze that sentence for a moment. Let us analyze that part of the sentence that deals with the inherent power of any commander in chief, any President, to react immediately in the defense of this Republic. That part of the sentence is not needed. He has that power now. If there is to be read into that part of the sentence which starts on line 4—"to take all necessary measures to repel any armed attack against the forces of the United States"—authority to commit an act of aggression, preventive in nature, it goes beyond the Constitution.

That was my argument in 1955. How well I remember it. In 1955 I participated in the same format of committee organization in which I took part yesterday; namely, a joint meeting of the Armed Services Committee and the Foreign Relations Committee. I opposed the Formosa resolution. My recollection is that in committee in 1955 two of us took that position. When we came to the floor of the Senate, my recollection is that I was supported by a third member, as I said last night, the great Senator from New York, Herbert Lehman; and I believe we ended in 1955 with three Senators voting against the resolution. As I remember my opening speech in 1955—and the RECORD will speak for itself—I said, as I say now, that I was standing in a position on the floor of the Senate in which a few other liberals had stood throughout the history of this great parliamentary body. Like them I was confronted with the choice of telling the American people what I was satisfied they were entitled to know about their foreign policy, and run the risk of violating the rules of secrecy of the Senate, thereby risking the discipline of the Senate, or failing in my obligation to tell the American people things that I thought they were entitled to know in regard to the foreign policy of the country and avoid running the risk of being disciplined by the Senate.

If Senators will read that speech they will see that I said I thought I could give the American people what they should be warned about within the rules of the Senate, without subjecting myself to Senate discipline. Senators will find that I said—I paraphrase the speech, but accurately:

"I wish to tell the American people that this is a preventive war resolution; and if any Senator has any question about it, let him go to the Foreign Relations Committee on the floor below and read the testimony of the Secretary of State"—

Who was then John Foster Dulles—"and the testimony of the Chairman of the Joint Chiefs of Staff of the Military Establishment"—

Who was then Admiral Radford.

I said:

"If Senators will read that testimony, they will know that behind this resolution is the proposal that the Military Establishment and those in charge of American foreign policy are to be given the authority to make a strike against the mainland of China before China makes a strike against the United States. Such a strike would be an act of aggression. Such a strike would be an act of war. Authorization for such a strike in the Formosa resolution amounts to seeking to give to the Military Establishment, without a declaration of war, the power to make war. Senators will find that clear power in the resolution."

Senators will remember that in 1955 the senior Senator from Oregon took that position in the hearing before the committee. My position became known. After I took that position the chairman of the committees sitting jointly, Mr. Walter George, of Georgia, declared a recess, and announced that he would go to the White House for the purpose of discussing with the President the argument that I had made in committee. He went to the White House. Out of that conference came the famous White House pronouncement with respect to the Formosa resolution, in which President Eisenhower announced that he, and he alone, would make the decision under that resolution as to what course of action this Government would follow in implementing the Formosa resolution.

Senator George came back and had a conference with me. He thanked me for what he considered to be the service I had rendered. He said, "It was a very important service. I would not support the resolution in the absence of the White House announcement." He said, "WAYNE, I hope you will work with me now to help get the resolution through the Senate."

I said to the chairman of the Foreign Relations Committee, who served on that occasion as chairman of the committees sitting jointly, "That does not make it any better so far as I am concerned. You missed the point of my objection. Although the testimony in committee would have left the impression that the Secretary of State and the military officials could have made the decision, they will still be making the decision, because the President will follow their advice." I said, "I would not vote for it if they had no voice in it at all, because I will not vote to give to any President this power, because the Congress of the United States must jealously guard its prerogatives under article I, section 8 of the Constitution. All that the President needs to do is to come before Congress and ask for a declaration of war. He has inherent authority to meet an emergency that requires national self-defense action prior to the time he gets to the Congress."

Senators will note in the RECORD that I used the beginning of the war with Japan as a precedent. I said, "After the strike at Pearl Harbor, Franklin Delano Roosevelt exercised the power as Commander in Chief to defend this country in national self-defense, but he came to Congress for a declaration of war.

I made that argument in 1955. I repeated it in summary form at the time of the middle East difficulty, and I am summarizing it again in this historic debate.

I have heard no answer in all the intervening years to the constitutional point that I now raise, and of which the editor of the Washington Post who wrote the editorial this morning is abysmally ignorant.

Mr. President, this joint resolution is not needed for the defense of the Republic. It should not be used to make an end run around article I, section 8, of the Constitution. So long as an attack is in progress, the President has the inherent power to protect the Republic in self-defense. But there is reserved to Congress, under the Constitution, the responsibility of passing judgment on whether or not even an attack calls for our declaring war. It may very well be that after a response to an attack, the attacking party may start diplomatic maneuvers into motion—to surrender, to capitulate, to ask for a negotiated settlement, or to resort to the rule of law—which might cause Congress, in exercising its authority under the Constitution, to check the President and cause him to decide not to make war at that time. It is an important procedural check.

It is easy, understandable, and natural in a time of high national emotion, in a time of strong patriotic fervor, to say, "Give 'em the works." It is also true that in such an hour of high national emotion and hysteria, we who sit in seats of responsibility, so far as the legislative process is concerned, can say, "Let us wait. Let us first analyze the situation on the facts, and then vote the authority that is needed to protect the country. Sincere and honest men can differ as to the procedural form that the grant of such authority shall take."

In 1955 and again in 1957 the senior Senator from Oregon took the position, as he does in the instance of this resolution, that the Middle East resolution and the Formosa resolution would be grants of authority to the President to exercise power which would amount to predated declarations of war. That should not be done. It is not necessary. All the world knows that any country that attacks the United States will be met immediately with the exercise of the inherent power of the President, under the Constitution, to defend the Republic. All the world knows that if any country continues an attack upon this country, the President will come before this body and quickly, as the great Roosevelt did after Pearl Harbor, in 1941, obtain from Congress a declaration of war. What more is needed?

A constitutional principle is involved. It is dangerous to give to any Persident an unchecked power, after the passage of a joint resolution to make war. Consider the procedural complications that could develop if Congress decided that the President was making serious mistakes in the conduct of a personal war—for it would be a Presidential war at that point. How would the President be stopped? He could not be stopped. Consider what would happen to this Republic if we got into that kind of conflict with the President in carrying out the joint resolution.

But, say some, see what the end of section 3 provides:

"This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress."

That would create a nice mess, would it not? That would be a nice portrait of the United States to paint before the eyes of the world. What havoc of disunity that kind of procedure would encompass.

What is wrong with letting the Constitution operate as written by our constitutional fathers? Why this indirect amendment of the Constitution? There are Senators, for whom I have deep affection, who become a little shaken, in our private conversations, when I say, "What you are really seeking to do is to get around the amending process of the Constitution. In effect, you are trying to get around article I, section 8, by amending the Constitution by way of a joint resolution."

I do not believe we ought to establish any more precedents of this kind. I do not accept the argument that because we have made two mistakes in the past—we made no mistake in connection with the Cuban resolution; and I shall speak of that later—because we made mistakes in the Formosa and the Middle East joint resolutions, we can make another one. Even a repetition of mistakes does not create a legal right in the President. I do not believe it is good legislative process to repeat mistakes. We ought to stop making them.

In effect, this joint resolution constitutes an amendment of article I, section 8, of the Constitution, in that it would give the President, in practice and effect, the power to make war in the absence of a declaration of war. It is also important to demonstrate to the world, including the free nations, that the Constitution of the United States is not an instrument to be tinkered with; that the Constitution is a precious, sacred document, so far as our form of government is concerned, and is not subject to subversion in the legislative process. We should never miss an opportunity to demonstrate this principle to the totalitarian nations of the world. We should never forget that under Fascist or Communist regimes there are no rights and liberties of the persons.

It is proposed, by this joint resolution, to subvert the Constitution. We are engaging in a subterfuge, so far as article I, section 8, is concerned. We should not do that. We should not in any resolution tinker with the Constitution in respect to the powers and prerogatives of the President, and the limitations upon such powers and prerogatives.

Going back to section 1 of the resolution, I assert again that in the language "to take all necessary measures to repel any armed attack against the forces of the United States," there is no question about the inherent power of the President to do so without a resolution.

I have stated that if this proposed grant of power implies that the right of the President of the United States to take all the necessary measures to "repel any armed attack against the forces of the United States"—which former Secretary of State Dulles and Admiral Radford asked for in 1954—includes the authority to commit an act of aggression before an act of aggression is committed against the United States, on the basis of the theory of a preventive war, that is a dangerous doctrine. It cannot possibly be reconciled with the Constitution; nor can it be reconciled with sound national policy.

I remember that in 1955 former Secretary of State Dulles said to me, "Would you wait for the Red Chinese to strike?"

My reply was that when I thought of the billions of dollars I had joined in voting for the defense of my country, including great sums of money for intelligence service, if there were particular concern about a Red Chinese air base closest to the coast of Alaska and our intelligence agency had given us reports as to what it had found in regard to the size of that Communist air armada, I would wish to believe that when the first Red Chinese plane left the ground and started for Alaska, our alerting stations and our intelligence would be such that our planes would meet it before it ever reached Alaska.

At that time, I also made perfectly clear to former Secretary of State Dulles and former Chairman of the Joint Chiefs of Staff Admiral Radford, that under international law we could not possibly justify our being an aggressor in the first instance. I frankly stated that it was a risk which we must run in order to remain in a sound constitutional framework under our system of government.

Why should we give arbitrary discretion to mere men who happen to hold office at a given time, when the American people and their lives are at the mercy of the discretion of those mere men?

One of the great protections that the American people have in constitutional theory, under our form of government, is that we are a government of laws and not of men. Granted, we are a government of laws, it is also true that those laws must be administered by men. Human failings being what they are, we must always keep a check on the exercise of the discretion of mere men who administer government, or we shall constantly run the risk of being victimized by arbitrary and capricious discretion.

In 1955, I made clear that I had observed too frequently the psychology of trigger-happy military men, and the psychology of diplomats who convince themselves that it is necessary to pull the trigger before an act of war has been committed against us.

Mr. President, we like to boast—and for the most part our glorious history sustains the boast—that we are not an aggressor nation. Resolutions such as the pending joint resolution, as well as the Formosa resolution and the Middle East resolution, frequently raise grave doubts among our friends in the free world as to whether there are not great differences between our theory and our practice.

So, then as now, on the constitutional grounds to which I objected in the Formosa resolution, I voted against it—as I shall vote against the pending joint resolution today.

I repeat this, so that there can be no misunderstanding of my position: So far as the inherent right of the President to meet an aggression in the self-defense of the Republic is concerned, the pending resolution is not needed. The President has that inherent right now, under the Constitution. But, so far as having any right to commit an act of war in the absence of an aggression, he does not have that right under the Constitution. The pending resolution cannot give it to him under the Constitution.

Of course, we can sanction his exercise of that unconstitutional right. That is what the Senate will be doing today in adopting the pending resolution.

In constitutional effect, the Congress is saying to the President, "You can go ahead and act unconstitutionally and we will look the other way," because it is known that there is no existing procedure which would be effective by which we can check the President. Once the pending resolution is adopted, the Senate thereby will sanction such conduct. There is no way to check it by taking the case before the U.S. Supreme Court for final determination of the constitutionality of this course of action in time to be effective.

I am asked, "Should we not amend the Constitution in this respect?"

I believe that we should amend it by clearly denying to the Congress the power to pass such a resolution as this one. Because the past situations such as are present in this case are such rarities, so extraordinary and so novel, I am enough of a political realist to know that we shall never get anywhere with that kind of constitutional amendment. The only time we become interested in it is when a crisis such as this exists. When a crisis exists, it is so serious that people are not going to become interested in a very important constitutional abstraction, even though it is a constitutional abstraction which after all, is determinative, in the last analysis, of their rights as free men.

In times of hysteria and high national emotionalism, it is only human for most people, particularly those not sitting in the seats of legislative responsibility, to be willing to look the other way on such questions as I raise in this debate again this year. But I believe it is so dangerous to establish another precedent toward the creation of a government by

Executive supremacy in the United States, that I am willing to stand up and oppose the overwhelming majority against me, and take all the castigation and criticism which is bound to be heaped upon my head, for a constitutional principle that I am sincerely convinced is vital to the very preservation of this Republic.

I am satisfied that if we continue to build up a wall, brick by brick, precedent by precedent, which separates the executive branch of the Government from the people, resulting in making the executive branch of the Government more and more inaccessible to direct control, we shall endanger the very survival and preservation of the Republic and our constitutional system upon which it is based.

Mr. President, if it is self-defense we are concerned about, we do not need this resolution. If it is to empower the President to commit an act of aggression before an act of aggression is committed upon us, as was the program in 1955, and as was openly testified to, let me say—I can say it now—as the transcript will show, by the Secretary of State and the Chairman of the Joint Chiefs of Staff at the time, it is a dangerous precedent, a power that never should be given, never should have been granted by the Congress, and should not be granted now under the pending resolution.

Turning to the language I have read, "to repel any armed attack against the forces of the United States," does that mean that the attack must have started, or does it mean that all the President and his advisers have to conclude is that in all probability an attack may be made.

That is preventive war. There is no power in the Constitution for the President of the United States to wage a preventive war. I cannot imagine a set of hypothetical facts which would cause the President of the United States, the Congress, the Department of State, and those in the Pentagon Building to become alarmed about the danger of an attack against the United States that cannot be taken immediately to existing channels of international law. The right of national self-defense would still vest in the inherent constitutional power of the President.

The fact that we are not doing very much about using those channels of international law does not excuse us. And as we use those channels of international law, the inherent power of the President to defend this country continues. With all the military might of this country at the present time, the world knows that that power of self-defense is adequate to protect the security interests of this country until the processes of international law can run their course.

There is no question about the meaning of the next four words on line 6 of page 2 clearly authorize—"to prevent further aggression."

That is when the whole realm of judgment upon the part of the President of the United States comes into play. That is when we substitute the President for article I, section 8 of the Constitution. That is when we say to the President, "You can go beyond acts of immediate self-defense of the Republic. You do not have to come to the Congress, as Franklin Roosevelt did after Pearl Harbor, and ask for a declaration of war. You can proceed in the exercise of your judgment to prevent further aggression."

The uninformed, unenlightened editor of the Washington Post who wrote that stupid editorial in this morning's paper has not the slightest conception of the meaning of those words. If he had, he would not have written in his editorial:

"There is no substance in Senator MORSE's charge that the resolution amounts to a 'predated declaration of war.' "

That is exactly what those words mean. It is incontrovertible. The President would not have to come and ask for a declaration of war. He would be given sanction by Congress to make war without a declaration of war. It will be noted that I do say "the authority," for the authority cannot be granted by Congress. Congress cannot amend the Constitution in this way. This does not conform to the amendment processes of the Constitution. It is proposed that Congress sanction the action of the President in making war if, in his judgment, he thinks making war is necessary to prevent further aggression. I shall come to that point later. But that is why I said last night that so many want to turn away from the most delicate question involved in the debate. That is why I said last night—and shall discuss it at greater length today—that the President and our country were quite right in meeting the attack on the destroyers last Tuesday night. But, in my judgment, that did not empower him, under the right of self-defense, to try to proceed beyond protecting those ships, and strike the mainland of North Vietnam. In my judgment, that constituted an act of war—not an act of self-defense.

Mr. President, at that point, under our treaty commitments, our allegations in regard to the absolutely inexcusable and illegal attack on our ships on the high seas by the North Vietnamese forces should have been taken immediately to the United Nations. As to that attack we had an unassailable case. They attacked us on the high seas and we responded in self-defense.

We were clearly within our international law rights. Unfortunately we did not stop there. We then went beyond our rights of self-defense and proceeded to bomb the mainland of North Vietnam.

We either support a rule of law procedure or we ignore it. We ignored it. We had an irrefutable case of violation of international law by North Vietnam in connection with their attack on our ships. We would have a hard time, under international law, supporting our subsequent attack on North Vietnam in the absence of a declaration of war. There will be those who will say that that is cutting the line pretty fine. Nevertheless, the difference is between acting within the Constitution and acting outside of it. It is the difference between staying within our rights of self-defense and proceeding to turn ourselves into an aggressive warmaking power.

No one despises, hates, and repudiates more than does the senior Senator from Oregon, communism, Communist regimes, including North Vietnam, Red China, Cuba, Red Russia, and all of the rest. But I do not propose to allow my hatred, my detestation, my complete disgust with the police state methods of a Communist regime to cause me to give support to a proposal to go outside the constitutional guarantees of our system of government. I want to keep my Government in an impregnable position, so that we can go before any international tribunal and establish our case, and not have thrown back in our teeth a showing to establish a series of allegations in regard to the exercise of power and military might on the part of the United States that takes us outside the framework of international law.

There is no doubt that the language, "to prevent further aggression," rouses all the objections that I made in 1955 to the Formosa resolution. This proposal seeks to vest in the President of the United States the power to carry on a so-called preventive war. By preventive war, we mean making a war against another country because it is assumed that that country is about to make war, or contemplates making war, against the United States. Such authority is not to be found in the Constitution. The Congress cannot give such authority to the President of the United States as far as the Constitution is concerned. It can sanction the exercise of the authority but the exercise of the authority would still be just as much outside the Constitution as though the President acted without the joint resolution. The joint resolution could never make legal the exercise of such authority by the President of the United States.

That is not the only place in the resolution in which we would give to the President a preventive war authority. I refer the Senate to section 2, line 7, which provides—

"SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution—"

It has been agreed, by way of an amendment to the joint resolution, that that means the Constitution of the United States—"and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member of protocol, state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

Mr. President, that is an awful power to give to a President. If the Washington Post does not think that that is a predated declaration of war, the editor ought to start asking himself some questions about certain hypothetical situations.

Shall we allow any President of the United States to decide, with no check—that is, no check for immediate application—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?

We had better pause long enough to take a look at the nature of some of the countries involved, because many of the countries are not free countries. Many of those countries are totalitarian countries. Many of those countries are dictatorships. It is wishful thinking to assume that it would be safe to give the President of the United States unchecked authority to proceed to use American boys in defense of those countries on the basis of claims that acts of aggression are being committed against them by some other country, without a congressional check. Have we reached the point in American foreign policy where we are going to permit the President to send American boys to their death in the defense of military dictatorships, monarchies, and fascist regimes around the world with which we have entered into treaty obligations involving mutual security, no matter what the provocation and no matter what wrongs they may have committed that cause an attack upon them? Are we going to do that without a check of Congress by way of a declaration of war? What are we thinking of? What time factor would justify such precipitate action?

Mr. President, this Senator will never vote to send an American boy to his death anywhere in the world under any such language as is contained in that part of the joint resolution. It is of utmost importance that we surround that language with a congressional check. And there is none.

One could say, as I said a few moments ago, "But, Mr. Senator, the Congress can terminate this authority by a concurrent resolution."

I have already pointed out the kind of hassle that such a situation would create, and the kind of disunity that such action would produce. The American people should be protected from a possible abuse of the authority. So long as abuse of a procedure is possible, the procedure should be modified to prevent the possibility of the abuse.

Mr. President, that is why it is so important that we hold any President—I care not who he is—to Article I, section 8, of the Constitution in the carrying out of mutual security agreements. We should hold him to the approval of the Congress before the fact and not after the fact.

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

Mr. MORSE. I yield.

Mr. GRUENING. I wish the Senator would discuss what seems to me the obvious escalation of the war by the authority granted in section 2 of the joint resolution—

"To assist any member or protocol state of the Southeast Asia Collective Defense Treaty."

Mr. MORSE. I was about to do so.

Mr. GRUENING. Hitherto we have been dealing wholly with South Vietnam. The President has stated his purpose, which is quite evident—not to extend the war.

In the section to which I referred we are including a number of additional nations into which we could send our Armed Forces. The joint resolution would extend the prospective war all over southeast Asia, would it not?

Mr. MORSE. It certainly would, with no check on it.

Mr. GRUENING. In other words, in effect, the Congress would authorize an escalation of the war to Thailand, Laos, Cambodia, North Vietnam, South Vietnam—and what else?

Mr. MORSE. Pakistan.

Mr. GRUENING. I have in my possession, which I intend to present when the foreign aid bill comes before the Senate, a statement from a high official of Pakistan indicating that his government has no intention of using the nearly $1 billion in military aid that we have given to Pakistan to help out our cause because it is needed in their prospective difficulties with India.

Mr. MORSE. The Foreign Minister of Pakistan in effect made that statement in Washington, D.C., when he addressed the Press Club not so many weeks ago. He was asked by a newspaperman at the meeting to state whether or not Pakistan could be counted upon to be of assistance in southeast Asia. He said, "No."

He gave his reason. His reason was Pakistan's involvement with India. Pakistan has no intention of responding to any calls to SEATO members.

I yield further.

Mr. GRUENING. It seems to me that the joint resolution presents an unlimited authorization for war anywhere in southeast Asia, including Pakistan, which is really not in southeast Asia, but which is in south central Asia, and it seems to me a very dangerous, unwarranted, and unprecedented action.

Mr. MORSE. Do not forget, Pakistan is a member of SEATO; its obligations to South Vietnam are the same as ours.

Mr. GRUENING. Yes; but it has shown no disposition whatever to carry out its obligations under that treaty.

Mr. MORSE. That is correct; but, she being a SEATO member; we would be obligated to go to her assistance.

Mr. GRUENING. This resolution, in effect, is an authorization which would be the equivalent of a declaration of war by the Congress. Would it not be?

Mr. MORSE. I think so.

Mr. GRUENING. That is one thing I am very apprehensive about. If we should get into an all-out war, which I fear may happen, this resolution would be considered the authorization by the Congress to so proceed. Would it not?

Mr. MORSE. That is correct.

Mr. GRUENING. I expressed my views on it yesterday. I do not at all criticize the President—in fact, I think the President was correct—for repelling the assault, whatever may be the background, on American vessels and destroying the attackers. I approve of that action, but the resolution goes far beyond such action, which apparently precipitated the request by the President for such a resolution, and covers the whole of the southeast Asia area. I distinctly disagree with the administration policy.

As I have stated repeatedly, this was a policy which the President inherited, and from which I hoped he would disengage himself. He inherited it from the Eisenhower administration, from John Foster Dulles, when we picked up the fiasco the French had engaged in with the loss of over 100,000 young lives. We contributed vast sums of money to that operation. It was obviously a failure.

Now we have escalated it, as could be foreseen, and as I in fact did foretell, and as the Senator from Oregon foretold, into an all-out war in southeast Asia. Regrettably, the end is not yet. I am extremely fearful about the situation.

This is a moment when patriotic passions are aroused, and it seems indicated that we should do whatever the President asks.

It is very painful for those of us who disagree with the policy. I felt it was wrong in the beginning and have repeatedly stated for 5 months that I thought it was wrong, and that we should continue to try to find a peaceful solution; that we should take the issue to the United Nations, and seek a cease fire. It is, as I have said, painful not to support the President, but I cannot do so in good conscience under the blanket terms of this resolution.

Mr. MORSE. As the Senator knows, last night it was impossible for him, because of a previous appointment, to be present when I paid him my high respects to him for his courage, statesmanship, and leadership in this matter for many months past. I said last night that the Senator from Alaska had put the issue squarely.

Now, in a very few moments, the Senator from Alaska has summarized succinctly the major points of the address I have been making on the floor of the Senate the last hour and 15 minutes. I wish to formalize those points before I come to the next major issue which I shall discuss in my speech.

What I have said expresses my views as to the power that would be granted to the President in the resolution. It is what I have called an undated declaration of war. I summarize the points as follows:

First, the unlimited language of the resolution would authorize acts of war without specifying countries, places, or times. That language cannot be reconciled with article I, section 8 of the Constitution. It amounts, in fact as well as in law, to a predated declaration of war.

Next, as I said last night, we have armed forces in South Vietnam, some 20,000, or more, apparently, with the number increasing by planeload after planeload.

Senators can bemoan and warn against a land war in Asia, but the resolution would put the United States in the middle of the Vietnam civil war, which is basically a land war.

Under the resolution Congress would give to the President of the United States great authority, without coming to the Congress and obtaining approval by way of a declaration of war, to carry on a land war in South Vietnam. The choice is left up to him.

As I said last night, the interesting thing is that South Vietnam, with a population of 15 million, and an armed force of 400,000 to 450,000 men, has been unable, through all the years of the holocaust in South Vietnam, to put down a Vietcong force of a maximum of 35,000 men. The Pentagon and the State Department, in testifying before the committee, say the number probably does not exceed 25,000. We have to have more than 20,000 American boys over there, to die in whatever numbers they are killed, in an attempt to win that war. And for whom?

Mr. President, the leaders of this Government keep talking about freedom in South Vietnam. There is not one iota of freedom in South Vietnam, for the South Vietnamese people, by and large, do not know what the word means. I quoted, in a speech the day before yesterday, a letter I received from a Republican member of Congress, in full support of the position I have taken on this issue. I paraphrase it, although the quotation is already in the RECORD. He said that the average man of North or South Vietnam would not know what democracy looked like if he met it on the main street of Saigon. The difference between their governments is like the difference between tweedledum and tweedledee. But both are interested in the next bowl of rice.

That is why this Senator has been pleading for years, in connection with foreign policy, that the great need of the United States in the field of foreign policy is to export economic freedom, and to stop exporting military aid, for our military aid makes Communists. Prepare the seedbeds of economic freedom for the masses of the people of any country and we prepare for the growth of freedom. Unless the people are first economically free, they cannot be politically free; and, what is more important, they will never understand political freedom until they are first economically free.

There is great danger now that Congress will give to the President of the United States power to carry on whatever type of war he wishes to wage in southeast Asia. That is why I said, in answer to an argument that was made on the floor of the Senate yesterday, apparently some colleagues are laboring under the illusion that perhaps the resolution would reduce the danger of fighting a land war in Asia. There is not a word in the resolution that has any bearing on the subject. To the contrary, the broad, sweeping, sanction of power—note my language, because it cannot be done legally—the broad, arbitrary, sweeping power Congress is sanctioning for the President would in no way stop him from sending as many American boys as he wants to send into South Vietnam to make war.

As the Senator from Alaska has said over and over again, and as I have joined him in saying, all South Vietnam is not worth the life of a single American boy; and the killing of a single American boy in South Vietnam is an unjustified killing. It ought to stop. It is not going to stop until we turn our war-making policy into a peacekeeping policy. It is not going to stop until we insist that our alleged allies in SEATO come in with as many divisions of peacekeeping units as are necessary to keep the belligerents apart. It is not going to stop until the United Nations, under the procedures of international law, can come in and keep the peace and set up whatever controls are needed, by way of United Nations trusteeships if necessary, to bring that war to an end.

This result will not be achieved by unilateral military action. It makes me sad to have to say it, but I am satisfied that history will record this horrendous mistake of the United States in its false assumption in the year 1964 that it could supplant in South Vietnam military control by Asiatics with military control by the United States.

We could never win such a year. We might win military victory after military victory. If we did not stop the escalation, we would kill millions of people, because the escalation, step by step, would lead to all-out bombing of North Vietnam and Red Chinese cities. When we were through, we should have killed millions, and won military victory after military victory, but we should still have lost the war.

The United States can never dominate and control Asia, with 800 million people in China alone. That kind of war would create a hatred for the United States and for the white man generally that would persist for centuries. Dominating Asia, after destroying her cities and killing her millions by bombings—that is the danger that we are walking into—would not make the white man supreme in Asia, but only hated.

We know what the floods of human history do. Eventually the white man will be engulfed in that Asiatic flood and drowned.

I do not know why we should be so shortsighted. It is difficult to follow the processes of international law. I suppose the saddest announcement that has been made recently is that of the Secretary General of the United Nations, Mr. U Thant, from Burma, who is not even a shadow of the great world statesman who preceded him. Dag Hammarskjold. He announced in Washington yesterday his grave doubts as to whether the Security Council could help resolve the matter.

Mr. President, we will never know until such procedures are tried. The Secretary General should have been using his voice and his influence to persuade the Security Council to carry out its obligations under the charter. Not a word has been heard from the Secretary General in regard to the power and authority of the General Assembly of the United Nations.

The Secretary General knows the power of the General Assembly if the Security Council is incapacitated by a Russian veto. I repeat what I have said for many months past on the floor of the Senate. I wish to put Russia on the spot. Let her exercise her veto, if she dares. The rest of the world will be her judge. We did not find her following that course in the Middle East, or in Cyprus, or in the Congo.

I was highly disappointed by what I considered to be the abdication of leadership and responsibility on the part of the Secretary General of the United Nations in the unfortunate statement he made in Washington yesterday.

The next point I wish to make, by way of summary, is that the fear expressed by some Senators in this debate against involvement in a land war means no more than the reservation expressed in 1954, that we should not become militarily involved in South Vietnam. We did not intend then to do any of the things we are now doing in South Vietnam, but we have done them. That pious expression of intention in 1954 came to naught. This policy is sucking us into military involvement deeper and deeper, and will continue to suck us in, under this resolution, deeper and deeper.

Mr. President, you and I will be gone in a few years; but I am satisfied that the end of the road that we are traveling today will be the engulfment and drowning in world history of the influence of the white man in Asia, if we follow this course of action.

I despair frequently at the fact that so often people in positions of responsibility are inclined to think only of the present, and not a century hence. Yet, when we are dealing with matters of foreign policy and the roots of peace or war, we need to remember that the seed we plant today, be it a seed of peace or seed of war, is the seed that will finally come to fruition in a blossoming plant perhaps a 100 years hence.

I say most respectfully and sadly that in my judgment, in this resolution, we are planting seeds not of peace, but of war. Those who will follow us in the years to come will cry out in anguish and despair in criticism over the mistake that was made in 1964 when the joint resolution was passed.

Why do we do it? I do not know. We are dealing here basically with a civil war between conflicting forces in South Vietnam. So many in this debate have overlooked the geographic problem. Let us not forget that prior to the Geneva accord of 1954 North Vietnam and South Vietnam were one people. One could go into North Vietnam today, after he had been in Saigon, and think that he was still in South Vietnam. He would feel the same way if he first went to North Vietnam and then to Saigon. They are the same people. Unfortunately, as a result of the partition under the Geneva accord in 1954, they were divided into two countries, North Vietnam and South Vietnam.

Many of the people in South Vietnam who are involved in this civil war have close relatives in North Vietnam. One reason why the military dictator-puppet whom we are supporting in South Vietnam, Khanh, is having so much difficulty with the mass of the people—and he is having a serious difficulty—is his insistence that he must stage a blood bath in North Vietnam. He will never get the support of the people, because a blood bath would kill the relatives of hundreds of thousands of people in South Vietnam; and vice versa.

It is a tragedy that the Vietcongs try to subvert South Vietnam, but that is a reality. The solution is not the exercise of military might. As a critic of De Gaulle on many points, I say that the sad fact is that the De Gaulle solution is far superior to the American solution. The solution is a political and economic solution, not a military solution. De Gaulle is right. We should go to the conference table. We should not take the American position that we will go to the conference table only after we dominate the battlefield.

If we ever establish that principle, we shall have assassinated the rule of law as an instrumentality for settling disputes among nations. If we ever take the position that we must first dominate the battlefield, that we must be in control, that our orders must be carried out, then going to a conference table will mean only that the dominating authority tells the others at the conference table what, in effect, Adlai Stevenson unfortunately said in the sad speech he made some weeks ago before the Security Council—that, in effect, we are going to do what we think is necessary, and the others can like it or not. When he did that, as I said, he extinguished his lamp of world statesmanship.

We cannot follow the theory that underlies the present policy of our Government; namely, that until we first dominate the battlefield, we will not follow De Gaulle's suggestion to settle this dispute at the conference table. De Gaulle is right. This problem will never be settled except by a political and economic settlement. It can never be settled by the imposition of the military might of the United States upon Asia.

Mr. GRUENING. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. I am glad to yield to the Senator from Alaska.

Mr. GRUENING. As I have said on previous occasions, my mail has been running several hundred to one in favor of withdrawal; in favor of the policies I have urged. Only this morning, I am in receipt of a number of telegrams which relate to the pending joint resolution. I shall read one of them into the RECORD. It comes from Oakland, Calif.:

OAKLAND, CALIF., *August 6, 1964.*

Senator ERNEST GRUENING,
Washington, D.C.:

The statement of policy of Oakland's Women for Peace representing 400 women in regard to Vietnam. Because U.S. military involvement in Vietnam endangers world peace and because the American people have not been properly informed about the magnitude and significance of our involvement, therefore we urge full public discussion and congressional debate to explore nonmilitary alternatives to the problems. We urge that the United Nations be employed to negotiate settlement and we urge that the 14-nation committee set up by the Geneva conference be reconvened to implement the United Nations settlement.

OAKLAND WOMEN FOR PEACE.

Mr. President, I have a number of other messages, which if time permits, should be in the RECORD. They are from Palo Alto, Calif., Van Nuys, Calif., from a professor at Denison University, from New York City, from Cambridge, Mass., from Fresno, Calif., from Richmond, Calif., several from Washington, D.C., from South Kortright, N.Y., from Framingham, Mass., from Berkeley, Calif., from Kemberton, Pa., from Baltimore, Md., from Fairlawn, N.J., from South Laguna Beach, Calif., from Null Valley, Calif., from Flushing, N.Y., from Ann Arbor, Mich.

Mr. MORSE. Mr. President, will the Senator from Alaska yield, to enable me to clarify the procedural situation?

Mr. GRUENING. I yield.

Mr. MORSE. I wish to yield the floor and save the remaining time for the Senator from Alaska to use for the final rebuttal, after the proponents of the joint resolution have used their hour. We have only 8 minutes left.

The telegrams are important. Senators will find in the RECORD 10 pages of telegrams that I received yesterday in response to the speech I delivered the night before last in opposition to the joint resolution.

I am satisfied that at the grassroots of America the people are overwhelmingly with the Senator from Alaska and the Senator from Oregon. My mail is running more than 100 to 1 in support of our position.

I shall yield the floor; and later, at the close of the debate, the Senator from Alaska will make the final statement.

Senators who are pleading for the passage of the joint resolution are thinking of President Johnson. I yield to no one in that respect. I have complete confidence in and high regard for President Johnson, and shall campaign with all my heart for his reelection next November. I merely think he is dead wrong on this issue. The most loyal service I can render any President is to disagree with him when I think he is wrong and to try to correct his mistaken course of action.

Mr. President, on yesterday I asked unanimous consent to insert in the RECORD a cross section of the messages that I had received in connection with the position I had taken on the predated declaration of war resolution in respect to Asia which passed just a few minutes ago.

I said that they were all favorable except two. Two of them had questioned the human source of my paternity. I did not think that under those circumstances they would be very fitting messages to insert in the RECORD.

* * * * *

Mr. MANSFIELD. Mr. President, I yield 5 minutes to the distinguished Senator from New York.

Mr. KEATING. Mr. President, the unprovoked attacks on U.S. vessels in international waters by armed PT boats from North Vietnam rightly led to a strong reaction on the part of the United States. Although there had been some suggestion from the Department of State that the first attack might be an isolated incident, there was no doubt whatsoever that the second attack 2 days later by an undetermined number of North Vietnamese PT boats in the early evening signaled a new course of action by Vietnam Communists, perhaps a calculated effort to escalate the conflict in Asia or perhaps a probing operation to test the strength of the U.S. reaction.

President Johnson's strong and unequivocal statement followed by the action now taken should answer some of the questions that may be asked by our friends and enemies around the world as to what the United States will do. Even more specifically the retaliation against coastal facilities in North Vietnam which supported the raiding PT boats should make clear to them that Communist forces in Asia are embarked upon a collision course in which, if necessary, the full strength of the U.S. military will be brought to bear. This resolution confirms the support of Congress for a firm policy of resistance to Communist aggression in southeast Asia.

It is curious, and perhaps something more than a coincidence, that in recent years the greatest cold war crises have come in the months immediately preceding an American election. The process of free elections and

political campaigns is alien to Communist experience, and it may be that the Communists misinterpret the sharp revival of partisan political activity as a sign of division and mistrust on the part of the American people. In my judgment, the members of the Republican Party have a particularly heavy responsibility to make clear at this time their full support and bipartisan backing for the action undertaken by the President of the United States in defense of free world interests. This the leaders of the Republican Party have done. For my part, I should like to make perfectly clear that I stand 100 percent behind the President. He has my prayers for the heavy responsibility he bears at this time and my assistance and support in whatever way can be most useful to our Nation's security.

Mr. President, there are and will always be differences of opinion as to the wisdom of the policies which have brought us to the present impasse. There are, and always will be, differences as to the future direction and detail of American policy in southeast Asia. But when the moment arrives that it is necessary to order the Armed Forces of the United States into action, the President is Commander in Chief. The allegiance of the Nation is to him. And the entire Nation joins in mourning the American airmen lost in action during this crisis.

Mr. President, there can be no doubt that these actions pose the threat of expanded military operations in Asia. What should the long-term policy of the United States be if we should be faced with the prospect of conflict with Red China? I do not believe the conflict is upon us today, but undoubtedly the situation today is more explosive and more dangerous than it was a week ago. The guns of August have again resounded through the world and none can tell the final result. Prompt retaliation was necessary.

But in the long run, American policies toward Asia, both the free nations of Asia and the Communist aggressors, must not be determined merely by speedy reaction to Communist offensives. For the future, the United States must determine whether we will defend the independence of the nations of southeast Asia at any cost and with any force, or whether our military and political policies will be strictly limited. This will be a major international issue for years to come. It should be thoroughly explored not only within the executive branch of the Government but in full coordination and consultation with Members of Congress and with the full knowledge and understanding of the people of the United States.

Mr. President, I have complete confidence in the ability of our Government to handle any immediate crisis in southeast Asia, but the long-term crisis must be settled only after long-term and penetrating analysis in which all of the factors are thoroughly weighed by all of those who bear a part of the responsibility for the defense of freedom and the future of our Nation.

Through this resolution the Congress is making clear its present support for our Commander in Chief at the moment of conflict. It is a vote of confidence in the action that has been taken, but it is not a blank check for policies that might in future be carried on by the executive branch of the Government in other cases, without full consultation by the Congress. It is not a blank check authorizing U.S. military actions against Red China, nor is it a blank check authorizing guerrilla activities or other actions on the part of the Government of South Vietnam. It is not a blank check authorizing other nations in Asia to pursue independent military actions which are not in clear defense of their own territories.

In sort, Mr. President, this resolution expresses the determination of the United States to resist aggression against our forces or our allies in Asia. It reemphasizes the principles of the U.N. Charter condemning aggression. It should also be used as a clear call for support from our allies in Asia and elsewhere who should not be slow to recognize that any attack upon the U.S. 7th Fleet is indeed an attack upon every free nation in Asia that looks to U.S. naval forces for help and security.

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

Mr. KEATING. I have only 5 minutes. I wish to complete my statement. The Senator from Alaska will have time in his own right to reply.

The PRESIDING OFFICER. The Senator from New York declines to yield.

Mr. KEATING. Help and coordination of policies with other free nations of Asia are important steps in the search for long-term peace in the area. In the immediate crisis, the long-term problems and needs must not be neglected.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and ask that the time for the calling of the quorum be charged to me.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I yield 4 minutes on the resolution to the Senator from Vermont (Mr. AIKEN).

The PRESIDING OFFICER. The Senator from Vermont is recognized for 4 minutes.

Mr. AIKEN. Mr. President, for some months it has appeared to me that an expansion of military operations in southeast Asia was inevitable. I have been skeptical of the repeated assurances of high government officials that no such expansion was contemplated.

I have repeatedly stated to those officials, including the President of the United States, that I was opposed to an expansion of the war.

The decision, however, was not mine to make. The decision, and also the responsibility for expanding such military operations, rest squarely with the President, under the authority delegated to him by the Congress over the years.

The President has now made such a decision and has assumed the responsibility.

Mr. President, I am still apprehensive over the outcome of his decision. But, since it has been made, I feel that I, as an American citizen, can do no less than support the President in his capacity as leader of our Nation.

I believe that our country will be in greater jeopardy if we do not now support his decision.

I sincerely hope that the fears I have entertained over the past few months may prove to have been groundless. I sincerely hope that the President's action, taken evidently in the belief that vigorous action now will save more lives than it will cost, will prove to be correct.

Mr. President, I shall support the joint resolution even though I still regard the decision of President Johnson with misgivings. It is a very difficult decision to make, but I do not believe that any of us can afford to take a position opposing the President of the United States for exercising the power which we, under our form of government and through our legislative bodies, have delegated to his office.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and ask again that the time for the calling of a quorum be charged to me.

The PRESIDING OFFICER (Mr. BREWSTER in the chair). Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I yield 5 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I note the presence in the Chamber of the Senator from Arkansas [Mr. FULBRIGHT]. We almost exhausted him yesterday by keeping him on the floor to answer questions.

I believe that a very important question is raised by Mr. Reston's article in the New York Times of this morning in respect to our relationship with the South Vietnamese Premier, General Khanh. Mr. Reston writes of the pattern which we followed in respect to the Formosa resolution in 1954. I know the inhibitions of secrecy and the effects upon national policy in all these respects. We may assume that our Government is taking the necessary precautions so that the broad support—to use a judicial term—which we would give to the President in respect to the extended operations of a military character in this area of the world, is not an action by which our freedom of control may be taken away by actions to which the Khanh regime may commit us for practical purposes. But we would have a right to assume in voting the joint resolution that our Government is taking the necessary precautions to see that whatever commitment we undertake is our own, and that we shall not be forced into a position of broadening that commitment against our will because the country in whose interest we are working so hard will commit us beyond what we wish to be committed to as a practical matter.

In short, to be very practical, suppose we are faced with a situation in which the South Vietnamese position should be jeopardized by its own extension of the struggle beyond its own capacity to wage a successful war in North Vietnam. Then what would happen in terms of our commitment and the commitment which our President is empowered to undertake anyhow, but which we would support in the joint resolution?

Mr. FULBRIGHT. As a practical question, there is the closet cooperation between the Government of South Vietnam and our representatives, particularly our Ambassador, General Taylor. I do not believe there is any probability, or even a possibility, that they can commit us beyond what our people believe to be in the interest of our common effort.

There is some distinction between the present situation and the declared policy of Chiang Kai-shek during the time of the Formosa resolution. As the Senator well knows, it was—and perhaps it still is—his declared intention to retake the mainland of China. That was a question of considerable concern. That Government had quite a large army of its own, and perhaps had greater capacities than presently exist in South Vietnam.

I do not believe there is any substance to the fear that the Vietnamese could involve us beyond the point where we ourselves wish to be involved. I do not think a full scale or a substantial invasion or extension of the war without our approval and assistance could be mounted. No such invasion has been mounted. I do not know that there is any prospect of it. That is a question which I believe is in the field of tactics, on which I am not competent to comment at the moment. But on the political aspect of the question, I do not think there is any substance to the fear that the South Vietnamese may lead us down a road that we do not wish to travel. It is a question of judgment as to what is the wise road to follow, of course.

The question will remain one of great difficulty until it can be settled. I do not believe there is any reason for such a fear at the present time.

I share with the Senator, as we all do, nervousness over these resolutions. I think it is caused by nervousness about war in general. It is not because of the specific individual involved. We are all nervous about the expansion of the war. I know the President is.

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

Mr. JAVITS. Mr. President, will the Senator from Illinois yield 2 additional minutes to me, so that I might finish my colloquy with the Senator from Arkansas?

Mr. DIRKSEN. Mr. President, I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. FULBRIGHT. I am sure the President shares our concern. Great concern and apprehension are always created by the breaking out of violence in these areas.

Mr. JAVITS. I should like to ask the Senator whether we have a right to feel satisfied that our Government has taken necessary precautions to see that we shall not be committed beyond the extent to which we wish to be committed by the local Government of South Vietnam itself.

Mr. FULBRIGHT. I believe we have, both in the past and presently. I do not believe that there is any probability of their going off and involving us where we do not wish to be involved. I believe we can maintain complete control over our own commitments.

Mr. JAVITS. I believe that is a definitive answer. I accept it as such. I believe other Senators will do likewise. Again I appeal to the Senator from Arkansas with respect to the role of the foreign Relations Committee on the question, which, in my judgment, begins rather than ends when we pass the joint resolution. I hope that, before the debate is over, the Senator will give us some definitive statement of his own feeling, so that, within the proper area of legislative oversight, those of us who wish to vote yea on the resolution may look to the Foreign Relations Committee to keep its hands on the controls, as far as the Constitution and the practice of the Congress allows, in respect to the troublesome questions which we have raised in the debate, such as the present one with respect to General Khanh and his regime and the concurrence of our allies, continuous consultation, and the other questions.

Mr. FULBRIGHT. I should like to make two statements which I believe are appropriate. First, both the present administration and the previous administration have been very good about reporting to us and briefing us about the situation. I do not believe there has been any tendency to withhold anything. I do not believe that at any time when representatives of the administration came to brief us and we requested information they have refused to divulge it. In many cases they themselves have initiated such a request as far as the information goes.

Second, the more important point in this case, I believe, is the fact that the administration went to great lengths to find the best equipped and qualified men to send to Vietnam. I personally felt great satisfaction in the selection of U. Alexis Johnson to be our civilian representative. He is one of the most experienced men we have. I know of no one who does not have a high regard for General Taylor. After all, on these difficult subjects there is no way of enacting a law or promulgating a rule which would be self-executing. We must rely to a great extent upon the wisdom, judgment, and experience of those actually in charge. I believe that is the most reassuring aspect of the question. The Government has sent two of the best ment available into this very critical area.

Mr. JAVITS. Will the Foreign Relations Committee continue to play an active role in respect of the question? I believe an affiirmative answer would be a real assurance to all of us.

Mr. FULBRIGHT. I do not wish to mislead anyone. As the Senator knows, our role is one of an advisory nature. Information is submitted to the committee. The administration has never held anything back to my knowledge. It has been frank. We have an opportunity to advise them, and that is all. We cannot direct or force them. Even within the committee, as the Senator knows, there are some very sharp differences of opinion. So all we can do is to advise with them, which we have done.

On questions of importance, the administration has consulted, in addition to the committee or the senior members of the committee, and the leadership of both Houses. We have the further assurance of the majority leader, the minority leader, the whips, and senior members of the committees of both Houses.

Mr. JAVITS. If information is not volunteered, will the chairman of the committee call and get it?

Mr. FULBRIGHT. Yes; we have and do.

Mr. JAVITS. I thank the Senator.

Mr. NELSON. Mr President, will the Senator from Arkansas yield some time to the Senator from Wisconsin?

Mr. FULBRIGHT. I shall be glad to do so. How much time does the Senator wish?

Mr. President, how much time have we remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 9 minutes.

Mr. FULBRIGHT. How much time would the Senator like?

Mr. NELSON. I do not understand the Chair's response. I thought 30 minutes were left.

The PRESIDING OFFICER. Under the unanimous-consent agreement, there is a time limitation. The Senator from Oregon has 23 minutes, and the Senator from Arkansas 9 minutes.

Mr. MORSE. Mr. President, I should like all that extra time, but I want to be fair. I do not have that much time. I would be glad to use it, but I want to be fair. The time started running at 10 o'clock. I finished at 7 minutes to 11, I believe. I will take the time if the Senator from Arkansas does not want it.

Mr. NELSON. I have an amendment to suggest. If the Senator from Arkansas accepted it, I would vote for the resolution. If it were not accepted, I might not. So whose time should I take?

Mr. FULBRIGHT. I am perfectly willing to yield the Senator time.

Mr. President, does the Chair have the time reversed?

The PRESIDING OFFICER. The Parliamentarian informs the Chair that the Senator from Arkansas has 7 minutes left.

Mr. NELSON. Mr. President, not to take up all the time, would the Senator from Oregon yield me 5 minutes?

Mr. MORSE. Mr. President, I understand the Senator from Wisconsin has an amendment to offer which might make the joint resolution a little better, but still unacceptable so far as I am concerned.

Mr. President, how much time have I?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. MORSE. For the good of the cause, I will yield 5 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 5 minutes.

Mr. NELSON. Mr. President, I ask unanimous consent that at the conclusion of my remarks and any colloquy I may have with the Senator from Arkansas there be printed in the RECORD excerpts from the President's address, a column from this morning's Washington Post by Chalmers Roberts, a column from today's New York Times by James Reston, a column from the Washington Post by Marquis Childs, and a reprint of an editorial from the Milwaukee Journal.

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

(See exhibit 1.)

Mr. NELSON. Mr. President, I have read the RECORD. There was some colloquy on the floor yesterday. I noticed that every Senator who spoke had his own personal interpretation of what the joint resolution means.

One Senator yesterday stated for the RECORD that he understands the resolution to mean that there will be no more privileged sanctuaries.

Another Senator interprets the resolution to mean that it would authorize the Chief Executive to eliminate any aggression, future and present. Some Senators interpret this language to mean aggression against South Vietnam; others interpret it to mean aggression directly against our military forces.

Another Senator interpreted the joint resolution to mean that it is the sense of Congress that no change is suggested by Congress in the present mission in South Vietnam—the mission that has been ours for 10 years, which is to supply advisers, technical advice, and materiel, for the purpose of attempting to encourage the establishment of an independent, viable regime, so that we can withdraw our forces; and that it has not been our mission in the past 10 years to substitute our military forces for the South Vietnamese forces, nor to join with them in a land war, nor to fight their battle for them, nor to substitute our Government for theirs.

This 10-year-old limited mission can be legitimately defended as a responsibility of ours to assist free and independent nations; and it can be legitimately questioned, too, because of the geographic location of that mission.

In any event, I am most disturbed to see that there is no agreement in the Senate on what the joint resolution means. I would like to see it clarified.

If we are telling the public by this resolution that it is our responsibility to use our forces to win a war in Southeast Asia——

The PRESIDING OFFICER. The 5 minutes of the Senator from Wisconsin have expired.

Mr. NELSON. I ask the Senator from Oregon to yield me some time.

Mr. MORSE. Mr. President, I am willing to make a deal with the Senator from Arkansas. If I yield the Senator 4 minutes, will the Senator from Arkansas yield him some time?

Mr. FULBRIGHT. We have only 7 minutes.

Mr. DIRKSEN. All the time for the quorum calls came out of our time.

Mr. MORSE. I did not ask that it come out of the time on the other side. I did not ask for any quorum call. I am willing to enter into a unanimous-consent agreement that the time taken for the quorum calls be not counted.

Mr. DIRKSEN. Perhaps we should find out how the timekeeper can change the record.

Mr. MORSE. I specifically said I would reserve time to yield to the Senator from Alaska.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. Is it the understanding of the Chair that the last hour was to be equally divided between the two leaders for dispositions as they saw fit; and is it also correct that the time for the quorum calls was taken out of our time?

The PRESIDING OFFICER. Under the unanimous-consent agreement, 1 hour was to be divided between the leadership. Under the unanimous-consent agreement, at the request of the Senator from Montana, the

time used during the quorum calls was taken out of that 1 hour.

Mr. GORE. I say most respectfully that quorum calls were asked for by the proponents of the bill.

Mr. DIRKSEN. What happened to my half hour?

Mr. MORSE. The proponents did not have any speakers for the resolution. That is why they suggested the absence of a quorum. Let us be frank about it. We have speakers against the resolution. I shall not deny my colleague from Alaska an opportunity to close the debate on the resolution. It is now 20 minutes to 1. Do Senators still wish to vote at 1 o'clock? How much time have I remaining?

The PRESIDING OFFICER. The Senator from Oregon has 15 minutes remaining. Very briefly let the Chair state that 1 hour was allotted to the majority leader and the minority leader. It was not understood that the time was to be divided between them.

Mr. MORSE. I will reserve 10 minutes of my time for the Senator from Alaska [Mr. GRUENING]. The Senators from Arkansas and Illinois may have the rest of the time and use it as they see fit.

Mr. DIRKSEN. Out of whose time is that to come?

Mr. MORSE. I have 15 minutes. I am reserving for the Senator from Alaska.

Mr. FULBRIGHT. We have 7 minutes.

Mr. MORSE. I will give the Senator 5 minutes of my time.

Mr. NELSON. I wonder if the Senator would accept an amendment.

Mr. MORSE. I yield 5 minutes to the Senator from Wisconsin, with the understanding that the time that I have reserved for the Senator from Alaska will be protected.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 5 minutes.

Mr. NELSON. In view of the differing interpretations which have been put upon the joint resolution with respect to what the sense of Congress is, I should like to have this point clarified. I have great confidence in the President. However, my concern is that we in Congress could give the impression to the public that we are prepared at this time to change our mission and substantially expand our commitment. If that is what the sense of Congress is, I am opposed to the resolution. I therefore ask the distinguished Senator from Arkansas if he would consent to accept an amendment, a copy of which I have supplied him. I shall read it into the RECORD:

"On page 2, line 3, after the word 'That' insert '(a)'.

"On page 2, between lines 6 and 7, insert the following:

"'(b) The Congress also approves and supports the efforts of the President to bring the problem of peace in southeast Asia to the Security Council of the United Nations, and the President's declaration that the United States, seeking no extension of the present military conflict, will respond to provocation in a manner that is 'limited and fitting'. Our continuing policy is to limit our role to the provision of aid, training assistance, and military advice, and it is the sense of Congress that, except when provoked to greater responses, we should continue to attempt to avoid a direct military involvement in the southeast Asian conflict.'"

This amendment is not an interference with the exercise of the President's constitutional rights. It is merely an expression of the sense of Congress. Would the Senator accept the amendment?

Mr. FULBRIGHT. It states fairly accurately what the President has said would be our policy, and what I stated my understanding was as to our policy; also what other Senators have stated. In other words, it states that our responses as "respond to provocation in a manner that is limited and fitting," and so forth. We do not wish any political or military bases there. We are not seeking to gain a colony. We seek to insure the capacity of these people to develop along the lines of their own desires, independent of domination by communism.

The Senator has put into his amendment a statement of policy that is unobjectionable. However, I cannot accept the amendment under the circumstances. I do not believe it is contrary to the joint resolution, but it is an enlargement. I am informed that the House is now voting on this resolution. The House joint resolution is about to be presented to us. I cannot accept the amendment and go to conference with it, and thus take responsibility for delaying matters.

I do not object to it as a statement of policy. I believe it is an accurate reflection of what I believe is the President's policy, judging from his own statements. That does not mean that as a practical matter I can accept the amendment. It would delay matters to do so. It would cause confusion and require a conference, and present us with all the other difficulties that are involved in this kind of legislative action. I regret that I cannot do it, even though I do not at all disagree with the amendment as a general statement of policy.

Mr. NELSON. Judging by the RECORD of yesterday, many Senators do not interpret the resolution in the same way.

Mr. FULBRIGHT. Senators are entitled to have different views. However, most members of the committee, with one or two exceptions, interpret it the same way.

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

Mr. FULBRIGHT. Differences of interpretation are necessarily always present. I think the Senator's statement is a fair statement.

EXHIBIT 1

[From the New York Times, Aug. 4, 1964]

THE PRESIDENT'S ADDRESS

My fellow Americans, as President and Commander in Chief, it is my duty to the American people to report that renewed hostile actions against U.S. ships on the high seas in the Gulf of Tonkin have today required me to order the military forces of the United States to take action in reply.

The initial attack on the destroyer *Maddox* on August 2 was repeated today by a number of hostile vessels attacking two U.S. destroyers with torpedoes.

The destroyers and supporting aircraft acted at once on the orders I gave after the initial act of aggression.

We believe at least two of the attacking boats were sunk. There were no U.S. losses.

The performance of commanders and crews in this engagement is in the highest tradition of the U.S. Navy.

But repeated acts of violence against the Armed Forces of the United States must be met not only with alert defense but with positive reply.

ACTION NOW IN EXECUTION

That reply is being given, as I speak to you tonight. Air action is now in execution against gunboats and certain supporting facilities in North Vietnam which have been used in these hostile operations.

In the larger sense, this new act of aggression aimed directly at our own forces again brings home to all of us in the United States the importance of the struggle for peace and security in southeast Asia.

Aggression by terror against the peaceful villages of South Vietnam has now been joined by open aggression on the high seas against the United States of America.

The determination of all Americans to carry out our full commitment to the people and to the Government of South Vietnam will be redoubled by this outrage. Yet our response for the present will be limited and fitting.

We Americans know—although others appear to forget—the risk of spreading conflict.

We still seek no wider war. I have instructed the Secretary of State to make this position totally clear to friends and to adversaries and, indeed, to all.

I have instructed Ambassador Stevenson to raise this matter immediately and urgently before the Security Council of the United Nations.

CONGRESSIONAL RESOLUTION ASKED

Finally, I have today met with the leaders of both parties in the Congress of the United States and I have informed them that I shall immediately request the Congress to pass a resolution making it clear that our Government is united in its determination to take all necessary measures in support of freedom and in defense of peace in southeast Asia.

I have been given encouraging assurance by these leaders of both parties that such a resolution will be promptly introduced freely and expeditiously debated, and passed with overwhelming support.

And just a few minutes ago I was able to reach Senator GOLDWATER and I am glad to say that he has expressed his support of the statement that I am making to you tonight.

It is a solemn responsibility to have to order even limited military action by forces whose overall strength is as vast and as awesome as those of the United States of America.

But it is my considered conviction, shared throughout your Government, that firmness in the right is indispensable today for peace.

That firmness will always be measured. Its mission is peace.

[From the Washington Post, Aug. 7, 1964]

LAND WAR FEARED—CONGRESSIONAL DOUBTS STRONG DESPITE ACCORD

(By Chalmers M. Roberts)

The Congress is about to pass a resolution upholding the President's hand in a foreign crisis but once again what the resolution says isn't everything that is in congressional minds.

Back in 1955 the Senate was so unhappy over the prospects of war with China that the then Chairman of the Foreign Relations Committee, Senator Walter George, of Georgia, had to give a public assurance that the Formosa resolution gave no power to Adm. Arthur Radford, then Chairman of the Joint Chiefs of Staff, that only President Eisenhower would act under its terms.

This year a Democratic Congress will uphold a Democratic President, and the Republicans, now held by a man who wants victory in Vietnam, will back him, too.

LAND WAR FEARED

The Senate debate yesterday made amply clear that what Members fear now is escalation of the current crisis to a point where President Johnson might decide to send American troops to fight a land war in Asia.

That, said Foreign Relations Committee Chairman J. WILLIAM FULBRIGHT, is "the last thing we would want to do." But, rightly, he could give no assurance that it would not happen.

The probability, however, is that it will not happen, no matter what the Communists in either Hanoi or Peiping now decide to do. At first glance that may seem encouraging but, in fact, it means a limitation on the options that would be open to the President.

There has been a lot of talk around Washington for a long time about the "Never Again Club," a term applied to those, chiefly in the military but also among civilian leaders outside the Pentagon, who say we should never again face Red China in a land war as we did in Korea. To some, there also is an implication that nuclear weapons should be used next time.

SENATORIAL MEMBERS

It sounded yesterday as though the club has a lot of senatorial members, too, on the anti-land-war point though no one was advocating the use of nuclear weapons.

But if massed armies are ruled out—and the thousands of American soldiers we already have in South Vietnam are not such an army—the United States has only air and seapower to apply against the Communists whose strength, as demonstrated in Korea, lies in massed armies.

We do not yet know what Hanoi and Peiping will do but it would be very surprising if they accepted the American reprisal without response. Their ability to respond, given limited air power and minor sea power, most probably would have to be in the form of land army action unless it were limited to harassment, murder, and sabotage in South Vietnam against Americans and American installations.

In short, while Congress is worrying about the United States being bogged down in a land war in Asia, the very avoidance of that—given a major Communist response—could lead to major American air and naval assaults on Communist territory.

MILITARY OR DIPLOMATIC?

Unraveling the tangle of events that led to the North Vietnamese torpedo boat attacks is, for the moment, something for the historians, since the story goes back a decade and more.

The immediate problem facing the Johnson administration is whether, if there is a major Communist retort, the United States should increase the fury of its response or whether it should attempt to find some diplomatic solution.

It is questionable, however, whether United Nations Secretary General U Thant's new suggestions will be any more attractive than General de Gaulle's earlier ones, given the total Asian Communist hostility toward the United States.

The exultation of victory, even in small doses, is a heady business. Anyone now inclined to exaltation had better think twice because there are unlikely to be any meaningful cheap victories in Asia in a military sense.

The signs of concern that showed yesterday in the Senate Chamber, rather than the overwhelming votes expected today for the resolution itself, will have to be taken into account by the President and his associates at the White House, the State Department, and the Pentagon.

[From the New York Times, Aug. 7, 1964]

SOME FUNDAMENTAL QUESTIONS ABOUT VIETNAM

(By James Reston)

WASHINGTON, August 6.—The Nation has united quickly behind the President's strong military action in Vietnam, but unity and speed, important as they are in the present crisis, should not muffle some fundamental questions about the future political and military relationships in that area.

First, should there not be a formal public undertaking by the South Vietnamese Government that the military weapons supplied by the United States will not be used in offensive measures against Communist North Vietnam without the advance consent of the United States?

Second, should not the United States give a similar formal undertaking to the Government of South Vietnam?

Third, is the mission of the United States in South Vietnam to provide arms and advice to the Government of South Vietnam, as stated officially in the past, or is President Johnson now asking for a congressional resolution that would authorize him to take any military measures he pleases in all of southeast Asia at the request of any southeast Asian ally?

THE FORMOSA PRECEDENT

The official view here is that it is not helpful to raise such questions when the United States must act together in a hurry, but the President, as Commander in Chief, has the power to repel any new sudden attack, as he did last weekend, and it may be wise to take a day or two to analyze where we are and where we are going.

Obviously, no formal agreement between the United States and South Vietnam could be permitted to interfere with each government's right of self-defense. No American destroyer captain under Communist attack is going to be asked to wireless Saigon for permission to defend himself, and no South Vietnamese military unit defending South Vietnam is going to be asked to get permission from the United States before firing on its attackers.

However, any attack on North Vietnam by either the United States or the South Vietnamese clearly involves the possibility of retaliation by the Communists on both, and thus should be launched only by joint agreement.

This principle of joint action in mutual danger was appended to the Mutual Defense Treaty between the United States and the Republic of China signed here in December of 1954.

At that time, Secretary of State Dulles and Ambassador George K. C. Yeh, of the Chinese Republic, exchanged letters, the key paragraph of which read as follows:

"In view of the obligations of the two parties under the said treaty, and of the fact that the use of force from either of these areas (Formosa or the offshore islands) by either of the parties affects the other, it is agreed that such use of force will be a matter of joint agreement, subject to action of an emergency character which is clearly an exercise of the inherent right of self-defense."

It is stated here officially that there is already an "understanding" with the South Vietnamese Premier, Maj. Gen. Nguyen Khanh, that he will not attack North Vietnam without our consent, and, of course, the United States controls the arms and the gasoline necessary for any prolonged attack, but since General Khanh has recently been waging an open propaganda campaign for an attack on the North, it is not clear why the existing understanding should not be stated formally and publicly.

After all, even fairness to the South Vietnamese requires advance consultation, at least, before any assault on the enemy's territory.

JOHNSON'S POWERS

The proposed congressional resolution, as it now stands, is a more delicate matter. It could easily be amended to include the principle of joint agreement on any attack on the North, but amending it to restrict the President's action further is more difficult, and maybe it should not be done.

But it should at least be recognized what the resolution now authorizes. It says that the United States regards the maintenance of peace and security in southeast Asia as vital to its national interest and to world peace. And it adds:

"The United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

This is a little different from merely sending arms and "advisers" to South Vietnam. It would approve any military action as the President determines in any part of southeast Asia, including military action in support of any nation in the Southeast Asia Treaty (whose military support of South Vietnam has been virtually nil), provided our military action were sought and the President approved.

Maybe this is what the country wants and there is a good case to be made for it, but even in the hurry to get the resolution passed there shouldn't be much objection to looking at what it says and what it doesn't say.

[From the Washington Post, Aug. 7, 1964]

VIETNAM OF 1964 RECALLS KOREA OF 1950

(By Marquis Childs)

The really deep trouble in Vietnam lies outside the scope of American sea and air power. The great question is whether the South Vietnamese Army has the will to go on fighting on the ground against Communist guerrillas after 17 years of almost unremitting warfare.

Before the naval action in the Gulf of Tonkin, evidence was accumulating that war weariness and political dissension in Saigon had raised grave doubts about the future. Hints were coming from the military clique headed by Gen. Nguyen Khanh that the United States would have to take a much larger share of the burden, including even direct participation in combat.

On the recommendation of Gen. Maxwell D. Taylor, the new Ambassador in Saigon, Washington moved to increase the number of American military advisers from 16,000 to 22,000. They were, it was reported, empowered to fire back if fired on. No on can say whether this will be enough.

At the same time, disturbing rumors have circulated in Saigon about a new coup to replace General Khanh. If the worst should happen, the Johnson administration faces an awesome choice—sending in large numbers of American combat troops or expanding the war with massive bombing in the north. The risks in either course are incalculable. To get out, a third choice, seems impossible in view of what has gone before and in the light of politics in the presidential year.

The beginning of the Korean war 14 years ago comes vividly to mind. The atmosphere then was very much what it is today. Republicans and Democrats were rallying around President Truman and promising him support against Communist aggression. Robert A. Taft, minority leader in the Senate, gave reluctant assent despite his strong isolationist convictions. It was a moment of patriotic ferver in which Mr. Truman, by almost unanimous opinion, emerged as a strong and decisive President.

But that mood quickly altered. As the woefully untrained American troops that were rushed from Japan were pushed back almost off the Korean Peninsula with fearful casualties, it became "Truman's war."

By the 1952 campaign and the disaster resulting from the massive Chinese invasion, this was the chief line of Republican attack. General Eisenhower could say at the University of Illinois that Midwestern farm boys should stay at home and let Asians fight Asians.

Mr. Truman had resisted the demand to bomb the privileged sanctuary across the Yalu River. He had shown marked restraint out of concern that the war would be enlarged to a global scale. He was damned from hell to breakfast for that restraint.

There is one important difference today. In 1950, Mr. Truman went to the United Nations before responding to the North Korean attack. By a piece of luck, the Soviet delegate was absent, so that the Security Council could pass a resolution calling on the U.N. to join in resisting aggression. This time the United States struck first.

Except for the Communist nations, almost every U.N. member approved a joint defense of Korea. Even neutralist India sent an ambulance unit. If a widened conflict develops in Vietnam, this country will find it hard to rally support. It will have the look of a war waged by white men against Asians.

This is, in effect, what President de Gaulle has been saying—that the war, as it is currently being fought, cannot be won. The

French tried for nearly 7 years, beginning in 1947, and they sacrificed the cream of St. Cyr, their West Point, in the vain effort. Unhappily, De Gaulle's prescription for ending the war has been based on a formula of neutralization that sounds like surrender.

The long-term consequences of a greatly enlarged war in Asia, if it comes to that, are unforeseeable. The most important single event of the last 2 to 3 years has been the split between, the Soviet Union and China, with reverberations throughout the Communist world. In recent weeks that split has seemed to be irreconcilable. It could be healed by a war between the United States and China. Expert opinion here is that Moscow would stop short with condemnation of American moves.

But that is conjecture. As often in the past, the most baffling and frustrating element in the new crisis is the enigma of Red China. American policy has walled off a nation of 600 or 700 million people and what goes on in the fastness of Peiping is as mysterious as what may be happening on Mars. That may have been inevitable after Korea. But it is today a tragic commentary on the darkness that cloaks the dubious future in Asia.

[From a Milwaukee Journal editorial, Aug. 6, 1964, as reported in the New York Times]

APPEAL FOR RESTRAINT

It may be that the North Vietnamese, with the backing of Communist China, were testing the American will. If so, they have their answer.

There is some danger that this country may tend to overreact to North Vietnamese stings because of our political situation. President Johnson has been under attack for what opponents call a "no win" policy in southeast Asia. He has been unwisely urged to escalate the war.

Under such circumstances, a President can be handicapped in making vital decisions. President Johnson will need courage and patience and restraint to keep the Nation from the wider war that he—and all who realize what modern war is—wish to avoid.

Mr. NELSON. Mr. President, has my time expired?

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

Mr. MORSE. In fairness to the Senator from Alaska, I cannot yield any more time.

Mr. MCNAMARA. Mr. President, I suggest the absence of a quorum, with the time not to be charged to either side.

Mr. FULBRIGHT. Mr. President, will the Senator withhold that suggestion?

Mr. MCNAMARA. I withhold it.

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. Since the House has passed a joint resolution which I understand is identical to our resolution, by a vote of 414 to 0, with one Member voting present, and the House joint resolution has now been received by the Senate, is it proper to ask unanimous consent to take up the House joint resolution and substitute it for the Senate joint resolution?

The PRESIDING OFFICER. It is proper to ask unanimous consent to take up the House joint resolution, and to vote on the House joint resolution in lieu of the Senate joint resolution.

Mr. MORSE. Temporarily, I shall have to object. When the time has been exhausted, if the Senator wishes to renew his request, I may not object. I do not wish to sacrifice any more of our time. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FULBRIGHT. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 2 minutes remaining.

Mr. FULBRIGHT. What happened to my 7 minutes? Every time I inquire as to how much time I have left, the time goes down by 5 minutes. I was not talking on my time. I was responding to a question by the Senator from Wisconsin. I did not yield myself any time to respond to the question. I do not see how I can possibly have used any time.

The PRESIDING OFFICER. The Chair's statement as to the remaining time is based on what the Parliamentarian advises the Chair.

Mr. FULBRIGHT. Perhaps his watch——

The PRESIDING OFFICER. All these discussions take a great deal of time.

Mr. DIRKSEN. It depends on whose time it is. The Senator from Arkansas did not yield any time.

Mr. MORSE. This is becoming ridiculous. I ask unanimous consent that the agreement be extended for an additional 10 minutes, with that time made available to the Senator from Arkansas.

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

Mr. FULBRIGHT. I yield 1 minute to the Senator from Florida.

Mr. SMATHERS. Mr. President, I voted for this resolution in the Foreign Relations Committee yesterday, and I expect to support it when we vote in the Senate today.

In the committee I had the occasion to commend the Secretary of State Dean Rusk, Secretary of Defense Robert McNamara, the Chairman of the Joint Chiefs of Staff, General Wheeler, and—of course—the President of the United States, on the action which they took in response to the unprovoked, premeditated, and deliberate attacks made on our naval ships on the 2d of August and again on the night of the 4th of August.

The facts are indisputable. At the time of the first attack by the North Vietnamese PT boats on the U.S.S. *Maddox* on August 2, the U.S.S. *Maddox* was something in the neighborhood of 25 to 30 miles offshore operating in international waters in the Gulf of Tonkin. According to the testimony, the commander of the U.S.S. *Maddox* had some information that this attack might develop and he was seeking to avoid any contact with the PT boats, yet they pursued and overtook him, firing torpedoes at his ship and subsequently coming alongside and strafing him with .50-caliber machineguns.

The U.S.S. *Maddox* returned the fire; damaging seriously one of the PT boats. It was shortly after this occasion that we were briefed by the Department of Defense as to just what had transpired. Secretary McNamara told us of plans to continue to operate our naval ships in the international waters in the Gulf of Tonkin, and said that now the President had given orders for the ships and men not only to defend themselves, but to shoot to destroy. It was shortly after these orders went out that we were called to the White House and told of the second attack by a host of North Vietnamese PT boats against not only the U.S.S. *Maddox*, but the destroyer *C. Turner Joy* which was operating in conjunction with the *Maddox* some 65 miles from the nearest coast.

After all the facts were presented to us no responsible persons could arrive at any other conclusion than that the attacks were deliberate and intended to be provocative. When the President told us of his orders in response to the attack, it was agreed by all those present that our retaliation was appropriate. It was decisive; it was thorough; it was quick, and yet it was restrained and it was measured. The punishment fit the crime.

By such action the President of the United States made it clear that the United States was not going to have its ships, its men, or its flag, shot at or attacked anywhere in the world where we had a legal right to be without quick and decisive response. This action is, figuratively speaking, language which the Communists understand. If they made a miscalculation with respect to whether or not the United States was in truth and in fact, as their propaganda had insisted, a "paper tiger," they no longer suffer from such disillusionment. They now know for a certainty that we will respond totally and completely if necessary, to any unwarranted action they may take against us.

They now understand that we are concerned in Southeast Asia through our membership in the SEATO Organization; and that our commitments there are totally concerned with protecting the newly independent countries of Southeast Asia and assisting them in achieving freedom and democracy. They now know that we are not going to be bluffed or bullied out of our commitments to our friends and allies in that area of the world.

I, along with others, approved of this action by the President of the United States because I believe it signifies a long needed change in policy. It, in effect, states that there will never again be a haven behind which the Communists can hide after they have made attacks on us, such as existed in Korea, north of the 38th parallel.

If we should become involved in stepped-military action in the Asiatic theater, and we of course hope and pray that we do not, but if we do, the Communists must understand that there will be no sanctuary from which their military forces can operate with impunity.

I hope and trust that those who would make these momentous decisions for the Communist world, would understand that the policy has changed.

Mr. President, I shall not delay the Senate longer. I am sure each Senator has his mind already made up. I am certain that a vast majority of Members of Congress on both sides of the aisle stand wholeheartedly behind this action taken by the President of the United States.

I am certain that every Member of the United States Congress who votes for this resolution recognizes that if we do not make such response—as we did in this recent instance against the North Vietnamese—there will be other more serious aggressions against us, and others in the free world. And the time would come when we would be forced out of international waters, and forced to retreat and run from our friends and allies around the face of the globe. This resolution makes it clear that we stand behind the President in a firm resolve to give whatever is required in time, substance, money or lives to the protection of those ideals of freedom which we hold so dear and for which this Nation has so long stood. I feel that each Senator who supports this resolution recognizes that in being true to our heritage we have no other course.

Mr. FULBRIGHT. I yield 5 minutes to the Senator from Illinois.

Mr. DIRKSEN. Mr. President, last night I read in one of the local newspapers a speculative article which undertook to give this subject something of a partisan cast. One of the expressions used was, "The President has done it again." That is an unfortunate speculation, because that was not involved in any of the discussions we have had about the joint resolution.

I attended the briefing at the White House. It lasted for almost an hour and a half. The whole case was laid on the table by the President, by the Director of the Central Intelligence Agency, by the Secretary of Defense, and by the Secretary of State. Thereafter, there was no limit on the amount of discussion or on the questions that any member of the joint leadership from both the House and Senate might have wished to propound, whether they were addressed to the Secretaries or to the President.

When the meeting was over, we discussed the content of a resolution, with the understanding that the resolution could be modified and simplified, if that were necessary or deemed desirable. That was the whole story.

Before we left the Cabinet room, the President asked every Member who was present whether he would give support to the resolution. Every Member responded. I am rather proud of the fact that every Republican who responded said that, speaking for himself and, hopefully, for the party, he would support the President in his determination to meet the crisis now before us in the South Pacific.

This is in line with every policy statement that the minority policy committee and the minority party have made with respect to foreign affairs. We have constantly emphasized that all we ask, when a decision is pending or a crisis is upon us, is to be consulted, to have an opportunity to offer alternative proposals and substitutes. When we have had our day in court and the decision has been made, we are prepared to abide by the decision and to demonstrate to the whole wide world that there is no division between the Executive and Congress in repelling aggression aimed at our forces wherever we are under protocol or treaty obligations. We have religiously adhered to that posture and that policy ever since.

The President could have taken this action in his own right as the Commander in Chief. He does not have to ask Congress about the deployment of troops, submarines, bombers, and fighter planes.

What is involved is a demonstration that the executive and legislative branches of the Government stand together in an hour of need and threat, and when there is peril in a section of the world that could easily jeopardize the entire free world.

I wished to make clear how the minority stands, and how it stood in that briefing session, and also when this subject was before the various committees of the Senate and House.

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

I wish to affirm what the distinguished minority leader has said. I was present at the briefings. There was not the slightest indication of any kind of partisanship in any sense. Back through the years, when similar resolutions have been under consideration, this has also been true. It was true when there was a Republican administration.

I cannot resist paying a compliment to the distinguished Senator from Illinois [Mr. DIRKSEN]. While on certain matters he is a great partisan leader, nevertheless, on all matters affecting the security of this country, matters which are comparable to this kind of situation, I have never seen him be partisan, either on the floor or off the floor of the Senate. He always rises above partisanship in dealing with problems that directly involve our security and reserve his partisanship, as all of us do, for less profound subjects than those which threaten the security of our country. This is, of course, normal and demonstrates the distinction between foreign relations and domestic relations.

I did not see any such article as that to which the Senator from Illinois has referred; but if there was such an article, it was entirely in error, because there was no partisanship, and none is involved in this measure.

Now I wish to say a word or two about the House joint resolution. It passed the House by a vote of 414 to 0. I do not believe that in a democracy unanimity is always necessary. Certainly, it is not necessary when we are dealing with matters of substance involving domestic legislation, or even legislation dealing with foreign relations. However, in the expression of an advisory opinion of broad policy, which this resolution is, it is a happy and fortunate circumstance if there can be a high degree of unanimity. So I am much pleased by the House action. I hope the Senate will approach that unanimity, if possible.

I realize that we all have our apprehensions about what may happen in South Vietnam or elsewhere. But fundamentally, under our system, it is the President, as our representative in these activities, who must necessarily have the dominant role, however, jealous we may be of our own privileges—and we rightly should be in many areas. But in dealing with the Nation's security or with threatened warfare, we must rely to a great extent on the decisions of the Executive. We always have a reserve power, when we see that the President has made a mistake. We can always later impeach him, if we like, if we believe that he has so far departed from the sense of duty that he has betrayed the interests of our country.

But essentially the joint resolution is an exhibition of solidarity in regard to the will and determination of this country as a whole, as represented in Congress, to support the broad policies that have been well announced and well described in the words of the President, both recently and in past months. We are exhibiting a desire to support those policies. That will have a strong psychological effect upon our adversaries, wherever they may be.

I believe the joint resolution is calculated to prevent the spread of the war, rather than to spread it, as has been alleged by some critics of the resolution. I have considered every possible alternative, both those that have been suggested on the floor of the Senate and elsewhere, and I still have come back to my own conclusion that the action that was taken; the resistance that was made in the Gulf of Tonkin; the joint resolution adopted in committee; and all our actions in this connection, are best designed to contribute to the deterrence of the spread of war.

No one knows, in this uncertain world, whether the war will spread. It could easily spread because of the determination of our adversaries, in spite of anything we might do. But I sincerely believe that this action, taken with such general support by both Houses of Congress, will result in deterring any ambitions or reckless adventuresome spirit on the part of the Communist Chinese. So I ask and hope that Members of this body will support the joint resolution.

* * * * *

Mr. MORSE. Mr. President, I yield the remainder of my time to the great statesman from Alaska [Mr. GRUENING].

Mr. GRUENING. Mr. President, yesterday, I made my views on the pending resolution known on the floor of the Senate, and they appear in the CONGRESSIONAL RECORD. There is no need to add to them, except to reaffirm them. It is a matter of deep regret for me that I cannot, on this major issue, support the resolution drafted by the Foreign Relations and Armed Services Committees in response to a message from the President to the Congress requesting such support.

I believe that President Johnson in his more than 8 months in office has shown himself to be a great President. I find myself in warm accord with most of his actions and declarations of policy. I intend to campaign for him after the adjournment of Congress.

Regrettably, I find myself in disagreement with his southeast Asian policy, and have repeatedly voiced my disagreement in the Chamber. The serious events of the past few days, the attack by North Vietnamese vessels on American warships and our reprisal, strikes me as the inevitable and foreseeable concomitant and consequence of U.S. unilateral military aggressive policy in southeast Asia.

I consider the action of the North Vietnamese in attacking our vessels as utterly stupid and outrageous, and our prompt retaliation justifiable and proper. But this is precisely the kind of episode that our unilateral and aggressive policy in southeast Asia would inevitably bring forth. That incident has in turn brought about the President's message and the responding resolution by Congress.

If this resolution merely affirmed its approval of the President's declared policy and action to respond to attacks on our fleet when in international waters, as he has responded, that would be one thing. I would gladly approve of such a resolution, as I approve of his action. But this resolution now before us, goes far beyond that. It not only endorses all our Government has done to date in southeast Asia, but also gives the President a blank check, not merely to do whatever he likes in South Vietnam, but, to quote the text of the resolution:

"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."

That is, in effect, a predated declaration of war, if and when the Executive chooses, and war not merely in South Vietnam but in all southeast Asia.

Is that what the Congress intends?

That is what the Congress is doing.

We now are about to authorize the President if he sees fit to move our Armed Forces—that is, the Army, Air Force, Navy, and Marine Corps—not only into South Vietnam, but also into North Vietnam, Laos, Cambodia, Thailand, and of course the authorization includes all the rest of the SEATO nations.

That means sending our American boys into combat in a war in which we have no business, which is not our war, into which we have been misguidedly drawn, which is steadily being escalated. This resolution is a further authorization for escalation unlimited.

I am opposed to sacrificing a single American boy in this venture. We have lost far too many already.

I have repeatedly expressed my view which I now reiterate. That we should have been waging peace with the same energy and fervor with which we have been waging war.

I have asked, and ask again now, that instead of multiplying our Armed Forces and the resulting casualties, we request a cease-fire and seek, instead of hostile military action, a peacekeeping United Nations police force. I should be happy to see Americans as a part of that peacekeeping police force.

This procedure, as I have pointed out, has been successfully used on the Israel-Egypt border, and in the Congo. Why not try it in South Vietnam?

My time being short, I can only call attention to my earlier statement on this resolution and repeat that I cannot in good conscience support the pending resolution which opens the door to unlimited unilateral war by our country in an area and for a cause which pose no threat to our national security, and in which no more American lives should be sacrificed.

Mr. MORSE. Mr. President, how much time remains to me?

The PRESIDING OFFICER. The Senator from Oregon has 8 minutes remaining.

Mr. MORSE. Mr. President, I shall not use all of that time. I wish only to correct a misapprehension that I was not able to cover in my speech earlier, but I wish to add one further point which I overlooked.

I was commenting on a Washington Post editorial which cited the Cuban resolution as being comparable to the pending resolution.

Last night, I pointed out that they are quite different resolutions.

I ask Senators to turn in the CONGRESSIONAL RECORD to volume 110, part 14, page 18429, where I inserted the Cuban resolution. It will be recalled that in discussion of the Cuban resolution the point was made, both in committee and on the floor of the Senate,

that the resolution differed from the Middle East resolution and the Formosa resolution, in that it made no reference whatever to authorizing any power to the President of the United States. It was because of that that we were able to get support for the resolution. At the time of the Cuban resolution if there had been an attempt to give war making authority to the President, the resolution would not have received the votes it did. Some Senators announced that they would not support the resolution with such a clause in it. If we examine the resolution, we see that all it does is to set out the opinion of Congress as to what American foreign policy should be, vis-a-vis Cuba.

That is quite a different thing from giving the President any authority for a predated declaration of war in respect to Cuba, as this resolution does in respect to Asiatic problems.

I believe that history will record that we have made a great mistake in subverting and circumventing the Constitution of the United States, article I, section 8, thereof by means of this resolution.

As I argued earlier today at some length, we are in effect giving the President of the United States warmaking powers in the absence of a declaration of war.

I believe that to be a historic mistake. I believe that within the next century, future generations will look with dismay and great disappointment upon a Congress which is now about to make such a historic mistake.

Our constitutional rights are no better than the preservation of our procedural guarantees under the Constitution.

We are seeking by indirection to circumvent article I, section 8 of the Constitution. Senators know as well as I do that we cannot obtain a test before the U.S. Supreme Court of that attempt to grant warmaking powers to a President by a resolution because under this set of facts we cannot hail the President of the United States before the Supreme Court for a determination of such a question as to the unconstitutionality of the pending resolution.

I am sorry, but I believe that Congress is not protecting the procedural, constitutional rights of the American people, under article I, section 8 of the Constitution.

If the President of the United States, after Pearl Harbor, could exercise his inherent power in defense of this country, as every President has the right to do and then come before the Congress and ask for a declaration of war as Roosevelt did, then the pending regulation is not necessary. The President can come to Congress and ask for a declaration of war, as was done against Japan at that time. The President of the United States can now do likewise, if the time ever comes when the President must ask for a declaration of war against a country in Asia or anywhere else.

For the reasons I have set forth, I shall vote against the resolution.

Mr. President, I yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, the senior Senator from Pennsylvania (Mr. CLARK) is necessarily absent today but has asked that he be recorded in favor of the resolution supporting the President's policies in Vietnam. The Senator would state, if he were here, that the United States was the victim of unnecessary provocation and that the United States was compelled to respond and, he would add, that it is essential for the country to unite behind the President at this time of crisis.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 1145, as a substitute for the Senate joint resolution.

The PRESIDING OFFICER. The Chair lays before the Senate a joint resolution coming over from the House, which will be stated by title.

The joint resolution (H.J. Res. 1145) was read twice by its title.

The PRESIDING OFFICER. Is there objection to the present consideration of the House joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there is no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was ordered to a third reading, and was read the third time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FULBRIGHT. Mr. President, I ask for the yeas and nays on the House joint resolution.

The yeas and nays were ordered.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

On this question the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from South Carolina [Mr. JOHNSTON] and the Senator from Georgia [Mr. TALMADGE] are absent on official business.

I also announce that the Senator from New Mexico [Mr. ANDERSON] and the Senator from Massachusetts [Mr. KENNEDY] are absent because of illness.

I further announce that the Senator from Nevada [Mr. CANNON], the Senator from Pennsylvania [Mr. CLARK], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from Missouri [Mr. SYMINGTON], the Senator from Texas Mr. [YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico [Mr. ANDERSON], the Senator from Nevada [Mr. CANNON], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Missouri [Mr. SYMINGTON], the Senator from Georgia [Mr. TALMADGE], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Pennsylvania [Mr. CLARK] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Pennsylvania [Mr. SCOTT] is necessarily absent and, if present and voting, would vote "yea."

The result was announced—yeas 88, nays 2, as follows:

[No. 520 Leg.]

YEAS—88

Aiken, Allott, Bartlett, Bayh, Beall, Bennett, Bible, Boggs.

Brewster, Burdick, Byrd, Va., Byrd, W. Va., Carlson, Case, Church, Cooper.

Cotton, Curtis, Dirksen, Dodd, Dominick, Douglas, Eastland, Ellender, Ervin, Fong, Fulbright, Goldwater, Gore, Hart, Hartke, Hayden, Hickenlooper, Hill, Holland, Hruska, Humphrey, Inouye, Jackson, Javits, Jordan, N.C., Jordan, Idaho, Keating, Kuchel, Lausche, Long, Mo., Long, La.; Magnuson, Mansfield, McCarthy, McClellan, McGee, McGovern, McIntyre, McNamara, Mechem, Metcalf, Miller, Monroney, Morton, Moss, Mundt, Muskie, Nelson, Neuberger, Pastore, Pearson, Pell, Prouty, Proxmire, Randolph, Ribicoff, Robertson, Russell, Salinger, Saltonstall, Simpson, Smathers, Smith, Sparkman, Stennis, Thurmond, Tower, Walters, Williams, N.J., Williams, Del., Young, N. Dak., Young, Ohio.

NAYS—2

Gruening, Morse.

NOT VOTING—10

Anderson, Cannon, Clark, Edmondson, Johnston, Kennedy, Scott, Symington, Talmadge, Yarborough.

So the joint resolution (H.J. Res. 1145) was passed as follows:

"Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

"Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

"Whereas the United States is assisting the peoples of Southeast Asia to protect their political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

"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.

"SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

"SEC. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress."

The preamble was agreed to.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that Senate Joint Resolution 189 be indefinitely postponed.

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

Mr. DOLE. Mr. President, it occurs to me this is a very important amendment. The original Gulf of Tonkin joint resolution was enacted by Congress after brief debate. There was some reason for urgency at the time. Action on it was expedited through the House and through the Senate. It was approved on August 10, 1964. In effect, we have debated Southeast Asia, if not specifically the Gulf of Tonkin resolution and its repeal, for over 30 days on this floor, compared with 2 days when it was enacted in 1964, almost 6 years ago. By virtue of the Gulf of Tonkin resolution, which I voted for as a Member of the other body, and which every Member of the Senate who was there at that time voted for as Members of this body, the war has been escalated.

As I said at the outset, the present occupant of the White House, President Nixon, has indicated no need for the Gulf of Tonkin resolution. I would guess that the majority of the Members of the Senate and the House of Representatives would indicate no need for the Gulf of Tonkin resolution. I would say, in conclusion, that the earlier we can repeal the Gulf of Tonkin resolution the better.

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

Mr. DOLE. I yield the floor.

Mr. ERVIN. Mr. President, I ask that I be recognized.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, it is a most surprising development that the President would seek to defeat the Cooper-Church amendment which merely undertakes to put limits upon his power to wage war in Cambodia and Laos, and then have his spokesmen propose to the Senate an amendment which would not only take away his power to act in Cambodia and Laos, but also take away his power to act in South Vietnam. That is exactly what this amendment does.

It is true that when Congress passed the Gulf of Tonkin resolution it inserted a section in which it said, among other things, that Congress could repeal the Gulf of Tonkin resolution by a concurrent resolution. Congress reserved the right to repeal by concurrent resolution. But here the proposal, instead of repealing it by concurrent resolution, would repeal it by an amendment to an act of Congress having no connection with the subject.

The Senate is getting itself in a rather perplexing state.

The Constitution is not as abstruse on the question of the power to make war as has been suggested. To my mind, the Constitution is very clear with respect to that matter. It has three relevant provisions. One of the provisions is found in article I, section 8, clause 11. Another is found in article I, section 10, clause 3. The third is found in article IV, section 4.

These three sections make it as clear as the noonday sun in a cloudless sky that the men who wrote and ratified the Constitution recognized that there are two different kinds of war, one an offensive war and the other a defensive war. The provisions of the Constitution relating to a defensive war appear in article I, section 10, clause 3 and article IV, section 4.

The first of these that I shall call to the attention of the Senate, article I, section 10, clause 3, puts certain limitations upon the powers of the separate States. It says:

> No State shall, without the consent of Congress . . . engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

In other words, this provision of the Constitution recognizes that in times of great emergency, when there is not time for the National Government to come to its assistance, a State, without waiting for the consent of Congress, may, under emergency conditions, actually undertake to defend itself against invasion. In that case, of course, there is no necessity for a declaration of war, because the State is authorized to fight a defensive war.

Then, article IV, section 4, provides:

> The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion . . .

This provision is a recognition that the United States has a right to defend itself against invasion, without a declaration of war. Under it, the President of the United States has undoubted constitutional power to use the Armed Forces of the Nation to repel an invasion which involves the United States in a defensive war.

The other section is article I, section 8, clause 11. That provision says that the Congress shall have power to declare war.

The President of the United States has no capacity, under the Constitution, to put the United States at war in an offensive war—that is, a war which is not necessary for the defense of this country—without a declaration of war from the Congress or the equivalent of a congressional declaration of war.

Some mention has been made of the SEATO Treaty. The SEATO Treaty provides in express language that it does not obligate the United States to use armed forces in Southeast Asia in defense of any of the countries of Southeast Asia except by an observance of its constitutional processes—that, is, a declaration of war on the part of the Congress.

The United States has no power, under the SEATO Treaty, apart from the Tonkin Gulf resolution, to be engaged in armed aggressive attacks in Southeast Asia. When the Gulf of Tonkin resolution was passed, it was, as I contended on the floor of the Senate some time ago, tantamount to a declaration of war. It expressly states that the President may use the Armed Forces of the United States to resist aggression from North Vietnam. It was under that power that the SEATO Treaty obligation was accepted by the United States. It was under that power that the United States undertook to wage war in Southeast Asia. It was the Gulf of Tonkin resolution which gave the President the power as Commander in Chief to invade the sanctuaries in Cambodia.

There is not a syllable in the Constitution outside of the provisions which I have just read to the Senate that gives the President the power to wage war without the consent of Congress where the defense of the United States is not involved; and no one can rightly contend that the defense of the United States is involved in our operations in Southeast Asia.

I have stood by the President during this debate up to this point because Congress gave him authority to use the Armed Forces of the United States in combat in Southeast Asia, by the Tonkin Gulf resolution. Since article II, section 2 of the Constitution makes him the Commander in Chief of the Armed Forces of the United States, and Congress has authorized him to act as such in combat in Southeast Asia he had the authority to order the incursion into Cambodia as a part of his powers as Commander in Chief.

I do not know what the position of our boys in Southeast Asia will be if we repeal the Tonkin Gulf resolution, because the President of the United States has no power whatsoever to act as Commander in Chief in that part of the world with the exception of withdrawing the troops, if this repeal carries. It is true that he might have the inherent power to protect them as they withdraw. Manifestly, his power would extend no further than that. So why should the Congress becloud their situation by repeal of the Tonkin Gulf resolution?

I cannot view it as anything but intellectual and constitutional schizophrenia that the administration should stand here and fight the Church-Cooper amendment for all these weeks and then make through its spokesman the proposal on the floor of the Senate that the Senate repeal the only action taken by Congress which gives the President authority to use the Armed Forces of this country in combat in Southeast Asia.

This matter has no place as an amendment to this bill. The Foreign Relations Committee has reported a resolution, which is on the calendar, which is the orderly way to deal with this matter, and which is consistent with the Gulf of Tonkin resolution, that expressly reserves to the Congress power to repeal the Tonkin Gulf resolution by concurrent resolution of the Congress. That is the way the matter ought to be handled, and not in this unexpected way on the floor of the Senate at this late stage in the consideration of the pending measure.

Mr. ALLEN. Mr. President, I was not a Member of either body of Congress when the Gulf of Tonkin resolution was adopted. I do not know how I would have voted on that resolution. In all likelihood, I would have been swept along by the appeal to our national interest and by the appeal that it was necessary to protect a small nation from the aggression of a Communist nation.

I regret, however, that the Gulf of Tonkin resolution was adopted, because I believe that that resolution was used as a vehicle by the President of the United States at the time to accelerate and escalate our participation in the Vietnam conflict. Our participation in that conflict has been one of the greatest tragedies in which this country has ever been engaged.

But the Gulf of Tonkin resolution was adopted. It did become part of our foreign policy. It did become part of the law of the land. It was used by President Johnson to escalate the Vietnam war. It justifies now our continued participation in that conflict.

Let us examine some of the wording of the Gulf of Tonkin resolution. I remind Senators that if we repeal it, the recitals of the preamble will be repealed as well as the body of the resolution.

Referring to the attacks, or alleged attacks, at that time by the North Vietnamese on the United States, the preamble in part reads:

> Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam

has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

Whereas the United States is assisting the peoples of Southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these people should be left in peace to work out their own destinies in their own way: Now, therefore, be it

Resolved by the Senate and House of Representatives—

I do not think we would want to take back any of those recitals; but that is what the repeal of this resolution would do. It would withdraw those recitals as being the thoughts, and sentiments of the Members of the Senate and the House of Representatives with regard to the conditions that exist in Southeast Asia.

But, going on with the body of the resolution itself, it reads:

Resolved by the Senate and the 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.

I do not believe the Senate would like to withdraw that determination or that resolve, as expressed in this resolution.

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

Mr. ALLEN. I yield.

Mr. ERVIN. Would not its repeal withdraw that provision that says the President could use force to protect American forces?

Mr. ALLEN. Yes; it would repeal every part of the preamble and the body of the resolution.

SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia.

It would seem to the Senator from Alabama that if we withdraw these recitals as being the opinion of the Members of the House of Representatives and the Senate, as part of our foreign policy, as part of the law of the land, we will have cut the ground out from under the President's position and the position of the United States as it fights in Vietnam and in Cambodia to protect a small nation from aggression by a Communist nation.

So, Mr. President, it would seem to me that this amendment offered by the distinguished junior Senator from Kansas is more damaging and more detrimental to the President's position and to the position of our Armed Forces in Cambodia and South Vietnam than are the provisions of the Cooper-Church amendment. It would seem to me that the President would have no further authority to continue the conflict in Cambodia or to continue the conflict in South Vietnam, if the very vehicle that was used to engage the forces of the United States in that conflict should be repealed.

I have, on the floor of the Senate, spoken in opposition to the Cooper-Church amendment, and I have admired the able efforts of the distinguished junior Senator from Kansas in leading the fight against the adoption of the Cooper-Church amendment, which is now embodied, of course, in the committee amendment. But, with all due respect to the distinguished Senator from Kansas, it seems to me that he has walked into a boobytrap of his own making in proposing this amendment to the bill under consideration ; and as evidence supporting that feeling, I noticed that the distinguished majority leader very quickly embraced the Dole amendment to the bill under consideration.

Mr. President, it is my feeling that we have certainly adopted the proper position in spending as much time as we have in debating the Cooper-Church amendment, and it is to be hoped that when it comes to a final vote, it will be defeated. But as I say, it seems to me that the present amendment offered by the distinguished Senator from Kansas is more damaging and more detrimental to the President's position and the position of our Armed Forces in Vietnam and Cambodia than is the Cooper-Church amendment, and I am at something of a loss to understand why the distinguished Senator from Kansas would oppose the one and advocate the other. I hope that the amendment will be defeated, either by a motion to table or by a direct vote on the merits of the amendment.

Mr. FULBRIGHT. Mr. President, I say to the Senator from Alabama that at the conclusion of some brief remarks I intend to move to table this amendment, because I think it is improper in this form. As has already been pointed out, the Committee on Foreign Relations has reported a resolution to repeal the Tonkin Gulf resolution. I believe it was reported with the concurrence of all those present—or I think possibly with one dissenting vote; I have forgotten, but the vote was practically unanimous; 13 to 1, I believe it was—and the resolution to repeal is in proper form; it is a part of the resolution submitted last year by the distinguished Senator from Maryland, Mr. Mathias, and he resubmitted it in the form of a concurrent resolution. It will be presented, the majority leader has assured me on two or three occasions, at the earliest opportunity after disposal of the bill which is now the pending business. He has one or two domestic matters involving, I think, appropriations, and then he will take up the concurrent resolution to repeal the Tonkin Gulf resolution, and it will be debated in its proper form. At that time, its merits and its background can be discussed, as the Senator from Alabama and the Senator from North Carolina have already pointed out.

Whatever the merits of it, I think this procedure, without notice, without discussion, at least so far as are available in connection with this bill—is a bad procedure.

Because it has been brought up in this fashion, however, I want to say one or two things with regard to the remarks of the Senator from Alabama. So that the record may be clear, I want to quote a statement that President Johnson made in 1967, on August 18, in a news conference. This is in our report. He stated:

We stated then—

That is President Johnson speaking—

and we repeat now, we did not think the resolution was necessary to do what we did and what we're doing. But we thought it was desirable and we thought if we were going to ask them [Congress] to stay the whole route and if we expected them to be there on the landing we ought to ask them to be there on the takeoff.

Mr. Kenneth O'Donnell served with President Johnson and with President Kennedy. I have a letter from him, a memo, which I shall use a little later. I anticipate using it in the Tonkin Gulf debate. Mr. O'Donnell discussed the background of the request for the resolution. This is what he reports the President and his people thought at the time. What they wanted the resolution for was to neutralize, to hamstring the Congress. They wanted to get all the Republicans as well as the Democrats on the line so that they could not criticize the administration. This was a political gimmick.

In addition, the story they told us—McNamara and Rusk, President Johnson's spokesmen—was untrue. Much of the recitation about the aggressive attacks upon our ships on the high seas just did not happen. This was a figment of their imagination. It suited their purposes, that is all.

I say to the Senator from North Carolina, who is a distinguished jurist, the most distinguished in the Senate, that I vaguely recall that in contracts procured by fraud there is something about their not being binding. I think this is not unlike that, so far as I am concerned.

I admit that I was taken in, as was everyone else. I have apologized, just as the Senator from New Hampshire did a moment ago, most abjectly, for his vote. The Senator from Alabama is free from that taint. He was not a Member of the Senate at that time and did not have an opportunity to vote. But the Senator from New Hampshire voted. He, of course, was relying upon what members of the committee, including me, told the Senate, which had been told to us by the Secretary of Defense, the Secretary of State, and the Chairman of the Joint Chiefs of Staff.

I was not suspicious. I have a natural inclination, in the first instance, until proved otherwise, to believe a Secretary of State, a Secretary of Defense, or even a President. I do not start off assuming that they are misleading you or telling you untruths. It is only after one has had long experience with them that one begins to develop a certain skepticism.

After all, those who have achieved the Presidency did other things before becoming President. They were not born to be President. Some of them have even been Senators, and when they were we do not accord them the divine right of kings. We do not consider that they are infallible when they are Senators, and I am unable to see how moving 16 blocks from here endows a man with infallibility and assures that he knows all the answers. Yet, that seems to be the attitude of many people in this country—that because a man moves into the White House, he knows all the answers and it is the duty of everybody else to get behind him, regardless of the merits of an issue. They do not even want to hear a discussion of the merits. We just ought to get behind him.

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

Mr. FULBRIGHT. I yield.

Mr. ALLEN. I wish to invite the attention of the distinguished Senator from Arkansas to the fact that the junior Senator from Alabama, in reading into the RECORD some of the preamble, did not read verbatim the recital having to do with the attacks on our ships.

The Senator from Alabama referred to those attacks as alleged attacks, and that verbiage was used partly because of the explanation given on the floor of the Senate from time to time by the distinguished Senator from Arkansas, because the junior Senator from Alabama has considerable doubt as to the accuracy of the first section of the preamble of the resolution.

Mr. FULBRIGHT. I thank the Senator. I did not mean to tax him with verifying that.

In addition to the Committee on Foreign Relations hearings and anything that I or members of the committee have said, a book has been published recently, after exhaustive investigation and interviews of nearly every member of the crew of the *Maddox* and the *Turner Joy*. This book confirms, I think, the committee's findings—and, in fact, goes much further. The committee did not have the time or the inclination to make its life work the interviewing of the members of the crew. That would have been another year's work. We believe, and I believe, that to a reasonable man's satisfaction we have proved that the attack upon which they based this statement did not occur. That was as far as I thought we were justified in taking up the committee's time.

But the position of President Johnson was that he did not feel that he was relying upon the Tonkin Gulf resolution. He did not make it clear—I say to the Senator from North Carolina—just what he was relying on. I assume that he was relying on this theory, which I never before have seen seriously advanced, that as Commander in Chief he could do what he pleased with the Army—send them where he pleased, under any circumstances.

I agree completely with what the Senator from North Carolina said a moment ago about what the Constitution authorizes. It makes a clear and unequivocal distinction between the repelling of an invasion—in other words, responding to attack, an emergency—and, as the Senator called it, offensive war—that is, a deliberate, planned action, the sending of an army. In that case, I do not think there is any serious and responsible authority that does not say that there should be a declaration of war and that Congress has that responsibility.

I say this not only with respect to the words of the Constitution but also with respect to the discussion of it by such people as Jefferson and Hamilton—Hamilton in particular. We might say that the legislative history of the Constitution is very clear on such responsibility.

I think the Senator from North Carolina, as he always does in talking about the Constitution, had it exactly right, and that is all we are trying to do—as in the commitments resolution and in the other cases—to reestablish a proper relationship of responsibility between the Congress and the President. Nobody is trying to infringe upon his responsibilities at all. We are just trying to reestablish the rights and responsibilities of the Congress.

One other aspect of the present situation: I had intended to use all this and I will, of course, refer to it again when the Gulf of Tonkin resolution reported by the committee comes up, and I believe it will come up, because I think that is a proper procedure. The present President, President Nixon, does not rely upon the Gulf of Tonkin resolution to do what he is doing. This is again pertinent to what the Senator from North Carolina said a moment ago as to what the President's authority is. President Nixon does not say that the Gulf of Tonkin resolution is his authority for what he is doing in Southeast Asia. His authority apparently is this theory, of which the protection of our troops seems to be an integral part.

When he puts it on that basis, one would naturally assume that what he means is to protect the troops, of course, as long as they are there, but one would not assume that implies that he intends to enlarge the war and to go into another country. This is one of the things that shocked my committee and others so much when the President sent our troops into Cambodia.

As for the administration's position on the Tonkin Gulf resolution, I want to read from a State Department letter; in his letter to me of March 12, 1970, Mr. Torbert, the then Acting Assistant Secretary of State for Congressional Relations, stated that the administration does not depend on the Tonkin Gulf resolution or similar resolutions "as legal or constitutional authority for its present conduct of foreign relations or its contingency plans."

This is the administration's latest expression of how it regards this resolution. There was a previous letter to the same effect, and it was put in the RECORD.

Mr. ERVIN. Mr. President, will the Senator from Arkansas yield to me for a question?

Mr. FULBRIGHT. Of course, but I intend to move, before I yield the floor, for a motion to table this amendment——

Mr. ERVIN. That letter was sent out in the committee report, was it not—the report of the Foreign Relations Committee?

Mr. FULBRIGHT. The letter which I just referred to is in the committee report on the repeal of the Tonkin Gulf resolution.

Mr. ERVIN. It is a reaffirmation of assertions made in the first place without citing any authority sustaining the assertions.

Mr. FULBRIGHT. I think that is right.

I wanted to say to the Senator from Florida (Mr. HOLLAND) that I intend to move to table this amendment at this time, unless he wishes to ask me a question. I believe he indicated that he did. But I cannot give up the floor without making the motion, since I do not know that I can get the floor again.

Mr. HOLLAND. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. I yield to the Senator from Florida.

Mr. HOLLAND. I thank the Senator for yielding.

In the first place, I think it would be correct parliamentary procedure, as well as an expression of courtesy to the Committee on Foreign Relations, that both require the discussion of this very matter in connection with the concurrent resolution which has been reported by his committee.

I think, two, that the matter is of such grave importance that under no consideration should we, after only brief debate, consider—at least with any wisdom—placing this in the bill providing for the sale of arms, a bill which has already grown far beyond the scope which I think it was intended to serve. I would not want to see it grow still larger by this addition.

Three, I would like to say that while I understood in the Gulf of Tonkin debate, and I think it was made clear in that debate by some of its sponsors, that the wording of the Gulf of Tonkin resolution was broad enough to allow the then President, at his discretion, in the event he felt the situations required it, to do battle on the mainland of Southeast Asia, I thought it was relied upon by the former administration at the time he did that. Certainly, there was no requirement for any resolution or any authority to be given by Congress to the Commander in Chief which authorized the naval units that were fired upon to defend themselves and to defend themselves against any attacks made upon them on the open sea.

Thus, I thought it was well understood in that debate on the Gulf of Tonkin resolution that we were, in effect, giving the President his head to do just what he did later.

Like the Senator from Arkansas, I have wondered sometimes whether we did the wise thing; but I think that there is no question of our having gone that far.

The next point I would like to make is that I think the succeeding President, now President Nixon, is in an entirely different situation. He does not have to rely upon the Gulf of Tonkin resolution or upon anything else to defend our troops, whom he found when he came into power and came into authority, against annihilation, attack, or destruction, and to do anything in his discretion that was necessary to protect the lives of American soldiers.

I have always thought that that included the authority to protect against the long exposed flank along the Cambodian front where there were sanctuaries just a few miles within the flank.

What occurs to me at this stage is the untimeliness of this proposed amendment. Second, if the amendment is adopted in its present form, I would fully expect it to be followed by another one, requiring the President to remove all troops by then under the authority which expires, because we would require the authority, such as it is, that is given by the Gulf of Tonkin resolution to expire

by a fixed time, which is the end of the life of this Congress.

Third, this is one of the things that, to me, is most disagreeable as I contemplate this situation.

I think we would guarantee this issue's becoming about the liveliest political issue in the campaigns this fall because, in effect, we would be saying, "All authority given by Congress in this matter expires with this Congress and the new Congress is the one which will have to decide what, if anything, will be done by Congress from then on."

I think we would find a real spate of campaigns erupting all over the country on the question of what should be done when the new Congress takes over.

We are not all sure of being here next year. Some will retire. The distinguished Senator from Delaware (Mr. WILLIAMS) has announced his retirement. The Senator from Florida has announced his retirement. For other reasons, many other Senators will not be here next year. I hope there will not be many who will be defeated. I have no desire to see any of my colleagues defeated, but we all know that these times are uncertain. So that there may be enough new personnel here next year to make a balance of power when it comes to this particular question.

My own feeling is that if we want to plunge the country into politics on this one question above every other that would be involved in this November's election, then the way to do it is to adopt this amendment to a bill which has nothing whatever to do with the subject matter of this amendment at this time, and with this slender debate, and without even giving a chance to Senators to read the report the Committee has considered on the Gulf of Tonkin resolution, much less giving Senators who reported out the concurrent resolution from the Committee on Foreign Relations a chance to show the reasoning which they followed in reporting that very important concurrent resolution.

Thus, the Senator from Florida, on all the grounds mentioned, would certainly hope that this particular amendment shall not be adopted.

The Senator from Florida has been following the Senator from Kansas, the Senator from Michigan, and other Senators on this side of the aisle who have opposed the Cooper-Church amendment, not because of any feeling of loyalty to those Senators but because the Senator from Florida believes, with them, that the Cooper-Church amendment is unwise; but, he finds himself now at the end of his rope, and he cannot follow in this new desire to complicate this whole issue by bringing in something completely unrelated to the subject matter of the arms supply bill, without giving any respect to or any chance to be heard from the committee members who have studied the subject and made an able report on it, and which report has not even been heard by Members of the Senate at this time.

The Senator from Florida hopes that the motion to lay on the table, if the distinguished Senator from Arkansas intends to make that motion, will prevail, and the Senator from Florida will vote for it.

If it does not pass, the Senator from Florida thinks that Senators on the other side of the aisle are beclouding this whole issue by offering this particular amendment at this particular time.

I thank the Senator from Arkansas for yielding to me.

Mr. FULBRIGHT. I thank the distinguished Senator from Florida for his contribution.

Mr. COOK. Mr. President, will the Senator from Florida yield?

Mr. FULBRIGHT. I yield.

Mr. COOK. I might say to the distinguished chairman of the Committee on Foreign Relations that I will not support his motion to table but wonder, in relation to the activities of the committee in the future, whether it is the intention of the committee to bring before this body not only Tonkin Bay, which has already been reported, but also the Cuban resolution of October 3, 1962, the Formosa resolution of January 29, 1955, and the Middle East resolution of March 9, 1957, so that we might have an opportunity to debate further the commitments which have been given to previous Presidents to commit American troops without any further authority of Congress.

If that be the case, has that now been so construed?

Mr. FULBRIGHT. Let me say to the Seantor from Kentucky that insofar as the Middle East resolution is concerned, that was originally reported to be repealed along with Gulf of Tonkin resolution, but because of the tense situation in the Middle East, the majority leader and certain other Members suggested that its repeal might be misunderstood. And they asked us to reconsider that action and to separate the two. That was thought to be the wiser course of action and the Committee did it.

On the other hand, we are still considering all of these emergency-type resolutions, not only the ones that the Senator mentioned, but all of them connected with commitments.

The Senator from Missouri (Mr. SYMINGTON) last year was made chairman of an ad hoc committee to go into all of our commitments abroad, particularly those which are the most active, cost us the most money, cause the most trouble and create the most turmoil. He has held hearings on almost all of them. They are practically finished.

The Senator from Missouri has held hearings on the Philippines, Laos, Thailand, Taiwan, Ethiopia, Greece, Europe in general and others.

I anticipate that after we have had an opportunity to consider all of those hearings, an effort will be made to terminate some of the commitments. And I shall certainly support most of them, but I would not want to preclude decisions on all of them. I am sure that a number of them will have been proven to be obsolete.

We have already, I think, had a substantial economic drain because of the Spanish bases agreement, for example. The administration was getting ready last year to renew an extension of all our bases there, with a 5-year agreement that involved several hundreds of millions of dollars. As a result of the committee's work, the time period was cut to two years and the amount was reduced considerably. It is being reconsidered further. I hope that we will get out of this without any greater drain on our pocketbooks.

The purpose of the Symington Subcommittee is to review all commitments and see whether we can cut them down and eventually bring home the troops and stop the drain on our economy which the Senator from Missouri, as strongly as anyone, feels is about to bankrupt this country.

I read an article in this morning's paper on the bankruptcy of the largest and richest railroad in America. I think that the Senator from Missouri makes a very persuasive case. If we do not do anything about these ventures, including that in Vietnam, we will go bankrupt.

The subcommittee has pursued this matter actively; it has held very extensive hearings; and they have involved a great deal of work for the members. I am a member of the subcommittee, and I have attended nearly every hearing.

Mr. COOK. Mr. President, may I read to the Senator from Mr. Torbert's letter to the Senator under date of March 12, 1970, in regard to the Middle East resolution:

Much of the Middle East resolution of March 9, 1957, is no longer relevant. That portion of section 2 of the resolution giving congressional approval for the President to undertake military assistance programs has now been overtaken by the Foreign Assistance Act. Similarly, section 3 of the resolution authorizing the President to expend funds during fiscal year 1957 is no longer relevant. Section 4, authorizing the President to furnish assistance to the United Nations Emergency Force, has no current applicability since UNEF no longer exists.

The resolution's statement, in section 2, that "the United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism" plays a role in U.S. bilateral agreements with Iran, Pakistan, and Turkey. Article I of those agreements, which is common to all three of them, says that "in cases of aggression against (Iran, Pakistan, Turkey), the Government of the United States of America, in accordance with the Constitution of the United States of America, will take such appropriate action, including the use of armed forces, as may be mutually agreed upon and as is envisaged in the joint resolution to promote peace and stability in the Middle East, in order to assist the Government of (Iran, Pakistan, Turkey) at its request." Repeal of the resolution would in no way affect the continuing validity of these bilateral agreements. On the other hand, if the resolution is not repealed, the administration would not construe it as a source of authority for any decisions which might involve the United States in a conflict in that area.

Does the Senator from Arkansas agree with that language?

Mr. FULBRIGHT. I think it ought to be repealed. I said that the committee voted favorably to repeal the Middle East resolution. I thought that I made myself clear. But, because of the Middle East situation, it was thought later that such actions might be misunderstood. The majority leaders and others

requested that the Tonkin Gulf and Middle East resolutions be handled separately and not reported together.

The committee will give more consideration to the repeal of the Middle East resolution, and I think it will vote again to repeal it, perhaps when the situation in the Middle East is not so difficult.

I do not know what will happen. But I agree with the language which the Senator read, and I agree with the language in that same letter about the Tonkin Gulf resolution.

Mr. COOK. I do, too. May I ask the Senator whether there would be any misunderstanding on the part of the chairman of the Foreign Relations Committee in regard to this language if the repeal of the Mideast resolution were to take place. There would be no inconsistency between that repeal and the letter signed by many of us and sent to the President a few days ago.

Mr. FULBRIGHT. I do not think so. The Senator refers to an inconsistency?

Mr. COOK. That is correct.

Mr. FULBRIGHT. No. As long as we know what we are doing. It is not inconsistent with this. I think that what the State Department said is correct.

However, a number of the Members of the Senate do not want to consider the Middle East resolution at this time. I am not one of them, but there are a number of Senators who do not want to consider it now. And this was taken into consideration in the decision not to press at this time on the decision with respect to the Middle East resolution.

Mr. COOK. Mr. President, I might ask the Senator with respect to the Formosa resolution whether he agrees with the following language:

> This resolution is now 15 years old. In the event of a new crisis in the Formosa Strait, this administration would not view the continued existence of the Formosa resolution as a source of congressional authority.

Mr. FULBRIGHT. I think the Formosa resolution ought to be repealed. I would approve it, and if the administration wants to take action there, I think it ought to come to Congress.

This, in my view, is consistent with the spirit of the commitments resolution which the Senate passed last year and which requires affirmative action by both the executive and legislative branches before a national commitment can be made to a foreign government.

Mr. COOK. With reference to the Cuban resolution, does the Senator from Arkansas agree with the following language:

> The Cuban resolution of October 3, 1962, was above all a statement of U.S. policy toward Cuba. It was not intended to add to the President's powers or to authorize any particular action he might take in the future. Consequently, we do not consider that the Cuban resolution in any way affects the powers of the executive and legislative branches. It has never been relied upon by the executive as the legal basis for any action.

Mr. FULBRIGHT. Mr. President, I certainly agree with that. And I think that along with the rest of this debris, it should be swept into the ashcan. We ought to consider these in the light of what the conditions are today.

Mr. COOK. Mr. President, I do not intend to vote in favor of the motion to table the Tonkin Gulf resolution. But I would hope that the Senator would bring up the Tonkin Gulf resolution repeal pending on the calendar when it is available to be brought before the Senate, because at that time it is my intention to propose an amendment to add the resolutions that the distinguished Senator from Arkansas and I have been discussing because if, in fact, these resolutions are no longer effective and if in fact the position stated by the Acting Under Secretary of State for Congressional Affairs was correct in his letter to the chairman of the Committee on Foreign Relations, then I think if the Senate, in its power over foreign relations of this Nation is going to act instead of react, it should clear the decks. If it is going to clear the decks then I think we should not only clear the decks of the Gulf of Tonkin resolution but also the resolutions on Formosa, and the Pescadores, the Middle East resolution, and the Cuban resolution.

I would like to discuss further when that debate continues the Korean resolution and the South American resolution because if this be the case, if we have a resolution in effect that could be construed to give the President the authority and he takes it, and we raise the question that he has not consulted with Congress after Congress gave the authority, it is incumbent on Congress to act before it reacts.

I thank the Senator for yielding.

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

Mr. FULBRIGHT. I yield to the senior Senator from Kentucky.

Mr. COOPER. Mr. President, I wish to go back to the Gulf of Tonkin resolution. I would like to have the attention of the distinguished Senator from North Caroline, our constitutional expert, and the Senator from Kansas.

Section 3 of the resolution states:

> This resolution shall expire when the President shall determine that peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

Mr. FULBRIGHT. That is right.

Mr. COOPER. Does that prescribe the only two methods by which this resolution could be terminated?

Mr. FULBRIGHT. By its terms. That is the reason we had the Senator from Maryland resubmit it in the form of a concurrent resolution. This one and the Middle East resolution provide specifically for repeal by a concurrent resolution. The others, I presume, would require presidential joinder. A joint resolution would be the normal way to do it. But as a matter of procedure the Senator is correct. It has been reported by the committee now. That resolution is on the calendar; it is ready for action. The majority leader intends to bring it up soon after the completion of action on the present bill. If this bill had not been subjected to this long filibuster of 6 weeks it would have been disposed of long before now. However, it is not for me to complain about filibusters. I have approved of them since I have been in the Senate. I only point out that that is the reason this matter has not come up. It cannot come up as long as this matter is filibustered.

Mr. COOPER. Then, this method, in the Senator's view, is a proper procedure?

Mr. FULBRIGHT. I think the Tonkin Gulf resolution ought to be repealed by a concurrent resolution. President Johnson and his advisers thought they were making a gesture to Congress when they said in effect, it might be repealed "without my approval." It was a little public relations gimmick. President Johnson was saying, "You do not have to have my approval to repeal it."

Several Senators addressed the Chair.

Mr. FULBRIGHT. Mr. President, I have promised to yield to the Senator from Kansas.

Mr. DOLE. I thank the Senator for yielding.

While the resolution states how it should be terminated, it does not preclude termination in some other day. The word "may" is used; it is permissive. It does not say only by concurrent resolution of Congress. I respectfully suggest the method of the Senator from Kansas is stronger because it does require the President's signature and it has been indicated he does not rely on the Gulf of Tonkin resolution.

I recognize no reason is needed to table an amendment, but I ask the Senator from Arkansas—and he is for the repeal of the Gulf of Tonkin resolution—why should it not be disposed of in this fashion today? We have had only 30 days debate.

Mr. FULBRIGHT. I shall reply by asking a further question. Can the Senator assure me that if this is placed in the bill and the Cooper-Church amendment is in the bill, the President will sign it? Does the Senator have any assurance that the President will sign the military sales bill with these items in it?

Mr. DOLE. I do not have any such assurance from the President.

Mr. FULBRIGHT. If the Cooper-Church amendment is in it?

Mr. DOLE. It is not a part of the Cooper-Church amendment; it is a part of the Foreign Military Sales Act.

Mr. FULBRIGHT. It is a part of the bill. I do not think it necessarily means it cannot be done by joinders, but it specifically provides it may be done by concurrent resolution, which is a lesser legislative act, and that is the way the Committee on Foreign Relations and the leadership on this side chose to deal with it.

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

Mr. FULBRIGHT. Also, debate will take place on the resolution. I think it is a very casual and inappropriate procedure to do it the way the Senator from Kansas has proposed.

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

Mr. FULBRIGHT. Is the Senator's question on this point? I was yielding to the Senator from Kansas.

Mr. HOLLAND. Yes. I was going to ask the distinguished Senator if he did

not think it is a much stronger basis, from the standpoint of maintaining and retaining congressional jurisdiction, to deal with this matter through a concurrent resolution in which we do not ask the Executive to join?

Mr. FULBRIGHT. I do. But I recognize that others do not find appeal for the congressional role in government and prefer the Presidential role. It is more glamourous, and many people think the only duty of Congress is to get behind the President. That is the only way they can think of Congress, and it keeps them from assuming responsibility. The Senator is quite right.

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

Mr. FULBRIGHT. I yield.

Mr. SCOTT. I am seeking clarification. The Senator from Arkansas said one time before he was for the Gulf of Tonkin resolution and he is now against it; and he has often spoken of the need for having it repealed and getting rid of it. We have now given him this first chance. We cannot be sure he would ever have quite as good a chance again. I wonder why he would be inclined to avoid an opportunity to be heard on this repeal, which I am prepared to support.

Mr. FULBRIGHT. The Senator has very close association with the President. Can he give any assurance that the President will approve of the pending bill if the Cooper-Church amendment is in it?

Mr. SCOTT. I will say this particular amendment does not turn on the outcome of the Cooper-Church amendment.

Mr. FULBRIGHT. If you are attaching it to this bill it would not be a separate bill. The President could not veto it by items, could he?

Mr. SCOTT. My only inclination, and I am quite serious, is to believe that by the time we are through with this bill it will be in a shape which the President can sign and, therefore, I think after both Houses have worked their will the President will be in a position to accept the bill. He might not entirely approve everything which one body has done but after the sanctifying effect of that body, which springs directly from the people and springs back at them every 2 years, and is closed to the people because of this double spring effect, perhaps we should assume it would be in proper legislative shape and that the President, I would assume, would sign it.

Mr. DOLE. Mr. President, will the Senator yield for a qustion?

Mr. FULBRIGHT. I yield for a question.

Mr. DOLE. I understand the Senator does not object to the repeal of the Gulf of Tonkin resolution.

Mr. FULBRIGHT. I favor its repeal.

Mr. DOLE. But not today.

Mr. FULBRIGHT. Not according to the procedure the Senator from Kansas suggests. I think it is wrong and that it is untimely. I said I favor repealing it, and I stated why a moment ago.

Mr. DOLE. I read the committee report. There are only six lines in the committee statement on the Gulf of Tonkin resolution. It states, in effect, "as amended, we recommend it do pass." I guess this could be debated 2 or 3 weeks and another conclusion could be reached.

We have been debating the general issue of Southeast Asia and the effect of the Gulf of Tonkin resolution. The President has made it clear that he does not rely on the Tonkin Gulf resolution. The Senator from Arkansas and other Senators have made it clear that they do not rely on the Tonkin Gulf resolution now. It seems an appropriate time to act now.

I apologize if I have trespassed on the rights of any Member or any committee. That was not the purpose of my amendment. We were debating a measure relating to the Tonkin Gulf resolution, not trying to deal lightly with it. I may say the Tonkin Gulf resolution passed, after a brief debate, by a vote of 88 to 2. Because of passage, the war escalated until there were approximately 550,000 troops there. Perhaps it was dealt lightly with at the time the resolution was passed. I do not pass judgment on that. But now that we have expressed ourselves many times, why is it inappropriate to act now? This is an appropriate time to pass on the proposition. If it fails, we still have the concurrent resolution. This procedure will give the President an opportunity, by appending his signature to it, to affirm that he favors repeal of the Gulf of Tonkin resolution.

Mr. FULBRIGHT. Mr. President, I cannot say any more than I have as to why the Senator's amendment is inappropriate. It departs from the usual procedure. The Senator from Florida made an eloquent argument for my position on the inappropriateness of it. I do not know what I can say to add to what both the Senator from North Carolina and the Senator from Florida have said. I can only conclude that the Senator has not listened very carefully and has not observed what the proper procedures are. After he has been here a while, I think he will come to appreciate the procedures of the Senate. One of the important parts of the procedures of the Senate is following the committee procedure. In fact, following the proper procedure is very relevant to our democratic form of government. One does not override the established procedures of a body like this and still reach any kind of result.

I do not blame the Senator, in view of his brief attendance here, for not having learned all of the proper procedures.

Both the Senator from Florida and the Senator from North Carolina described, in very eloquent language, the same point I was making. I thought it would be acceptable to the Senator from Kansas to go along with it. I do not know what more I can say to the Senator from Kansas—his amendment does not accord with the proper procedure.

Mr. DOLE. The Senator is not saying he is against repeal. Is he?

Mr. FULBRIGHT. I am against the procedure you have suggested. The Senator has evidently not been here long enough. He is not a committee chairman. And I do not believe he has any great experience in this area.

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

Mr. FULBRIGHT. I yield.

Mr. DOLE. Is it a rule of the Senate that one must clear everything with the Senator from Arkansas?

Mr. FULBRIGHT. No; there is no rule that one has to clear anything with me, but all of the standing committees have a function to play in this body. If the Senator will read the rules of the Senate, he will see each committee has certain jurisdictions. The Senator can make any motion he wants to. Of course he can. That does not mean we have to accept it. I am not saying the Senator cannot make a motion. I am going to move to table the motion, because the procedure proposed by the Senator is highly improper. The Senator is not, however, out of order——

Mr. DOLE. I was going to say, if I was out of order perhaps the Senator should make a point of it.

Mr. FULBRIGHT. The Senator is not out of order. He can make any motion that he wants to. It is up to him.

Mr. DOLE. I might add that I appeared before the Senator's committee on a relevant amendment, as did about 20 other Senators on related business before the committee. The Senator from Kansas testified and appreciated the opportunity to become enlightened by the Senate committee, but I did not know it extended to the point where a Senator could not offer an amendment on the floor because other Senators have been here longer than the Senator offering an amendment. If I have transgressed any rule, I should know about it, because it occurs to me the amendment is timely now. We have been debating this question now for about 35 days. As the Senator has suggested, it may have a taint of a filibuster.

Mr. FULBRIGHT. Does the Senator have any doubt that it is a filibuster?

Mr. DOLE. I do not know. I have not been around here long enough to recognize one.

Mr. FULBRIGHT. I can assure the Senator that it is a filibuster. It is not becoming for me to say that one should not filibuster, and I am not saying that. I will say that a good precedent has been set for filibustering other bills that may be coming up later in the year. We had a very good filibuster last year.

Mr. DOLE. I learned a lot last year from the Senator from Arkansas, as well as from other Senators, on the ABM debate.

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

Mr. FULBRIGHT. Mr. President, I have the floor. I am sorry. Mr. President, I am ready to make a motion, but, first, I had promised to yield for one moment to the Senator from Maryland (Mr. MATHIAS), who is really the sponsor of the concurrent resolution to repeal the Tonkin Gulf resolution. He introduced last year a resolution which carried the repeal of the Tonkin Gulf resolution. It was by action of the committee that it was separated from the other parts of the resolution. So certainly he is, in a sense, sponsor of the repeal resolution.

I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I thank the distinguished chairman of the Foreign Relations Committee for his generous words. I do not know that there is any monopoly of glory in this matter.

I think if we can get the job done, there will be glory enough to spread around for everyone. But I am concerned with one of the propositions that was placed before the Senate by the distinguished Senator from North Carolina, in that if we simply repealed the Gulf of Tonkin resolution, we would create a vacuum, and within that vacuum, the Executive could operate without congressional policy direction.

The question I wanted to propose to the chairman of the committee was, regardless of what we may do here this afternoon, if he did not feel that it is necessary to return to the work already done by his committee, in the consideration of a further policy question as to what the Congress wants to see happen in Southeast Asia, not simply leaving a vacuum in which the Executive has a hunting license to operate without policy direction from the Congress, and to ask the chairman if it would be his intention to pursue this question, as I think he began to explore it with the Senator from Kentucky a few moments ago.

Mr. FULBRIGHT. Mr. President, I was going to say it seems to me that both Senators from Kentucky, in two different ways, and also the Senator from Idaho, have been moving into the area of setting some foreign policy guidelines, which I think is the proper function of the Congress in this area.

The Church-Cooper amendment is a step in the direction of expressing our view as to the war in Cambodia. It has become involved in a lot of controversy as to what it does. I would be in favor of any formula we could find that would be useful and helpful to the President in his declared intention of ending the war. I know the Senator from Maryland wants to assist in that effort. The members of the Foreign Relations Committee have been searching for ways to help bring the war to an end. Most of us, if it is not unanimous, are eager to get the war over with.

But there seems to be the assumption by the administration that it does not need any help from the Congress. And associated with this is the belief that the President can do anything he pleases as Commander in Chief—so long as he does it in the name of protecting American troops.

What I think caused such a great shock was the expansion of the war into Cambodia. That has created very deep skepticism in many circles as to just what is going on.

Mr. MATHIAS. If the distinguished Senator will recall, in the original draft of Senate Joint Resolution 166, the Mansfield-Mathias resolution, we did provide for an express congressional policy supporting the President's withdrawal of all troops from Vietnam, and it seems to me, as I say, that whatever we do today, we have to move in that direction in order to provide those guidelines.

Mr. FULBRIGHT. As the Senator knows, there are several pending amendments and resolutions devoted to the very purpose the Senator is talking about.

This extended debate, or, in somewhat more frank language, filibuster, has delayed getting to those other amendments and resolutions. I hope this bill will be disposed of quickly, although I offer no criticism of the Senator from Kansas for carrying on an extended debate. I have done it myself. There is always a difference of opinion as to whether the pending business is important or unimportant. I am ready to make the motion.

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

Mr. FULBRIGHT. I yield for one question.

Mr. ERVIN. The Senator mentions following the President. I backed the President as Commander in Chief in the Cambodian incursion on the basis of the Tonkin Gulf resolution. Now the President's spokesman says he wants to repeal the Tonkin Gulf resolution. I suggest to the Senator from Arkansas that it is getting to be impossible to follow the President, because the President is emulating the character in the novel who is reputed to have jumped on his horse and galloped wildly off in all directions.

Mr. FULBRIGHT. The Senator spoke of the President's spokesman. I hope he was not referring to me?

Mr. ERVIN. No; I referred to the distinguished Senator from Kansas. I exonerate the Senator from Arkansas from that role.

Mr. FULBRIGHT. Mr. President, I move to lay on the table the amendment of the Senator from Kansas.

Mr. DOLE. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. FANNIN). The question is on agreeing to the motion of the Senator from Arkansas (Mr. FULBRIGHT) to lay on the table the amendment offered by the Senator from Kansas (Mr. DOLE). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

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

The PRESIDING OFFICER. The clerk will call the roll.

The BILL CLERK. On the quorum?

The PRESIDING OFFICER. On the quorum.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll for the vote on the motion.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from Nevada (Mr. CANNON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK) and the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Illinois (Mr. PERCY) is absent on official business.

The Senator from California (Mr. MURPHY) is detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), the Senator from South Dakota (Mr. MUNDT), the Senator from Califonia (Mr. MURPHY), and the Senator from Illinois (Mr. PERCY) would have each voted "nay."

The result was announced—yeas 15, nays 67, as follows:

[No. 161 Leg.]

YEAS—15

Allen	Fulbright	McCarthy
Anderson	Gravel	McGee
Bayh	Holland	Sparkman
Ellender	Hollings	Stennis
Ervin	Jordan, N.C.	Talmadge

NAYS—67

Aiken	Goodell	Pastore
Allott	Griffin	Pearson
Baker	Gurney	Pell
Bellmon	Hansen	Prouty
Bennett	Hart	Proxmire
Boggs	Hartke	Randolph
Brooke	Hruska	Ribicoff
Burdick	Hughes	Saxbe
Byrd, Va.	Inouye	Schweiker
Byrd, W. Va.	Jackson	Scott
Case	Javits	Smith, Maine
Church	Jordan, Idaho	Smith, Ill.
Cook	Kennedy	Spong
Cooper	Long	Stevens
Cotton	Magnuson	Symington
Cranston	Mansfield	Thurmond
Curtis	Mathias	Tower
Dole	McGovern	Williams, N.J.
Eagleton	Miller	Williams, Del.
Eastland	Mondale	Young, N. Dak.
Fannin	Montoya	Young, Ohio
Fong	Moss	
Goldwater	Nelson	

NOT VOTING—18

Bible	Hatfield	Muskie
Cannon	McClellan	Packwood
Dodd	McIntyre	Percy
Dominick	Metcalf	Russell
Gore	Mundt	Tydings
Harris	Murphy	Yarborough

So Mr. FULBRIGHT's motion to table Mr. DOLE's amendment was rejected.

The PRESIDING OFFICER (Mr. GRIFFIN). The question now recurs on agreeing to the amendment offered by the Senator from Kansas (Mr. DOLE).

Mr. HANSEN. Mr. President, I gathered from the colloquy which has taken place before the vote, that what the distinguished chairman of the Committee on Foreign Relations was saying was that he did not object to the thrust of the Dole amendment but he did object to the manner in which this proposition was being placed before the Senate. I would like to ask if I am right about that.

Mr. FULBRIGHT. The Senator is correct. The Committee on Foreign Relations had the Mathias resolution before it, of which this is a part. We reported that by a vote of 13 to 1, with only one dissent in the committee. It is on the calendar now and has been there since April 10, I believe, ready for action. It

was in the form of a concurrent resolution.

The original Gulf of Tonkin resolution, by its terms, stated that it may be repealed by a concurrent resolution. That is the form which the resolution we reported is in. That is the orderly way to do it. It is the Mathias resolution. It seems to me that this is a disorderly way. The fate of the bill before us is uncertain because it is not a concurrent resolution as Senators know, which does not have to go to the White House. It may or may not be accepted, but it may or may not be accepted in the House because of other issues; specifically, the matter of the Church-Cooper amendment. The Senator knows how controversial that has been. It has been filibustered here for 6 weeks. Thus, the purpose is procedural. I favor, of course, repeal of the Gulf of Tonkin resolution. I voted for the one reported by the committee. It is in a form which I think is the proper form and the right way to do it.

Mr. HANSEN. I thank the distinguished Senator from Arkansas.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. FULBRIGHT. Mr. President, let me say to the Senate that I hope they are under no illusions, because I have got a speech to make on the substance. We have to vote on supporting repeal. I am not going to yield for a vote right now.

Mr. MANSFIELD. Mr. President——

Mr. STENNIS. Mr. President——

The PRESIDING OFFICER (Mr. GURNEY). The Senator from Montana is recognized.

SECOND SUPPLEMENTAL APPROPRIATION, 1970

Mr. MANSFIELD. Mr. President, I can recognize a delay, a stall, a filibuster. It is my purpose, inasmuch as we are not going to be allowed to vote now—and that is unfortunate—to ask that the Senate proceed to the consideration of Calendar No. 918, H.R. 17399, the second supplemental appropriation bill, 1970, and that it be laid down and made the pending business for this evening.

Mr. HOLLAND. Mr. President——

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily, only for tonight, and that the Senate proceed to the bill I have just designated.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. FULBRIGHT. Mr. President, reserving the right to object—what is that bill?

Mr. MANSFIELD. It is the second supplemental appropriation bill for 1970.

Mr. HOLLAND. Mr. President, my understanding is that under the unanimous consent already given, the majority leader is within his right now to put the Senate into the matter of the consideration of one of the appropriation bills, the time now being past 5 o'clock.

The PRESIDING OFFICER (Mr. GURNEY). Without objection, the Senate will proceed to the consideration of the bill, which the clerk will state.

The ASSISTANT LEGISLATIVE CLERK. Calendar No. 918, H.R. 17399, making supplemental appropriations for the fiscal year ending June 30, 1970, and for other purposes.

Mr. MANSFIELD. Mr. President, before we start on the temporary pending business——

The PRESIDING OFFICER (Mr. GURNEY). The Senator from Montana will suspend. The Senate will come to order so that the majority leader may be heard.

Mr. MANSFIELD. Mr. President, I believe that the distinguished Senator from New Mexico (Mr. ANDERSON) has a conference report.

NASA AUTHORIZATION BILL FOR FISCAL YEAR 1971—CONFERENCE REPORT

Mr. ANDERSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16516) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. GURNEY). The report will be read for the information of the Senate.

The assistant legislative clerk read the report.

(For conference report, see House proceedings of June 15, 1970, pp. 19705–19707, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

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

Mr. ANDERSON. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a comparative tabulation showing the amounts requested by the National Aeronautics and Space Administration, the House action, the Senate action and the conference action.

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

SUMMARY OF ACTION OF CONFEREES ON H.R. 16516 NASA AUTHORIZATION FOR FISCAL YEAR 1971

[In thousands of dollars]

	Budget request	House action	Senate action	Conference action
Research and development:				
Apollo	956,500	1,087,000	956,500	994,500
Space flight operations	515,200	654,700	515,200	565,200
Advanced missions	2,500	1,000	2,500	1,500
Physics and astronomy	116,000	110,400	116,000	116,000
Lunar and planetary exploration	144,900	144,900	144,900	144,900
Bioscience	12,900	12,900	12,900	12,900
Space applications	167,000	172,600	167,000	167,000
Launch vehicle procurement	124,900	124,900	124,900	124,900
Space vehicle systems	30,000	30,000	30,000	30,000
Electronics systems	22,400	23,900	22,400	23,900
Human factor systems	17,900	18,300	17,900	18,300
Basic research	17,600	18,000	17,600	18,000
Space power and electric propulsion systems	30,900	30,900	30,900	30,900
Nuclear rockets	38,000	38,000	38,000	38,000
Chemical propulsion	20,300	20,300	20,300	20,300
Aeronautical vehicles	87,100	87,100	87,010	87,100
Tracking and data acquisition	298,000	293,800	298,000	295,200
Technology utilization	4,000	4,500	4,000	4,500
Total	2,606,100	2,873,200	2,606,100	2,693,100

	Budget request	House action	Senate action	Conference action
Construction of facilities:				
Ames Research Center	1,525	1,525	1,525	1,525
Goddard Space Flight Center	2,050	2,050	0	1,928
Jet Propulsion Laboratory	1,950	1,950	1,950	1,950
John F. Kennedy Space Center	575	575	575	575
Manned Spacecraft Center	900	900	900	900
Marshall Space Flight Center	525	525	525	525
Nuclear Rocket Development Station	3,500	3,500	3,500	3,500
Various locations	18,575	17,950	18,575	18,575
Facility planning and design	5,000	5,000	5,000	5,000
Total	34,600	33,975	32,550	34,478
Research and program management	692,300	693,700	677,300	683,300
Grand total	3,333,000	3,600,875	3,315,950	3,410,878

Mr. ANDERSON. Mr. President, the total authorization request for the National Aeronautics and Space Administration for fiscal year 1971 was $3,333,000,000. The House approved a total authorization of $3,600,875,000. The Senate in its action on the authorization bill amended H.R. 16516, approving a total of $3,315,950,000, an amount $284,925,000 less than provided by the House bill. The conferees are recommending a total authorization of $3,410,878,000. This amount is $77,878,000 above the NASA request, $189,997,000 below the House bill and $94,928,000 above the amount approved by the Senate.

RESEARCH AND DEVELOPMENT

Mr. President, in adjusting the difference between the Senate and House-passed versions of H.R. 16516, the conferees agreed as follows:

For Research and Development the House had authorized a total of $2,873,200,000 for 18 programs. The Senate had

authorized $2,606,100,000 for the same programs, or $267,100,000 less than the House. The conferees agreed to a total of $2,693,100,000 which is $180,100,000 less than provided by the House bill and $87,000,000 more than provided by the Senate.

In reaching this amount for research and development, the conferees agreed to an authorization of $994,500,000 for the Apollo program, which is $92,500,000 less than the amount authorized by the House and $38,000,000 more than the amount authorized by the Senate. This $38,000,000 addition would be for the production of long leadtime items for scientific payloads for Apollo lunar exploration flight after 1973.

The conferees agreed to an authorization of $565,200,000 for the space flight operations program, which is $89,500,000 less than the amount provided by the House and $50,000,000 more than the amount provided by the Senate. The additional $50,000,000 would be applied to the Apollo applications —recently designated "Skylab"—project, now in the hardware phase, to augment the development and qualification effort on spacecraft and workshop subsystems.

For advanced missions the House had authorized $1,000,000 and the Senate $2,500,000. The conferees agreed to the amount of $1,500,000.

Small offsetting adjustments were made in some of the other research and development programs which did not involve any changes in the total funding by the House or Senate.

CONSTRUCTION OF FACILITIES

For construction of facilities the House provided a total of $33,975,000 and the Senate authorized a total of $32,550,000. The principal difference was a $2,050,000 item for an earth resources technology laboratory at the Goddard Space Fight Center which had been cut out by the Senate. While the Senate approved of the earth resources program it was felt that the administration had not done sufficient long-range planning for an operational earth resources survey satellite system which would be utilized by many of the departments and agencies of the Government. The Senate agreed to restore $1,928,000, which is the current estimated cost of this laboratory resulting from design changes by NASA subsequent to its original budget presentation, in order that the experimental portion of the program can be continued, but the conferees agreed that strong language would be placed in the statement of managers indicating that both Houses believe that the administration should initiate immediately long-range planning examining the management, technical, and other aspects of an operational program. The conferees further agreed that operational facilities should not be built until the benefits of surveys can be assessed and determinations made that an operational system should be built. Mr. President, I ask unanimous consent that a copy of the language agreed to be printed in the RECORD at this point.

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

LANGUAGE ON GODDARD FACILITY

It is clear that several federal agencies will have a need for the kind of information that will be provided by earth resources satellites. In fact, NASA is designing the data collection and return systems of the Earth Resources Technology Satellites (ERTS) so as to maximize their usefulness for the prospective user agencies. It is equally clear, however, that insufficient attention has been given to the organizational aspects of an operational system which are compounded by the very nature of the multiple interests that would be served. In addition, there are international ramifications to an operating ERTS system that have not been adequately considered.

The Conferees agree, therefore, that the Executive Branch and particularly NASA and the Office of Management and Budget should give prompt and careful study to the problem of how an operational earth resources survey satellite system would be structured both in terms of the many federal agency interests that will be involved and in terms of its international aspects. However, in view of the current developmental status of the NASA experimental project, operational facilities for an earth resources survey satellite system should not be built until such time that the benefits of continuing satellite surveys can be assessed and a determination made that an operational earth resources satellite system should be built.

Mr. ANDERSON. Mr. President, in addition, the House had authorized a total of $17,950,000 for various locations and the Senate had authorized $18,575,000, or an amount $625,000 above the House authorization. This amount was to be used for preservative-type rehabilitation work at the Michoud assembly facility and at the Mississippi test facility. The House receded from its disagreement to the Senate figure and agreed to the additional $625,000.

RESEARCH AND PROGRAM MANAGEMENT

For research and program management, the House had authorized a total of $693,700,000 and the Senate had authorized $677,300,000, which was $16,400,000 less than the House authorization. In addition, the Senate specified that a ceiling of not to exceed $500,108,000 of such authorization be available for personnel and related costs. The Senate further provided that NASA authority to transfer funds should not be construed to authorize the expenditure of amounts for personnel and related costs in excess of the ceiling established by the Senate for such costs.

In conference a total of $683,300,000 was agreed to for research and program management of which not more than $506,108,000 shall be used for personnel and related costs. This represents a $9 million reduction in personnel costs from the NASA budget request. The conferees agreed to the ceiling on personnel costs passed by the Senate with a proviso that the funding for personnel costs might be increased 1 percent in the event the Administrator determines such an increase is necessary for the safety of any mission.

The House in its bill had added $1.4 million to the research and program management budget stipulating that the increase was for research fellowships, additional summer jobs, and graduate and undergraduate fellowships in the field of aeronautics. The Senate amendment to the House bill contained no such provision. The conferees agreed that there is an urgent need for encouraging young people trained in the aeronautical sciences to accept research positions in NASA so as to help maintain a position of leadership for the United States in the field of aeronautics. Therefore, the conferees agreed that NASA should initiate, within the amount authorized for research and program management, an educational program directed to the aeronautical sciences.

OTHER LEGISLATIVE AMENDMENTS

The Senate bill included two other legislative changes which were not in the House-passed bill. One provision would place a ceiling of $500,000 on appropriated funds to be used by NASA for the payment of services, per diem, travel, and other expenses of experts and consultants. The House conferees agreed to this amendment. The Senate bill also included a legislative amendment to section 6 of the House Authorization Act, 1970, which would make certain minor and generally nonsubstantive changes in that section so that NASA and DOD can issue uniform regulations relative to the submission of certain specified data relating to employees and former employees of both NASA and the DOD. The House conferees agreed to this amendment.

Mr. President, there was a good deal of give and take in the conference committee which brought the House and Senate into agreement on this bill, H.R. 16516. I would like to congratulate all of the conferees—both the House and the Senate—for their fine participation. However, I think no one deserves more credit for the report I am presenting to the Senate today than the senior Senator from Maine (Mrs. SMITH). As usual, she was there for every minute of the conference, was thoroughly prepared and supported the Senate's position with determination and vigor. It is a pleasure to have served on the conference committee with her.

Mr. President, I move adoption of the conference report.

The motion was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chamber be cleared of all unauthorized personnel.

The PRESIDING OFFICER (Mr. GURNEY). The Sergeant at Arms will clear the Chamber of all unauthorized personnel.

SECOND SUPPLEMENTAL APPROPRIATIONS, 1970

The Senate resumed the consideration of the bill (H.R. 17399) making supplemental appropriations for the fiscal year ending June 30, 1970, and for other purposes, which had been reported from the Committee on Appropriations, with amendments.

Mr. PASTORE. Mr. President, I would like to know now that we have laid new business before the Senate whether the Pastore rule of germaneness for 3 hours obtains.

The PRESIDING OFFICER. The Chair announces that the 3 hours for germaneness has elapsed.

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

Mr. PASTORE. I yield.

Mr. MANSFIELD. Mr. President, may I express the hope to the Senate, on behalf of the joint leadership, that at least an informal adherence to the Pastore rule of germaneness might be applicable on the second measure we are considering today so that we might get on to the business at hand.

We have a morning hour which will allow the inclusion of morning business at any time during the course of the day. But in the interest of expediting our labors today, we might give consideration to the request of the Senator from Rhode Island.

Mr. BYRD of West Virginia. Mr. President, on Friday I made an opening statement on the second supplemental appropriations bill for 1970. The statement is in the RECORD. I have no further comments to make at this point.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill as thus amended be regarded as original text for the purpose of amendment, provided that no point of order shall be considered to have been waived by reason thereof.

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

The amendments agreed to en bloc are as follows:

On page 2, line 10, after the word "exceed", strike out "$597,000" and insert "$425,000".

On page 2, after line 21, insert:

"FEDERAL PAYMENT TO DISTRICT OF COLUMBIA

"For an additional amount for 'Federal payment to the District of Columbia', to be paid to the general fund of the District of Columbia, $4,042,000."

On page 3, line 10, after the word "expenses", strike out "$2,675" and insert "$174,675".

On page 3, line 16, after the word "vehicle", strike out "$2,370,500" and insert "$3,966,485".

On page 3, line 22, strike out "$47,300" and insert "$171,750".

On page 3, after line 22, insert:

"SETTLEMENT OF CLAIMS AND SUITS

"For payment of property damage claims in excess of $500 and of personal injury claims in excess of $1,000, approved by the Commission in accordance with the provisions of the Act of February 11, 1929, as amended (45 Stat. 1160; 46 Stat. 500; 65 Stat. 131), $20,000, payable from the general fund."

On page 4, line 7, after the word "expended", strike out "$1,658,000" and insert "$8,768,000"; and, after the amendment just above stated, insert a colon and *"Provided,* That $374,500 shall be available for construction services by the Director of General Services or by contract for architectural engineering services, as may be determined by the Commissioner.".

On page 4, after line 18, insert:

"FOREIGN ASSISTANCE

"FOREIGN MILITARY CREDIT SALES

"For expenses, not otherwise provided for, necessary to enable the President to carry out the provisions of the Foreign Military Sales Act, as amended, $250,000,000: *Provided,* That this paragraph shall be effective only upon the enactment into law of H.R. 15628, Ninety-first Congress, or similar legislation: *Provided further,* That such funds shall remain available until thirty days after the date of approval of this Act, or of H.R. 15628, Ninety-first Congress, or similar legislation, whichever is later."

On page 5, after line 19, insert:

"PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

"For an additional amount for 'Payment to civil service retirement and disability fund', as authorized by 5 U.S.C. 8348, $157,816,600, to be credited to the civil service retirement and disability fund."

On page 6, after line 7, insert:

"GENERAL SERVICES ADMINISTRATION

"REAL PROPERTY ACTIVITIES

"SITE AND EXPENSES, PUBLIC BUILDING PROJECTS

"For an additional amount for 'Sites and expenses, public buildings projects', $371,000, to remain available until expended."

On page 6, line 17, strike out "$7,000,000" and insert "$7,433,000".

On page 7, after line 4, strike out:

"COUNCIL ON ENVIRONMENTAL QUALITY

"SALARIES AND EXPENSES

"For expenses necessary for the Council on Environmental Quality in carrying out its functions under the National Environmental Policy Act of 1969 (Public Law 91190), including hire of passenger motor vehicles and partial support of the cabinet committee on environmental quality, and the Citizens' Advisory Committee on Environment Quality established by Executive Order 11472 of May 29, 1969, or any amendatory order, $100,000."

And, in lieu thereof, insert:

"COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

"SALARIES AND EXPENSES

"For expenses necessary for the Council on Enviornmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91–190) and the Environmental Quality Improvement Act of 1970 (Public Law 91–224), including hire of passenger vehicles, and partial support of the Cabinet Committee on the Environment and the Citizen's Advisory Committee on Environmental Quality, established by Executive Order 11472 of May 29, 1969, as amended by Executive Order 11514 of March 5, 1970, $200,000."

On page 10, after line 12, insert:

"GEOLOGICAL SURVEY

"SURVEYS, INVESTIGATIONS, AND RESEARCH

"For an additional amount for 'Surveys, investigations, and research', $225,000."

On page 10, line 20, after the word "Protection", strike out "$850,000" and insert "$775,000".

On page 11, line 6, after the word "management", strike out "$21,000,000' and insert "$21,172,000"; and, after the amendment just above stated, insert a comma and "including $172,000 to remain available until expended."

On page 12, after line 2, insert:

"MANPOWER ADMINISTRATION

"MANPOWER DEVELOPMENT AND TRAINING ACTIVITIES

"For an additional amount for manpower and development training activities, to carry out the provisions of section 102 of the Manpower Development Training Act of 1962, as amended, $50,000,000 to remain available until September 30, 1970: *Provided,* That this appropriation shall not be available for the purposes of sections 106(d) and 309(b) of said Act."

On page 12, after line 16, insert:

"TRADE ADJUSTMENT ACTIVITIES

"For an additional amount for 'Trade Adjustment Activities', $2,330,000, together with such amount as may be necessary to be charged to the subsequent year appropriation for these expenses for any period subsequent to March 31 of the current year."

On page 14, after line 2, insert:

"HOSPITAL MODERNIZATION AND CONSTRUCTION

"For an additional amount for grants or loans for hospitals and related facilities pursuant to section 601(b) of the Public Health Service Act, $8,703,078."

On page 14, after line 6, insert:

"OFFICE OF EDUCATION

"EMERGENCY SCHOOL ASSISTANCE

"For providing emergency assistance to desegregating school districts under part D of the Education Professions Development Act (title V of the Higher Education Act of 1965), the Cooperative Research Act, title IV of the Civil Rights Act of 1964, section 807 of the Elementary and Secondary Education Act of 1965, section 402 of the Elementary and Secondary Education Amendments of 1967, and title II of the Economic Opportunity Act of 1964, as amended, including necessary administrative expenses therefor, $150,000,000 to remain available until September 30, 1970: *Provided,* That no part of any funds appropriated herein to carry out programs under title II of the Economic Opportunity Act of 1964 shall be included as part of the amounts appropriated for the purpose of determining allocations for each purpose set forth in clauses (1) through (8) of section 102(b) of the Economic Opportunity Amendments of 1969: *Provided further,* That funds appropriated for administrative expenses shall remain available until June 30, 1971."

On page 15, after line 13, insert:

"SENATE

"CONTINGENT EXPENSES OF THE SENATE

"INQUIRIES AND INVESTIGATIONS

"For an additional amount for 'Inquiries and Investigations', fiscal year 1970, $345,000, to be derived by transfer from the appropriation, 'Salaries, Officers and Employees', fiscal year 1970."

On page 17, after line 7, insert:

"LEGAL ACTIVITIES AND GENERAL ADMINISTRATION

"FEES AND EXPENSES OF WITNESSES

"For an additional amount for 'Fees and expenses of witnesses', $500,000."

On page 17, after line 15, insert:

"FEDERAL PRISON SYSTEM

"Support of United States Prisoners

For an additional amount for 'Support of United States prisoners', $850,000."

On page 19, after line 10, insert:

"MARITIME ADMINISTRATION

"STATE MARINE SCHOOLS

"For an additional amount for 'State Marine Schools', for maintenance and repair of vessels loaned by the United States for use in connection with such State marine schools, $145,000."

On page 19, after line 10, insert:

"DEPARTMENT OF HEALTH, EDUCATION AND WELFARE"

On page 19, line 22, after the word "pay", strike out "$1,250,000" and insert "$1,000,000".

On page 20, after line 12, insert:

"BUREAU OF ACCOUNTS

"SALARIES AND EXPENSES

"For an additional amount for, 'Salaries and expenses', $1,300,000".

On page 20, line 20, after the word "debt", strike out "$3,250,000" and insert "$3,600,000".

On page 20, line 24, after the word "Transportation", strike out "$10,700,000" and insert "$10,600,000".

On page 21, line 5, strike out "$83,000" and insert "$67,000".

On page 21, line 13, after the word "Congress", insert a comma and "and Senate Document numbered 91–86 Ninety-first Congress"; and, in line 14, after the amendment

just above stated, strike out "$6,591,406" and insert "$23,478,461".

On page 22, after line 6, insert:

"SENATE

"'Compensation of the Vice President and Senators', $10,835;

"'Salaries, officers and employees', $3,634,674;

"'Office of the Legislative Counsel of the Senate', $39,120;

"Contingent expenses of the Senate:

"'Senate policy committees', $47,120;

"'Automobiles and maintenance', $4,140;

"'Inquiries and investigations', $662,515; including $23,695 for the Committee on Appropriations;

"'Folding documents', $4,660;

"'Miscellaneous items', $92,810;

On page 24, line 5, after the world "Committee", strike out "$44,490" and insert "$43,475".

On page 24, after line 20, insert: "Senate office buildings", $146,300;".

On page 24, after line 21, insert: "Senate garage", $3,400;".

On page 32, line 10, after the word "Force", strike out "$485,000,000" and insert "$502,500,000".

On page 32, line 20, after the word "Army," strike out "$196,480,000" and insert "$206,900,000".

On page 32, line 22, after the word "Navy", strike out "$157,800,000" and insert "$166,100,000".

On page 33, line 1, after the word "agencies", strike out "$70,400,000" and insert "$74,200,000".

On page 33, line 4, strike out "$43,800,000" and insert "$14,800,000".

On page 43, after line 6, insert:

"FEDERAL PRISON INDUSTRIES, INCORPORATED

"LIMITATION ON ADMINISTRATIVE AND VOCATIONAL TRAINING EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

"In addition to the amount heretofore made available under this heading for administrative expenses, $55,000 shall be available for such expenses during the current fiscal year."

On page 46, after line 1, strike out:

"INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO."

And, in lieu thereof, insert:

"International Boundary and Water Commission, United States and Mexico:"

On page 46, after line 5, strike out: "'Salaries and expenses,' $81,000;".

And, in lieu thereof, insert: "'Salaries and expenses,' $81,000;".

On page 46, after line 7, strike out:

"'Operation and maintenance,' $175,000;".

And, in lieu thereof, insert: "'Operation and maintenance,' $175,000;".

On page 48, line 19, after the word "expenses", strike out "$1,740,000" and insert "$1,940,000"; and, in the same line, after the amendment just above stated, insert a colon and *"Provided,* That $200,000 of this appropriation shall be available only upon enactment into law of S. 2694, Ninety-first Congress, or similar legislation;".

On page 51, after line 22, insert:

"APPALACHIAN REGIONAL COMMISSION

"'Salaries and expenses', $42,000, to be derived by transfer from the appropriation for 'Appalachian regional development programs';".

On page 53, line 19, after the word "expenses", strike out "$1,932,000" and insert "$2,229,000".

On page 53, line 20, after the word "safety", strike out "$1,780,000" and insert "$2,324,000".

On page 53, line 22, after the word "recreation", strike out "$652,000" and insert "$899,000".

On page 53, line 23, after the word "welfare", strike out "$4,478,000" and insert "$4,624,000".

On page 54, line 2, after the word "engineering", strike out "$1,096,000" and insert "$1,905,000".

On page 54, line 5, after the word "follows", strike out "$10,332,000" and insert "$12,191,000"; in line 6, after the word "fund", strike out "$533,000" and insert "$535,000"; in line 8, after the word "parking", strike out "$375,000" and insert "$468,000"; and, at the beginning of line 9, strike out "$250,000" and insert "$339,000".

On page 62, line 13, after the word "exceed", strike out "$3,000,000,000" and insert "$6,000,000,000".

On page 63, after line 12, insert a new section, as follows:

"SEC. 604. Funds appropriated, or otherwise made available, by this Act for the fiscal year 1970, shall remain available for obligation until July 1, 1970, or for five days after the date of approval of this Act, whichever is later, unless a longer period is specifically provided: *Provided,* That all obligations incurred in anticipation of such appropriations and authority for the fiscal year 1970 as well as those for longer periods as set forth herein are hereby ratified and confirmed if in accordance with the terms hereof."

Several Senators addressed the Chair.

Mr. BYRD of West Virginia. Mr. President, I simply want to say that the able Senator from Nebraska (Mr. HRUSKA) is the ranking minority member of the subcommittee. While I have made my opening statement, I point out that he may wish to make an opening statement.

I therefore would like to yield to him at this time for that purpose.

Mr. HRUSKA. Mr. President, I thank the Senator from West Virginia. My statement will be short. It will review some of the high points of the second supplemental appropriations bill for 1970.

Mr. President, the second supplemental appropriation for 1970 is a big, complicated and important enactment. It has been the subject of long and serious deliberation by the committee, and much hard work by the committee staff. I take this opportunity to compliment them and particularly our hard-working and efficient chairman, the junior Senator from West Virginia. Throughout the hearings and the consideration of the measure, Senator BYRD rendered a superb service.

This bill, Mr. President, is notable for several reasons:

First, it contains almost six and a half billion dollars in new obligational authority. Of this $4.3 billion is due to the costs of pay increases, the balance being partly for uncontrollable items and partly for new emphasis or new directions on selected Government activities.

Second, the bill contains $150 billion for emergency assistance to school districts which are expected to desegregate by September of this year. This is in the nature of a stopgap to solve an immediate problem; the President has informed us of his intention to continue the program on a more regular basis, by amending the 1971 budget and including funds in the 1972 budget. Legislative authorization has been requested in the form of the proposed "Emergency School Aid Act of 1970" presently being considered in committee as S. 3883. The amount projected as needed during the next 2 years is $1.5 billion.

Third, the bill contains language, in titles IV and V, to adjust the 1970 and 1971 expenditure ceilings. The revised ceilings reflect a more realistic estimate of budget outlays for the current year, and gives the President needed flexibility for 1971. In this connection, it should be noted that the issue is not one of thrift or profligacy on the part of the administration. Rather, it is the question of how accurate it is possible to be about the pace of expenditures caused by prior commitments of the Government and appropriations by the Congress. The administration would prefer that the expenditure limitation be eliminated altogether, but believes that the flexibility provided in this bill will be a workable substitute for such action. That is to say that uncontrollable items may total up to $6 billion without requiring further congressional service.

Fourth, the bill contains $50 million proposed by the administration, to support a program of summer employment for disadvantaged youth. These extra funds will permit useful and stimulating work experiences for young people during the summer months. This is a program of great importance and it should be supported at the highest possible level. The administration has advised the committee that the $50 million contained in the bill is the limit of what can be effectively and efficiently used.

Mr. President, the supplemental bill contains other items of special interest to the people of Nebraska and of many other States across the Nation. For example, the bill contains $8.7 million for hospital construction, to permit work to continue on 35 selected hospital projects already underway. The reduced appropriation for 1970, from the 1969 level of $254 million, caught these hospitals with construction contracts, made in good faith, without funds to liquidate them. The amounts included in the bill will avoid funding deficits in these essential projects. Three of these hospitals were in Nebraska; the Mary Lanning Hospital, in Hastings, and the St. Elizabeth's Hospital, and Madonna Nursing Home in Lincoln. These three projects require $292,000 to meet the obligations I have mentioned, and that amount is included in the supplemental.

Mr. President, I would also like to call attention to the increased amounts in this bill for homeownership and rental housing assistance for those whose income levels make most difficult the purchase or rental of adequate housing. The bill contains increases of $35 million for programs under sections 235 of the Housing Act, and an identical amount for section 236 programs. These additional amounts will help to ease the housing shortage, particularly for our most needy families.

Mr. President, it is my earnest hope that the Senate will be able to move with dispatch on this important matter. The fiscal year to which it applies is almost over, and the bill includes items not yet

formally considered by the House of Representatives. I believe this is a good bill and I recommend its speedy approval.

Mr. PASTORE. Mr. President, do I understand that the bill is open to amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. PASTORE. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

"URBAN RENEWAL PROGRAMS

"For grants for urban renewal, fiscal year 1970, as an additional amount for urban renewal programs, as authorized by title I of the Housing Act of 1949, as amended (42 U.S.C. 1450 et seq.) and section 314 of the Housing Act of 1954, as amended (42 U.S.C. 1452a), $587,500,000, to remain available until expended: *Provided*, That no part of any appropriation in this Act shall be used for administrative expenses in connection with commitments for grants aggregating more than the total of amounts available in the current year from the amounts authorized for making such commitments through June 30, 1967, plus the additional amounts appropriated therefor."

Mr. PASTORE. Mr. President, the Senate will recall that last November when the regular bill making appropriations for housing came before the Senate, I was the manager of the bill. At that time an amendment was offered to add to the bill the $587,500,000; that is in the amendment before us today. It was an increase over the estimate and is the balance of the authorization for fiscal year 1970. The difficulty then was not in the merit but in the matter of timing.

I cautioned the Members of the Senate at that time that it was not the proper time to bring up the amendment and that I thought it should be brought up on the supplemental bill.

We had a vote at that time on that amendment. It was rejected by only two votes. This strong support was because there was a strong feeling that our cities were in such a state of decay that something needed to be done—many of us felt a priority to do something about urban renewal.

Since that time, a number of very concerned mayors appeared before our committee. They have made the very strong assertion that if we will bring up the authorization for urban renewal and make these funds available, they will eliminate the ghettos of this country within a period of 5 years. They may be slightly overoptimistic but they deserve our support and I think it is a step in the right direction.

I repeat that when the amendment last came up, I resisted it purely on the grounds that it was not the proper time to bring it up. And I fear that because I was the manager of the bill and made that statement, that might have been the reason it did not carry especially since it lost by only two votes.

I hope that the amendment will carry this time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BYRD of West Virginia. Mr. President, I wonder if the Senator would withhold his request for the yeas and nays. I would like to accept the amendment. I have discussed this with the able Senator from Rhode Island. I think he has a very meritorious amendment.

As chairman of the subcommittee which regularly handles this item, there is no inclination on my part or, on the part of anyone else I know of to oppose the amendment. I think it would save some time if we could agree to the amendment without the yeas and nays.

Mr. PASTORE. Mr. President, I would be perfectly willing to do that under ordinary circumstances. However, the thing that disturbs me concerns the weight of this measure in conference. I believe that if we can get a strong sentiment recorded by the Senate then the Senator from West Virginia would have a strong argument and a more effective hand to use in the conference.

I feel we ought to have the yeas and nays. We could have a fast vote.

Mr. BYRD of West Virginia. Mr. President, the Senator has a right to ask for the yeas and nays. However, I wish he would not so that we might save time.

Mr. PASTORE. Mr. President, I ask for the yeas and nays, and this is not to hurt the Senator from West Virginia but to help him in conference.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second, and the yeas and nays are ordered.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I was the sponsor of the losing amendment.

Mr. PASTORE. The Senator is correct.

Mr. JAVITS. I am delighted that the Senator has taken this action. I think it is entirely fitting that he should be the one to do it.

I can affirm that this is the key to the problem relating to the debilitation and wreckage of our cities. This will help enormously to correct many problems in the housing area.

Mr. PASTORE. Mr. President, I made the promise last time that I would do exactly what I am doing. I am carrying out my promise. I am keeping my word.

The PRESIDING OFFICER (Mr. GURNEY). The question is on agreeing to the amendment of the Senator from Rhode Island. On this question the yeas and nays have been ordered, and the clerk will call the role.

The assistant legislative clerk called the role.

Mr. KENNEDY. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Okahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Nevada (Mr. CANNON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK) and the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from California (Mr. MURPHY) is detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), the Senator from South Dakota (Mr. MUNDT), and the Senator from California (Mr. MURPHY) would each vote "yea."

The result was announced—yeas 70, nays 12, as follows:

[No. 162 Leg.]

YEAS—70

Aiken	Griffin	Pastore
Allott	Hart	Pearson
Anderson	Hartke	Pell
Baker	Holland	Percy
Bayh	Hruska	Prouty
Boggs	Hughes	Proxmire
Brooke	Inouye	Randolph
Burdick	Jackson	Ribicoff
Byrd, Va.	Javits	Saxbe
Byrd, W. Va.	Jordan, N.C.	Schweiker
Case	Jordan, Idaho	Scott
Church	Kennedy	Smith, Maine
Cook	Long	Smith, Ill.
Cooper	Magnuson	Sparkman
Cranston	Mansfield	Spong
Dole	Mathias	Stennis
Eagleton	McGee	Stevens
Eastland	McGovern	Symington
Ellender	Miller	Talmadge
Ervin	Mondale	Williams, N.J.
Fong	Montoya	Young, N. Dak.
Fulbright	Moss	Young, Ohio
Goodell	Muskie	
Gravel	Nelson	

NAYS—12

Allen	Curtis	Hansen
Bellmon	Fannin	Thurmond
Bennett	Goldwater	Tower
Cotton	Gurney	Williams, Del.

NOT VOTING—18

Bible	Hatfield	Mundt
Cannon	Hollings	Murphy
Dodd	McCarthy	Packwood
Dominick	McClellan	Russell
Gore	McIntyre	Tydings
Harris	Metcalf	Yarborough

So Mr. PASTORE's amendment was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ELLENDER obtained the floor.

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

Mr. ELLENDER. I yield.

Mr. BYRD of West Virginia. Mr. President, may we have order, so everyone can hear what the majority leader has to say?

Mr. MANSFIELD. Mr. President, there will be further votes this evening. Some of them may well be rollcall votes. I would urge all Members of the Senate to stay as close to the floor as possible so that we can dispose of these amendments

as they come along, and not be forced to wait for Senators who, through no fault of their own, may be delayed.

Mr. ELLENDER. Mr. President, I send an amendment to the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Louisiana will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 2, after line 12, insert the following:

"FOOD AND NUTRITION SERVICE FOOD STAMP PROGRAM

"For necessary expenses of the Food Stamp Program pursuant to the Food Stamp Act of 1964, as amended, for the period July 1, 1970, to September 30, 1970, $300,000,000, to be charged to the amount appropriated under this head in H.R. 17923, when enacted."

Mr. ELLENDER. Mr. President, it will be recalled that last September the Senate passed the food stamp program, in which it was provided——

Mr. BYRD of West Virginia. Mr. President, I ask that the Chair require Senators to take our seats, and Senators' aides to take seats in the rear of the Chamber or leave the Chamber.

The PRESIDING OFFICER (Mr. WILLIAMS of New Jersey). The Sergeant at Arms is so ordered. Senators and aides will take their respective seats.

The Senator from Louisiana may proceed.

Mr. ELLENDER. Mr. President, as I just stated, last September the Senate passed the food stamp bill, in which it provided $1.250 billion for fiscal 1970 and $2 billion for fiscal 1971.

Under the present law, the authorization for the first 6 months of fiscal year 1971 is only $170 million.

Last week Mr. Richard Lyng, Assistant Secretary of Agriculture, appeared before the Select Committee on Nutrition and Human Needs and stated that the food stamp program was progressing at an expenditure rate of about $87 million to $90 million a month.

I understand that the Subcommittee on Appropriations for Agriculture of the House of Representatives has included in its appropriation bill for fiscal year 1971 $1.250 billion for the food stamp program. That, of course, would be subject to the passage by Congress of the authorization bill.

In anticipation of the food stamp program being enacted by the House of Representatives, the House committee has recommended an appropriation of $1.250 billion for fiscal 1971.

Since the present law provides for an authorization of only $170 million for the entire 6 months beginning on July 1st, and since we are spending now at the rate of about $90 million a month, it is necessary that we provide more funds so as to continue the food stamp program as outlined by Secretary Lyng.

The cost of the program under the present law would probably go up to from $90 to $95 million a month, and the purpose of my amendment is simply to provide funds for July, August, and September at a rate of not more than $100 million a month, with the understanding that such funds be restored from the amount to be approved by Congress, for the Department of Agriculture for fiscal year 1971.

I urge that the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. ELLENDER. I consulted with my good friend the Senator from West Virginia (Mr. BYRD), and also with the Senator from Florida (Mr. HOLLAND), who handles the appropriation bills for agriculture, and both agree that they have no objection to the amendment.

Mr. BYRD of West Virginia. Mr. President, the Senator from Louisiana states the case precisely. We have discussed the amendment, and I am willing to accept it.

Mr. HRUSKA. Mr. President, I concur in that statement of the Senator from West Virginia, and also the statement of the Senator from Louisiana. As I understand it, the amendment would simply anticipate the amount that would normally fall within fiscal year 1971, and is within the authorization as already approved by this body.

Mr. ELLENDER. It is a little less.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ELLENDER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MANSFIELD. I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Montana (Mr. MANSFIELD) proposes an amendment as follows:

On page 6 after line 13, insert the following:

"NATIONAL SCIENCE FOUNDATION

"SALARIES AND EXPENSES

"For expenses necessary to carry out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), $8,800,000, to remain available until expended."

Mr. MANSFIELD. Mr. President, the pending amendment seeks to add $8.8 million to the Supplemental Appropriations Act for the National Science Foundation. It is the intent of this amendment to give to the National Science Foundation an amount of funds—determined by the General Accounting Office in its report received in my office today—equivalent to those eliminated by the Department of Defense by the application of section 203 of the Military Procurement Authorization Act of 1970.

Section 203 provides that the Department of Defense will limit itself to the funding of research which has a direct and apparent relationship to a mission or function of that Department. It was enacted by the Congress on its own initiative and without the prior approval of the Department of Defense. The intent of section 203 was not to limit the Federal contribution for basic science but to rechannel the sponsorship to civilian agencies. The National Science Foundation was created in 1950 specifically for the purpose of sponsoring basic research at our universities. The report from the General Accounting Office dated June 23, 1970, attributes cuts by Defense of $8.8 million directly to this amendment during the fiscal year 1970. The research community especially at the universities has voiced no complaint to the philosophy or thrust of this amendment but hopes that Congress will fulfill its stated intention of providing the necessary funds to the National Science Foundation that are attributable to the application of this law. The $8.8 million of this amendment does provide those additional funds for basic research; in addition its passage will serve as a symbol to the academic and research communities that Congress intends to fulfill the purpose of the amendment by effecting a transfer of the resources to the National Science Foundation.

It is important to stress that the effect of section 203 covered by this amendment is solely for funds cut during fiscal year 1970. The impact of section 203 for the following fiscal years has not yet been determined. It has been estimated that the reduction in sponsorship of basic research by the Federal Government this past year due to general budgetary cutbacks has been of the order of magnitude of $40 to $60 million. That sum as well as any others that may be cut for the coming fiscal year from mission oriented agencies should be compensated for in the regular appropriations to the National Science Foundation. I think it is very important for the Senate to keep its word and to compensate during this fiscal year for the effects of section 203 directly attributable to it during this fiscal year. As the sponsor of section 203 on the military procurement bill of last year, I feel that I have a particular responsibility in seeking the addition of these funds this year to this Supplemental Appropriations Act. I urge the adoption of this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter addressed by me to the Senator from West Virginia, the chairman of the Supplemental Appropriations Subcommittee (Mr. BYRD), dated April 24, 1970. The report of the General Accounting Office dated June 23, 1970, will be a public record and the information upon which the figure is based may be obtained from that public report.

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

APRIL 24, 1970.

HON. ROBERT C. BYRD,
Chairman, Supplemental Appropriations Subcommittee, Senate Committee on Appropriations.

DEAR BOB: In the military authorization for FY 1970, Public Law 91–121, the Senate took an important step towards reducing the dependence of American science upon military appropriations. Section 203 of the Act specified:

None of the funds authorized to be appro-

priated by this Act may be used to carry out any research project or study unless such a project or study has a direct or apparent relationship to a specific military function or operations.

The principle of this amendment was strongly endorsed by the Appropriations Committee last year in its Committee report on the Defense Appropriations.

An underlying purpose in introducing Section 203 was to decouple the work of our scientists, particularly in colleges and universities, from military appropriations and to achieve a redistribution of Federal funds for research among other agencies so that the Defense Department would no longer be subject to the criticism of being a second National Science Foundation.

Since the authorization became law, the Defense Department has made a major review of its research projects to test them against Section 203. The latest information I have indicates that the Defense Department has so far disqualified somewhat more than 400 research projects with a total funding of over $8 million.

Secretary Laird has accepted the principle of Section 203, that research not relevant to military programs should be eliminated. In testimony on February 20, 1970 before the Senate Armed Services and Appropriations Committees he indicated Defense was complying but went on to express his concern for the continuation of high-quality research affected by Section 203. He called for arrangements for its continued support by other agencies.

The General Accounting Office, at my request, has monitored Defense compliance with Section 203. From what the GAO reports, I am satisfied that the Department is taking Section 203 seriously. The Defense Department is doing its part. I believe that the Congress should do its part. There is general concern and even apprehension within the research community both at the Universities and at other research centers that there is an effort to diminish the Federal commitment to basic research which has contributed so much to the technological base which has given this country economic supremacy in the world. To reduce this research is not the aim of Section 203; to rechannel much of the research through the National Science Foundation is its aim.

It is important that our leading research teams and their facilities that are current and viable maintain their capacity, but more importantly that they maintain the confidence in the Congress that there is no diminution of the Federal commitment to research. By adding funds to the NSF corresponding to that amount eliminated by DOD this year, the Congress would be establishing its commitment to basic science and carrying out the promise of the principle of Section 203.

I hope that as Chairman of the Subcommittee on Supplemental Appropriations, you can favorably consider the addition to the supplemental appropriations for FY 1970 of $8 million for the National Science Foundation. These funds should be restricted to funding of research projects under the auspices of National Science Foundation. Since the present NSF authorization under Public Law 91–120 is $477,605,000 while the appropriations for FY 1970 is $438,000,000, no further authorization is needed.

By making this modest supplemental appropriation to the NSF, the Congress will demonstrate a perspective that will restore some confidence in the research community. Perhaps more important than the dollars involved, it will also reaffirm Congressional support for the work of our leading scientists; that confidence is important, for in the years ahead we will need their efforts more than ever.

Sincerely yours,

MIKE MANSFIELD.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

Mr. BYRD of West Virginia. Mr. President, I had intended to insert in the RECORD the letter addressed to me on April 24 which has now been put in the RECORD by the able majority leader. I am glad that he has done so.

Through inadvertence, I did not have any hearings conducted on this request. I was embarrassed because, through inadvertence, I failed to go into the matter. I brought the matter to the attention of the full committee during markup, but it was without the statement of the majority leader at that time, since he was not able to be present upon that occasion.

I would certainly want to see the Senate accept this amendment. I think it is a very meritorious one, and I am inclined to urge the Senate to approve it. Again, I express my apologies to the majority leader for not looking into the matter while we had hearings.

Mr. MANSFIELD. The Senator need not apologize. He has always been more than kind and cooperative to me as well as to other Members of this body. All of us lose things from time to time, but it is rare when the Senator from West Virginia does so.

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

Mr. BYRD of West Virginia. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, for fiscal 1971, the National Science Foundation has asked for $511 million. The House of Representatives cut that amount by $16 million. Their representative has appeared before our committee, asking for restoration of the $16 million. I think he made a meritorious case. I realize there has been a burden placed upon the National Science Foundation because of the Mansfield amendment, because many of the research contracts which cannot now be undertaken by the Department of Defense are being turned over to the National Science Foundation, and it creates new problems. I think there is tremendous merit in the amendment, and I support it.

Mr. ALLOTT. Mr. President, first of all, I think the chairman of the committee ought to be exonerated from any responsibility in this matter, because at the time the matter was brought up, at the markup of the bill, I was not aware of the situation, and also the distinguished Senator from Rhode Island, who is chairman of the Subcommittee on Independent Offices, was not present at that time, being away on official duties.

I have only one thing to say about this matter: I shall not oppose the amendment, but since it does take up certain things that have been considered in the request that is being made by the National Science Foundation, I think it is only fair to say that we ought to adjust and will attempt to adjust the National Science Foundation appropriation accordingly when the subcommittee meets tomorrow.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MANSFIELD. Mr. President, I agree with the distinguished chairman. As I say, I think it is very fair. It allows us to meet a need for this fiscal year, and to keep faith with the representations that were made last year when section 203 became the law. The general level of funding of the National Science Foundation should consider not only the direct effects of section 203, but also the reduction in the Federal contribution to the sponsorship of basic science generally, caused primarily by the budgetary squeeze throughout the Federal Establishment. The level of basic research sponsored by the Federal Government should not be reduced but the emphasis for channeling these funds should be shifted from Defense to the National Science Foundation.

Mr. KENNEDY. Mr. President, I want to support the Mansfield amendment to the second supplemental appropriation bill. This amendment will help ease the present crisis in basic scientific research, a crisis which gravely concerns the scientific community and should concern all Americans.

I should like to point out, however, that this amendment is only a first step. It is meant to offset section 203 of the 1970 Defense Procurement Authorization Act which prohibited the Department of Defense from supporting research not directly related to a specific military function or operation. But, contrary to popular belief, section 203 is not by itself responsible for most of the recent cuts in Federal support for basic research. The Department of Defense in fiscal year 1970 has reduced its support for academic research by about $25 million, and less than $9 million of this is attributable to section 203. Furthermore, NASA and the AEC have reduced their research support programs by a total of about $35 million, even though section 203 does not apply to them at all.

In other words, the Federal Government in fiscal year 1970 reduced its support for basic research by about $60 million. The amendment today offsets only a fraction of that cutback. If academic science is not to be severely crippled more must be done. It is for that reason that as chairman of the Special Subcommittee on the NSF I have requested a $50 million increase in the NSF authorization for fiscal year 1971. The Labor and Public Welfare Committee has approved this increase and I hope the Senate will do the same when the authorization bill comes to the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD of West Virginia. I move to lay that mation on the table.

The motion to lay on the table was agreed to.

Mr. MONDALE. Mr. President, shortly I intend to offer three amendments directed at the emergency assistance desegregation program appearing on page 14 of H.R. 17399, the second supplemental appropriations bill. Before doing so, I ask unanimous consent that I may yield to the Senator from Rhode Island

(Mr. PELL) without losing my right to the floor.

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

Mr. PELL. Mr. President, as chairman of the Education Subcommittee of the Committee on Labor and Public Welfare, I am aware of and concerned about the special problems of school districts carrying out desegregation plans. Indeed, the subcommittee is presently considering legislation to deal with these very problems. It is my hope that, if possible, the Committee on Labor and Public Welfare will bring legislation on this matter before the Senate this session.

My concern with the appropriation proposed by the Committee on Appropriations stems from the fact that this recommendation is before the Senate without proper legislative authority, and without due consideration by the substantive committee charged by the rules of the Senate with responsibility over the subject matter of the appropriation.

At this time, rather than raise a question respecting a point of order against the appropriation, I would prefer having a clarification of this matter. I choose this procedure, because it would appear that if the intent of the committee is made more precise than has already been expressed, it is possible that a point of order would not be necessary. Therefore, I would like to express my support for the Senator from Minnesota (Mr. MONDALE), in his efforts to pinpoint the situation and to make a brief statement outlining the scope of the activities which would be funded under the appropriation in a manner consistent with the authorizing legislation, thereby bringing the committee amendment within the limits of the rules of the Senate.

First, I would hope that the manager of the bill would make absolutely clear that the activities funded from the appropriation will be only those authorized by substantive law, in accordance with the terms of the authorizing legislation, and without regard to the statement of intent on page 22 of the report of the Committee on Appropriations on this bill. Specifically, the report states that these funds will be used for hiring teachers without limitation. A review of the authorizing legislation indicates that schoolteachers may be hired with Federal funds only as a part of a specific project authorized by law.

Second, I would hope that it would be made clear that this appropriation does not constitute a precedent. Otherwise, the whole function of substantive committees will be subverted by the appropriation process. It is my belief that the Senate ought not lend itself to a procedure too often used by this administration, whereby the normal rules are bypassed in favor of shortcuts for political reasons. If this administration finds that it can, as a matter of course, come to the Appropriations Committee for emergency appropriations whether or not an emergency exists, there will be no reason for submitting legislation to substantive committees. If we accede to this procedure, Congress will, in domestic affairs, have divested itself of its responsibility in much the same way as has been the case in the past with our Nation's defense.

I would address this question to the Senator from West Virginia, as to whether or not he can give up these two assurances: One, that the money would be spent only on programs that are already authorized by substantive law.

Mr. BYRD of West Virginia. The answer is "Yes."

Mr. PELL. Second, this would not be considered as a precedent for future legislation in this field.

Mr. BYRD of West Virginia. It would not be, as I understand it, because we have been advised by the General Counsel of the Department of HEW that this request has already been authorized, and the authorization sources are set forth in the bill, on page 14.

Mr. PELL. Coming to those sources, with respect to title II of the Economic Opportunity Act, $100 million, and then the other $50 million from title IV of the Civil Rights Act, the Cooperative Research Act, the dropout prevention program in the Elementary and Secondary Education Act and the Education Professions Development Act, I wonder whether the Senator could inform us—or if it could be submitted later in the RECORD—as to how much money is to be appropriated under each of these programs? I think we should know the authority under which we are appropriating funds.

Mr. BYRD of West Virginia. In answer to the question by the able Senator from Rhode Island (Mr. PELL), $115 million would be for special educational personnel and students' programs, $15 million for community participation programs, $17.9 million for equipment and minor remodeling, and $2.1 million for Federal administration and technical assistance, making a total of $150 million.

Mr. PELL. I should like to press the point as to the source of the funds. Of the $50 million that comes out of the four different authorities, is there anywhere available a breakdown of how much will come out of each of those authorities?

Mr. BYRD of West Virginia. This precise information was not supplied to the committee. The Department of Health, Education and Welfare has asked for some flexibility in this regard, but for nothing that would exceed the existing authority as set out in the bill.

Mr. PELL. The thing that concerns me is to leave to HEW the authority to take the whole $50 million out of one of the 4 programs or to divide it up on a fairly equitable basis. I think we are being very generous with the authority we give the executive branch. How does the Senator feel about that?

Mr. BYRD of West Virginia. As I have said, the Department wanted to have the flexibility that it thought it would need, and the basic authorizing legislation has been passed heretofore. The appropriations request is grounded in the legislative authority that has already been granted by Congress and would come from several different authorities as set forth in the bill and detail in the justification.

This is the first part of the $1.5 billion which the President has envisioned as being needed in his program for the desegregation of public schools, and this $150 million would come out of that, leaving $1.350 billion as an amount yet to be authorized and requested. So we can either appropriate it now or we can appropriate it later.

Mr. PELL. I am concerned with the intent of Congress in passing these authorization items, for specific programs. If the money can be appropriated under the authority of one program and not all four, it would mean that we give the administration far too much discretion to gut a program. I would like some sort of assurance, as chairman of the authorizing subcommittee, to the effect that the money would be fairly evenly used in all four programs.

Mr. BYRD of West Virginia. I think the money would be evenly withdrawn. It would be spread around among the various authorities, and I do not think any one of the authorities would be gutted, to use the able Senator's term. This was the testimony the committee received from the Department and this is what their justification implys.

Mr. MONDALE. Might I pursue the questioning offered by the Senator from Rhode Island to the floor manager of this bill. Do I correctly understand that the floor manager is not in a position to advise the Senate as to the sources from which this $150 million would be obtained or the amount of money that would be taken from any such sources, whatever they might be?

Mr. BYRD of West Virginia. The $100 million would come out of title 2 of the OEO authority, and the remaining $50 million would be spread out through the programs I have already enumerated—community participation program, equipment and minor remodeling, and Federal administration and technical assistance, under the Office of Education. Let me state further that funds would be allocated on the basis of approved applications—under this circumstance, absolute determination is difficult to ascertain at this time.

Mr. MONDALE. My question is not directed at this point to the authorities through which this appropriated money would be spent, but, rather, to the question of the sources from which the $150 million would be derived.

Mr. BYRD of West Virginia. I think I have already indicated that in answer to the earlier question by the Senator from Rhode Island.

Mr. MONDALE. What was the answer?

Mr. BYRD of West Virginia. The answer was that we were not supplied with that information and until applications for the funds are received and approved by the Commissioner of Education this is a determination that is difficult to make. However, an estimate of needs would indicate that funds would come from the various authorities set forth by the Department.

Mr. MONDALE. We do not know where this $150 million will be found?

Mr. PELL. $50 million.

Mr. MONDALE. $50 million or $150 million?

Mr. PELL. We do not know where the $50 million comes from. We know where the $100 million comes from. The $50 million is a sort of shell game.

Mr. MONDALE. Can the Senator advise me as to how much of the $150 million would be spent through part D of the Education Professions Development Act?

Mr. BYRD of West Virginia. I beg the Senator's pardon for not being able to respond promptly. If I recall correctly—the Senator may be in a position to correct me if I am wrong—the first indication I had had from the Senator that he intended to raise any questions whatsoever about this matter came on the day we were marking up the bill in the full committee.

I ask unanimous consent to insert in the RECORD at this point a breakdown on how the distribution of funds are to be made according to the justification.

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

OFFICE OF EDUCATION, EMERGENCY SCHOOL ASSISTANCE

	1970					
	Presently available		Revised estimate		Increase	
	Position	Amount	Position	Amount	Position	Amount
Special educational personnel and student programs				$115,000,000		+$115,000,000
Community participation program				15,000,000		+15,000,000
Equipment and minor remodeling				17,900,000		+17,900,000
Federal administration and technical assistance			100	2,100,000	+100	+2,100,000
Total obligations			100	150,000,000	+100	+150,000,000

GENERAL STATEMENT

School districts will be encouraged to review carefully the local problems anticipated during the desegregation process, identifying programs and resources to overcome their problems. Funding will be based upon each district's needs rather than a standard program. School districts will be required to carefully plan their programs and build in evaluation components designed to assess the program's effectiveness in meeting stated objectives. State and Federal personnel will be available to provide assistance in the identification of problems, the development of program requirements, and the management of the program.

The following estimates by program activity represent a rough approximation of how the supplemental request will be used. It is based upon the judgments of present Office of Education staff who have been working closely with southern school superintendents. Although needs will vary from one school district to another, it is expected that approvable projects will need to be both large enough and comprehensive enough to make a difference. If the objective of this program—to maintain quality education during desegregation—is to be realized, projects will have to be multi-faceted. Community participation, special personnel and services, administrative and logistical help, and technical assistance are all important elements of a successful program.

A supplemental appropriation of $150 million would provide an average of $150,000 for each of the approximately 1,000 eligible school districts. Assuming an average of 10 schools per school district, this would mean about $15,000 per school.

In total, the target population includes about 7.2 million students, of whom 2.5 million are minority students, and approximately 335,000 educational personnel.

Presently available, ———.

Revised estimate, $115,000,000.

Increase, +$115,000,000.

1. Special educational personnel and student programs:

The following activities would be supported:

A. SPECIAL PERSONNEL

Temporary teachers—to provide release time for regular instructional personnel to participate in desegregation workshop activities.

Teacher aides—to reduce pupil-teacher ratios in order to give more attention to individual students.

Special guidance and counseling and testing staff—to assist and counsel principals, teachers, and students in order to provide educational programs that will remedy student deficiencies.

Monitors—parents in the school community to perform services that will reduce potential behavioral problems on school buses and school grounds.

Crossing guards—to provide staff that will maximize safety precautions for children who may be taking new and different routes to school.

Administrative and clerical staff—to provide additional personnel and time for implementation of desegregation plans, e.g., additional month of employment during summer for principals.

B. STUDENT SERVICES

Remedial programs—to provide specialists, books and supplies for remediation in all subject areas in which students are deficient.

Guidance and counseling—to provide adequate guidance and counseling staff in order to deal with student adjustment problems resulting from the desegregation process.

Diagnostic evaluation and testing programs—to provide diagnosticians trained to evaluate special sight, hearing and psychological problems of students.

Work-study programs—to provide children from poverty level families with specially-designed school programs that would afford them financial assistance so as to continue their education.

Health and nutrition services—to provide specialized personnel and services for students having health and nutrition deficiencies.

Dropout prevention programs.

Student relations to provide special programs designed to assist students on problems such as acceptance, behavior, dress codes, etc.

C. EDUCATIONAL PERSONNEL DEVELOPMENT

Seminars on problems incident to desegregation to provide training with skilled experts in the area of human relations so as to minimize problems incident to desegregation.

Seminars on teacher interpersonal relationships—to facilitate positive interpersonal relations among educational personnel through training by skilled professionals in an intercultural understanding.

Utilization of university expertise through institutes and inservice programs to deal with such problems as:

Teaching bilingual children.

Teaching children with speech and dialect deficiencies.

Attitudes and problems of teachers, parents and students involved in the desegregation process.

Upgrading basic skills and instructional methodologies of teachers in English, math, science, social sciences, language arts, etc.

D. CURRICULUM DEVELOPMENT

Utilization of expert consultants to shape and design new curricula approaches and to introduce curriculum innovations that would serve children with multi-ethnic backgrounds.

New and varied instructional materials.

Improved evaluation and assessment of student progress.

E. SPECIAL DEMONSTRATION PROJECTS

Projects for introduction of innovative instructional methodologies which will improve the quality of education in the desegregated school:

Individualized instruction.

Master teachers.

Team teaching.

Non-graded programs.

Special projects involving community agencies and parents—to develop joint projects between special-interest and civic groups, parents and the schools which would promote understanding among citizens. Such projects could include sponsoring citywide and countywide art and music festivals, public meetings on relevant school problems (drug abuse, behavior, etc.).

Exemplary instructional practices—to operate pilot projects which would demonstrate exemplary instructional practices suitable for systemwide replication and for other school districts involved in the desegregation process.

F. STATE AND LOCAL PLANNING AND ADMINISTRATION

Expand technical assistance capabilities at the State education agency level—to provide additional personnel to assist the local education agency in planning for desegregation.

Temporary staff at the local level to handle administrative details and clerical duties—to provide additional temporary staff to deal with the logistics of changing from a dual to a unitary system. For example, rescheduling of students and teachers, redrawing transportation routes, supervision of necessary physical changes (moving of equipment, building renovation, etc.).

Staff at the local level for planning and supervising the implementation of the desegregation plan.

2. Community participation programs:

Presently available———

Revised estimate——— $15,000,000

Increase ———+15,000,000

The following activities would be supported:

A. PUBLIC INFORMATION ACTIVITIES

Community information programs for parents, teachers, and students—to provide factual information about the desegregation plan and school programs.

Public information coordinator—to provide for a person on superintendent's staff to promote public information activities.

B. COMMUNITY PROGRAMS

Establishment and support of a biracial committee.

School-home visitation programs—an activity to be performed by educational per-

sonnel to assist with dissemination of information about school programs and student progress in the desegregated school.

Special parent programs—to provide programs designed to increase parents' involvement with the schools' programs, i.e. PTA, Education Emphasis Week, etc.

Community-relations coordinator—to provide a person on superintendent's staff to plan, organize and implement programs for students and parents involved in the desegregation process.

Special demonstration projects designed to keep communication open, build understanding and develop community support.

3. Equipment and minor remodeling:

Presently Available ----------
Revised Estimate ---------- $17,900,000
Increase ---------- +$17,900,000

The following activities would be supported:

Procurement and relocation of temporary classrooms (trailers, mobile facilities and demountables).

Procurement and relocation of equipment and classroom furniture, including replacement of obsolete items.

Minor building renovation and remodeling for general upgrading of a facility including painting, modernizing, and partitioning.

	Presently available		Revised estimate		Increase	
	Position	Amount	Position	Amount	Position	Amount
Federal administration and technical assistance:						
Personnel compensation and benefits			100	$1,397,000	+100	+$1,397,000
Other expenses				703,000		+703,000
Total			100	2,100,000	+100	+2,100,000

An amount of $2.1 million and 100 positions is requested to administer the Emergency School Assistance Program. This new effort will require:

Developing entirely new procedures and regulations which will allow the Office of Education to administer a unified, coordinated program within the six separate authorities under which funds are being requested. This will include notices to potential grantees of the terms and conditions under which grants will be available, unified application forms, regulation notices in the Federal Register, and review, approval, award and accounting procedures.

Assisting schools and other interested parties in the development of applications.

Reviewing and monitoring an estimated 1,000–1,500 projects for assistance.

Providing program assistance and disseminating information to hundreds of State and local school officials.

In addition to these direct program services, a small supporting staff will be necessary in Washington and the regional offices to coordinate program activities, provide general guidance and other necessary administrative functions such as accounting, grants management and personnel.

Of the 100 additional positions requested, 82 will be professional staff and 18 will be secretarial and clerical positions. Eighty-one will be located in the three southern HEW regional offices with 19 in Washington, D.C.

The additional professional positions are required for the following specific purposes:

Project development, review, monitoring and evaluation, add 50 positions.

Fifty education program specialists will be required to handle the several phases of the some 1,000 project applications anticipated. This will mean that each specialist will be handling approximately 20 projects of varying size and scope. Because of the short leadtime involved and the unfamiliarity of many of the target school districts with developing proposals, it is expected that this workload will be quite demanding and fully justify the additional staff requested. Program specialists will need to go out and talk with local school officials, inform them of the assistance available, help them develop acceptable applications, help them with devising educationally sound programs, help with the installation of evaluation components and finally, monitor projects throughout the year, helping to make modifications as plans change and programs develop.

Development of program guidelines, program models and evaluation techniques, add 12 positions.

Twelve program development specialists will help develop materials which can be used by education program specialists in working with local school officials. This will include information on successful projects in other States and communities. The program guidelines and models will indicate, for example, what goes into making a successful guidance and counseling program, bilingual education program, special reading program, etc. These specialists will be educators who have a sound background in these special fields.

Developing uniform grant and contract terms and conditions, add 8 positions.

Eight specialists will be required to help develop common rules and regulations for the award of grants and contracts. These will include such subjects as the disposition and accountability of equipment, determination of allowable costs, etc. This is an extremely important task in view of the several legislative authorities involved. It will be important to develop a common set of rules which will satisfy all the authorities involved.

Management and administrative overhead, add 12 positions.

The above staff will in turn require certain central support in both the regions and Washington. This will include persons in administrative services, accounting, personnel operations, and management. Eight of these positions will be in the regional offices.

It is important to emphasize that while certain minimum Federal requirements on accountability of funds and other matters must be met by all school districts, the program assistance and development will be strictly optional at the discretion of local school officials. There is no intention of having the Office of Education offering gratuitous advice. It is expected, however, that many schools will welcome whatever help is available. Many of the staff involved will be drawn from the local region and will be selected for their judgment, maturity, and experience as well as professional competence.

Even though the program funds will have to be obligated by September 30, 1970, most projects will probably continue throughout the school year. For this reason, a special provision has been included in the appropriation language which will make funds for administrative activities available through June 30, 1971. To launch this program as soon as possible, it is expected that some existing staff will be diverted to start up the program. For this reason, it is expected that the 100 new positions will be on board for approximately 85 percent of the fiscal year.

ADMINISTRATIVE FUNDS FOR EMERGENCY SCHOOL ASSISTANCE PROGRAM

Personnel compensation:	
Permanent	$1,200,000
Positions other than permanent	100,000
Other personnel compensation	
Subtotal, personnel compensation	1,300,000
Personnel benefits (7.5 percent)	97,000
Travel and transportation of persons (71 employees times $50 per diem times 90 days)	313,000
Transportation of things	
Rent, communication, and utilities	207,000
(GSA, 100 employees times $900 lapsed 15 percent)	(77,000)
(Utilities—100 employees times $1,300)	(130,000)
Printing and reproduction (100 employees times $420)	42,000
Other services (100 employees times $900 lapsed 15 percent)	77,000
Supplies and materials (100 employees times $140)	14,000
Equipment (100 times $500)	50,000
Total	2,100,000
Total number of permanent employees	100
Full-time equivalent of others	12
Average number of all employees	97
Average cost per man year	$14,410

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—OFFICE OF EDUCATION—EMERGENCY SCHOOL ASSISTANCE

Positions	Grade	Number	Annual salary
Education program officer	GS–15	5	$114,425
Education program specialist	GS–14	16	314,288
Program analyst	GS–14	3	58,929
Education program specialist	GS–13	20	335,200
Grants and contract specialist	GS–13	1	16,760
Education program specialist	GS–12	14	198,688
Grants and contract specialist	GS–12	6	85,152
Education program specialist	GS–11	2	23,810
Management analyst	GS–11	2	23,810
Grants and contract specialist	GS–11	1	11,905
Budget analyst	GS–11	1	11,905
Education program specialist	GS–9	6	59,286
Do	GS–7	2	16,178
Personnel staffing assistant	GS–7	1	8,089
Accounting technician	GS–7	2	16,178
Secretary	GS–6	5	36,470
Do	GS–5	8	52,384
Clerk-typist	GS–4	3	17,559
Do	GS–2	2	9,242
Total		100	1,410,258

Mr. MONDALE. Can the Senator tell me how much will be spent through the Cooperative Research Act?

Mr. BYRD of West Virginia. As I indicated earlier, we just do not have that breakdown with respect to the authority. If the Senator is going to go down though each item—what authority is this from, what authority is that from—as I have already indicated, the committee does not have that information and it is contingent upon approved applications.

Mr. MONDALE. In other words, we do not know from which programs the $150 million will be derived, nor do we know in what amounts the $150 million will be spent through the respective authorities.

Mr. BYRD of West Virginia. We only know that the Department indicated it wanted some flexibility, and that it would be spread out in an even and fair manner. That is all I can say to the Senator.

Mr. MONDALE. Thus, it would be fair to say, since we do not know where the money is coming from, or what amounts will be spent under which titles, that we have given them all the authority they could possibly ask for.

Mr. BYRD of West Virginia. That is the Senator's judgment, and I would not challenge it.

Mr. MONDALE. Mr. President, I am pleased to say that the three amendments which I shall shortly be calling up are supported by the administration in a letter which I received today from Secretary Finch which I ask unanimous consent to have printed in the RECORD.

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

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., June 19, 1970.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: This is in response to your request for the Department's views on the proposed amendments 702, 703 and 704 to the Second Supplemental Appropriations Bill.

These amendments refer to the appropriation of $150 million included in the Bill for emergency assistance to desegregating school systems.

Amendment No. 702 provides that no funds may be extended to school districts which have transferred property or services to private schools that practice discrimination on the basis of race, color, or national origin.

Amendment No. 703 prohibits the use of appropriated funds to supplant funding from non-Federal sources which has been reduced as a result of desegregation. Also, the amendment provides that assistance under the appropriation could only be used to supplement State and local funds which would otherwise be made available to support educational programs in the affected school districts.

Amendment No. 704 would make clear that any school district in the process of implementing a Federal court order for desegregation would be eligible for assistance under the appropriation. In addition, school districts desegregating pursuant to a State court order would be eligible for assistance providing that such orders are being implemented and that as a minimum they provide for the elimination of practice prohibited under Title VI of the Civil Rights Act of 1954.

The Department believes that the amendments are consistent with the purpose of the appropriation, which is to assist school districts meet their responsibilities under the law.

With kind regards, I am
Sincerely,

ROBERT H. FINCH,
Secretary.

Mr. PELL. Will the Senator from Minnesota yield?

Mr. MONDALE. I yield.

Mr. PELL. My arithmetic is not of the best but I did get some figures which I think are accurate. The problem is that the $150 million is not divided up on a relatively even basis. It could, I suppose, completely overpower at least two of the programs for which the appropriation would be made because the total appropriation for the dropout prevention program is $5.8 million and the total appropriation for planning and evaluation is $13 million. Thus, I think that the Senator from West Virginia can see that, if these funds are appropriated for this purpose instead of that authorized, those programs could well be wiped out. That is why I think we are giving greater authority to the executive branch and have abnegated the congressional responsibility.

There are two reasons why I think we go along with it. One, we recognize that there is a real problem in moving ahead with desegregation this coming school year; and, second, we think the authorizing subcommittee will handle the remainder of the bill, the other $1.350 billion in the coming week—we hope.

But it is, to my mind, wrong and bad procedure, one which I believe a point of order could be made to—although I do not intend to do that, because the only ones who will suffer will be the young people in our Nation's schools.

Mr. STENNIS. Mr. President, would it be convenient for the Senator from Minnesota to yield to me so that I may ask a few questions of the Senator from West Virginia? Inquiry has been made as to where the authorization has come from, and now I want to ask a few questions as to where the money is going. So that we can get it in the record in the same place.

Mr. MONDALE. That is correct. I asked the same questions and I will be glad to listen to the answers.

Mr. STENNIS. The Senator has already asked those questions?

Mr. MONDALE. No. Proceed. I am glad to yield to the Senator from Mississippi.

Mr. STENNIS. I appreciate the Senator's courtesy. I invite attention to page 14 of the bill where the language with respect to the emergency school assistance fund is found, the $150 million in question that is in the bill. Reference has already been made as to where the authorization originates.

My question is, where is this money going to?

Who is going to be eligible to get it?

Is all the money to be earmarked for the South or are the northern schools entitled to share in it?

If the nothern and eastern schools share in it, will they have to desegregate in order to get the money, or are we going to pay it to them without desegregating?

Would the Senator inform me about that?

Mr. BYRD of West Virginia. Mr. President, the allocation of these funds would be going to the 17 Southern and border States—whatever that means. I am not trying to be impertinent, but I said that as I did because I asked the same thing of the HEW.

Mr. STENNIS. Yes.

Mr. BYRD of West Virginia. I said, "What do you mean by border State? Is West Virginia a border State? Is Delaware a border State? Is Oklahoma a border State? And so forth. They indicated to me that they would rather not try to answer that question and hoped that I would not persist in asking it.

Mr. STENNIS. What reason did they give for not allocating any money to the Northern, Eastern, and Western States?

Mr. BYRD of West Virginia. They said: "In the 17 Southern and border States." I think I would have to take issue with part of that, at least, that is where most of the problems lay anent de jure segregation as to the entire amount of $150 million.

Mr. Allen, former Commissioner of Education, who appeared before the subcommittee, said that it represented a rough guess as to the amount. I was not satisfied with that kind of answer, that it was a rough guess, and I so stated. I also stated that I did not feel the subcommittee should be asked to appropriate $150 million on the basis of a rough guess.

Here are a few items, if I may enumerate some of them. They are the activities that will be supported by these moneys:

Under special personnel, temporary teachers, to provide release times for regulation instructional personnel participation in desegregated workshop activities.

Teacher aids. To reduce teacher ratios in order to give more attention to individual students.

Special guidance, counseling and testing staff. To assist in counseling principals, teachers, and students, in order to provide educational programs that will remedy student deficiencies.

Crossing guards. To provide staff that will maximize safety precautions for children taking new and different routes to school.

Administrative and clerical staff, to provide additional personnel and time for implimentation of desegregation plans; for example, an additional month of employment during summer for principal.

Under student services, remedial programs, to provide specialist books and supplies. For remediation in all subject areas in which students are deficient.

Guidance and counseling, to provide adequate guidance and counseling staff in order to deal with student adjustment problems resulting from desegregation process.

Diagnostic and evaluation and testing programs.

Work study programs.

Health and nutrition services.

Dropout prevention programs.

Under educational personnel development, seminars on problems incident to desegregation, to provide training with skilled experts in the area of human relations, to minimize problems incident to desegregation.

Seminars on teachers interpersonal relationships.

Youth organization and university expertise through institute and inservice programs, to deal with such problems as teaching bilingual children.

Teaching children with speech and dialect deficiencies.

Problems of teachers, parents, and students involved in the desegregation process.

Upgrading basic skills and methodology of teachers in mathematics, social sciences, and so forth.

Mr. STENNIS. Does the Senator consider that sufficient?

Mr. BYRD of West Virginia. No; I think the Senator asked a very important question, and I think it should be answered to the very best of my ability. I want to say also that a part of this would be for curriculum development. I

think the Senator has a right to ask the question, and he has the right to know. I am attempting to state for him the information given to the subcommittee as to what activities would be supported by these funds such as special demonstration projects, special projects involving community agencies and parents, and exemplary instructional practices. Then there was another category, which is called planning and administration. And there are community participation programs, and so on, and so on. This enumeration has been inserted into the RECORD for the purpose of classification.

Mr. STENNIS. Mr. President, I thank the Senator. Is it true that the justification was based entirely on the Southern States and the so-called border States?

Mr. BYRD of West Virginia. Mr. President, I cannot recall any exceptions.

Mr. STENNIS. What was said about the rest of the $1.5 billion? Are the Southern and the border States going to get all of the $1.5 billion? I have not heard that point covered.

Mr. BYRD of West Virginia. Mr. President, my impression is that they will get most of the rest of it, but that it would not be confined to that.

As I understand it—and others were present at the hearings—this is going to be utilized to treat the problems of de jure segregation. As I further understand it, most of that problem is confined to the Southern and border States. However, nothing more than the $150 million we are now considering has been authorized and the $1.350 billion will have to be approved by the Congress.

Mr. STENNIS. Did any of the witnesses, according to the Senator's information, actually come out and say that the $1.5 billion was going to be spent solely on the so-called de jure segregation question or situation? In fact, I cannot conceive of plans to give the South $1.5 billion and not give any to any other area of the country.

I see no signs whatsoever that they are trying to desegregate any other part of the country than the South. So I think that we ought to have an understanding here as to where this money is going and what the pattern is for the spending of the rest of the $1.5 billion.

Mr. BYRD of West Virginia. Mr. President, I do not think that the witnesses stated that the moneys would be used for that purpose only. I do not think that this is the intention.

Mr. STENNIS. The Senator is talking about the $150 million or the $1.5 billion?

Mr. BYRD of West Virginia. I am talking about the $1.5 billion.

Mr. STENNIS. And there was no suggestion that a part of that money would be spent in the North and East and the Far West, and, if there ever was, under what conditions it would be spent.

My point is that I see no real plan to desegregate the schools outside the South. However, I do see evidence of plans for about $1 billion to go to those schools, whether they desegregate or not. That is the point I raise.

Of course, the Senator agrees that this is relevant.

Mr. BYRD of West Virginia. It surely is; yes.

Mr. STENNIS. Mr. President, I do not believe that this plan has gotten beyond the newspaper stage, except for the $150 million.

Mr. BYRD of West Virginia. I think the Senator is right. The $1,350 million would have to be authorized by the legislative committee; and I think they would have to go into it very thoroughly.

Mr. STENNIS. I think the Senator is correct. But I wanted to inquire about the plans so far as they are developed now. As a matter of fact, I have the record here. The Department of Justice has been in on six cases since 1964 outside of the Southern and the border States.

Mr. BYRD of West Virginia. Practically speaking, that is the impression that I have.

Mr. STENNIS. The HEW has really proceeded in only 14 cases outside of the Southern and border States and has not cut off money for any schools outside the South as yet. That is my information. There has not been a real cutoff.

So I want to know now if they are going to get a part of this $1.5 billion or are going to be required to desegregate or continue as they are at the present time.

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

Mr. BYRD of West Virginia. Mr. President, I yield first to the Senator from Nebraska and will then yield to the Senator from Colorado.

Mr. HRUSKA. Mr. President, that subject was touched upon in the President's message of March 24, 1970.

I read those words:

> In order to give substance to these commitments, I shall ask Congress to divert $500 million from my original budget request for other domestic programs for fiscal year 1971, to be put instead into programs for improving education in racially impacted areas, North and South. And for assisting school districts in meeting special problems incident to court ordered desegregation for fiscal year 1972, I have ordered that $1 billion be budgeted for the same purposes.

The bill authorizing the $1.5 billion has not been considered by Congress. It will be for Congress to decide if it is necessary to limit or to expand the purposes for that requested authorization.

No one can say with absolute certainty to what uses these moneys will be put, until the authorizing legislation has been enacted.

We do have an explanation of what the President's ideas on the subject are, and what he proposes. But, it is Congress that disposes, and we do not know what that disposition will be.

Mr. STENNIS. Mr. President, I do not want to take too much of the Senator's time. I will conclude in a moment, if I may continue.

Mr. President, that was my point. It has never been said definitely by the President or by Congress where this money is going or whether they are going to require these schools to desegregate.

We know what they will require in the South. But the President has never said that he will require them to desegregate in the North. He says it will be used for the benefit of schools in racially impacted areas.

Mr. HRUSKA. North and South.

Mr. STENNIS. The Senator is correct. So that means that in Chicago, the schools are racially impacted, I suppose. When we talk about 80 percent of the Negro students there who are attending schools that are between 99 percent and 100 percent Negro racial composition, I judge that is racially impacted. They would be eligible for this money. That is my point.

There is no plan to desegregate those schools, so far as the Federal Government is concerned. My prediction is that we will be asked to vote the $1.5 billion here for the benefit of schools generally, without any requirement whatsoever for desegregation of the schools. That is the point I make.

I just want to bring it out. I thank the Senator very much for yielding.

Mr. MONDALE. Mr. President, I thank the Senator from Mississippi. I agree with the Senator's observation about the reach of this $150 million.

In its presentation before the Appropriations Subcommittee, the administration said that the $150 million requested in this supplemental appropriation would provide immediate assistance to the approximately 994 de jure school districts in 17 Southern and border States which recently developed and which must develop its desegregation plans by September 1970.

I see no reason for limiting the scope of this matter to any such definition.

My third amendment, No. 704, would assure that school districts desegregating under legal requirement across the Nation would be eligible for assistance under this appropriation.

Mr. STENNIS. Mr. President, I commend the Senator. It was on my motion that the language in the report which applied to the South and the border States alone was stricken. I made the point that we had no right to limit the application of this money to any area.

I did point out with respect to justifying the expenditure of this money for the benefit of any schools that there are no plans now to do anything about desegregating any schools except in the South or maybe the so-called border States.

Mr. MONDALE. Mr. President, we will have an opportunity to vote on that measure in my third amendment, which I hope very much will help to give this appropriation a national effect.

May I say that the proposed legislation for assisting desegregating school districts, which is before the Education Subcommittee ably chaired by the Senator from Rhode Island (Mr. PELL), is now under serious consideration.

Speaking for myself, I would very much hope that some of the thrust in terms of both this appropriation and the proposed legislation can to be directed on a national basis.

Mr. STENNIS. If they desegregate, I agree with the Senator.

Mr. MONDALE. We are very desirous, or at least I am very desirous, that the effort we are now undertaking be national in character and not limited to any

one area. My amendment, number 704, seeks to make these funds available to any school districts desegregating under law—regardless of their location or the source of the legal requirement.

Mr. STENNIS. I agree they are entitled to the money if they are desegregated. I say the plan is they are going to give it to them if they are desegregated or not, if they are in racially impacted areas.

Mr. MONDALE. I thank the Senator for his observations.

Mr PELL. Mr President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. PELL. Under the definitions of the objectives of S. 3883, the bill introduced by the senior Senator from New York (Mr. JAVITS) and cosponsored by me, the definitions do not apply to any geographical area, just North, South, East, and West, which, when met, would bring in eligibility for funds under this act.

The point that worries me is that once the bill has been enacted, we leave it to the wisdom and discretion of the Secretary of Health, Education, and Welfare as to how he allocates the money, and he can allocate it all in one State or in one section of the country, if he wishes. The amendment of the Senator from Minnesota spreads it around a bit more effectively.

Mr. MONDALE. I thank the Senator from Rhode Island, and I concur enthusiastically in the observation he has made.

Mr. President, I shall be returning shortly to the third amendment I am going to offer to give this measure national direction. However, at this point I wish to return to my first amendment, which is designed to deal with the problem of school districts that use public buildings, school buses, faculties, curriculum, and other property and assets to support privately segregated academies, as they are called, which are springing up in many parts of the country as the answer to court-ordered desegregation. These academies are all white. Some of them, according to the testimony, have been the recipients of public school buildings which have been sold to them at token prices—in some cases $10 and $15—and some of them have used and are using public school buses. Some of them have had public textbooks loaned to them. In one case, the NEA reported a peculiar arrangement was developed which had the effect of lending publicly salaried faculty members to privately segregated academies.

Obviously, if this kind of circumvention and escape from duly issued court orders is permitted, or if we have a system by which public moneys directly or indirectly end up supporting privately segregated educational institutions, the goal of the country for quality education will be frustrated.

For this reason, I have proposed the amendment which I now send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

On page 15, line 2, insert before the period a colon and the following: *"Provided further,* That no part of the funds contained in this appropriation shall be used to assist a school district which, has engaged in the gift, lease, or sale of real or personal property, or services, to a nonpublic elementary or secondary school or school system practicing discrimination on the basis of race, color, or national origin."

Mr. MONDALE. Mr. President, I call up for myself, Mr. CASE, Mr. KENNEDY, Mr. JAVITS, Mr. BAYH, Mr. BROOKE, Mr. PELL, Mr. MUSKIE, Mr. CRANSTON, Mr. HART, Mr. HUGHES, Mr. MCGOVERN, Mr. RIBICOFF, Mr. WILLIAMS of New Jersey, Mr. MCGEE, Mr. YOUNG of Ohio, Mr. GOODELL, Mr. SCHWEIKER, Mr. NELSON, Mr. HARRIS, and Mr. EAGLETON a revision of amendment No. 702 to H.R. 17399, second supplemental appropriations bill.

This bill, which was reported by the Appropriations Committee on June 8, contains the $150 million that the administration seeks under existing legislative authority to assist school desegregation this summer and throughout the 1970–71 school year.

These funds represent the initial portion of the President's desegregation proposal. They would be added to the following programs: Part D of the Educations Professions Development Act, the Cooperative Research Act, title IV of the Civil Rights Act of 1964, sections 402 and 807 of the Elementary and Secondary Education Act, and title II of the Economic Opportunity Act. The administration will request additional funds under its proposed Emergency School Aid Act of 1970 following congressional action on the bill.

Amendment No. 702 as revised would prohibit assistance under this appropriation to school districts which have transferred property, services or equipment to nonpublic schools that practice discrimination on the basis of race, color or national origin. This amendment seeks to prevent indirect Federal subsidies of private segregated academies in cases, such as those described in a report by the National Education Association, where a "public school, opened in 1947, was declared surplus by school officials in June 1969 and sold to an individual, using sealed bids, for $1,500, and team members learned that the purchaser, in turn, sold it to a private group for $10,"—where "former public school buses, also declared surplus and put up for bid, have been obtained and are now being used to transport the students to the school"—where "localities 'surplus' public school furniture has been sold to private schools," or where "some equipment purchased with title I funds disappeared from the public school in one county."

Amendment No. 702, like amendment No. 703 which I will call up shortly, is designed to clarify and make explicit existing authority and responsibility vested in the Secretary of HEW to prevent funds under this appropriation from being granted to schools and school districts that are practicing a form of token desegregation or paper compliance while discriminating within schools.

Unfortunately, there are numerous examples of ways in which the desegregation process is being abused and distorted. The Select Committee on Equal Educational Opportunity has received testimony from several individuals and organizations documenting the existence of token or paper compliance with desegregation requirements. For instance, we have learned about desegregated schools which:

Retain totally segregated classes;

Are still operating under illegal freedom of choice plans;

Are transferring their facilities and equipment to private segregated academies;

Are in districts which have reduced the level of local or state financial aid for schools when desegregation has occured in order to ease the financial burden of parents whose children attend these segregated academies;

Have discriminatorily fired or demoted black faculty;

Have segregated extracurricular activities including, for example, the exclusion of Negroes from organized athletics, student government, proms, dances, cheerleading, or have operated separate and overlapping bus routes for blacks and whites;

Or in other ways have abused and circumvented the goal or quality integrated education.

The Select Committee on Equal Educational Opportunity has heard, for example, about cases in which the students are segregated within "desegregated" schools, in one high school white students were housed in one wing of the building, black students in another. This "desegregated" school has staggered and segregated lunch periods, and a dual system of bells so that whites and blacks do not come into contact in the corridors between classes. We have heard of another "desegregated" school in which black students are taught in segregated classrooms by black teachers, and in which high school commencement exercises were segregated, with white and black students seated on opposite sides of the football field and blacks receiving their degrees from a recently fired black principal, rather than from the white school superintendent.

In my judgment, it is absolutely essential that schools such as the two I have described, or schools which are abusing the desegregation process in any of the ways I listed above, are prohibited from receiving funds under this appropriation. I am personally convinced that under the 14th amendment, and title VI of the Civil Rights Act of 1964, the Secretary of Health, Education, and Welfare already has the authority and responsibility to prohibit Federal funding of schools or school districts which are practicing any of the kinds of discrimination I have described. I am pleased that Secretary Finch, and Mr. Stanley Pottinger, Director of the Office of Civil Rights in HEW, share this view. During a recent joint hearing of the Education Subcommittee and the Select Committee on Equal Educational Opportunity, I read this same list of abuses to Secretary Finch and asked him if districts en-

gaging in this token and misleading form of "desegregation" would be entitled to the assistance under this appropriation or under the proposed Emergency School Aid Act of 1970. The Secretary responded that "under no circumstances" will districts abusing the desegregation process through mere technical or cosmetic compliance receive funding. He said, and I quote:

> We, *under no circumstances,* will fund districts out of compliance with Title VI, those who fire or demote anyone on the basis of race or with segregated classrooms, or with other basic things that you have mentioned.

I respect and support the existing authority which prohibits Federal funding to districts practicing the kinds of racal discrimination I have listed, and I heartily congratulate the Secretary of Health, Education, and Welfare, for his commitment and promise to assure that no districts abusing the desegregation process in these or other ways will receive funding under this appropriation. There may be disagreement on the part of some observers, however, about whether title VI or the 14th amendment reach the specific abuses concerning assistance to private segregated academies or the supplanting of State and local funds.

We have introduced amendments No. 702 and 703 in order to remove any such ambiguity. These amendments are specifically designed to clarify and make explicit the authority of the Secretary to fullfill his commitment in those cases where desegregation abuses involve direct support of private segregated academies or the supplanting or reduction of State and local aid for public schools. We have not introduced amendments to cover each of the other specific examples of the abuses because there is no doubt that the 14th amendment and title VI of the Civil Rights Act already prohibit funding of districts practicing these abuses.

I hope these amendments will be adopted. I think they represent the minimum necessary to help assure that the $150 million supplemental appropriations for desegregation is used properly.

But even with the adoption of these amendments, I am still extremely skeptical about whether this emergency appropriation can and will be spent properly and effectively. I am skeptical for several reasons.

First, while I have read the administration's justification of this request, and the committee report describing it, I am not convinced that an adequate case has been made to support the need for these funds. The committee report states that this money is sought "to meet the additional costs" of desegregation. Yet a number of witnesses before the Select Committee cn Equal Educational Opportunity have stated that the elimination of the dual school system often saves money rather than costs money because it frequently reduces the extent of busing and offers the advantages of economies realized from the unified system. While I believe that funds can be used creatively to improve the quality of education in an integrated environment, I am not at all sure that this appropriations request has either identified or limited the use of funds to these creative and useful activities.

Second, I am extremely concerned about where this money is coming from. As I understand it, this $150 million request is the initial portion of the $500 million the President is committed to seek to assist school desegregation in the school year 1971. The other $350 million for fiscal year 1971 and the entire $1 billion for fiscal year 1972 are to be sought under the proposed Emergency School Aid Act of 1970. What concerns me is the President's initial statement in which he described the source of these initial funds. In his March 24 statement on desegregation the President said:

> I shall ask Congress to divert $500 million from my previous request for other domestic problems for fiscal year 1971.

I am concerned that this $150 million may be diverted or reprogramed from other equally essential domestic programs, such as Headstart, food stamps, welfare reform, legal services, or needed education programs.

Third, I am skeptical about whether a program of this magnitude can be effectively mounted and implemented in such a short period of time. How can $150 million be allocated effectively during the months of July, August and September, when specific guidelines do not yet exist, when personnel will need to be attracted and trained, and when nearly 1,000 separate school districts will be eligible for assistance? HEW was quite candid about the difficulties of this administrative task in presenting its justification for the $150 million supplemental appropriations to the Appropriations Committee. It indicated, for example, that $2.1 million and 100 positions are required to administer this program. HEW said further that—

> This new effort will require: developing entirely new procedures and regulations which will allow the Office of Education to administer a unified coordinated program within the six separate authorities under which funds are being requested. This will include notices to potential grantees of the terms and conditions under which grants will be available, unified application forms, regular notices in the Federal Register, and review approval or award of accounting procedures.

I wonder if these and other tasks can be accomplished effectively in 3 months.

Fourth, despite the Secretary's significant and sincere commitments, and despite, hopefully, the adoption of these amendments, I am extremely concerned about the possibility that portions of this money will still be made available to school districts which will abuse the desegregation process.

We have become painfully aware of the abuses which are now taking place in some "desegregated schools"—such as segregated classrooms, dismissal and demotion of black faculty members, and the other examples I listed earlier—despite the fact that title VI of the Civil Rights Act clearly prohibits Federal assistance to school districts practicing this kind of token or technical compliance. In short, since HEW and the Department of Justice are not now effectively enforcing existing prohibitions against these abuses, I remain very skeptical about the prospect that they will be able to prohibit funds under this new appropriation from going to districts engaging in this kind of paper compliance. My skepticism is increased by the fact that no part of this $150 million emergency appropriation for desegregation is provided to increase the enforcement capability of the Office for Civil Rights in HEW.

Fifth, I am concerned about this appropriations request because it appears to represent legislation on an appropriations bill. By dealing with contingencies, and placing additional burdens on the executive agencies which will administer this program, I fear that this request represents legislation on an appropriations bill. I am concerned about this question not only because I am opposed to the idea of legislating on an appropriations bill, but also because this form of legislation makes it extremely difficult, if not impossible, to write in the necessary kinds of administrative and policy safeguards and criteria that are essential for such a new and large program.

For these and other reasons, I remain skeptical about this appropriation. Despite the skepticism, I am willing, on balance, to give the administration a chance to provide these funds fairly and properly to assist districts which are desegregating their schools. If these amendments are adopted, I will support this appropriations request in an effort to give the Secretary an opportunity to deliver on his commitments and prevent funding of districts engaged in paper compliance.

I will, however, be watching very closely to see exactly how these funds are spent. The manner in which these funds are distributed, and the purposes to which they are spent, will influence the position I take in regard to the administration's proposed Emergency School Aid Act of 1970.

I hope that these amendments, coupled with the administration's commitment to prevent abuses, can help assure that the funds under this appropriation are granted to districts that are making honest efforts to desegregate their schools under legal requirement, regardless of their location. I hope that they will help assure that the funds are distributed equitably and among districts with legitimate needs. I hope that they can help prevent a Federal subsidy of paper compliance.

I am pleased to announce that the administration supports these amendments and that the Leadership Conference on Civil Rights supports them as necessary to assure the $150 million appropriation is used properly. The National Education Association has also endorsed these amendments.

I ask unanimous consent that copies of the amendments Nos. 703, 704, and a copy of the letter from Secretary Finch be printed at this point.

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

AMENDMENT NO. 703

On page 15, line 2, insert before the period a colon and the following: *"Provided further,* That no part of the funds contained in this appropriation shall be used to supplant funding from non-Federal sources, which has been reduced as the result of desegregation or the availability of funding under this section."

AMENDMENT NO. 704

On page 15, line 2, insert before the period a colon and the following: *"Provided further,* That no part of the funds contained in this appropriation shall be made available to carry out any program or activity under any policy, procedure, or practice denying funds to any school district legally required to desegregate schools, on the basis of geography or the source of the legal requirement."

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

Hon. WALTER F. MONDALE,
U. S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: This is in response to your request for the Department's views on the proposed amendments 702, 703 and 704 to the Second Supplemental Appropriations Bill.

These amendments refer to the appropriation of $150 million included in the Bill for emergency assistance to desegregating school systems.

Amendment No. 702 provides that no funds may be extended to school districts which have transferred property or services to private schools that practice discrimination on the basis of race, color, or national origin.

Amendment No. 703 prohibits the use of appropriated funds to supplant funding from non-Federal sources which has been reduced as a result of desegregation. Also, the amendment provides that assistance under the appropriation could only be used to supplement State and local funds which would otherwise be made available to support educational programs in the affected school districts.

Amendment No. 704 would make clear that any school district in the process of implementing a Federal court order for desegregation would be eligible for assistance under the appropriation. In addition, school districts desegregating pursuant to a State court order would be eligible for assistance providing that such orders are being implemented and that as a minimum they provide for the elimination of practices prohibited under Title VI of the Civil Rights Act of 1964.

The Department believes that the amendments are consistent with the purpose of the appropriation, which is to assist school districts meet their responsibilities under the law.

With kind regards, I am
Sincerely,

ROBERT H. FINCH,
Secretary.

Mr. MONDALE. Mr. President, at this point I yield to the cosponsor of the proposed legislation, the distinguished Senator from New Jersey who was instrumental in the development of this amendment.

Mr. CASE. I thank my colleague, the Senator from Minnesota. I am indeed very happy to join him and other colleagues in this amendment and two others which will follow on the same general subject.

These amendments are the result of concern that the other sponsors and I have about abuses which are possible if the money provided in this bill for school desegregation is not dispensed with great care.

The administration has asked for inclusion in this bill of $150 million to assist local school districts to carry out their desegregation plans.

Secretary Finch of the Department of Health, Education, and Welfare, when he testified recently before a joint hearing of the Education Subcommittee and the Select Committee on Equal Educational Opportunity, assured the Senate the "under no circumstances" will these funds be used to assist districts which are in mere technical compliance with the law or which otherwise abuse the intent of the law.

The three amendments we have introduced propose to provide the Secretary with explicit authority to fulfill this commitment.

Past experience with civil rights legislation shows that the administration's task is made more difficult and delays are encountered when the Secretary's authority is not explicitly stated in the law. It is the intent of these amendments to avoid confusion over the intent of Congress in making these funds available to assist school districts throughout the Nation attain quality integrated education.

In response to my request for the Department's views on these amendments, Secretary Finch said they are "consistent with the purpose of the appropriation, which is to assist school districts to meet their responsibilities under the law."

While these amendments do not deal with all possible areas of abuse, they cover those that most readily come to mind. It is within the discretion of the Secretary to handle others and I am confident that he will do so. However, we will watch closely the development of this program and will bolster the legislative authority of the Secretary should this become necessary.

What specifically would these amendments do?

Amendment 702 provides that no funds may be extended to school districts which have transferred property or services to private schools that practice discrimination on the basis of race, color or national origin.

This amendment seeks to prevent the money provided in this bill from being used to support abuses such as one described in a recent report by the National Education Association. The NEA described one situation in which a public school was declared surplus by school officials in June 1969, and sold to an individual, using sealed bids, for $1,500. The purchaser, in turn, sold the school to a private group for $10 and it then was turned into a private segregated school.

Our amendment would make it clear that school districts which have engaged in this type of practice are not entitled to seek assistance under the programs which will be funded under this bill.

Amendment 703 prohibits the use of funds appropriated under this bill to supplant funds from non-Federal sources which has been reduced as a result of desegregation.

It is the intent of this amendment to require that the funds contained in this bill will be used only to supplement State and local funds which would otherwise be made available to support education programs in the affected school districts.

Amendment 704 would make clear that any school district in the process of desegregating under a legal requirement—wherever the district is located and regardless of whether the requirement is imposed by State or Federal law—would be eligible for assistance under this appropriation so long as its desegregation plan is being implemented and meets the requirements of title VI of the Civil Rights Act of 1964 at a minimum.

The administration originally testified that assistance provided under this appropriation would be available only to school districts in the 17 Southern and Border States. We believe that any school district which is desegregating according to the standards of Federal law should be eligible to receive assistance.

Mr. MONDALE. I thank the Senator for his continued leadership in this matter. I know of no other Member of the Senate who has worked with more dedication toward the achievement of a quality integrated society than the Senator from New Jersey and, as always, I am proud to join him in this proposal.

Mr. KENNEDY. Mr. President, as a sponsor of amendments 702, 703, and 704, I feel that their adoption is important if the Senate is serious about giving effective aid to desegregation efforts with the $150 million requested in this supplemental appropriations. For the Department of Health, Education, and Welfare should understand that Congress expects it to vigorously prohibit misuse of desegregation funds—including the abuses mentioned in these amendments and other familiar abuses carried out in the name of desegregation.

Amendment 702 would prohibit funds to schools which this year have sold or leased property, equipment, or services to segregated private academies. Amendment 703 would prohibit funds to schools which would use them to supplant State and local money which would otherwise be available. And amendment 704 would insure that desegregation funds would be potentially open to all schools legally compelled to desegregate—whether by Federal or State order, or Federal or State law.

Certainly I support giving Federal assistance to schools which are genuinely desegregating. In 1966 I myself introduced legislation which would have authorized Federal expenditures for this very purpose.

I have several reservations however, about this $150 million appropriation.

First, as a member of the authorizing committee, I am disturbed by this legislating on an appropriation bill. The Subcommittee on Education has recently been conducting hearings on the whole question of desegregation assistance. We are working on legislation, and trying to do a thorough and responsible job.

But instead, Congress is now being asked to just appropriate $150 million at the last minute, in a rush, before we even act on authorization.

Second, I have serious doubts whether the Department of Health, Education, and Welfare—or anyone else—can set up the administrative machinery to handle these funds quickly and well. They must hire and train staff. They must develop procedures for screening, filing, and monitoring applications. They must set up a whole new administrative operation for a brand new program. Yet they are expected to complete the main part of the job, the obligating of funds, by the end of September.

Third, I am extremely concerned about the potential for abuse. Testimony before the Select Committee on Equal Educational Opportunity, numerous reports I have seen and persons I have talked with indicate the whole range of abuses which have occurred in supposedly desegregating school districts. To cite some examples, there are cases where:

Schools are desegregated but blacks are kept in segregated classes, segregated cafeterias, segregated buses.

Blacks are excluded from extracurricular activities.

Well-constructed, modern black schools are closed as an alternative to sending white students there.

Mobile or portable classrooms are used to supplant good black schools which are closed.

Tax deductions are given to parents who take their children out of desegregating schools and send them to all-white private academies.

Black teachers, principals or administrators are demoted or fired while less qualified whites are kept.

Schools are operated under an old freedom of choice plan which has not been updated or revised under court order.

The list goes on and on. And it includes discrimination against Indian-Americans, Mexican-Americans, Eskimos, and other minorities as well.

Amendments 702 and 703 mention two such abuses. It is my understanding that they are prohibited by title VI of the Civil Rights Act of 1964, which clearly states that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." These amendments make the matter clear in these two cases. And further amendments to cover other abuses are unnecessary, because there is general agreement that title VI already prohibits them also.

I support the $150 million with the understanding that full legal action will be taken when funds are illegally misused, including:

Bringing school boards to court for contempt action;

Suing for the restitution of misused funds;

Criminal suits under the Federal false statements statute, and other appropriate Federal laws.

If we have learned anything from our experience with title I of the Elementary and Secondary Education Act, it is that we must make vigorous, thorough, Federal monitoring efforts—right from the start—if the money is to be spent as intended by Congress.

Amendment 704—which makes assistance with the $150 million available to all school districts which are under legal compulsion to desegregate—recognizes that the burden of forced desegregation is equally heavy no matter what the source of the requirement.

I myself favor broader expenditure of funds to include schools which voluntarily undertake to desegregate. They may have just as many burdens and may need the Federal assistance just as badly.

Mr. President, I am willing to take a chance if we write in some safeguards. I think that the last minute, unauthorized $150 million in a supplemental appropriation is a poor way to take legislative action, but I recognize that the problem is pressing and immediate. I am not optimistic that the rushed appropriation and hurried program will be effective, but we must take a first step.

In this context, the protections spelled out in these amendments—and guaranteed under title VI—are essential. I urge adoption of all three amendments.

Mr. STENNIS. Mr. President, will the Senator yield to me on one point?

Mr. MONDALE. I am glad to yield.

Mr. STENNIS. Mr. President, may we have order? I believe every Member in the Chamber would be interested in this colloquy.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Mississippi may proceed.

Mr. STENNIS. Mr. President, I appreciate the Senator yielding to me.

I direct attention to lines 4 and 5 of the present amendment, the words "subsequent to the beginning of the 1969–1970 school year."

Mr. MONDALE. If I may interrupt the Senator at that point, I wish to point out that in the amendment I sent to the desk that phrase was stricken. It was stricken for the reason that the Parliamentarian advised us that with that phrase the amendment would be subject to a point of order on the grounds that it is legislation on an appropriations bill.

Mr. STENNIS. Yes.

Mr. MONDALE. Nevertheless, I would expect it might be construed by the administration roughly along the lines of the omitted phrase, but that would be up to the administration.

Mr. STENNIS. What was the Senator's point? The Senator struck out the words "subsequent to the beginning of the 1969–1970 school year." My point was going to be that that is punitive in nature and it is retroactive in application. I was going to ask the Senator if he would not consider that and let his amendment, if it passes, be as of the date it becomes law.

I do not know of any school that has done these acts, but in a year of upheaval, adjustment, and change in the midterm adjustments were made. They were makeshift and they had to do everything they could, whereas they will have fair notice about this and I do not think it will reoccur.

Mr. MONDALE. I have been advised by the Parliamentarian that any reference of that kind would make the amendment subject to a point of order and that is the reason I struck the phrase which appeared in original amendment No. 702, when I sent it to the desk.

For that reason and also on the merits, I would have trouble accepting that. I concede the fairness of the Senator's statement. The Senator does not want it to apply retroactively.

Mr. STENNIS. That is correct.

Mr. MONDALE. I commend the Senator for that position. My feeling is that transfer of public property for these purposes is so clearly unconstitutional that it would not be unfair to apply the prohibition retroactively from the beginning. I would not be able to accept such a modification and if we did modify it in that manner it would be subject to a point of order.

Mr. STENNIS. What is the Senator's interpretation of his amendment when these words have been stricken out? The Senator said something about the department having certain discretion.

Mr. MONDALE. The amendment would have to be construed by the Department. As it now reads, it provides that—

> No part of the funds contained in this appropriation shall be used to assist a school district which has engaged in the gift, lease, or sale of real or personal property, or services, to a nonpublic elementary or secondary school or school system practicing discrimination on the basis of race, color, or national origin.

It would have to stand on its own terms.

Mr. STENNIS. Would not the Senator be willing to let it read, "has engaged subsequent to the passage of this Act" in any of these matters? I would support his amendment if he would modify it that way.

Mr. MONDALE. On the merits, I personally could not accept it, because, as I said earlier, I believe the practice is so obviously unconstitutional, and would have been at the time it occurred, that it would not be unfair to retroactively apply it that way.

For practical purposes, the abuse did not start until last fall, when the Supreme Court issued its decision requiring immediate elimination of de jure segregation, so that its retroactive sweep is only of a limited nature in any event.

Mr. STENNIS. The Senator has eliminated the language "subsequent to the beginning of the 1969–70 school year"?

Mr. MONDALE. The Senator is correct. I have eliminated that phrase.

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

Mr. MONDALE. I yield.

Mr. BAKER. It is my understanding, from the colloquy, that the language, on lines 4 and 5, "subsequent to the beginning of the 1969–70 school year" has been stricken from the amendment.

Mr. MONDALE. That is correct.

Mr. BAKER. Is my further understanding correct that the reason why it was stricken is that it would create a condition precedent or a situation that

extends into the future as a condition precedent?

Mr. MONDALE. I am not thoroughly familiar with the grounds, except that the Parliamentarian has advised me that that phrase would make the amendment subject to a point of order.

Mr. BAKER. The point I am making is that I wonder if I understood, as the Senator from Mississippi understands is implicit, if the words "subsequent to the beginning of the 1969–70 school year" are eliminated, is it not necessary to conform the rest of the language to that intent by using the conforming language "is engaging" instead of "has engaged in" because otherwise it would be retroactive.

Mr. STENNIS. That is correct.

Mr. BAKER. Would the Senator mind putting that inquiry to the Chair?

Mr. MONDALE. Mr. President, I ask unanimous consent that I may ask for a quorum call without losing my right to the floor at the conclusion thereof.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MONDALE. 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. MONDALE. Mr. President, I would be willing to modify my amendment to reinclude the deleted phrase which reads "subsequent to the beginning of the 1969–70 school year," if by so doing we could have unanimous consent that that phrase would not be subject to a point of order. That would have the advantage of being retroactive only to the beginning of the past school year, and not running back further than that.

The PRESIDING OFFICER. Is the Senator asking unanimous consent that it be in order?

Mr. MONDALE. Perhaps we could have a little colloquy.

I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, reserving the right to object, as I said, I know of no particular school that has violated these terms, but to pass a law now to make it retroactive in application is contrary to the American system. It is unfair. Suppose they made a sale, according to the Senator's amendment, and got the money. There is nothing invalid about that. Certainly, we ought not to go back to penalize them. Suppose they got market value? According to the Senator's terms, they would not be eligible for any of this money.

The Senator has a great motive and design, but the way the amendment is written, it is retroactive, without notice, and would apply to the just and the unjust.

Mr. MONDALE. Perhaps I may respond to that statement. I can only repeat the point I made earlier, that the practice of donating school buildings, schoolbuses, textbooks, lending faculty, flowered right after the Supreme Court decided that desegregation of de jure situations must be eliminated immediately. That is why the proposed amendment originally included the phrase, referring in time to the beginning of the current school year, and prohibited the expenditure of any part of the $150 million for school districts which had engaged in any of those practices from that time on.

I would be glad to include in the amendment a provision as well, that the sale to which we make reference is a sale for less than value to the school district. In other words, what we are trying to get at is a subsidy——

Mr. STENNIS. Mr. President, with all deference to the Senator's amendment, I think, being retroactive in application, it would be an ex post facto law, and I object to the modification requested.

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

Mr. MONDALE. I yield.

Mr. BAKER. Mr. President, I shall not detain the Senate long on this point, because it is my intention to support the amendment, provided we can arrive at certain modifications to make it fair in its application.

I agree with the Senator that it is a deplorable practice to dispose of school property for discriminatory purposes, as I am sure most of our fellow Senators do.

The modification would delete that section of the amendment in lines 4 and 5 which reads "subsequent to the beginning of the 1969–70 school year" has engaged in the gift, lease, or sale, et cetera. That, in effect, creates an absolute situation where a school district which has done this prior to this time is forever precluded from having Federal assistance under these programs, which seems to be, as the distinguished Senator from Mississippi has stated, retroactive, and certainly, to say the least, unfair.

I would suggest, if the Senator would consider it, that the amendment be modified by striking from lines 4 and 5 the words "subsequent to the beginning of the 1969–70 school year" and also striking the words "has engaged" on line 5 and inserting instead the word "engages," which makes it prospective in effect; and I think, by the example and the colloquy here, this encounter today will serve notice that we do not intend to condone and do not condone any sort of subterfuge of this type.

Mr. MONDALE. Mr. President, I have two problems with that. One is this widespread engagement in such practices recently, and the prospective amendment would not reach that problem. Second, I have been advised by the Parliamentarian that such language would be subject to a point of order because it would create a contingency under rule XVI.

For both reasons, I feel prohibited from responding affirmatively to the suggestion of the Senator from Tennessee.

Mr. BAKER. Mr. President, will the Senator yield so I may put to the Chair a parliamentary inquiry as to the propriety of that proposal?

Mr. MONDALE. I am happy to yield, with the unanimous-consent request that I be recognized following the Chair's response to the parliamentary inquiry.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Tennessee will state his parliamentary inquiry.

Mr. BAKER. Mr. President, I put this inquiry to the Chair: If amendment No. 702 were modified by striking from line 4, beginning with the word "subsequent" through line 5 ending with the word "engaged" and substituting the word "engages," would the amendment as modified be subject to a point of order?

The PRESIDING OFFICER (Mr. PROXMIRE). The Parliamentarian advises the Chair that such an amendment would appear to be in order.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. BAKER. Mr. President, will the Senator from Minnesota yield further? I really support the purpose of his amendment. Since the Parliamentarian has advised me that it would not be subject to a point of order, and since I think it accomplishes the Senator's purpose, and I believe there would be no objection to it, I urge that the Senator reconsider accepting that modification.

Mr. MONDALE. Mr. President, I still have the problem of dealing with school districts which gave away their school buildings, their schoolbuses, their textbooks, and the rest, in response to the Supreme Court order of last year requiring immediate desegregation. The language proposed by the Senator from Tennessee is prospective, and would not reach those school districts.

Mr. BAKER. Will the Senator yield further?

Mr. MONDALE. I yield.

Mr. BAKER. I think that practice is deplorable, and I agree with the Senator; but I think the proposal would be subject to a point of order if we, as a part of the legislative branch, tried to spell out under what circumstances a gift was legal or illegal. I think it would be within our rights to make it illegal to do that, and then submit to the judiciary the question of whether or not they did it in an attempt to interfere with desegregation. But if we try to spell it out and say "it is illegal because you did it," it would be subject to a point of order as being unconstitutional. I think there is a way to do it, but I think the judiciary is the proper forum.

Mr. MONDALE. Mr. President, I cannot agree with the observation offered by the Senator from Tennessee to this extent: When property was donated by public school systems to private, segregated academies following the decision of the Supreme Court, I think they knew full well what they were doing, and it was to donate public properties to an allegedly private institution for an unconstitutional purpose. I think it would be wrong to come along now and reward such a school district with a payment as proposed under this pending appropriations proposal. I would much prefer that the time frame to which my original amendment made reference could be included, but I was advised by the Parliamentarian that that would be contrary to rule XVI.

At this time, I should like to propound to the Chair a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. If my amendment read exactly the same as amendment 702, containing the phrase "subsequent

to the beginning of the 1969–70 school year," would that be subject to a point of order?

The PRESIDING OFFICER (Mr. PROXMIRE). It seems to leave a contingency, because there would be an indefinite circumstance, ad infinitum.

Mr. MONDALE. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. If the phrase referred to were substituted by a phrase reading "engages or has unlawfully engaged in" would that phrase be subject to a point of order?

The PRESIDING OFFICER. The Parliamentarian suggests that the suggested language be submitted in writing, so the Chair can take it under consideration.

Mr. MONDALE. I would ask the Senator from Tennessee if such language, which, in effect, begs the question of whether an illegal transfer has occurred, would meet his objection.

Mr. BAKER. Mr. President, if the Senator will yield there, I think it probably would. I wonder if I might ask unanimous consent that I could ask for a quorum call, without the distinguished Senator from Minnesota losing his right to the floor.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. 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. BAKER. Mr. President, as far as I am concerned——

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Tennessee?

Mr. MONDALE. I yield.

Mr. BAKER. As far as the Senator from Tennessee is concerned, the language suggested by the Senator from Minnesota, as I understood it, is satisfactory. The Senator's language was "engages or has unlawfully engaged in"; is that correct?

Mr. MONDALE. The Senator is correct.

Mr. BAKER. It is my understanding that this would be an effort to make the statute prospective by the word "engages" and retroactive, but with a judicial determination by the phrase "unlawfully engaged in." Is that correct?

Mr. MONDALE. I agree with the Senator from Tennessee, except in one respect. A determination would have to be made by the administrating agency that the transfer of property that is retrospective was an unlawful one. Otherwise, insofar as the retrospective reach is concerned, it would not apply.

Mr. BAKER. I have no objection to the language.

Mr. MONDALE. Mr. President, I modify my amendment to provide after the word "which," on line 4, the words "engages or has unlawfully engaged," and so forth.

The PRESIDING OFFICER. The amendment will be so modified, and the clerk will so state the amendment.

Mr. MONDALE. Before so modifying, I ask for a parliamentary ruling on whether this is consistent and in order under rule XVI.

The PRESIDING OFFICER. In the opinion of the Chair, it would appear to be in order, as the Senator from Minnesota has proposed to modify it.

The clerk will read the amendment as modified.

The bill clerk read as follows:

On line 5, after the word "has" insert "engages or has".

Mr. MONDALE. "Or has unlawfully engaged."

The PRESIDING OFFICER. Will the Senator send his written amendment to the desk?

Mr. MONDALE. I send it to the desk.

The bill clerk read as follows:

On line 5, after the word "year," which is stricken, insert "engages or", and after the word "has" insert "unlawfully".

Mr. MONDALE. Mr. President, I so modify the amendment.

The PRESIDING OFFICER. The amendment is so modified.

Mr. MONDALE. Mr. President, I ask for the yeas and nays.

Mr. BYRD of West Virginia and Mr. ERVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota has the floor. Does the Senator from Minnesota yield to the Senator from North Carolina?

Mr. CASE. May we ask for the yeas and nays?

Mr. MONDALE. I ask for the yeas and nays.

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

Will the Senator yield for a question, first?

Mr. MONDALE. I am glad to yield to the Senator from West Virginia.

The PRESIDING OFFICER. Does the Senator withdraw temporarily his request for the yeas and nays?

Mr. MONDALE. Yes.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield, with the understanding that he will not lose his right to the floor, so that I might make a parliamentary inquiry?

The PRESIDING OFFICER. Does the Senator yield for that purpose?

Mr. MONDALE. I yield.

The PRESIDING OFFICER. The Senator from West Virginia will state his parliamentary inquiry.

Mr. BYRD of West Virginia. Mr. President, if I understand the changes by which the Senator has modified his amendment, the amendment reads as follows: "engages or has unlawfully engaged." Does not the fact that the words "unlawfully engaged" will of necessity, place an additional responsibility upon the Secretary of the Department of Health, Education, and Welfare thereby increase his responsibilities and as a result thereof constitute legislation on an appropriation bill?

Mr. MONDALE. Mr. President, before the Chair rules, may I make an observation with respect to the question raised by the Senator from West Virginia?

Mr. President, if I could have the attention of the Parliamentarian, I would like to make a comment on the question raised by the Senator from West Virginia, before the Chair rules. I should like the attention of the Presiding Officer and the Parliamentarian.

The PRESIDING OFFICER. The Parliamentarian will give the Senator from Minnesota his attention, and the Presiding officer will also give the Senator from Minnesota his undivided attention.

Mr. MONDALE. Thank you, Mr. President.

The burden imposed on HEW by amendment 702 as modified is already imposed by title VI of the Civil Rights Act of 1964. Therefore, the amendment is not subject to a point of order under rule XVI, paragraph 2, as subjecting the Department to a burden not already imposed by existing law.

This amendment prohibits funding under the emergency appropriation of school districts which have given assistance to racially segregated private schools. The Supreme Court has plainly ruled in the tuition grant cases that assistance by public agencies to private segregated schools is racially discriminatory, in violation of the 14th amendment, and I have shown those authorities to the Parliamentarian. See, e.g., *Poindexter* v. *Louisiana Financial System Commission*, 296 F. Supp. 686, *aff'd* 393 U.S. 17 (1968); *Brown* v. *South Carolina State Board of Education*, 296 F. Supp. 199, *aff'd* 393 U.S. 22 (1968).

It is, therefore, also violative of title 6 of the Civil Rights Act of 1964, which applies to nondiscrimination and applies the 14th amendment to programs receiving Federal financial assistance. *Taylor* v. *Cohen*, 405 F. 2d 277 (4th Cir., *en banc*, 1968).

Therefore, it is my opinion that the amendment is not subject to a point of order under rule XVI.

The PRESIDING OFFICER. The Senator is correct. These duties already have been imposed by the law.

Mr. MONDALE. Mr. President, I ask for the yeas and nays.

Mr. BYRD of West Virginia. Mr. President, before the Senator asks for the yeas and nays——

Mr. MONDALE. I ask the Presiding Officer whether the yeas and nays have been ordered.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. MONDALE. I ask for the yeas and nays.

Mr. BYRD of West Virginia. Does the Senator want to shut me out from attempting to——

Mr. MONDALE. I deeply apologize to the Senator from West Virginia.

Mr. BYRD of West Virginia. The Senator owes me no apology.

Mr. President, the amendment as presently constituted, even with the modification that has already been ordered, would be difficult to enforce, because it is not tied to the disposition of federally funded property, but would apply to any and all property or services.

HEW now has policies and administrative enforcement mechanisms in effect and under development which could carry out the intent of the amendment so far as Federal funds are concerned. But the amendment would prohibit the gift, the lease, or the sale of all property and services whether or not they have been federally funded. In other words, it is all encompassing. It includes all property or services.

In the first place, I think HEW would have difficulty in obtaining reliable information concerning the sale of nonfederally funded property or of services. Certainly, an assurance of compliance could be, and probably should be, required; but only a careful auditing of financial transactions and of the use of instructional staff time would reveal the prohibited practices if a school district wished to conceal them.

In view of the fact that this is emergency assistance, with a September 30, 1970, deadline for obligation, it seems to me that this provision would be almost impossible to implement effectively. Therefore, I wonder whether the Senator would be willing to modify his amendment by adding on line 6, following the second comma, after the word "services," the following phrase, "supported by Federal funds." So that it would be confined to those gifts, leases and sale of property and services supported by Federal funds.

Mr. MONDALE. I thank the Senator from West Virginia for that suggestion. However, I must respectfully decline it, for two reasons.

First, it does not impose on additional responsibility upon the Department of Health, Education, and Welfare. The 14th amendment does not draw any distinction between Federal, State, and local properties. The distinction is between public and private property. Therefore, contrary to the suggestion of the Senator from West Virginia, I do not believe that any additional burden is imposed upon the Department.

Second, I refer specifically to the letter I received today from Secretary of Health, Education, and Welfare Finch, in which he supports amendment No. 702. Therefore, both in terms of legal theory and the administration's position, I cannot accept the proposal of the Senator from West Virginia. Moreover, if the distinction were drawn on the basis of the source school district property, on whether the source is Federal, State, or local, this distinction would be utterly unadministrable and would subvert and destroy any effort to achieve desegregation. Therefore, I must reluctantly decline the suggestion made by the Senator from West Virginia.

Mr. President, I ask for the yeas and nays.

There was not a sufficient second.

Mr. MONDALE. Mr. President, I ask unanimous consent, without losing my right to the floor, that there be a quorum call——

Mr. MANSFIELD. Mr. President, will the Senator withhold that request?

Mr. ERVIN. Mr. President, I object.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MONDALE. Mr. President I am prepared to vote at this point.

Mr. ERVIN. Mr. President, I should like to be heard for 30 seconds.

The PRESIDING OFFICER (Mr. PROXMIRE). The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, under this amendment as modified, an integrated school district would be denied Federal funds if it made a sale to a nonracially mixed school even though the sale was to the advantage of the school district.

Is that not going some, even for an effort to continue the reconstruction of the South?

In other words, it would prohibit a district receiving funds appropriated by the bill even if the sale it made was to its advantage.

Mr. BYRD of West Virginia. Mr. President; I now call up my amendment at the desk and ask that it be stated by the clerk.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the amendment be stated by the clerk first.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. MUSKIE). The clerk will state the amendment.

The ASSISTANT LEGISLATIVE CLERK. On line 6 of the Mondale amendment, No. 702, after the word "services," insert the words "supported by Federal funds."

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Minnesota will state it.

Mr. MONDALE. Mr. President, as I understand it, this is a modification proposed by the Senator from West Virginia which would limit the reach of amendment No. 702 only to property, given away by local school districts unlawfully, or in other ways, to private segregated schools, which is owned by the Federal Government and would not include any restrictions on State owned or locally owned public property given to such private segregated organizations. Do I understand that amendment correctly?

Mr. BYRD of West Virginia. The amendment would place into effect the modification which I had hoped the Senator would accept earlier. The words are, "supported by Federal funds."

As I have indicated, this is emergency assistance with a deadline for obligation of September 30, 1970. It seems to me that this provision as now written would be almost impossible to effectuate. I think it would impose a heavy administrative burden upon the Department of HEW. I feel that these gifts of property, services, and property, should be confined to federally supported—to those properties and services supported by Federal funds.

That is the import of the amendment I have offered to the Senator's amendment and I hope that the Senate will accept my amendment.

Mr. MONDALE. Mr. President, I should like to ask the Senator from West Virginia if I might have a moment or two to look at the amendment as proposed before voting on it.

Mr. BYRD of West Virginia. Of course.

Mr. STENNIS. Mr. President, may I ask the Senator from West Virginia a question?

Mr. BYRD of West Virginia. I yield.

Mr. STENNIS. Let me ask the Senator from West Virginia whether his amendment applies only to the words "or services" in line 6?

Mr. BYRD of West Virginia. No, sir. It modifies the language of line 5 also.

Mr. STENNIS. I thank the Senator.

Mr. BYRD of West Virginia. As to "gift, lease, or sale of property, and services, supported by Federal funds."

Mr. MONDALE. Mr. President, will the Senator consent to proposing his amendment not at the point on line 6 as suggested, but at the point on line 4 following the word "district," so that it will refer to "school district" rather than to "gift, lease, or sale of real or personal property, or services"?

Mr. BYRD of West Virginia. No, because I want to get at the heart of the problem. The Senator's amendment would apply to any property, all property; any services, or all services; and would not be confined to federally funded property and services. I think it should be so confined. That is the purpose of my amendment. I will ask for a vote on this amendment at the appropriate time.

Mr. MONDALE. Mr. President, I ask for the yeas and nays on the amendment as offered by the Senator from West Virginia.

The yeas and nays were ordered.

Mr. MONDALE. Mr. President, let me simply say this, that the 14th amendment has never drawn a distinction on the basis of which government, Federal, State, or local, has title to property. The 14th amendment reaches all public property. It is that law which entitles——

Mr. BYRD of West Virginia. I am sorry to interrupt the Senator, but we are not talking about which government has title. We are talking about what kind of property is going to be disposed of.

Mr. MONDALE. That is correct.

Mr. BYRD of West Virginia. And whether it is federally supported or not.

Mr. MONDALE. The Senator is correct, but the constitutional prohibition prohibits any public property from being given to a privately segregated organization.

That is what the amendment is designed to discourage, by withholding public money under this appropriation to public schools which violate the constitutional prohibition. It does not impose any new responsibility under title VI. It is the law now, as declared by the Supreme Court. It merely makes it clear that the money is not in fact to be turned over. It would be the modification proposed by the Senator from West Virginia that would create a new and difficult technicality which, in my opinion, would greatly encourage the establishment of privately segregated academies, unbelievably, through the use of public prop-

erty and through Federal subsidies. I therefore oppose his amendment.

Mr. BYRD of West Virginia. Mr. President, I repeat, that between now and September 30, 1970, it would be impossible to enforce the amendment as the Senator from Minnesota has offered it. So I think from the standpoint of enforcement alone, my amendment is on solid ground.

I say again that the Senator's amendment would apply to all property, all services. My amendment would confine it to federally supported property and services.

Mr. MONDALE. Mr. President, may I say to the Senator from West Virginia that I think there are very profound problems about administering any of this money in the time frame that is offered. But if we cannot enforce anything as elementary as prohibiting Federal funds to school districts that are giving away some of their funds and property, then I say that we ought not to do it.

Mr. HRUSKA. Mr. President, I rise to support the amendment of the Senator from West Virginia. It has been said that it would be satisfactory to submit assurance of compliance in regard to this particular section.

That would not quite do the job, because, to be effective at all, it would be necessary to have an auditing of the transactions engaged in by a particular school district.

It is at that point that the objections voiced by the Senator from West Virginia would become pertinent.

Such an audit would be extended. It would be detailed. It would have to take into consideration the records of many of the transactions of the school district itself, the origins of which are not in the possession of the Department of Health, Education, and Welfare. Nor would they be readily available.

There are no procedures to go through such an audit of this kind. If the matter were limited to property obtained in federally supported programs the procedures and records of the Department of HEW could be of substantial help.

From that standpoint, it would seem that limiting the prohibition to property obtained in federally supported programs would be in order. The amendment of the Senator from West Virginia should be approved.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia to the amendment of the Senator from Minnesota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), and the Senator from Oklahoma (Mr. HARRIS), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK) and the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Hampshire (Mr. COTTON), and the Senator from Arizona (Mr. GOLDWATER) are detained on official business.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from Colorado (Mr. DOMINICK). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 32, nays 48, as follows:

[No. 163 Leg.]

YEAS—32

Allen	Fulbright	Smith, Maine
Allott	Gurney	Smith, Ill.
Bellmon	Hansen	Sparkman
Bennett	Holland	Spong
Byrd, Va.	Hollings	Stennis
Byrd, W. Va.	Hruska	Talmadge
Curtis	Jordan, N.C.	Thurmond
Eastland	Jordan, Idaho	Tower
Ellender	Long	Williams, Del.
Ervin	Murphy	Young, N. Dak.
Fannin	Randolph	

NAYS—48

Aiken	Gravel	Moss
Anderson	Griffin	Muskie
Baker	Hart	Nelson
Bayh	Hughes	Pastore
Boggs	Inouye	Pearson
Brooke	Jackson	Pell
Burdick	Javits	Percy
Case	Magnuson	Prouty
Church	Mansfield	Proxmire
Cook	Mathias	Ribicoff
Cooper	McGee	Saxbe
Cranston	McGovern	Schweiker
Dole	Metcalf	Scott
Eagleton	Miller	Stevens
Fong	Mondale	Symington
Goodell	Montoya	Williams, N.J.

NOT VOTING—20

Bible	Harris	Mundt
Cannon	Hartke	Packwood
Cotton	Hatfield	Russell
Dodd	Kennedy	Tydings
Dominick	McCarthy	Yarborough
Goldwater	McClellan	Young, Ohio
Gore	McIntyre	

So the amendment of Mr. BYRD of West Virginia to Mr. MONDALE's amendment was rejected.

Mr. MONDALE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MONDALE and Mr. ALLOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. MONDALE. Mr. President, I understand that the floor manager would agree to a time limitation on the remaining two amendments, following the vote on the recurring amendment.

Mr. BYRD of West Virginia. Mr. President, speaking for myself, I would be agreeable to a time limitation on each of the remaining two amendments offered by the able Senator.

Mr. STENNIS. Mr. President, would the Senator state his amendments?

Mr. MONDALE. In addition to what I assume will be a final vote on amendment 702 which I offered, there are two other amendments. One amendment would make the $150 million available nationally to school destricts desegregating under legal requirement and not restrict funding to one region of the country. I understand this amendment may have the support or at least the sympathy of the Senator from Mississippi; the second amendment is an amendment which would prohibit the use of money under this appropriation for school districts which supplant those moneys by diverting local funds and using them for other purposes.

Those are the two amendments to which I refer.

Mr. STENNIS. Mr. President, who has the floor?

Mr. MONDALE. Mr. President, I propounded a question to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I answered the question insofar as possible at this time.

Mr. MONDALE. Mr. President, if the majority leader is here, I would like to ask——

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

Mr. MONDALE. I am trying to determine whether we can agree on a time limit, so that our colleagues will know the schedule under which we are operating.

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

Mr. MONDALE. I am glad to yield.

Mr. THURMOND. Let me ask first if he will accept this amendment——

Mr. ALLOTT. No, I will not agree to that.

Mr. BYRD of West Virginia. Mr. President, in an effort to reach an agreement on the remaining two amendments which are going to be offered by the Senator from Minnesota, Nos. 703 and 704, I ask unanimous consent that all time on each amendment and amendments thereto and appeals, with the exception of motions to lay on the table, be limited to 10 minutes to the side, the time to be equally divided between the able Senator from Minnesota——

Mr. EASTLAND. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ALLOTT. Mr. President, I have a very simple amendment, which I think can be disposed of promptly.

The PRESIDING OFFICER. The question is on agreeing to the amendment

of the Senator from Minnesota as offered.

Mr. ALLOTT. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Minnesota. The yeas and nays have been ordered.

Mr. BYRD of West Virginia. Mr. President, was the unanimous-consent request objected to?

The PRESIDING OFFICER. It was objected to.

Mr. BYRD of West Virginia. Can it be objected to without the Senator's rising and addressing the Chair?

Mr. EASTLAND. Mr. President, I object.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Minnesota.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG), are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), and the Senator from Oklahoma (Mr. HARRIS), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK) and the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), and the Senator from South Dakota (Mr. MUNDT) would each vote "yea".

The result was announced—yeas 63, nays 19, as follows:

[No. 164 Leg.]

YEAS—63

Aiken	Dole	Jackson
Anderson	Eagleton	Javits
Baker	Fong	Jordan, Idaho
Bayh	Fulbright	Magnuson
Bellmon	Goodell	Mansfield
Boggs	Gravel	Mathias
Brooke	Griffin	McGee
Burdick	Gurney	McGovern
Byrd, W. Va.	Hansen	Metcalf
Case	Hart	Miller
Church	Hartke	Mondale
Cook	Hruska	Montoya
Cooper	Hughes	Moss
Cranston	Inouye	Murphy
Muskie	Proxmire	Smith, Ill.
Nelson	Randolph	Spong
Pastore	Ribicoff	Stevens
Pearson	Saxbe	Symington
Pell	Schweiker	Williams, N.J.
Percy	Scott	Williams, Del.
Prouty	Smith, Maine	Young, N. Dak.

NAYS—19

Allen	Ellender	Sparkman
Allott	Ervin	Stennis
Bennett	Fannin	Talmadge
Byrd, Va.	Holland	Thurmond
Cotton	Hollings	Tower
Curtis	Jordan, N.C.	
Eastland	Long	

NOT VOTING—18

Bible	Harris	Mundt
Cannon	Hatfield	Packwood
Dodd	Kennedy	Russell
Dominick	McCarthy	Tydings
Goldwater	McClellan	Yarborough
Gore	McIntyre	Young, Ohio

So Mr. MONDALE's amendment was agreed to.

Mr. MONDALE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. STENNIS. Mr. President, will the Senator from Minnesota yield to me for the purpose of making a point of order?

Mr. MONDALE. I am glad to yield to the Senator from Mississippi for that purpose.

Mr. STENNIS. I thank the Senator. Mr. President, I direct the attention of the Chair now to page 14, line 7, and on through lines 1 and 2 on page 15.

When the debate started, I made inquiry about the authorization for this amount of money, Mr. President, but I have learned since then that this authorization really is taken from several authorization acts that are listed on page 14, beginning with the Education Professions Development Act, the Higher Education Act of 1965, the Cooperative Research Act, title IV of the Civil Rights Act of 1964, section 807 of the Elementary and Secondary Education Act of 1965, section 402 of the elementary and secondary education amendments of 1967, and the Economic Opportunity Act of 1964, on down through line 17 and including the figure "$150,000,000" on line 18, where we find this language: "to remain available until September 30, 1970."

Mr. President, my point of order is that the remaining language in line 18, plus "1970" on line 19, is legislation on an appropriation bill. I repeat those words: "to remain available until September 30, 1970," and the proviso beginning on line 19 down through line 2 on page 15, is legislation in a general appropriation bill. Therefore, I make the point of order, Mr. President, that this is an appropriation that extends beyond existing law—that is, from June 30 until September 30, 1970—and that we have no authorization for this appropriation for the period I have just designated and the effect of the proviso beginning on line 19 is to amend the earmarking in the authorization act.

Just to make sure I have made it clear, I repeat: I raise the point of order that these words beginning on line 19, page 14 of the bill, are purely legislation on an appropriation bill, and, therefore, I make the point of order that the entire section, beginning on line 7, page 14, down to and through line 2 on page 15, should be stricken from the bill as being legislation on a general appropriation bill.

The PRESIDING OFFICER (Mr. MUSKIE). The Chair will state that the point of order is well taken. As advised by the parliamentarian, under the precedents of the Senate, this is obviously legislation on a general appropriation and not in order under rule XVI, paragraph 4.

Mr. STENNIS. Mr. President, I am a member of the Committee on Appropriations. I want to say to the Senate that I did not realize that that language was legislation on an appropriation bill during full committee markup.

I thank the Senator for yielding.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. Do I correctly understand that the Chair has just ruled that the section entitled "Office of Education, Emergency School Assistance," appearing on page 14 of the pending bill, starting on line 7 through line 2 of page 15, is subject to the point of order that it is violative of rule XVI?

The PRESIDING OFFICER. Rule XVI, paragraph 4.

Mr. MONDALE. Has that point of order been made?

The PRESIDING OFFICER. The point of order has been made and sustained that the language on line 18 of page 14 of the bill, "to remain available until September 30, 1970," the provision beginning on line 19 and the language on lines 1 and 2 of page 15 of the bill, "expenses shall remain available until June 30, 1971," is legislation on an appropriation bill, and the point of order is well taken.

Mr. MONDALE. Do I correctly understand, then, that that is no longer a part of the matter now before the Senate?

The PRESIDING OFFICER. The Senator's understanding is correct.

Mr. MONDALE. I thank the Chair.

Mr. ALLOTT. Mr. President, I send to the desk an amendment sponsored by myself and the Senator from Washington (Mr. JACKSON), the Senator from Nebraska (Mr. HRUSKA), the Senator from Rhode Island (Mr. PASTORE), the Senator from Maine (Mr. MUSKIE), the Senator from Delaware (Mr. BOGGS), the Senator from Hawaii (Mr. FONG), and the Senator from Kentucky (Mr. COOPER), and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 8, line 5, delete "$200,000" and insert "$400,000".

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ALLOTT. Mr. President, if I may have the attention of the Senate, this is a very simple amendment.

After this bill had passed the House, a supplemental estimate was given to the Senate of $600,000. What we have done in this particular case is to add a small amount in the Senate of $100,000, which was recommended by the House, and we have forgiven $200,000 which was to be paid back to the President's emergency fund.

What they need this money for, in very simple language, is to have the money to run their office until the first of the fiscal year, including $140,000 for a grant to conduct a research project in programs in which the Environmental Quality Council has particular responsibility. So what I have proposed here, which I understand is agreeable to the chairman of the subcommittee, is to appropriate $140,000 to contract for the monitoring, evaluation, and prediction of environmental factors, air and water pollution, and $60,000 for the first annual environmental quality report required by the National Environmental Policy Act of 1969, which was, as the Presiding Officer well recognizes, S. 1075. So this will simply add $200,000 to the amount to enable them to get going, and the remainder will be taken care of in the Independent Offices appropriations.

I believe that the distinguished Senator from West Virginia has agreed to this and is willing to take this amendment.

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

Mr. ALLOTT. I yield.

Mr. BYRD of West Virginia. Mr. President, I have discussed this matter with the able Senator from Colorado, and I am willing to accept the amendment. I believe this also has been discussed with the ranking minority Member.

Mr. ALLOTT. As a matter of fact, the distinguished Senator from Nebraska is a coauthor of the amendment, and he is agreeable.

Mr. BYRD of West Virginia. I am willing to accept the amendment, Mr. President.

Mr. MUSKIE. Mr. President, I am pleased to support the amendment under consideration to add $200,000 to the supplemental appropriation for the Council on Environmental Quality and the Office of Environmental Quality.

As the author of the act creating the Office and as a supporter of the act creating the Council, I know the necessity of these additional funds. The intent of the Congress in creating both the Office and the Council was to provide a viable organization to guide our efforts to improve the quality of the environment. One of the first and most important tasks facing the Office and the Council is the assessment of data presently available that indicate the state of our environment. All the efforts of the Council and the Office for the next several years depend on this assessment.

The birth of an important new organization is no time to subject it to financial malnutrition. This is a small but important step in the preservation and enhancement of our natural resources.

I urge Senators to support the amendment.

The PRESIDING OFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ALLOTT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOGGS, Mr. BENNETT, and Mr. BYRD of West Virginia moved to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 699

Mr. JAVITS. Mr. President, I call up my amendment No. 699 for myself and for Mr. BAYH, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. GOODELL, Mr. HART, Mr. HATFIELD, Mr. KENNEDY, Mr. MCGOVERN, Mr. MONDALE, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. PELL, Mr. SCOTT, and Mr. WILLIAMS of New Jersey.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 12, line 8, strike out "$50,000,000" and insert in lieu thereof "$100,000,000".

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I shall be very brief. I promised the majority leader that I would be brief. This situation can be pictured very quickly.

Under my amendment a total supplemental appropriation in the amount of $100 million would be provided for Neighborhood Youth Corps summer programs, rather than the $50 million supplemental appropriation recommended by the Appropriation Committee.

The United States Conference of Mayors has reported that if funds were made available the Nation's cities require and could effectively provide 227,173 additional opportunities for youths between 14 and 21 years of age in the Neighborhood Youth Corps programs, to supplement to the 330,000 opportunities which will be available under the $147,900,000 appropriated for the program under the Labor-HEW Appropriations bill for fiscal year 1970.

The conference reported that in the Nation's 50 largest cities alone an additional 165,298 slots can effectively be used. For example, in New York City more than 37,081 additional positions over and above the 25,419 now proposed, could be put to effective use this summer.

At this year's cost of $445 per opportunity, a total supplemental appropriation of $100 million is required to meet this need.

Mr. President, we are in a grave situation on the question of youth unemployment this summer. The administration recognizes it; everybody recognizes it. The question is, what should we do about it? The dimensions of the problem are indicated by the fact that the administration itself has specified enough money for 893,000 job opportunities. The market to be filled is 1,700,000. I ask unanimous consent that a letter to that effect from the Department of Labor, dated June 18, 1970, be printed at this point in the RECORD.

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

U.S. DEPARTMENT OF LABOR,
Washington, D.C., June 15, 1970.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: This relates to your conversation with Joe Pichler regarding the estimate of 1.7 million as the current "universe of need" for youth manpower programs.

The estimate is based on the March 1968 CPS survey which found 2.7 million poor 16 through 21-year-olds. The downward adjustment takes account of the subsequent overall decline in the poor population, of the relatively small proportion of women in this age group whose major activity is keeping house, and of the component who, although poor, work year-round.

The estimate relates to 16 through 21-year-olds, since, as you know, this is primarily the age group served by Job Corps and Neighborhood Youth Corps. It is important to note, however, that in planning our youth programs we must keep in mind the capabilities of existing sponsors to effectively provide manpower sevices as well as the "universe of need."

Sincerely,

ARNOLD R. WEBER,
Assistant Secretary for Manpower.

Mr. JAVITS. Mr. President, the 893,000 job opportunities indicated by the administrator, for which $671.8 million is provided, compares with 837,000 job opportunities made available last year with total funding of $617.8 million. That would look like an increase of $54 million in money and an increase of 56,000 opportunities over last year.

The difficulty with these figures is that the level of jobs announced by the administration omits two factors: First, it omits the extent to which the National Alliance of Businessmen will hire youths this year as contrasted with last year. This is the voluntary organization of business leaders which is responsible for a major part of the youth employment program during the summer. Last year they hired 192,000. This year they have pledged for only 100,000.

Mr. President, so that there may be no question about it, I ask unanimous consent to have printed in the RECORD a letter from the National Alliance of Businessmen dated today, in which they make this statement:

As of June 19, 1970, NAB's metro offices had received firm offers from private employers for approximately 100,000 summer jobs for disadvantaged youth.

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

NATIONAL ALLIANCE OF BUSINESSMEN,
Washington, D.C., June 22, 1970.

Hon. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR MR. JAVITS: We are happy to respond to your request for a report on the current status of the National Alliance of Businessmen's efforts to find jobs for disadvantaged young people this summer.

As of June 19, 1970, NAB's metro offices had received firm offers from private employers for approximately 100,000 summer jobs for disadvantaged youth.

Our metro offices are continuing their efforts to find additional job opportunities for

disadvantaged young people this summer. Several large cities have not yet submitted pledge results of their Summer '70 campaign.

Sincerely yours,

RICHARD E. HAAS,
Vice President, Operations.

Mr. JAVITS. Accordingly, we have a shortfall of 92,000 jobs coming out of private business according to the statement I have just asked to have printed in the RECORD.

The second factor is the twofold situation which surrounds employment this year as contrasted with last year.

In the first place, the target market for summer youth employment has increased from 1,500,000 last year to 1,700,000 for this summer—an increase of 14 percent. The reason that we have this situation is that a small increase in average unemployment in the United States represents a major increase among the youth in our cities because the nature of the youth to be reached by this summer employment program represents a major increase in the kind of unemployment from which the ghetto and slum children suffer.

I emphasize, notwithstanding the statement made in the committee report, that the benefit of an increased appropriation will go especially to the 100 larger cities, that there is absolutely no idea of any kind, in my mind; there is nothing in the law or in the legislation, which does anything to inhibit problems of rural unemployment, or unemployment in the small towns. I assume, as they have before, that the Department of Labor will apportion the slots based upon their overall judgment as to the total unemployment for youth, no matter where they come from, the urban areas, the small towns, or the large towns.

However, speaking for the largest city in the country, I want to be the first to affirm that that is the way it is and that is the way it will be.

Mr. AIKEN. Will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. AIKEN. I want to thank the Senator form New York for making it clear that there is nothing in the proviso that is intended to discriminate against the small cities in the rural areas of the country.

I would like to ask him one additional question: What ages would youth be eligible to take advantage of this program?

Mr. JAVITS. Fourteen to 21.

Mr. AIKEN. The Senator is sure of that? It is not 16 to 18?

Mr. JAVITS. Fourteen to 21. This is the Neighborhood Youth Corps summer program and it covers the age group 14 to 21.

Mr. AIKEN. I thank the Senator from New York twice.

Mr. JAVITS. I thank my colleague very much.

It is only fair to pay a special tribute to the distinguished Senator from West Virginia (Mr. BYRD). He was most forthcoming in recognizing the need here. He cannot be faulted for the way in which the bill comes to the Senate floor. So far as he was concerned, he has done nothing but his manifest duty. He had a request from the Department of Labor that they could use a given number of additional slots, 80,000 to be exact, and he met that request to the letter. He could do no more. What else can be done depends on the Senate, because the administration has come to him and made representations to him and he is bound by that.

The case, in my judgment, becomes one of policy because we want to meet the needs which are represented to us, or as nearly as we can, by the mayors of the country; nor will we rest content with the estimates of the administration which were made in balancing the many financial factors, and the incendiary city factors.

The Senator from West Virginia (Mr. BYRD)—and we can pay him any tribute we can think of and it will be deserved—has done all he can. The rest is up to the Senate.

The mayors of this country certify to us that they, too, feel that we should effectively and adequately fill the 227,173 job slots for the purposes of giving necessary opportunities for the needs of the youths in a particular community. Again, I cite examples which indicate that it is not just a matter of the big cities alone. To give my colleagues a few examples:

In Little Rock, Ark., 200 additional slots.

In New Haven, Conn., 550.

In Des Moines, Iowa, 100.

In Charleston, S.C., 300.

They give other figures for larger cities but it is certainly clear that every effort is being made to reach all the cities in the country.

Thus, Mr. President, the question is this: Will the Senate, in its wisdom—looking at the job market for this particular purpose of 1,700,000 youths, in the face of the increased unemployment bulge with youth especially hard hit and, as I pointed out, with unemployment going up in poverty areas from something like 20.9 percent to almost one-third or 32.7 percent—will the Senate exercise its wisdom and judgment and its discretion and add $50 million to what has been recommended by the committee?

Again I repeat, the Senator from West Virginia (Mr. BYRD) has done everything that anyone could possibly do to help in this situation.

Now, will the Senate add the $50 million in order to come as close as it can to meet the problem as placed before us by the mayors of the country?

Mr. President, I ask unanimous consent that a letter from the Conference of Mayors, indicating the needs, be included in the RECORD.

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

U.S. CONFERENCE OF MAYORS,
Washington, D.C., May 7, 1970.

Hon. JACOB K. JAVITS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: In response to your request for information, we have made inquiries as to the cities' 1970 needs for the summer Neighborhood Youth Corps slots beyond those allocated to them to date. The information we have received from the fifty largest cities shows that the total number of additional slots that these cities could effectively utilize this summer is 165,298.

On the basis of our contacts with a sample of the smaller cities, we estimate their need and capacity to utilize additional slots to be approximately 30 percent above their present allocation. This would mean an additional 61,875 slots needed by the smaller cities.

Combining these figures, the present real need for summer 1970 is 227,173 additional slots nation-wide.

I trust that these statistics will be helpful to you in pointing up the critical need for an enlarged appropriation for the summer Neighborhood Youth Corps program.

Sincerely,

JOHN J. GUNTHER,
Executive Director

I hope that it will. I considered it my duty to present the matter to the Senate.

Mr. COTTON. Mr. President——

Mr. PERCY. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. PERCY. Is it true that if we appropriate the $50 million additional, the Department of Labor would only be required to use the amount it felt could sensibly be used?

Mr. JAVITS. There is no question about that. As a matter of fact, considering the lateness of the hour, I ascertained that very carefully and the Department intends to use, if we give them $100 million, to use $15 million for recreation, which I think is slightly different from the way the mayors want it, but is intelligent and, indeed, the committee itself thought that was an intelligent way to proceed.

Mr. BYRD of West Virginia. Mr. President, if the Senator from New York would yield right there, he means that $15 million would be used for recreation?

Mr. JAVITS. No. Of course not. It would be used in support of recreation programs, thus giving additional job slots for the program for youth which would be employed in the recreation program. Absolutely correct.

Now, the second point is that the length of time for individual jobs would be cut to 8½ weeks rather than 10 weeks, and that the $85 million could be profitably and effectively used for that purpose.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the statement of purpose of the $15 million, submitted to the committee by the Department of Labor, be inserted in the RECORD at this point.

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

SUPPORT PROGRAM FOR SUMMER YOUTH

The $15,000,000 requested for the Neighborhood Youth Corps Summer Support Program will be administered by the Labor Department in cooperation with the Department of Interior's Bureau of Outdoor Recreation. The funds will provide support for recreation facilities to be provided for approximately 800,000 poverty youth aged 6–13 years. This support will consist of supervisory personnel, transportation, hot lunches, insurance and program supplies to conduct the recreation activities, but will not provide any additional job opportunities for the disadvantaged youth aged 14–21 who will participate in the regular NYC summer program. However, in the regular program of 80,000 job opportunities for

which $35,000,000 is requested many of these opportunities will be used to provide summer recreation aids and camp counselors for the younger youth.

The "Operation Clean Waters 1970" program referred to in the President's Council on Youth Opportunity Report on 1970 Summer Youth Programs is not a part of the NYC Summer Support Program.

Mr. PERCY. May I ask one additional question: In the studies made on civil disorders in the cities across the country, beginning with Watts 5 years ago, was it quite apparent to the investigators that among those youth who wanted to work and who were frustrated because they could not achieve useful work during the hot summer months, idleness was a contributing factor to the disorders?

Mr. JAVITS. There is no question about that. In addition, let me add—I am aware here of the desire to curtail this discussion and I shall be brief—that where we have learned a lot about the kind of summer jobs, to do what we want done, I think we are profiting from it considerably.

Mr. PERCY. Mr. President, I support the amendment of the distinguished Senator from New York.

Now, Mr. President, the issue that we are currently discussing is related to a program that has been one of the most constructive that we in this Chamber have had the opportunity to be a part of. The Neighborhood Youth Corps summer jobs program, under the direction of the Department of Labor, has provided much needed employment opportunities to many of the youth of this Nation who otherwise would have been unable to find employment in the summer.

The benefits of this program have been many. Invaluable on-the-job training has been provided to our youth. They have had possibly their first taste of what may turn out to be a lifetime career work. At the same time, this chance to work has provided many with the opportunity to earn needed money of their own which may go for their further education lessening the need for public and private scholarship assistance. By the operation of this program, the Congress has carried out its duty to provide this needed employment and experience to many of our Nation's youth.

This program has also been responsible for giving many young people something constructive to do. Instead of idleness, many young people have had the satisfaction of performing a meaningful job.

So what we are discussing this evening is not the value of this program, for its value has been proven. What we are discussing is how much money could effectively be used in the employment of our young people this summer. In official language, what we are discussing is the number of annual training slots that could be effectively funded. The cost of these slots—which provide for 10 weeks work experience—has risen from $413 in the summer of 1969 to $445 for this summer. The Department of Labor has indicated that 76,036 slots could be utilized this summer. This was the result, evidently, of information received through the Department's regional offices. However, we know that training costs have gone up, and that the program is underfunded when compared with last year's appropriations. Even with $100 million, the program would still fall short of last summer's target group of 1.5 million youths. Thus, there is going to be no significant expansion of the program.

In a study by the Conference of Mayors, it was indicated that 227,173 additional slots could be used nationwide this summer if funds were made available. Chicago, for example, could use more than 19,000 additional slots. If the Conference of Mayors' estimate is correct, the additional money required will be in the neighborhood of $100 million, which would be provided for by the amendment under consideration.

Before we make our decision on this matter, we should make one more distinction. That is to point out the obvious, that each one of these slots is a young person, looking for something to do this summer. As the senior Senator from New York pointed out in his testimony before the committee, the teenage jobless rate for April was 15.7 percent. But more critically, the unemployment rate among black teenagers during the first quarter of this year was 32.7 percent, approximately one-third.

What this means is that in our large cities, there are going to be a great number of black youths in the ghettos sweating out this summer with nothing to do. As James Farmer of HEW pointed out just the other day, this Nation is poised upon a racial tinderbox that could easily explode this summer. Need I remind anyone that it was just 5 years ago that the riots in Watts occurred, and a very large factor was the fact that there was no useful and constructive work for frustrated youths. This frustration turned to anger, and that anger burst into flames that burned block upon block of Los Angeles and later in many other cities.

Mr. President, as much as anyone in this chamber, I am anxious to see that we do not frivolously appropriate money for useless purposes. I want to see each dollar that we appropriate spent as effectively as possible. However, I do not want to deny to any youth the opportunity of a good and productive job this summer.

It is my understanding that even though the summer has already started, the Department of Labor could effectively use more than just the $50 million asked for in this program. Thus, I would rather appropriate the additional money needed for this most worthwhile program, firmly believing that the Department of Labor will spend only the amount that it feels it can allocate wisely and effectively.

Mr. President, I believe we should make the extra effort to provide to this underfunded program the additional money that is needed so that as many of our youth as possible will have an opportunity to spend a productive and what I hope will be a cool summer.

Mr. JAVITS. Mr. President, does the Senator from New Hampshire desire me to yield to him at this time?

Mr. COTTON. No. I shall wait and seek the floor in my own right.

Mr. CRANSTON. Mr. President, I rise to express my very strong support of the amendment, of which I am a cosponsor, submitted by the distinguished Senator from New York (Mr. JAVITS), to provide a meaningful level of Neighborhood Youth Corps summer job opportunities for disadvantaged youth this summer. In a time of rapidly rising unemployment, when there is every indication that the terrible unemployment rates in our inner cities—as high as 43 percent among black youth in central Los Angeles—will continue their strong upward trend for many months, we must insure that the Federal Government will play a truly meaningful role in the provision of summer jobs this year.

The funds which our amendment seeks to add to the second supplemental appropriation bill to H.R. 17399—will bring the total number of NYC job opportunities to be supported in public and private nonprofit organizations to 550,000. That we should meet this target figure seems to me irrefutable, when we realize that even that number of job opportunities will meet the needs of only one-third of the estimated 1.7 million eligible youths this summer.

In my own State of California, these needs can be amply demonstrated. Los Angeles has an estimated 135,000 eligible youths, but will be able to provide only 10,000 jobs with its present allocation of public funds, both Federal and local. The mayor of San Diego, who is president of the National League of Cities, has wired me that present Neighborhood Youth Corps funding is "grossly inadequate," and has estimated the number of disadvantaged 16- to 21-year-old youth in San Diego needing jobs as 11,000. The mayor of San Jose has informed me that of the 5,000 eligible disadvantaged young people, approximately 80 percent will not be able to find work this summer, and the mayors of San Francisco, San Bernardino, and numerous other California cities have expressed similar grave concern.

I congratulate the administration for its initiative in requesting the additional $50 million contained in H.R. 17399, of which $35 million is intended for the Neighborhood Youth Corps summer job program. I strongly believe, however, that the need for the additional $50 million which would be added by the amendment now before us can hardly be overstated.

We might not be in this situation if the economy were stronger and private industry were able to play a greater part in the total summer job program. However, the private sector finds itself in the doubly unfortunate position of having no job to offer the son who has just seen his father laid off.

Even the goal of 192,000 summer hires through the National Alliance of Businessmen had been only 45 percent pledged as of May 31. That means industry may be providing as few as 86,000 jobs to disadvantaged youths this summer, and in that situation—brought on by the administration's fiscal and monetary policies for fighting inflation—the Federal Government has an obligation to move in a significant way to take up the slack.

Otherwise, the already great frustra-

tion in our inner city ghettoes may well result in a volatile and explosive situation in the heat of the summer if adequate work, recreation and cultural activities are not available for young people. The basic conditions of poverty, unequal opportunity and hopelessness which have permeated the inner cities continue to exist. Although some progress has been made in alleviating these intolerable conditions, the record of this administration over the last year and a half has indicated a highly questionable and vacillating commitment—at best—to fight against these conditions. That many leaders of civil rights and poverty organizations and communities see the administration as being indifferent to their problems tends to further exacerbate an already tenuous and dangerous situation.

The comparatively small amount of extra money we are seeking—$50 million—offers a very tangible and symbolic way of saying to our young and our disadvantaged that we are willing to commit needed resources to offer them a real opportunity within the system. To turn away from this urgent need for further Federal support for summer jobs is to turn our backs on the aspirations of many young men and women in our poverty communities. Such disregard can serve only to strengthen the efforts of those who decry the lack of responsiveness of the system and advocate its overthrow.

This point is eloquently made in the following quotations which were made by disadvantaged youngsters who attended a youth rally on June 13 in the Los Angeles Board of Supervisors hearing room:

Christopher Campbell of Long Beach: "In 6 days more than ¾ of a million teenagers will be on the streets. Of these, 135,000 are in the poverty level. The outlook is bleak. There are only about 10 or 11,000 federal jobs. There is a need. I guess the government has something more important to do than get jobs for youth. But there is nothing more important. The proposed 50 million for youth will mean more jobs and opportunities but it won't be enough. The trend today is to go into the streets, but this meeting shows that appeals can be made to our government through peaceful means. We have shown we care . . . I say to the Congressmen—will you?"

Chip Atilano of Compton: "We all say the same things. No jobs. We are pleading with the establishment. More jobs. I don't have to repeat. The problem is so bad. I had a year of college and got a job this summer as a ditch digger, but lots of kids didn't get that chance. We plead with you to establish more jobs."

Michael Garrett of Los Angeles: "We are trying to do something in a peaceful way, to get summer jobs for kids. We are here to support our Congressmen and Senators to get us jobs. If we don't get them, many of us won't be able to return to school. With 60,000 adults out of jobs it puts more pressure on us. We are willing and waiting to have our chance in life. The government can't afford to have summers like the past ones. We will do our part. Will you do yours?"

Nancy Carillo of San Pedro: "If there were enough jobs there wouldn't be so much dope and stuff. If we had jobs we would not be looking for stuff to get loaded on. When there aren't enough jobs kids just walk around looking for things to do. If there were jobs, crime and narcotics would go down. Instead of using the money for more officers they would give it for jobs and they wouldn't need so many officers. A lot of kids if they had jobs wouldn't be in the camps and those other places."

While it is true that some of the work done by NYC summer enrollees has and will continue to be make-work designed to keep out-of-school youths occupied somewhat more constructively than simply walking the streets from morning until night, it is also true that the Neighborhood Youth Corps can provide truly useful job experience and work orientation, as well as a small income which can make a crucial difference to an out-of-school youth. In its May 1, 1970, release on summer jobs, the Department of Labor stressed that its guidelines for the 1970 summer program "emphasize the placing of enrollees in jobs that will broaden their experience and provide an introduction to possible careers or to skills useful in obtaining post-high school employment."

Though we may wish to see more effective, less short-term approaches to the problems of youth unemployment, I believe it is morally indefensible to give up on several hundred thousand disadvantaged youth while we look for those better approaches. In the context of the billions of dollars spent on weapons of destruction, the addition of $50 million for summer jobs is a small investment to make in opportunity and hope for the youth of our inner cities. I urge my colleagues to make that investment in youth and the stability of our inner cities.

Mr. WILLIAMS of New Jersey. Mr. President, I rise to join in urging the Senate to adopt the urgently needed amendment that is now before us.

Skyrocketing unemployment has hit hardest in our large cities, especially among teenagers. In May, the unemployment rate among teenagers was nearly triple the national average.

City officials from New Jersey have alerted me that they face mammoth problems this summer if idle young people cannot be directed to productive and meaningful pursuits.

In New Jersey, the city of Newark alone requires at least another 9,293 more NYC job slots this summer. Jersey City needs 741.

With the cutback in the Job Corps program, it is doubly important that we adopt this amendment.

The Neighborhood Youth Corps is one of our most demonstrably effective manpower programs. I urge the Senate to give it the support it needs. We cannot be content with halfway measures.

Mr. MURPHY. Mr. President, I would be glad to join the distinguished Senator from New York and echo the sentiments expressed by my colleague from California.

I think this is a pressing question. There is a great need. It is something that has to be taken care of immediately because the time is now upon us.

I, of course, in the past have wondered about the possibility of a special classification of jobs for young people. There is great need and with the minimum wage problem facing us, young people cannot possibly earn that amount.

In the absence of anything to rectify that situation, I enthusiastically join the Senator from New York and endorse the amendment he offered and support it.

Mr. JAVITS. Mr. President, I yield the floor.

Mr. BYRD of West Virginia. Mr. President, I shall take only a moment.

The able Senator from New York appeared before the subcommittee and presented the request by the Conference of Mayors for $100 million.

At that point the subcommittee had received no request from the administration for funds. There was no budget estimate. The able Senator from New York was present and presented information from the Department of Labor which indicated that the Secretary had said that he could feasibly and effectively use $33.9 million.

When the subcommittee met to mark up the bill, it decided to recommend to the full committee the full amount the Secretary of Labor said he could utilize—the $33.9 million.

By the time the full committee marked up the bill, the budget estimate had been received from the Bureau of the Budget in the amount of $50 million. So, the full committee recommended an appropriation of the full amount of the budget estimate.

Mr. President, I think that the able Senator from New York has presented a very fine case. He did an exemplary job before the committee. And I think that he performed a great service, because up to that point we had received no request from anyone for these funds.

Mr. President, I think the importance of continuing the Neighborhood Youth Corps program should be recognized. It was established in 1964 under the Economic Opportunity Act, and since that time—as the manpower report of the President recently transmitted to the Congress notes—more than 2 million young people have benefited by the programs of the NYC since its inception. The summer program, which we are now considering, is one of several important components of the Neighborhood Youth Corps.

It is the Government's principle effort to assist disadvantaged youth. The need is great. More than one-half million teenagers drop out of school each year, and join the ranks of the unemployed. In fact, the unemployment rate for teenagers remains around 13 percent, far above the national average for all workers. Other programs of the NYC include an "in-school" program which assisted 134,000 young people in fiscal year 1969. This program provided a source of income to those youths, who otherwise would have to work full time to support themselves and their families.

The "out-of-school" program is planned for school dropouts who need work experience and remedial education to successfully enter into the job market. In fiscal year 1969, 120,000 young people were enrolled in this project.

On the average, the participants were 18 years of age, and had completed their sophomore year in high school.

For the 16- and 17-year-olds, the "out-of-school" program will provide inten-

sive prevocational training with both academic and occupational content.

This program is conducted under authority of section 102 of the Manpower Development and Training Act of 1962, and supplements the summer programs delegated to the Department of Labor from the Office of Economic Opportunity. It is administered by the Manpower Administration. The National Alliance of Businessmen assists in locating employment opportunities. This is an admirable example of the benefits which can accrue when Government and business work together for a common goal. I congratulate this organization for its outstanding assistance in finding these jobs in the business community, and hope that the businessmen of our country will continue their meritorious efforts.

The success of this program, for the most part, has been great. Many of the participants were given the opportunity to find personal achievement, and, more important, their own place in society. Others have reported, however, that this program is just another means of public support affording little in the way of meaningful work experience, and having little effect in lowering the school dropout rate. I am glad to note that the President's Council on Youth Opportunity is aware of these problems, and is redefining the approach taken by developing a more individually oriented program, so that the results will be more beneficial both to the participant and to his community.

I salute the Senator from New York for the service he has rendered. I will interpose no objection to the additional $50 million. We do have to go to conference. It may be well that we have $100 million when we go to conference.

I would prefer to leave that to the will of the Senate. I will not interpose any objection to the amendment which would increase the amount from $50 million to $100 million.

Mr. President, I am ready to vote. I would just as soon have a voice vote. But, of course, the yeas and nays have been ordered.

Mr. COTTON. Mr. President, I have no doubt whatsoever that the amendment offered by the distinguished Senator from New York is a very meritorious amendment. And I am perfectly willing to vote for it.

I think it is for an excellent cause. The increasing of appropriations from $50 million to $100 million will not break the Government. And the human values involved no doubt justify this action.

Mr. President, I regret that the distinguished Senator from Arkansas is not here. The Senator from New Hampshire just cannot refrain from commenting on the interesting developments and contrasts that can take place in this remarkable body in the space of a couple of hours.

Earlier today, I sat here and listened to the distinguished Senator from Arkansas, the very, very able chairman of our Foreign Relations Committee, lecture the Senator from Kansas (Mr. DOLE).

I heard him tell the Senator from Kansas that because of the fact that he had not been here long, he had not come to realize the real values and traditions of this noble body which, said the Senator from Arkansas, reposed in the committee, and that the audacity that the distinguished Senator from Kansas in his youthful exuberance had displayed in daring to offer an amendment on the floor that had not been considered in the great Committee on Foreign Relations was something that clearly needed to be rebuked.

I was amused as I listened to that remarkable speech. I did not expect, however, Mr. President, to have it refuted so definitely and overwhelmingly and strikingly in the course of a few hours.

Certainly I am glad to vote for this amendment. But I hold in my hand a whole set of amendments brought to the floor of the Senate and offered to the supplemental appropriations bill.

I do not know where these distinguished Senators were when the committee was in session. I am not a member of that subcommitttee. But I was present in the full committee. And I do not recall that these amendments were brought up or were discussed. And I know my friends who are on this subcommittee well enough that I know they would have certainly informed the full committee if these amendments had been presented.

I wish the distinguished Senator from Arkansas were here to see the great respect and reverence paid to the Committee on Appropriations. What do we have a Committee on Appropriations for?

In the first breath after this bill was laid before the Senate, they added more than half a billion dollars to it. And it may be that it was justified.

I am sure of one thing, however. It never received in my hearing—and I was present—any discussion in the Committee on Appropriations.

Then one by one, we have had all of these amendments. And I do not doubt that they are worthy amendments. Like Brutus, they are all honorable, but I do so wish that the distinguished Senator from Arkansas, who undertook to rebuke and to look down his nose at the poor young Senator from Kansas who dared to offer an amendment on the floor of this body that had not been offered and considered by the Committee on Foreign Relations, were here. As a matter of fact, it had been considered by the great, sanctified Committee on Foreign Relations. I wish the Senator from Arkansas were here, because I wonder if he has served for all of these years in the Senate and if he has been so absorbed in his whole thought and introspection that he has not seen the Senate throw down the committees and ignore their recommendations time after time after time.

I cannot understand it.

My heart went out to the poor young Senator from Kansas who was being rebuked for his audacity in daring to offer an amendment without bowing down to that great committee.

Why, to hear the speech of the distinguished Senator from Arkansas, one would think there was something sacred about the committees.

How about this performance in offering these amendments? How about this?

I am going to vote for the amendment of the Senator from New York, but I want to know why we did not hear about it in the committee.

I am going to vote for some of these [laughter] I guess.

I certainly want to see the cities taken care of; I certainly want to see New York taken care of; I certainly want to see Philadelphia taken care of; I certainly want to see Chicago taken care of; and I want these poor city people to have everything they need. I want to pacify them so that they will not revolt and riot. Of course, I am not going to worry about some of the people eking out a livelihood in my own rural State which I represent. [Laughter.]

But I am going to suggest that in all the years I have been here I have never heard a speech on the floor of the Senate rebuking so overwhelmingly as that remarkable plea made by the distinguished Senator whom I greatly respect and admire, the Senator from Arkansas, when he just jumped on the young Senator from Kansas because he had not been here long enough to learn you must—you must—respect your committees.

This is the way respect is shown for the Committee on Appropriations. Why do we want a Committee on Appropriations?

Oh, there is another thing the Senator from Arkansas said. He suggested the Senator from Kansas was doing this to get himself in the newspapers, to get himself some notoriety.

I would not suggest for a minute that my city friends here have waited until [laughter] they come to the floor of the Senate instead of quietly taking up amendments before the Committee on Appropriations. I would not suggest for 1 minute it is done for the purpose of publicity at all, despite all that is exchanged back and forth, the stroking of backs, and the patting of each other.

But nevertheless, as a member of the Committee on Appropriations, and having great respect for the distinguished Senator from West Virginia, the Senator from Rhode Island, and the Senator from Nebraska, I am just wondering why we did not hear about some of these amendments. And I am wondering what is the use of sitting day after day trying desperately to make both ends meet and to make the resources we have at our disposal in this country stretch as widely and justly as we can. What is the use of your Committee on Appropriations laboring on this and then coming in and having the floodgates opened up with amendment after amendment—and each one of them is a beauty, each one of them is good, as in the case of this amendment that I am perfectly willing to vote for.

Nevertheless, in the aggregate they just open up the floodgates. I hope Senators will take that into consideration because, after all, this story that, "We will take it to conference," why, Mr. President, what sins have been committed under that wonderful familiar term. We take it to conference and, well, some of us have seen some of our cherished hopes perish in conference. But I have noticed that they never come back from conference with a figure that is any less;

they can under the rule but they never come back with any less figure.

So, Mr. President, I merely suggest why I am going to vote for the bill. Please do not listen any more when someone gets up and says that a Senator should not, under the traditions of this great body, offer anything until he has offered it in committee. I have never seen these amendments before; I hope I never see them again.

Mr. JAVITS. Mr. President, it is a rare opportunity to be able to plead pure as the driven snow. I did offer this amendment before the subcommittee. The Senator from West Virginia (Mr. BYRD) affirms that. I think it was the best course. One cannot always do that for many reasons, but I agree with the Senator from New Hampshire that it is highly desirable. I hope the vote on this amendment demonstrates it is.

Mr. SCOTT. Mr. President, I support the amendments to H.R. 17499, the second supplemental appropriation bill, which are designed to allocate $100 million for the Neighborhood Youth Corps program. If these amendments are given congressional and Presidential approval, Philadelphia would be able to fund an extra 9,120 job opportunities, while Pittsburgh would stand to gain 1,528.

The Neighborhood Youth Corps program, administered by the Department of Labor since 1965, has provided disadvantaged American youths with over 971,000 job opportunities. These 14- to 21-year-olds are encouraged to stay in school, and perhaps acquire a job skill useful just a few years later. Most of the work is performed in conjunction with public and private nonprofit organizations.

We are now but 1 day into the summer of 1970. We have all heard the dire predictions of what we may expect during the long, hot summer. While not joining in at this point, I do know of the problems confronting our great urban areas, and see in these amendments the means of correcting them.

I am pleased that the administration has already requested an additional $50 million. But we must do more. A recent survey by the U.S. Conference of Mayors indicated that our cities will have great numbers of idle youths spending their summers with nothing to do. The survey showed, for example, that Philadelphia could use an additional 9,120 job opportunities above the 12,500 already proposed. Similarly, Pittsburgh needs to fill another 1,528 positions above its proposed level of 3,366.

Mr. President, disadvantaged youths all over the country are crying out for help. Most of them sincerely wish to lead productive lives. We must give them the opportunity to fulfill those wishes. The additional $100 million proposed in these amendments for the Neighborhood Youth Corps will be money well spent, for we are, in a sense, investing in our Nation's most valuable potential resource, our youth. For this reason, I urge the Senate to favorably consider this proposal.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). The question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK) and the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

On this vote, the Senator from Colorado (Mr. DOMINICK) is paired with the Senator from South Dakota (Mr. MUNDT). If present and voting, the Senator from Colorado would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 51, nays 29, as follows:

[No. 165 Leg.]

YEAS—51

Aiken	Griffin	Nelson
Bayh	Hart	Pastore
Boggs	Hartke	Pearson
Brooke	Hughes	Pell
Burdick	Inouye	Percy
Byrd, W. Va.	Jackson	Prouty
Case	Javits	Proxmire
Church	Magnuson	Randolph
Cooper	Mansfield	Ribicoff
Cotton	Mathias	Saxbe
Cranston	McGee	Schweiker
Dole	McGovern	Scott
Eagleton	Mondale	Smith, Ill.
Fong	Montoya	Spong
Fulbright	Moss	Stevens
Goodell	Murphy	Symington
Gravel	Muskie	Williams, N.J.

NAYS—29

Allen	Ervin	Miller
Allott	Fannin	Smith, Maine
Anderson	Gurney	Sparkman
Baker	Hansen	Stennis
Bellmon	Holland	Talmadge
Bennett	Hollings	Thurmond
Byrd, Va.	Hruska	Tower
Cook	Jordan, N.C.	Williams, Del.
Curtis	Jordan, Idaho	Young, N. Dak.
Ellender	Long	

NOT VOTING—20

Bible	Harris	Mundt
Cannon	Hatfield	Packwood
Dodd	Kennedy	Russell
Dominick	McCarthy	Tydings
Eastland	McClellan	Yarborough
Goldwater	McIntyre	Young, Ohio
Gore	Metcalf	

So the amendment offered by Mr. JAVITS for himself and other Senators was agreed to.

Mr. WILLIAMS of Delaware. Mr. President, I have an amendment at the desk which I call up and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The BILL CLERK. The Senator from Delaware (Mr. WILLIAMS) proposes an amendment as follows:

On page 60, beginning with the language after the words Section 501. (a) strike out all down to and including line 19 on page 62 and insert in lieu thereof the following:

"General Limitation on Expenditures and Net Lending.—Expenditures and net lending during the fiscal year ending June 30, 1971, under the Budget of the United States Government House Document 91-240—Part 1 shall not exceed the $200,771,000,000 as being the total of such expenditures and net lending except by expenditures and net lending—

"(1) for interest in excess of the amounts estimated therefor by the Director of the Bureau of the Budget

"(2) for veterans' benefits and services in excess of the amounts estimated therefor by such revision, and

"(3) for payments from trust funds in excess of the amounts estimated therefor.

If hostilities in Vietnam cease during the fiscal year, the figure of $200,771,000,000 in the preceding sentence shall be reduced by the amount of any decrease in Defense Department expenditures during the fiscal year occurring on account of such cessation of hostilities.

"(b) Application of Limitation to Programs.—In the administration of any program as to which—

"(1) the amount of expenditures is limited pursuant to section 3, and

"(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution,

the amount available for expenditure (as determined by the President) shall be substituted for the amount appropriated or otherwise made available in the application of the formula."

Mr. WILLIAMS of Delaware. Mr. President, this amendment is a substitute for title 5, which is the so-called expenditure control ceiling provision in this bill. The amendment which I am offering is a reproduction of the expenditure controls that were enacted in 1968 as a part of the surcharge tax bill.

The so-called expenditure control ceilings in the bill are somewhat similar to the farcical expenditure control that was enacted last year by Congress, which, as every Member knows, in effect accomplished nothing. I quote from the language of the pending bill. First it says:

Expenditures . . . of the Federal Government during the fiscal year ending June 30, 1971, shall not exceed $200,771,000,000: *Provided*, That whenever action, or inaction, by

the Congress on requests for appropriations and other budgetary proposals varies from the President's recommendations reflected in the Budget for 1971 (H. Doc. 91-240, part 1), the Director of the Bureau of the Budget shall report to the President and to the Congress his estimate of the effect of such action or inaction on budget outlays, and the limitation set forth herein shall be correspondingly adjusted:

I shall not read the rest of it. But it goes on and elaborates how the ceiling can automatically be raised without further congressional action.

What this means is that under the committee bill we are allegedly putting a ceiling of $200,771,000,000 on expenditures for fiscal 1971, which is the amount in the budget as submitted by the President, but then we are saying we are floating this ceiling on pontoons so that as either Congress or the administration increases the spending it automatically raises the debt ceiling to take care of it.

For example, on this particular bill the Senate has added a total of $645,800,000 by rollcall votes this afternoon. That does not count the $300 million which was added by the Senator from Louisiana on the school lunch program, which is automatically to be deducted from next year's appropriation, so I have eliminated that item. But I repeat, the Senate has appropriated $645,800,000 more than was in the bill when it was reported by the committee.

The bill as reported by the committee was $126 million below the budget figure, so that means we have already added $519 million to the bill. That means that the ceiling is automatically raised $519 million to take care of these increases, and any other increases that are voted on other appropriation bills throughout the remainder of this year or the first half of next year would likewise automatically raise the expenditure ceiling. This so-called ceiling in this pending bill has by Senate votes already been increased by over $500 million.

Therefore, we have a ceiling in name only, a ceiling that has no effect whatsoever. It does not control expenditures by Congress, and it does not control the executive branch. It is a farce, and I will not support such hypocrisy.

I think either we ought to have a ceiling, or else we ought to cut out the complete farce of pretending we are having one.

As an example of how this loose procedure worked last year, President Johnson submitted his budget to Congress and recommended expenditures of $196.9 billion. President Nixon revised that figurge down to around $195 billion, and then Congress put on a ceiling of $191.9 billion. The American taxpayers were told that we were really going to cut spending.

But the ceiling as approved last year contained this same clause, that whenever Congress increases spending the ceiling would automatically increase. The result is that we are going to spend more money this year—around $198 to $200 billion—under a $191 billion ceiling, and Congress has never had to take any action. Just automatically, as Congress increased appropriations, the ceiling raised. For example, the next appropriation bill is an education bill, which I understand is $500 million above the budget; under this farce, called a ceiling, that would automatically, if it were approved by Congress as reported, raise the ceiling another $500 million.

So, as I say, we shall have a ceiling in name only. My argument is that if we are going to have a ceiling on expenditures let us put one on that means something. This amendment was drafted along lines approved by Congress in 1968 as part of the surtax bill. It is true that Congress, by legislative action, did later exempt many of the agencies, and Congress could do it again. But we would have to do it by legislative action and do it openly and knowingly; otherwise, the ceiling would be binding.

My amendment does exempt the interest on the national debt, which certainly cannot be controlled. It exempts veterans' benefit payments and services which are obligated by law, and I realize we cannot limit those because we might have more disabled veterans than contemplated as a result of the action in Vietnam, and certainly we are not going to limit those payments obligated by law.

Likewise, the amendment does not limit payments under trust funds, over which we have no control, because if an unusual number of older people retire and start drawing more retirement benefits than estimated, they must be paid. They have a right to draw those payments under the law. By the same token, if there is more unemployment than contemplated those payments have to be paid from a trust fund, and the same is true with respect to pension payments under the railroad retirement. But all other operations of Government would be controlled under this amendment; and if, for example, Congress and the administration together raised expenditures $1 billion or $100 million in X agency, we would automatically have to offset that in some other agency, and if Congress did not do it the President would have to do it.

I hope this amendment will be accepted by the manager of the bill.

Surely the Senate wants a realistic ceiling on expenditures.

Mr. BYRD of West Virginia. Mr. President, I am constrained to state that the Senator's amendment is in the nature of a substitute, and a point of order would lie against it, and I therefore make that point of order.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). The amendment obviously imposes legislation on a general appropriation bill, which is not in order under rule XVI, paragraph 4. The Chair sustains the point of order.

Mr. WILLIAMS of Delaware. Mr. President, I shall be brief. I concede that the amendment is legislation. However, I point out that the language in the bill that came over from the House of Representatives is likewise legislation, and it would seem that amending a legislative proposal would be in order.

I could appeal from the decision of the Chair, and I think make a fairly good argument on it, but I am not going to do it. I do notify the Senate now that in my judgment, and I think it will be generally agreed, this so-called ceiling in this bill is not worth the paper it is written on. It is a complete farce. It misleads the American people into thinking that we are doing something when in reality we are not.

In the next few days it is expected that Congress will be voting on the question of raising the debt ceiling to finance some of the expenditures that are in this bill and these other appropriation bills. That bill will be before the Senate in the next few days, and this amendment will be offered as a part of that bill. I want the Senate to be on notice. I shall accept the point of order not so very reluctantly, because I point out that I shall be a conferee on the next bill on which this amendment will be riding, and I think I shall be just as well placed.

Mr. BYRD of West Virginia. The Senator is correct. The House opened the door when it wrote language into the appropriation bill, and the Senate amended that language, the door already having been opened. But in view of the fact that the Senator's amendment is in the nature of a substitute, a point of order would lie against it. The Senator could force us to a vote and raise the question of germaneness. The Senator has stated his intention to bring this matter before the Senate again at a later date, and he has the vehicle upon which he can do that. I appreciate the fact that he is not going to force this to a vote.

I make the point of order, Mr. President.

Mr. WILLIAMS of Delaware. I appreciate the position of the Senator. I think if we are going to have a ceiling on expenditures it should be in advance of our action on other appropriation bills for the 1971 fiscal year. By serving notice now that this amendment will be offered, and since we will have to vote on the bill dealing with the debt ceiling before July 1, Congress will have a chance to be on record as to whether we really want bona fide expenditure controls or whether we just want to go through the farce another year of putting on a flexible ceiling which serves no purpose except that we can brag to our constituents about how we voted for a ceiling. But the so-called ceiling in this bill is on pontoons, so that as the tide (or expenditures) rises the ceiling floats higher.

The PRESIDING OFFICER. The point of order has been sustained.

INTER-AMERICAN DEVELOPMENT BANK STAFF LOANS AMENDMENT

Mr. FONG. Mr. President, I should like to propound a question to the distinguished Senator from Wyoming (Mr. MCGEE), who is chairman of the Subcommittee on Foreign Aid Appropriations.

Is it true that section 603 of the bill which provides that "None of the funds contained in this Act available to the Inter-American Development Bank shall be used directly or indirectly as grants or loans to officers or members of the staff of the Inter-American Development Bank" would require the United States to qualify its subscription to the callable capital of that Bank?

Mr. MCGEE. Mr. President, let me say to my colleague from Hawaii, who is the

ranking minority member of the subcommittee, that it is now the judgment of the expert consultants on the language of the bill that it would not. Since the issue at stake was the proposal in the amendment to regulate loans to staff members in the Inter-American Bank, if this does not affect the U.S. operations within the Bank, and does not call into question its ability to back up the subscriptions in the Bank, our judgment is that we can, indeed, go along with and support the committee's amendment that is already written into the pending legislation.

The purpose of section 603 is to bring to the attention of the executive branch and the Bank our concern about the Inter-American Development Bank staff loan program. While the Appropriations Committee believes that this program should be re-examined in the context of the Executive Board of the Bank with a view toward making changes in it, section 603 would not require the United States to qualify its subscription to the Bank. There are two reasons for this: First, the appropriation is for the purpose of allowing the United States to subscribe to the Bank's callable capital and involves no expenditure of funds. The callable capital stands behind the Bank's borrowings in capital markets and it is highly unlikely that the capital subscription will ever be called and result in actual use of the appropriated funds. Second, under article II, section 4(a)(ii) of the Bank's charter, the callable capital of the Bank is subject to call only when required to meet the obligations of the Bank to its bondholders and holders of Bank guarantees. There is no other purpose for which the callable capital subscription could be used under the Bank's charter.

Thus, the Bank's charter assures complete compliance with the requirements of section 603 that the funds appropriated not be used directly or indirectly for loans to the staff and no qualification of our subscription is necessary.

Mr. PROXMIRE. Mr. President, I send to the desk an amendment to the bill which is in the nature of correction of a technical error. I ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 14, strike lines 4 through 6, insert in lieu thereof:

"For an additional amount for grants or loans for specific hospitals and related facilities pursuant to section 601(b) of the Public Health Service Act, $8,703,078; without regard to the allotments and priority provisions of Title VI of the Public Health Service Act."

Mr. PROXMIRE. Mr. President, before I explain why this is a technical correction. I would like to express my sincere appreciation to the distinguished chairman of the Deficiencies and Supplementals Subcommittee, the Senator from West Virginia (Mr. BYRD), the members of his subcommittee, and my colleagues on the full Appropriations Committee for including with H.R. 17399, the supplemental appropriations bill, financial assistance for 35 health facilities in nine States that have been the accidental victims of cutback in funding for the Hill-Burton program's modernization and construction activities.

The committee's decision to adopt this amendment for inclusion in the 1970 supplemental bill signals a recognition of the Federal commitment to provide assistance to those health facilities that are in desperate need of financial aid. I ask unanimous consent that the list of projects under construction with commitments from State Hill-Burton agencies be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. PROXMIRE. The General Counsel of the Department of Health, Education, and Welfare has today ruled that the $8,703,078 included in the bill for the financing of 35 hospitals in a number of States has to be allocated among all 50 States under the language currently contained in the bill. It was the Appropriations Committee's intent to assist just these 35 hospitals—hospitals whose construction was begun only after the Federal Government had committed itself to sharing the cost of completion. The 35 installations are in particularly difficult straits because State and local governments as well as private citizens have pledged themselves to provide part of the financing, construction has been begun, and now the Federal Government has reneged, leaving States, localities, and private citizens holding the bag.

So that the Appropriations Committee's intent can be fulfilled, I move that my amendment, which permits these funds to be spent on just the 35 hospitals rather than allocated among all the 50 States, be accepted. The alternatives would be to appropriate a far greater amount—I might say a prohibitive amount in terms of a supplemental appropriations bill—or to let these 35 installations; many of which are virtually completed and stand idle.

Mr. President, for years I have spoken out against excessive Federal spending when I have felt such spending was not in the public interest. I believe, however, that funding for the health facilities in these nine States is in the public interest. Let me explain why.

Construction of these facilities was begun as the result of Federal grants and in the belief, anchored by a moral commitment on the part of the Federal Government, that additional Federal assistance would be forthcoming. Without this assistance, construction in all likelihood would not have been undertaken. Let me give an example.

In 1966, in order to replace an inadequate facility which could not meet the needs of 75,000 residents, the Beloit, Wis., hospital board approached the State Hill-Burton agency and was granted a pledge of Federal aid for 40 percent of the total cost of construction. On the basis of this pledge, the community raised $3.5 million in private donations, and sold $5.4 million in municipal bonds. Hospital construction began in November of 1967. During the 2½ years of construction, 76 contractors, and 200 workers were engaged in building this structure.

However, the administration has simply not included sufficient funds in its fiscal 1970 or 1971 budgets to meet its obligations in this area. As a result the Beloit Hospital is now over $1.5 million in the red. If the funds are not forthcoming from the Federal Government, liens will be placed on the building. Expensive refinancing will be the only alternative. As a result the entire community will be seriously and adversely affected.

Multiply the Beloit experience by 35 and you will understand the full significance of the cutback of Hill-Burton funds on health facilities throughout the Nation.

Some have questioned whether or not there is a legal commitment on the part of the Federal Government *under the* Hill-Burton Act to provide funds in this area. My distinguished colleague, the Senator from Nebraska (Mr. CURTIS), has supplied me with a copy of a contract for the Madonna Nursing Home at Lincoln, Nebr., which shows in no uncertain terms that in this case a legal commitment was made on the part of the Federal Government.

My colleague from Nebraska also sent me a copy of his letter to Representative ROBERT MICHEL explaining the legal obligation. In that letter, Senator CURTIS stated:

I cannot speak for the other 34 projects in the amendment, but I do have in my possession a copy of such a contract for the Madonna Nursing Home at Lincoln, Nebraska, which I am attaching for your information and study. I feel that a signed, sealed and delivered contract obligating Fiscal 1970 funds for the completion of a project is a commitment.

On Page 2 you will note the contract states that the Surgeon General certified "final approval of the application for Federal funds—and, on behalf of the United States, hereby obligates for such project out of appropriated funds allotted to the State of Nebraska for Fiscal years 1968, 1969, and 1970 the total sum of $999,425.97." The contract was signed on November 26, 1969 by the Regional Health Director of HEW for the Surgeon General.

The Madonna Home received $500,000 in Part IV Hill-Burton funds from Fiscal 1968 and 1969 appropriations. The balance of $499,429.97 was to have been received from Fiscal 1970 appropriations. The commitment was made and the contract signed to provide the balance under the Continuing Resolution which resulted from the long delay last year in passage of the Fiscal 1970 HEW appropriations bill. When the appropriations finally were passed, they fell short of the promise made in the Continuing Resolution. Nebraska's total allocation was only $447,909 for Part IV, leaving a balance owed by the Federal Government for the Madonna Home project in the amount of $51,516.97.

The facts are: (1) The Department of Health, Education and Welfare proceeded in good faith to enter into a contract to pay a given amount within a given period of time on the basis of a Continuing Resolution passed by the Congress; (2) The contract constituted a promise by the Federal Government to bear a given amount of the cost of a construction project which was allowed to proceed as a result; and (3) The Congress broke this promise by appropriating

less funds than the Continuing Resolution provided.

Thus, fulfillment of the Federal funds pledged to the Madonna Home project in Lincoln does not constitute forward funding but rather past funding of a commitment due under signed contract.

Mr. President, I hope that this information will be of assistance to the distinguished Senator from West Virginia (Mr. BYRD) in pressing for this amendment in conference.

Mr. President, before closing I would like to make one additional comment. Contained within the supplemental appropriations bill is a $57,000 item for increased pay costs for the Subversive Activities Control Board.

The Subversive Activities Control Board has been in existence for 20 years. During this time the Board has achieved exactly nothing. It has had its statutory duties reduced to zero by a succession of court decisions. It literally has nothing to do.

Since the fiscal year is almost at an end, I will not oppose this item. I would like to serve notice, however, that I fully intend to offer an amendment to the fiscal 1971 State-Justice-Commerce appropriations bill to strike out the $401,100 appropriations request for the SACB.

I believe it is an insult to the American taxpayer to continue financing the inactivities of this do-nothing Board.

EXHIBIT 1

LIST OF PROJECTS UNDER CONSTRUCTION WITH COMMITMENT FROM STATE HILL-BURTON AGENCY, WHICH ARE AFFECTED BY REDUCED FISCAL APPROPRIATION

State and name of hospital	Location	Amount
New Hampshire: Grafton County Nursing Home	Haverhill	$2,524
Maryland:		
Baltimore City Hospital, "A" building	Baltimore	43,218
Dorchester County Public Health Center	Cambridge	16,731
Total		59,949
North Carolina: North Carolina Baptist Hospital	Winston-Salem	386,356
Wisconsin:		
St. Mary's Hosptial	Wausau	50,000
Vernon Memorial Hospital	Viroqua	17,214
St. Michael's Hospital	Stevens Point	330,100
Beloit Memorial Hospital	Beloit	1,020,575
Victory Memorial Hospital	Stanley	34,397
Total		1,452,286
Indiana:		
St. Mary Mercy Hospital	Gary	250,443
Union Hospital	Terre Haute	
Kansas:		
St. Francis Hospital	Topeka	288,496
St. John's Hospital	Salina	68,328
Mount Carmel Hospital	Pittsburg	273,312
St. Luke's Hospital	Wellington	129,064
McPherson County Hospital	McPherson	219,349
Wyandotte Health Center	Kansas City	146,233
Northwest Medical Center	Goodland	5,463
Total, Kansas		1,130,245
Nebraska:		
Mary Lanning Hospital	Hastings	$140,000
St. Elizabeth's Hospital	Lincoln	100,000
Madonna Nursing Home	do	52,000
Total, Nebraska		292,000
Oklahoma:		
Alva General Hospital	Alva	55,000
Norman Municipal Hospital	Norman	500,000
Oklahoma City-County Health Department	Oklahoma City	650,000
Hillcrest Medical Center	Tulsa	1,250,000
Newman Memorial Hospital	Shattuck	20,000
Purcell Municipal Hospital	Purcell	5,000
Southwestern Memorial Hospital	Weatherford	255,000
Okfuskee Memorial Hospital	Okemah	30,000
Deaconess Hospital	Oklahoma City	324,275
Central State Hospital Children's Unit	Norman	225,000
Arkview Hospital	El Reno	600,000
Cimarron Memorial Hospital	Boise City	15,000
Total, Oklahoma		3,929,275
Arkansas:		
St. Vincent's Hospital	Little Rock	200,000
Baptist Medical Center	do	1,000,000
Total, Arkansas		1,200,000
Grand total		8,703,078

Mr. PROXMIRE. Mr. President, I move that this amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 25, strike "$4,042,000" and substitute in lieu thereof "$5,831,000."

On page 3, between lines 16 and 17, insert the following:

"For an additional amount for 'Public Safety' as may be necessary to assist in meeting costs associated with salary increases for policemen and firemen for the period July 1, 1969, to December 31, 1969, $1,789,000."

The PRESIDING OFFICER. Does the Senator from Missouri wish his amendments considered en bloc?

Mr. EAGLETON. Yes. I ask unanimous consent that the amendments be considered en bloc.

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

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on the amendments.

Mr. BYRD of West Virginia. Mr. President, will the Senator withhold that request?

Mr. EAGLETON. I withhold the request.

Mr. BYRD of West Virginia. Mr. President, the hour is 9 o'clock, and I would hope that we would not be here too much longer. Certainly, it is my determination to complete this bill tonight and not let it lie overnight to come back tomorrow and start all over again. I would hope that the Senator would not ask for the yeas and nays. If he will not, I will be willing to accept his amendments.

Mr. EAGLETON. That is perfectly fine with me. Shall I explain the amendment, just briefly?

Mr. BYRD of West Virginia. Please do.

Mr. COOK. Mr. President, do I correctly understand that the figure on line 19 is increased from $100,000 to $1,100,000?

The PRESIDING OFFICER. The clerk will state the amendments again.

The assistant legislative clerk read as follows:

On page 2, line 25, strike "$4,042,000" and substitute in lieu thereof $5,831,000."

On page 3, between lines 16 and 17, insert the following:

"For an additional amount for 'Public Safety' as may be necessary to assist in meeting costs associated with salary increases for policemen and firemen for the period July 1, 1969, to December 31, 1969, $1,789,000."

Mr. COOK. I thank the Chair.

Mr. EAGLETON. Mr. President, this amendment relates to the District of Columbia and concerns itself with the funding of retroactive pay for policemen and firemen in the District of Columbia.

Last year's Federal payment to the District was $110 million. Of that amount, $1,789,000 remains unappropriated. The policemen's, firemen's, and teachers' pay raise bill already acted upon by the Senate, and the conference report thereon passed today by the House and scheduled for Senate action on Wednesday, contains $10,800,000 in retroactive pay for the policemen, firemen, and teachers in the District.

Of this amount, the bill authorizes a Federal contribution of only $8 million. Thus, there is a short fall of $2.8 million that will have to be picked up by the District government.

If this amendment is adopted, $1,789,000 of that short fall would be taken care of by appropriating the remaining portion of the annual Federal payment authorized for fiscal year 1970. Since Congress is imposing these retroactive pay provisions on the city government without providing sufficient funds to pay for them, I think the only fair way to utilize the remainder of the funds which would otherwise lapse by June 30 is the payment of this retroactive pay. Mr. President, that is the purpose of my amendment.

Mr. BYRD of West Virginia. Mr. President, I laud the Senator on what he seeks to do here. I appreciate the fact that he is not going to ask for the yeas and nays. I, therefore, am willing to accept the amendment. I do not see the ranking minority member in the Chamber at the moment, but I feel that I can speak for him as well.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

Mr. BYRD of West Virginia. Mr. President, I send to the desk an amendment which will provide for an additional $322,000 for the U.S. Park Police, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

NATIONAL PARK SERVICE

On page 41, line 21, strike: "$3,359,000" and insert in lieu thereof: "$3,681,000".

Mr. BYRD of West Virginia. There is presently pending before the President the bill, S. 2694, which provides an average 11.4-percent pay raise for the U.S. Park Police retroactive to July 12, 1969. Obviously, this late in the fiscal year, it is not possible for this sum to be absorbed by the National Park Service.

I ask that the justification prepared by Mr. George B. Hartzog, Director of the National Park Service, be printed in the RECORD at this point.

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

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, D.C.
Washington, D.C. June 18, 1970.

Hon. ROBERT C. BYRD,
Chairman, Subcommittee on Deficiencies and Supplementals, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR SENATOR BYRD: S. 2694, which is now pending approval of the President, provides an average 11.4 percent pay raise for the United States Park Police retroactive to July 12, 1969. The estimated cost, most of which has already accrued under the retroactive feature of the bill, totals $322,000. Due to the late congressional action on this bill, it was not possible to have a supplemental estimate presented for congressional consideration prior to Senate Appropriations Committee action on H.R. 17399, making supplemental appropriations for the fiscal year ending June 30, 1970. Due to the lateness in the fiscal year, it will not be possible for the National Park Service to make the retroactive payments within its remaining fund resources. Accordingly, it is of utmost importance that provision be made in H.R. 17399 to provide the additional funds required.

We understand your staff has discussed this matter with the Bureau of the Budget. The additional funds could be provided by an amendment to H.R. 17399 as follows: Page 41, line 21, delete $3,359,000 and insert in lieu thereof $3,681,000.

Your cooperation and assistance are much appreciated.

Sincerely yours,
GEORGE B. HARTZOG, Jr.,
Director.

Mr. BYRD of West Virginia. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator of West Virginia.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I move that the vote by which the amendment was adopted be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. BYRD of West Virginia. Mr. President, on page 4 of the second supplemental appropriation bill, there will be found a Senate committee amendment making an appropriation of $250 million for foreign military credit sales. On page 13 of the report from the committee, which I filed on this bill on June 8, 1970, it is made clear that the authorization for this appropriation had not been enacted into law and that the committee had included language which provided that these funds would only become available upon the enactment of the Foreign Military Credit Sales Authorization Act, H.R. 15628, or similar legislation.

I have been advised that the chairman of the Committee on Foreign Relations of the Senate objects to these funds being included in this bill prior to the enactment of authorizing legislation so, consequently, I make a point of order against the amendment as being legislation on an appropriation bill.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). The Chair would advise the Senator from West Virginia that this involves legislation on a general appropriation bill and under Rule XVI, paragraph 4, is not in order. The point of order is sustained.

Mr. BYRD of West Virginia. I thank the Presiding Officer.

Mr. President, I ask unanimous consent that any technical changes which may be authorized in the language, be included in the engrossment of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered and all technical amendments will be included in the engrossment of the bill.

Mr. BYRD of West Virginia. Mr. President, so far as I know, there are no further amendments to be offered at this time.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on final passage of the bill.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). The bill having been read the third time, the question is, Shall the bill pass?

On question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Arkansas (Mr. MCCLELLAN), the Seantor from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Texas (Mr. YARBOROUGH), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Dr. DOMINICK) and the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER), the Senator from Arizona (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon(Mr. HATFIELD), the Senator from South Dakota (Mr. MUNDT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 76, nays 2, as follows:

[No. 166 Leg.]

YEAS—76

Aiken	Gravel	Muskie
Allen	Griffin	Nelson
Allott	Gurney	Pastore
Anderson	Hansen	Pearson
Baker	Hart	Pell
Bayh	Hartke	Percy
Bellmon	Holland	Prouty
Bennett	Hollings	Proxmire
Boggs	Hruska	Randolph
Brooke	Hughes	Ribicoff
Burdick	Inouye	Saxbe
Byrd, Va.	Jackson	Schweiker
Byrd, W. Va.	Javits	Scott
Case	Jordan, N.C.	Smith, Maine
Church	Jordan, Idaho	Smith, Ill.
Cook	Long	Sparkman
Cranston	Magnuson	Spong
Curtis	Mansfield	Stennis
Dole	Mathias	Stevens
Eagleton	McGee	Symington
Ellender	McGovern	Talmadge
Ervin	Miller	Thurmond
Fannin	Mondale	Williams, N.J.
Fong	Montoya	Young, N. Dak.
Fulbright	Moss	
Goodell	Murphy	

NAYS—2

Cotton	Williams, Del.

NOT VOTING—22

Bible	Harris	Packwood
Cannon	Hatfield	Russell
Cooper	Kennedy	Tower
Dodd	McCarthy	Tydings
Dominick	McClellan	Yarborough
Eastland	McIntyre	Young, Ohio
Goldwater	Metcalf	
Gore	Mundt	

So the bill (H.R. 17399) was passed.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate insist upon its amendments, request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. JORDAN of North Carolina) appointed Mr. BYRD of West Virginia, Mr. PASTORE, Mr. HOLLAND, Mr. ELLENDER, Mr. MCCLELLAN, Mr. MAGNUSON, Mr. STENNIS, Mr. HRUSKA, Mr. YOUNG of North Dakota, Mrs. SMITH of Maine, and Mr. ALLOTT conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, no

words can express adequately the respect and admiration I have for the distinguished Senator from West Virginia (Mr. BYRD). His superb handling of this supplemental funding measure was unexcelled. His complete understanding of every last detail of this proposal was truly outstanding.

I must say that the Senate's quick and overwhelming acceptance of this measure is action typically accorded to proposals handled by Senator BYRD. Indeed, earlier today as I recall, the Senate voted overwhelmingly to accept the Byrd amendment to the then pending Cooper-Church amendment. His thorough preparation and full explanation as always was joined by the able advocacy that has characterized Senator BYRD's endeavors in this body throughout the years. I applaud him for this great achievement. It adds another fine accomplishment to an already abundant record.

Let me just say that I appreciate especially Senator BYRD's efforts with regard to the amendment dealing with funds for the National Science Foundation. It is this type of action I might say that has made Senator BYRD a legislator whose effectiveness and ability to get things done are unexcelled in this body.

To Senator HRUSKA who filled in so ably for Senator MUNDT who is recuperating, I also offer the thanks of a grateful Senate. His support and assistance were absolutely vital to this great success.

To the Senate, I especially am grateful. Our action in passing this measure tonight demonstrates beyond all doubt the great effects that stem directly from the cooperation that prevails in this body. I say this in all sincerity. Each Senator cooperated by remaining on the subject of this vitally important measure until it was disposed of just now. By so honoring the spirit of the so-called germaness rule we have made a great deal of progress. I hope this action sets the tone for the remainder of the week; if not, of the entire session. I personally am deeply grateful.

METROPOLITAN POLICE, DISTRICT OF COLUMBIA

Mr. BYRD of West Virginia. Mr. President, prior to reporting this bill to the Senate, the subcommittee was advised that an article in the Washington Post on Saturday, May 30, 1970, indicated that Police Chief Jerry Wilson could not hire sufficient men to reach the goal of 5,100 by the end of June unless he received final action by Congress on the new level by Monday, June 1, 1970. In view of the urgency of this matter, Senator HRUSKA, who is the acting ranking minority member of the subcommittee, and I, in my capacity as subcommittee chairman, agreed that the full Appropriations Committee should be polled to determine whether they would approve the appropriation, which was contained in the bill as it came from the House, for 475 police positions to bring the force to a total of 5,100 men; $363,000 in pay costs for the month of June was involved.

The results of the polling of the full committee were favorable to this item and the Chief was so advised. I ask unanimous consent to have printed in the RECORD the copy of the telegram which was sent to Chief Wilson from the subcommittee chairman and Senator HRUSKA, as well as the response received by the committee from Chief Wilson.

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

DISTRICT OF COLUMBIA
METROPOLITAN POLICE DEPARTMENT,
June 9, 1970.

HON. ROBERT C. BYRD,
Chairman, Subcommittee on Deficiencies and Supplementals Appropriations, U.S. Senate, Washington, D.C.

DEAR SENATOR BYRD: Thank you for your telegram of June 1st, advising me that your Committee authorizes this Department to proceed with the 5,100 recruitment figure by the end of June. I have noted your decision and we optimistically look forward to reaching that goal by the end of June.

Thank you for your excellent cooperation on this and previous occasions.

Sincerely yours,

JERRY V. WILSON,
Chief of Police.

JUNE 1, 1970.

Chief of Police JERRY V. WILSON,
Metropolitan Police Department, Washington, D.C.:

We desire to refer to the Washington Post story on Saturday, May 30, 1970, which stated: "Police Chief Jerry V. Wilson said yesterday he could not hire enough men to reach 5,100 by the end of June unless he got final action by Congress on the new level by Monday." The undersigned, representing the full Senate Committee on Appropriations, after having polled the Committee, authorize you to proceed with the 5,100 recruitment figure by the end of June. The Committee insists that the highest mental, moral and physical standards be maintained by the Department in achieving your announced goal.

ROBERT C. BYRD,
Subcommittee on Deficiencies and Supplementals Appropriations.
ROMAN L. HRUSKA,
Acting Ranking Minority Member, Subcommittee on Deficiencies and Supplementals Appropriations, Committee on Appropriations, U.S. Senate.

THE PENN CENTRAL DEBACLE

Mr. PELL. Mr. President, I would like to take a few minutes to comment briefly on the Penn Central bankruptcy.

For many years I have been concerned about the fate of the railroads on the east coast. This recent crisis leads me to make a number of observations.

First, the immediate cause of the Penn Central's bankruptcy is the unwise and untimely tight money policy of the Nixon administration. It has caused a corporation in a conglomerate worth $7 billion to go bankrupt for the lack of operating capital.

Second, one of the main causes for the Penn Central's bankruptcy can be traced back many years to a very unfortunate milking of the railroad's assets for investments in other than rail transportation. In years when the railroads that now have merged into the Penn Central should have reinvested their profits into capital improvements for passenger and freight service, those funds were being drained into other ventures.

Third, the Penn Central merger which was hailed as the panacea for the east coast rail problems created a constipated monster. Instead of the predicted economies of scale, the merger resulted in confusion and retrenchment of enormous proportions. Freight service worsened. Freight in transit from the Great Lakes to the east coast was frequently lost or damaged and passenger service was cut back.

Fourth, the Federal Government's unbalanced transportation policy aggravated the Penn Central's passenger train losses. Running parallel to nearly all of the Penn Central's main passenger line, interstate highways were constructed. These highways together with Penn Central's desire to eliminate much of the passenger service nailed the coffin shut for passenger service.

It seems to me that this situation demands that a number of steps be taken.

First, to the degree that profits have drained from Penn Central's rail interests to develop its other conglomerate activities, Penn Central should be required to liquidate those assets to meet its rail transportation obligations.

Second, the Penn Central passenger service should then be broken up into a number of regional nonprofit corporations. Regional nonprofit corporations should be formed for the urban corridors within Penn Central's jurisdiction, as I have suggested in recent legislation. The Interstate Commerce Commission should be temporarily relieved of its responsibility for Penn Central's passenger service until this reorganization is completed.

Third, the Congress should proceed forthwith with enactment of the Rail Passenger Service Act of 1970 which passed the Senate this past month. I hope the House will pass this bill in the form of my substitute bill which Congressman TIERNAN has introduced in the House.

Fourth, since all railroads are facing liquidity problems, the Congress should consider assuming ownership of the rail rights-of-way and signaling system. This would relieve the railroads of a major debt and tax burden, and would not demand a flow of Federal moneys from the Treasury. A railroad trust fund based on user charges should then be established for maintenance of the roadbeds.

Mr. President, the Penn Central's bankruptcy is truly a result of a monumental collection of errors and of drift on the part of all concerned. The public deserves better. I would hope that the bankruptcy court, the Department of Transportation, and the Interstate Commerce Commission will heed these suggestions and resolve the east coast rail problem once and for all.

STATEMENT BY THE PRESIDENT UPON SIGNING THE EXTENSION OF THE VOTING RIGHTS ACT OF 1965

Mr. GRIFFIN. Mr. President, today President Nixon signed a bill extending and amending the so-called Voting Rights Act of 1965. I ask unanimous consent that the statement issued by the President be printed in the RECORD.

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

STATEMENT BY THE PRESIDENT

On Wednesday, Congress completed action on a bill extending and amending the Voting Rights Act of 1965, and sent it to me for signature. As passed, the bill contained a "rider" which I believe to be unconstitutional: a provision lowering the voting age to 18 in Federal, State and local elections. Although I strongly favor the 18-year-old vote, I believe—along with most of the nation's leading Constitutional scholars—that Congress has no power to enact it by simple statute, but rather it requires a Constitutional amendment.

Despite my misgivings about the Constitutionality of this one provision, I have today signed the bill. I have directed the Attorney General to cooperate fully in expediting a swift court test of the constitutionality of the 18-year-old provision.

An early test is essential because of the confusion and uncertainty surrounding an act of doubtful constitutionality that purports to extend the franchise. Until this uncertainty is resolved, any elections—including primary elections, and even local referenda on such questions as school bond issues—could have their results clouded by legal doubt.

If I were to veto, I would have to veto the entire bill—voting rights and all. If the courts hold the voting-age provisions unconstitutional, however, only that one section of the Act will be affected. Because the basic provisions of this Act are of great importance, therefore, I am giving it my approval and leaving the decision on the disputed provision to what I hope will be a swift resolution by the courts.

The Voting Rights Act of 1965 has opened participation in the political process. Although this bill does not include all of the Administration's recommendations, it does incorporate improvements which extend its reach still further, suspending literacy tests nationwide and also putting an end to the present welter of state residency requirements for voting for President and Vice President. Now, for the first time, citizens who move between elections may vote without long residency requirements.

In the five years since its enactment, close to 1 million Negroes have been registered to vote for the first time and more than 400 Negro officials have been elected to local and state offices. These are more than election statistics; they are statistics of hope, and dramatic evidence that the American system works. They stand as an answer to those who claim that there is no recourse except to the streets.

The time has also come to give 18-year-olds the vote, as I have long urged. The way to do this is by amending the Constitution. Because of the likelihood that the 18-year-old vote provision of this law will not survive its court test, the Constitutional amendment pending before the Congress should go forward to the states for ratification now.

I therefore call upon the Congress to act now upon the Constitutional amendment to avoid undue delay in its approval by the states should this provision of the new law be held unconstitutional.

ORDER FOR RECOGNITION OF SENATOR FANNIN TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow upon the disposition of the reading of the Journal the able Senator from Arizona (Mr. FANNIN) be recognized for not to exceed 15 minutes.

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

ORDER FOR RECOGNITION OF SENATOR DOLE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow upon the completion of the remarks of the Senator from Arizona the able Senator from Kansas (Mr. DOLE) be recognized for not to exceed 30 minutes.

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

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

REPORT OF A COMMITTEE

The following report of a committee was submitted:

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

H.R. 3908. An act for the relief of Elizabeth B. Borgnino (Rept. No. 91-938).

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. ALLEN (for himself, Mr. SPARKMAN and Mr. BAYH):

S. 3999. A bill to amend the Appalachian Regional Development Act of 1965 to extend its coverage to Greene County, Alabama; to the Committee on Public Works.

By Mr. GRIFFIN (for himself, Mr. BENNETT, Mr. CRANSTON, Mr. HATFIELD, Mr. HRUSKA, Mr. INOUYE, Mr. JORDAN of Idaho, Mr. MOSS, Mr. MURPHY, Mr. PACKWOOD, Mr. PERCY, Mr. PROXMIRE, and Mrs. SMITH of Maine):

S. 4000. A bill to compensate certain growers, manufacturers, packers and distributors for damages sustained by them as a result of their good faith reliance on the official listing of cyclamates as generally recognized as safe for use in food prior to the unexpected action taken by the United States restricting their future use in foods and drinks; to the Committee on the Judiciary.

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

By Mr. MURPHY:

S.J. Res. 217. Joint resolution to authorize the President to proclaim June 22, 1970, as Army and Air Force Motion Picture Day; to the Committee on the Judiciary.

S. 4000—INTRODUCTION OF A BILL TO PROVIDE COMPENSATION FOR CERTAIN LOSSES INCURRED BY THE BAN ON CYCLAMATES

Mr. GRIFFIN. Mr. President, prior to October 18, 1969, cyclamates were officially declared by the Food and Drug Administration to be "generally recognized as safe" for use in food products.

Suddenly, on that date, Secretary Finch announced a ban on the use of cyclamates in the processing and manufacture of food products. He explained that ingestion by rats of very large doses of cyclamates over their entire life span had led to cancer in such animals. He explained that, under the Delaney clause of the Federal Food, Drug, and Cosmetic Act—section 609(c)(3)(A)—he was required to issue such an order banning the use of cyclamates.

However, in doing so, Secretary Finch also stated:

Let me emphasize in the strongest possible terms that we have no evidence at this point that cyclamates have indeed caused cancer in humans.

As a direct result of this sudden action by the Government banning the use of cyclamates, severe losses were suffered by many engaged in the processing, producing, or distribution of food, who had relied in good faith on the Government's official listing of cyclamates as safe for use in food.

Mr. President, on behalf of myself and the Senator from Utah (Mr. BENNETT), the Senator from California (Mr. CRANSTON), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), the Senator from Hawaii (Mr. INOUYE), the Senator from Idaho (Mr. JORDAN), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. MURPHY), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Maine (Mrs. SMITH), I introduce legislation to provide for partial recovery of such losses.

As a result of the Government's unexpected action, severe financial losses were suffered, resulting for the most part because of inventories of foods containing cyclamates, and extensive inventories of packaging, labeling, and other materials prepared for such foods.

Mr. President, it seems grossly inequitable that those who relied in good faith upon official Government approval of cyclamates should bear the full brunt of such losses and be required, as some do, to face crippling injury or economic destruction. Under the circumstances, it seems reasonable that some relief should be provided for those who can demonstrate that they suffered loss as a result of the Government's unexpected action.

Recognizing that losses suffered by small processors, distributors, and packers are most likely to precipitate economic hardship or failure, the bill establishes reasonable limits on the amounts recoverable which those distributors, packers, and processors, most of whom can least afford the loss, can receive.

Let me emphasize that any recovery would not include loss of profits. Payments would only provide partial indemnity of losses resulting from carrying inventories of foods containing cyclamates and packaging, labeling, and other materials prepared for such foods.

These inventories had been maintained prior to October 18, 1969, in the good faith that cyclamates were listed by the Federal Food and Drug Administration as "generally recognized as safe" for use in food products.

In order to understand the justification for this legislation, I believe it is important to understand why, and on what basis, the food industry, prior to

October 18, 1969, included cyclamates in various food products.

USE OF ARTIFICIAL SWEETENERS IN FOOD

Artificial, nonnutritive sweetners have been used in food for many years. Saccharin was discovered in 1879, and has been in use in foods since shortly after that time. Cyclamates were discovered in the 1940's and were introduced into commercial use in about 1950. The unique sweetening power of these substances, which have many times the sweetness of an equivalent weight of sugar, caused them to gain wide use in the food industry for products marketed to diabetics and others concerned with weight control. Use of these substances made possible significant advances in the formulation of special dietary foods which were both palatable and nutritionally acceptable.

The cyclamates were, prior to October 18, 1969, listed by the Federal Food and Drug Administration of the Department of Health, Education, and Welfare as an ingredient that was considered by the FDA to be "generally recognized as safe" for use in food products—21 C.F.R. sec. 121.101(d)(4). Indeed, a number of food products—particularly canned fruits—covered by standards of identity promulgated by the FDA explicitly permitted the use of cyclamates as artificial sweeteners—for example, 21 S.F.R. secs. 27.6, 27.128. It was thus clear that the FDA at that time regarded cyclamates as being of unquestioned safety.

On the basis of scientific reports indicating that further research on cyclamates should be undertaken, the Food and Drug Administration on April 5, 1969, published a proposed regulation that would have authorized the continued use of cyclamates in food products, but which would have established a maximum total daily intake of 50 milligrams per kilogram of body weight. This limitation was understood to be purely precautionary for it was extremely unusual for any individual to consume a sufficient amount of cyclamates even to approach this level of daily intake.

It seems reasonable that one might properly conclude as a result of this proposed regulation that the FDA approved the continued use of cyclamates at present levels in food products, and that no question of safety of the use of cyclamates within some levels was contemplated by the proposed regulation. In fact, although some comments on the proposed regulation suggested that the available data justified an even higher daily intake level of cyclamates, most raised no objections to the proposed regulation. Food manufacturers could reasonably regard the regulation, whether or not they agreed with the proposed maximum level, at least as justification for the continued use of cyclamates at present levels in their products.

Thus, until Secretary Finch's press conference and order of October 18, 1969, canners and packers had every reason to believe—in reliance on the continued FDA listing as generally recognized as safe, the explicit recognition of cyclamates as ingredients in several standardized foods, and the proposed regulation contemplating the continued use of cyclamates at present levels—that use of cyclamates in food products was entirely safe and proper. The published assurances of safety by the FDA, as well as wide demand for products containing cyclamates, made it an entirely commercially reasonable decision for manufacturers to manufacture products containing cyclamates and to have in stock reasonable inventories of such products.

Some food processors, due to the seasonal nature of the foods which they produce, are required to pack products as they reach maturity during the growing season and maintain an inventory of such products which are scheduled for sale throughout the ensuing year and into the next packing season. This is particularly true of artificially sweetened canned fruits.

In a number of such cases, food processors had just completed an entire year's packing prior to the October 18 announcement.

DESCRIPTION OF THE HEW ACTIONS RELATING TO CYCLAMATES

On October 18, 1969, HEW Secretary Finch announced the discovery that ingestion by rats of the cyclamates at very high levels over their entire life span led to formation of bladder cancer. In view of the absolute language of the Delaney Clause in the Federal Food, Drug, and Cosmetic Act, section 409(c)(3)(A), stating that a food additive cannot be deemed safe "if it is found to induce cancer when ingested by man or animal" the Secretary stated that he was required to ban the manufacture of all foods containing cyclamates.

The statements made by Secretary Finch and Deputy Assistant Secretary for Health Steinfeld indicated, however, that there was no evidence that cyclamates presented any hazard to humans. Secretary Finch stated that his decision "in no sense should be interpreted as a 'life saving' or emergency measure." He also stated:

> Let me emphasize in the strongest possible terms that we have no evidence at this point that cyclamates have indeed caused cancer in humans.

Dr. Steinfeld confirmed this position in his statement that:

> There is absolutely no evidence to demonstrate in any way that the use of cyclamates has caused cancer in man.

Dr. Steinfeld also noted:

> We have no indication that human bladder cancer from whatever cause is increasing to any significant degree. . . . We can in no way at this time extrapolate the new data from rat experiments to human beings.

The Medical Advisory Group on Cyclamates subsequently appointed by Secretary Finch submitted recommendations which confirmed the Secretary's statements that cyclamates present no hazard to humans. While the advisory group recognized the "possibility for harm" based on the available animal data it concluded that this possibility was outweighed by the potential benefit of using cyclamates by persons who medically required them. The advisory group, therefore, recommended that products containing cyclamates be available to such persons on a nonprescription basis with labeling including the cyclamate content in each serving.

Subsequent data has shown that cyclamates can cause cancer in rats at somewhat less extreme conditions than in the original data, but I should emphasize that there still is absolutely no evidence that cyclamates cause cancer in humans.

In spite of Secretary Finch's statement that the Delaney Clause required the immediate ban of the production of foods containing cyclamates, because of the rat tests, the Secretary nonetheless concluded that he had sufficient discretionary authority to permit the continued marketing of existing stocks and inventories that had been packed in good faith prior to October 18, and that this limited continuing marketing presented no health hazard. Indeed, the initially announced dates of January 1 for drinks and drink bases and February 1 for all other foods were subsequently extended by the Secretary as to some foods. The January 1 date was extended until September 1, 1970, for fruit juice concentrates, and juice drinks normally consumed with meals. The February 1 date was extended to September 1, 1970, for canned fruits and vegetables containing cyclamates, to July 1 for vitamin pills containing cyclamates, to April 1 for jams, jellies, preserves, and desserts containing cyclamates.

EFFECT OF THE HEW ACTIONS

Although Secretary Finch had indicated that sale of existing inventories of foods containing cyclamates presented no health hazard and the extensions granted by HEW for continued sale of some of these foods, the impact of the Secretary's order and announcement on October 18, 1969, which received extraordinarily wide coverage in the news media, was to render many products containing cyclamates unsalable overnight. As public reaction caused retail sales to fall off, most stores held up delivery on all shipments and indeed began to return products containing cyclamates to warehouses, and wholesalers in turn canceled shipment orders. Despite some limited recovery of the market after the immediate public reaction had died down, it is reliably estimated that the sales volume of products containing cyclamates still permitted to be sold was only about 25 percent of the normal sales volume in prior years. In the case of canned foods, for example, products containing cyclamates may be sold as presently labeled until September 1, 1970, but before that date some of the 1970 packs of reformulated dietetic canned fruits—not containing cyclamates, will come on to the market and almost certainly put an end to the already substantially reduced sales of the 1969 pack containing cyclamates.

As a result of their good faith reliance on the FDA listing of cyclamates as generally recognized as safe for use in food, food processors are faced with large stocks of foods containing cyclamates. The impact on the affected companies will of course vary: Some face damages substantially in excess of $10 million; some have lost a major portion of their sales; and all will suffer financial injury;

some will find it impossible to continue in business unless some means of reparation can be found.

REASONS FOR GRANTING INDEMNIFICATION OF LOSSES CAUSED BY THE CYCLAMATE ORDERS

Under the circumstances, it seems totally inequitable for food processors to absorb in full the direct losses which resulted from the Government's announcements of October 18, 1969. Food and drug producers, in using cyclamates in their products, explicitly relied on FDA's published determination that cyclamates were not only safe but "generally recognized to be safe under the conditions of their intended use among experts qualified by scientific training and experience to evaluate their safety." See Federal Food, Drug, and Cosmetic Act, section 201(s), 21 U.S.C. § 321(s).

As I have noted, processors, particularly those of artificially sweetened canned fruits, also relied on food standards promulgated by the FDA under the Federal Food, Drug and Cosmetic Act, which explicitly recognized and permitted the use of cyclamates.

If the HEW actions which rendered products containing cyclamates unmarketable or less valuable were deemed to be necessary in the public interest, or were mandated by the Delaney Clause, it is totally inequitable to require that affected canners, processors and packers shoulder the entire economic losses. This is particularly the case where the losses resulting from the Government's action were in no way attributable to any improper or unwarranted action by canners, processors and packers of cyclamates.

Although existing inventories of products containing cyclamates were permitted to be sold for various periods of time after the October 18 announcements, the effect of the announcements was such that the periods allowed were of little practical benefit to the canners, processors and packers. The public reaction to the HEW announcements in many cases made it impossible to continue any sale of products containing cyclamates. Even where such sale was possible, the sales volume achieved was only a small fraction of the normal sales volume for such products.

Mr. President, under these circumstances, I believe it is appropriate that there should be some sharing of the net losses incurred directly as a result of reliance on the FDA listing of cyclamates as safe, and the subsequent reversal of this position on October 18, 1969.

SIMILAR SITUATIONS IN WHICH INDUSTRY'S LOSSES WERE INDEMNIFIED BY THE GOVERNMENT

In several instances in recent years the Government has acted to compensate those suffering losses under similar situations. The best known of these instances is the cranberry incident in 1959.

There are a number of parallels between that situation and the present one with cyclamates. In each case, an announcement by the Secretary of Health, Education, and Welfare destroyed public confidence in a safe and wholesome food product, requiring its destruction because of unmarketability. In each case there was evidence dealing with possible cancer hazard, but that hazard was remote or nonexistent as to most of the food which was destroyed or rendered unmarketable.

The present situation, if anything, is more worthy of compensation than the cranberry situation because all of the products containing cyclamates which have been rendered unmarketable were made in accordance with FDA regulations. The cranberry incident involved the misuse of a pesticide in violation of the regulations by a small minority of the cranberry growers. Losses due to Secretary Fleming's cranberry announcement were compensated in the amount of $10 million under a payment program instituted by the Department of Agriculture using appropriated section 32 funds.

At about the same time as the cranberry incident, there was another incident involving the use of stilbestrol on certain poultry products. Again, Congress approved the use of section 32 funds to compensate for losses incurred.

In 1964, Congress added a provision to the Economic Opportunity Act of 1964 authorizing the payment of indemnity to dairy farmers unable to sell milk because of pesticide chemical residues. Pub. L. 88–452, § 331, 78 Stat. 525 (codified at 42 U.S.C. § 2881) (1964). Such indemnity payments have been continued up to the present time. Recently, the House Agriculture Committee recommended that this indemnity provision be extended for at least another year. In this situation, as with use of cyclamates, losses clearly are not the fault of either the Government or the dairy farmers. It simply was determined that the Government should bear the cost of actions taken in the public interest to remove cost of actions taken in the public interest to remove contaminated milk from the marketplace.

DESCRIPTION OF THE BILL

Under the legislation introduced today, the U.S. Court of Claims would have jurisdiction to determine the amount of losses resulting from the HEW actions with respect to cyclamates and to render limited judgments.

Those entitled to damages would be growers, processors, packers or distributors that had products, packaging, labeling, and other materials rendered unmarketable or of less value by reason of the HEW actions.

The bill would limit payments so as to provide full recovery only for actual losses up to $100,000. Seventy-five percent of losses in excess of $100,000 but less than $200,000, and 50 percent of losses in excess of $200,000 would be recoverable. Irrespective of the amount of the claimed loss, however, the bill provides for a maximum recovery of $300,000.

Obviously the legislation would not adequately indemnify all claimants for all losses—only those most likely to precipitate business failure or extreme economic hardship.

In most cases, it should be remembered that losses resulting from HEW action on cyclamates are deductible for tax purposes—and, as such, serve to offset taxable income. Under the bill, however, any claim would be reduced by any such tax benefit related to a cyclamate loss.

Payments of limited judgments under the bill would be in the same manner as in the case of other claims over which the U.S. Court of Claims has jurisdiction. The bill specifically requires that any claim for recovery be filed within a 1-year period following its enactment.

Mr. President, I urge prompt consideration of this legislation in the Senate. I ask unanimous consent that the full text of the bill be printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 4000) to compensate certain growers, manufacturers, packers and distributors for damages sustained by them as a result of their good faith reliance on the official listing of cyclamates as generally recognized as safe for use in food prior to the unexpected action taken by the United States restricting their future use in foods and drinks, introduced by Mr. GRIFFIN, for himself and other Senators, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 4000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment upon the claim of any growers, manufacturers, packers and distributors against the United States for compensation for losses sustained by them by reason of certain actions taken by the United States on October 18, 1969 (and thereafter), under the Federal Food, Drug and Cosmetic Act, relating to cyclamic acids and its salts. In determining the amount of loss with respect to any claim filed pursuant to this Act, the Court of Claims shall determine the net loss, not including lost profits but including direct and indirect costs and damages and the costs associated with thereafter returned merchandise containing cyclamates, as a result of the aforementioned actions of the United States and shall render judgment in favor of such claimant against the United States in the amount so determined reduced by any tax benefit related thereto other than a net operating loss deduction which is a net operating loss carryover as defined in § 172 of the Internal Revenue Code of 1954 or any comparable provision of state or local law; except that in no case shall judgment in the case of any claimant exceed an amount equal to—

(1) 100 percentum of the amount of any such loss so determined up to but not exceeding $100,000; plus

(2) 75 per centum of the amount of any such loss so determined in excess of $100,000 but not in excess of $200,000; plus

(3) 50 per centum of the amount of any loss so determined in excess of $200,000.

Provided, however, that judgment shall not be rendered under authority of this Act in the case of any claimant on any such loss determined in accordance with such schedule in an amount in excess of $300,000, and *provided further,* that judgments may be entered and payments made to associations

of producers [as defined in Sec. 1 of the Capper-Volstead Act of February 18, 1922, 7 U.S.C. §§ 291–292] without regard to the foregoing limitations on the amount of the judgment but no individual member thereof may receive a payment in excess of such limitations.

SEC. 2. Suit upon any such claim shall be instituted at any time within one year after the date of the enactment of this Act. Except as otherwise provided herein, proceedings for the determination of such claim, and review and payment of any judgment thereon shall be had in the same manner as in the case of claims over which such Court has jurisdiction under section 1491 of title 28 of the United States Code.

ADDITIONAL COSPONSOR OF A BILL

S. 3354

Mr. JACKSON. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from South Dakota (Mr. MCGOVERN) be added as a cosponsor of S. 3354, to amend the Water Resources Planning Act (79 Stat. 244) to establish a national land use policy.

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

PROPOSED 3-YEAR EXTENSION OF PERIOD DURING WHICH CERTAIN DYEING AND TANNING MATERIALS MAY BE IMPORTED FREE OF DUTY—AMENDMENT

AMENDMENT NO. 719

Mr. MILLER submitted an amendment intended to be proposed by him, to the bill (H.R. 14956) to extend for 3 years the period during which certain dyeing and tanning materials may be imported free of duty, which was ordered to lie on the table and to be printed.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT—AMENDMENT

AMENDMENT NO. 720

Mr. STEVENS (for himself and Mr. GRAVEL) submitted an amendment intended to be proposed by them, jointly 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.

EMPLOYMENT AND TRAINING OPPORTUNITIES ACT OF 1970

AMENDMENTS NOS. 721 THROUGH 725

Mr. CRANSTON submitted five amendments, intended to be proposed by him, to the bill (S. 3867) to assure opportunities for employment and training to unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes, which were referred to the Committee on Labor and Public Welfare and ordered to be printed.

AMENDMENT NO. 726

Mr. CRANSTON (for himself and Mr. KENNEDY) submitted an amendment, intended to be proposed by them, jointly, to S. 3867, supra, which was referred to the Committee on Labor and Public Welfare and ordered to be printed.

GLEN CANYON NATIONAL RECREATION AREA IN THE STATES OF ARIZONA AND UTAH—AMENDMENT

AMENDMENT NO. 727

Mr. MOSS submitted an amendment intended to be proposed by him, to the bill (S. 27) to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah, which was ordered to lie on the table and to be printed.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 648

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Indiana (Mr. HARTKE), I ask unanimous consent that, at the next printing, the name of the Senator from Utah (Mr. Moss) be added as a cosponsor of amendment No. 648 to H.R. 15628, the bill to amend the Foreign Military Sales Act.

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

ADJOURNMENT TO 10 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 adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 9 o'clock and 23 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, June 23, 1970, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 22, 1970:

DEPARTMENT OF LABOR

Laurence H. Silberman, of Hawaii, to be Under Secretary of Labor, vice James D. Hodgson.

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the Environmental Science Services Administration:

To be captain

Kenneth A. MacDonald
Edwin K. McCaffrey
Richard H. Houlder

To be lieutenant commander

Leonard E. Pickens
Otto F. Steffin

To be lieutenant

James A. Buscher
Roland W. Garwood, Jr.
Tom Gryalewicz
Pressley L. Campbell
Gerald B. Mills
David J. Goehler
John H. Detweiler
William C. Bartusek

To be lieutenant (junior grade)

Gregory Holloway
James C. Bishop, Jr.
Robert C. Husted, Jr.
Kenneth E. Lilly, Jr.
Charles R. Condon
Richard D. Olson
Richard S. Moody, Jr.
Gerald J. Cinpinski
Floyd K. Thomas
Richard L. Baker

To be ensign

Russell C. Arnold
Gregory R. Bass
Thomas E. Brown
Abram Y. Bryson, Jr.
Jerry S. Crowley
Peter S. Hudes
Leslie R. Lemon
Larry J. Oliver
Carl A. Pearson
Nicholas A. Prahl
William T. Turnbull

PUBLIC HEALTH SERVICE

The following candidates for personnel action in the Regular Corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

I. For permanent promotion:

To be medical director

Charles M. Bowyer
Lamar A. Byers
Donald R. Chadwick
William M. Dixon
Leonard J. Duhl
Walter H. Freygang
Louis A. Gaul
Henry M. Gelfand
Jean R. Goorman
David Horwitz
William B. Kannel
Wallace P. Rowe
Cameron L. Self
Sam Silbergeld
Eugene W. Veverka
Phillip T. Waalkes
Patricia A. Webb
Margaret S. Wheeler
Martha R. Wilson
Carter J. Wright

To be senior surgeon

Donald E. Bedingfeld
Peter J. T. Beeton
George M. Berg
Richard J. Bouchard
Philip S. Brachman
William A. Cherry
Jerome G. Green
Donald A. Henderson
Jean R. L. Herdt
Kenneth H. Hyatt
Marcus M. Key, Jr.
William C. Larsen
John F. Lee, Jr.
Donald P. MacDonald
John E. Manire
John R. McDonough
James W. Mosley
Alan H. Nicol
Joseph J. Noya
John T. Schwartz
Maurice E. Snyder
James D. Tovey
Robert Vanhoek
Harry W. Weller

To be surgeon

David E. Anderson
Costan W. Berard
Paul W. Brown
Larry H. Dizmang
John M. Dyer, Jr.
Jack T. Ellis
Spencer Foreman
Earl V. Gear, Jr.
Robert A. Gotshall, Jr.
Robert J. Griep
Frederick C. Hoesly
Albert C. Kolbye, Jr.
James B. Lucas
Larry J. Matthews
Joseph F. Piffat
James C. Prescott
Peter L. Putnam
Arnold L. Schroeter
Charles R. Stark
Emanuel Stein
Donald A. Swetter
Carl F. Szuter
Leo H. Voneuler
Spencer A. Ward

To be dental director

Viron L. Diefenbach
James L. Field
Harold M. Fullmer
Richard L. Hayes
Norman W. Littleton
Stanley Lotzkar

To be senior dental surgeon

Charles H. Davis
George E. Garrinton
Francis J. Kendrick
Ernest C. Leatherwood, Jr.
James T. Lovett
Thomas A. McDermott
George E. Mitchell
Joseph Plumbo
Dale E. Smith
Charles S. Stitt, Jr.
Lawrence E. Vankirk, J

To be dental surgeon

William F. Bird
William B. Bock
Edward B. Dowd
Thomas C. Francis
Paul D. Frazier
Lester B. Hilborn
John S. Huling, Jr.
Winslow B. Lee
Rollie W. Lyman
Martin L. MacIntyre
Gerald S. Morrill
John H. Reiber
Emil L. Rigg
Glenn W. Smith
Thomas M. Tarpley, Jr.
Blair W. Thurgood

To be nurse director

Margaret F. Carroll
Meral J. Loewus
Marjorie E. Myren
Jimmie F. Poplar
Gladys M. Ray
Anastasia M. Zahler

To be senior nurse officer

Margaret M. Ahern
Invelda M. Artz
Thomas G. Carodiskey
Jean C. Casey
Elizabeth Edwards
Mary L. Lane
Jane A. Lee
Marjory E. Lewis
Audrey M. Lindgren
Agnes Malec

Elizabeth G. Hasselmeyer
Mary R. A. Kennedy
Shirley A. Middleton
Mary T. Shea
Mary B. Twiner

To be nurse officer

Jerry L. Weston

To be sanitary engineer director

William E. Bell

To be senior sanitary engineer

Paul H. Bedrosian
Albert E. Bertram
Edgar A. Jeffrey
Bernd Kahn
Dean S. Mathews
Jerrold L. Michael
Charles W. Northington
Warren F. Smith

To be sanitary engineer

James R. Buchtel
Richard A. Coddington
Donald G. Fox
John A. Frierson
Floyd L. Galpin
Joseph M. Hans, Jr.
Charles D. Larson
Rodger L. Leupold
Lee R. Lunsford
Jeremiah R. Lynch
Donald W. Mantay
Ronald A. Popkin
John T. Talty
Ronald A. Venezia
William L. Wagner

To be senior assistant sanitary engineer

Theodore Levin
Darryl D. Tyler
Ronald J. Vanmersbergen

To be scientist director

Sidney S. Chernick
Maxwell J. Wilcomb, Jr.

To be senior scientist

Adolph R. Brazis
Virgil R. Carlson
Eskin Huff
Rosyln Q. Robinson
Kenneth K. Takemoto
Ronald H. Thompson

To be scienist

Melvin J. Meketon
Frank A. Pedersen
Kenneth O. Phifer

To be sanitarian director

John H. Fritz
Morgan S. Seal

To be senior sanitarian

James A. Clark, Jr.
Edward J. Cowan
David H. Flora
John W. Greenley
Samuel W. Hoover
John E. Laplante
Arthur B. McIntyre, Jr
George Morrison
Steadman M. Overman

To be sanitarian

James M. Cox
Bobby F. Craft
Thomas A. Ford, Jr.
Richard W. Gillespie
Robert M. Hallisey
Frank W. Mackison
Wendell C. McElwee
David B. Moses
Stephen J. Pijar
Corwin D. Strong

To be senior pharmacist

Donald E. Baker
Mario C. Baratta
Bertram J. Baughman
Peter L. Bogarosh
John M. Folmer
Salvatore D. Gasdia
Albert B. Ripley
Joseph N. Salvino
Billy G. Wells

To be pharmacist

Fred Angres
Norman L. Dunfee
Wesley R. Gladhart, Jr.
John J. Lucas
Donald E. Mabry
William M. Mashburn
William A. Millar, II
Thomas B. Poux
Roger W. Tenney
Clair G. Wetmore

To be senior assistant pharmacist

Charles W. Cook
Gayle R. Dolecek
Vincent J. Fierro
James A. Keene
Daniel F. Sullivan

To be veterinary director

Frederick W. Clayton
Robert T. Habermann

To be senior veterinary officer

Thomas P. Cameron
James R. Ganaway
Robert H. Huffaker
Richard L. Parker

To be veterinary officer

George L. Clarke
Arnold F. Kaufmann
Robert G. Scholtens
William G. Winkler

To be dietitian director

Genevieve L. Casalaspro

To be senior dietitian

Ernestina Bou
Martha E. Clark
Marguerite M. Smith

To be dietitian

Elizabeth H. Allsworth
Eileen A. Murnin
Elizabeth K. Witter

To be senior therapist

Josef Hoog
Janeva I. Porter
Joseph K. Reed, Jr.
Robert N. Zimmerman

To be therapist

Douglas C. Billion
Kingsley M. Miner
Herbert R. Pruett
Ronnie E. Townsend
Frank H. Troske, Jr.
James L. Witt

To be senior assistant therapist

Robert K. Baus
Roger M. Nelson

To be health services director

Ernest G. McDaniel
Joseph A. Staton
Maria Zalduondo

To be senior health services officer

Stanley E. Crawfort
Douglas K. Hilliard
William B. Parsons
Robert M. Pennington
Francis F. Reierson
Robert J. Savard
Walter R. Sceery

To be health services officer

Robert F. Hickman
Peter E. Kauffman
William P. Kirk, II
Ralph D. Myhre
Robert A. Polcari
Roger H. Schneider
Ronald L. Shearin
Richard L. Varner

To be senior assistant health services officer

Steven A. Coppola

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be captain

Abercrombie, Thomas, xxx-xx-xxxx
Aberg, Eric Thomas, xxx-xx-xxxx
Abney, Robert O., xxx-xx-xxxx
Adair, William H., xxx-xx-xxxx
Adams, Doye W., xxx-xx-xxxx
Adams, James L., xxx-xx-xxxx
Adams, John, xxx-xx-xxxx
Adams, William R., xxx-xx-xxxx
Akin, Kenneth A., Jr., xxx-xx-xxxx
Alden, William M., xxx-xx-xxxx
Alitz, Douglas A., xxx-xx-xxxx
Allen, Cornelius A., xxx-xx-xxxx
Allen, Ralph L., xxx-xx-xxxx
Allison, William F., xxx-xx-xxxx
Allman, Douglas D., xxx-xx-xxxx
Allman, Gary W., xxx-xx-xxxx
Alt, Emile A., Jr., xxx-xx-xxxx
Ames, Robert A., xxx-xx-xxxx
Amos, Albert R., Jr., xxx-xx-xxxx
Amrine, Robert M., xxx-xx-xxxx
Anderson, Aggrey V., xxx-xx-xxxx
Anderson, Dean R., xxx-xx-xxxx
Anderson, Martin S., xxx-xx-xxxx
Anderson, Norman L., xxx-xx-xxxx
Anderson, Randall J., xxx-xx-xxxx
Anderson, Robert L., xxx-xx-xxxx
Anderson, Stephen M., xxx-xx-xxxx
Anderson, Wolfgang, xxx-xx-xxxx
Andrae, Raymond R., xxx-xx-xxxx
Andrews, Andrew E., xxx-xx-xxxx
Ankrom, Charles B., xxx-xx-xxxx
Annan, William M., xxx-xx-xxxx
Antonoplos, David J., xxx-xx-xxxx
Armistead, Joseph D., xxx-xx-xxxx
Armour, Richard J., xxx-xx-xxxx
Armstrong, Henry J., xxx-xx-xxxx
Armstrong William, xxx-xx-xxxx
Arnold, Edward D., xxx-xx-xxxx
Arnold, Joseph C., xxx-xx-xxxx
Arnold, Richard L., xxx-xx-xxxx
Arrington, John W., xxx-xx-xxxx
Arrington, Theron R., xxx-xx-xxxx
Ashbrook, Lonnie R., xxx-xx-xxxx
Ashworth, Jimmy P., xxx-xx-xxxx
Askew, Arthur M., III, xxx-xx-xxxx
Atcheson, Donald W., xxx-xx-xxxx
Atkins, Ronald L., xxx-xx-xxxx
Austin, Lavern M., xxx-xx-xxxx
Ayers, James E., xxx-xx-xxxx
Bachman, Howard F., xxx-xx-xxxx
Bachman, James H., xxx-xx-xxxx
Badger, Thomas A., xxx-xx-xxxx
Baggett, John A., xxx-xx-xxxx
Baggott, Francis M., xxx-xx-xxxx
Bagley, Philip J., xxx-xx-xxxx
Bailey, Charles R., xxx-xx-xxxx
Bailey, Dalene G., xxx-xx-xxxx
Bailey, Harvey J., xxx-xx-xxxx
Bain, Seavy A., Jr., xxx-xx-xxxx
Baisden, Edward D., xxx-xx-xxxx
Baker, Robert G., xxx-xx-xxxx
Balderson, Robert A., xxx-xx-xxxx
Baldwin, Roger L., xxx-xx-xxxx
Ball, Francisco Jr., xxx-xx-xxxx
Ballagh, Robert S. Jr., xxx-xx-xxxx
Baratto, David J., xxx-xx-xxxx
Barnes, Charles W., xxx-xx-xxxx
Barnhart, Robert N., xxx-xx-xxxx
Baron, David V., xxx-xx-xxxx
Barr, Douglas H., xxx-xx-xxxx
Barrett, Robert E., xxx-xx-xxxx
Barrett, Robert W., xxx-xx-xxxx
Barrett, Thomas P., xxx-xx-xxxx
Barrie, Jeffrey E., xxx-xx-xxxx
Barry, David A. Jr., xxx-xx-xxxx
Bartholomew, Daniel, xxx-xx-xxxx
Bartz, Richard C., xxx-xx-xxxx
Bashore, John F., xxx-xx-xxxx
Basile, Domenic F., xxx-xx-xxxx
Bassett, Lionel T., xxx-xx-xxxx
Bateman, Billy B., xxx-xx-xxxx
Bates, Jared L., xxx-xx-xxxx
Battilega, John A., xxx-xx-xxxx
Batts, William M. II, xxx-xx-xxxx
Baucum, Tommy A., xxx-xx-xxxx
Baukert, Frank P., xxx-xx-xxxx
Bawell, Walter A., xxx-xx-xxxx
Bayer, William K., II, xxx-xx-xxxx
Beale, Richard E., Jr., xxx-xx-xxxx
Beall, Marshall D., xxx-xx-xxxx
Beasley, Clifford M., xxx-xx-xxxx
Bechtold, Earl E., xxx-xx-xxxx
Beck, William R., xxx-xx-xxxx
Becker, Loren L., xxx-xx-xxxx
Bedell, Larry L., xxx-xx-xxxx
Bedford, Ralph L., xxx-xx-xxxx
Behr, Steven, xxx-xx-xxxx
Beierschmitt, James, xxx-xx-xxxx
Beiler, George W., xxx-xx-xxxx
Bell, David G., xxx-xx-xxxx
Bell, Richard A., II, xxx-xx-xxxx
Bell, Robert J., xxx-xx-xxxx
Benavides, Gustavo, xxx-xx-xxxx
Bender, Michael J., xxx-xx-xxxx
Bennett, John L., xxx-xx-xxxx
Bennett, Leon L., xxx-xx-xxxx
Bergen, John D., Jr., xxx-xx-xxxx
Bergeron, Paul R., xxx-xx-xxxx
Bergman, David M., xxx-xx-xxxx
Berner, Robert L., xxx-xx-xxxx
Berrong, Larry B., xxx-xx-xxxx
Berry, Larry G., xxx-xx-xxxx
Besselieu, William, xxx-xx-xxxx
Best, Billy B., xxx-xx-xxxx
Best, Thomas W., xxx-xx-xxxx
Bettner, Steven M., xxx-xx-xxxx
Bianco, Charles, xxx-xx-xxxx
Biank, Samuel A., Jr., xxx-xx-xxxx
Bickel, Charles W., xxx-xx-xxxx
Bidwell, Robert L., xxx-xx-xxxx
Biege, Richard A., xxx-xx-xxxx
Bigelow, James E., II, xxx-xx-xxxx
Bills, Ray W., xxx-xx-xxxx
Binkley, Russell W., xxx-xx-xxxx
Bircher, John E., III, xxx-xx-xxxx
Bird, Lawrence M., Jr., xxx-xx-xxxx
Bischoff, Eric L., xxx-xx-xxxx
Bissey, Trevor E., xxx-xx-xxxx
Bizzarro, Richard M., xxx-xx-xxxx
Black, Bruce R., xxx-xx-xxxx
Black, Gorham L., III, xxx-xx-xxxx

Black, Jerry L., xxx-xx-xxxx
Black, Robert G., xxx-xx-xxxx
Blackwell, James R., xxx-xx-xxxx
Blakely, William M., xxx-xx-xxxx
Blanks, John R., Jr., xxx-xx-xxxx
Blaylock, James R., xxx-xx-xxxx
Bloodhart, Raymond, xxx-xx-xxxx
Bloomfield, Kenneth, xxx-xx-xxxx
Bluhm, Raymond K., xxx-xx-xxxx
Bobar, Robert L., xxx-xx-xxxx
Bock, James W. E., xxx-xx-xxxx
Boesch, Carl R., xxx-xx-xxxx
Boettcher, Wolfgang, xxx-xx-xxxx
Bohm, John A., xxx-xx-xxxx
Bohnak, Anthony J., xxx-xx-xxxx
Boley, Steven K., xxx-xx-xxxx
Bombel, George A., xxx-xx-xxxx
Bond, Leroy M., xxx-xx-xxxx
Bonine, Larry S., xxx-xx-xxxx
Booher, Samuel W., xxx-xx-xxxx
Boone, Howard E., xxx-xx-xxxx
Booth, Clinton A., xxx-xx-xxxx
Bordenet, John P., xxx-xx-xxxx
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CHAPLAIN

To be captain

Bischoff, Jerome F. xxx-xx-xxxx
Guenther, Raymond J. xxx-xx-xxxx
Sullivan, Luke F. xxx-xx-xxxx

WOMEN'S ARMY CORPS

To be captain

Bransford, Ann H. xxx-xx-xxxx
Cain, Carolyn H. xxx-xx-xxxx
Clark, Doris M., II xxx-xx-xxxx
De Lora, Jo Ann xxx-xx-xxxx
Emmons, Mary A. xxx-xx-xxxx
Hery, Te Ata R. xxx-xx-xxxx
Redman, Gloria D. xxx-xx-xxxx
Zimmerman, Mary-Lou xxx-xx-xxxx

MEDICAL CORPS

To be captain

Coppin, Thomas D. xxx-xx-xxxx
Dunnington, Glenn W. xxx-xx-xxxx
Knieser, Martial R. xxx-xx-xxxx
Modarelli, Robert O. xxx-xx-xxxx
Myers, William D. xxx-xx-xxxx
Segal, Herbert E. xxx-xx-xxxx
Webber, George R. xxx-xx-xxxx
Willoughby, Cole B. xxx-xx-xxxx
Woodall, John B. xxx-xx-xxxx
Young, Edward J. xxx-xx-xxxx

DENTAL CORPS

To be captain

Gares, William M., Jr. xxx-xx-xxxx
Goodman, John T. xxx-xx-xxxx

VETERINARY CORPS

To be captain

Billups, Leonard H. xxx-xx-xxxx
Johnson, Howard C. xxx-xx-xxxx
Lumpkin, William L. xxx-xx-xxxx
Mellick, Paul W. xxx-xx-xxxx
Moch, Ronald W. xxx-xx-xxxx
Oldham, Larry S. xxx-xx-xxxx

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To be captain

Adams, Thomas H. xxx-xx-xxxx
Barrett, Richard A. xxx-xx-xxxx
Baumiller, Charles xxx-xx-xxxx
Bazany, James L. xxx-xx-xxxx
Billbe, Dean A. xxx-xx-xxxx
Boyd, Raymond D. xxx-xx-xxxx
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Baca, Richard C., xxx-xx-xxxx
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Bouleau, Paul J., xxx-xx-xxxx
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ARMY MEDICAL SPECIALIST CORPS

To be captain

Davis, Benjamin S., xxx-xx-xxxx
Donaghue, Daniel A., xxx-xx-xxxx
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Meyer, Nancy A., xxx-xx-xxxx
Moore, John W., xxx-xx-xxxx
Selman, Sherley A., xxx-xx-xxxx
Thomes, Linwood J., xxx-xx-xxxx

EXTENSIONS OF REMARKS

THE AMERICAN FLAG—ARTICLE BY DR. WOODROW W. HAYZLETT

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, June 22, 1970

Mr. BYRD of Virginia. Mr. President, the June 12 edition of the Hopewell News included an inspiring article on the American flag, written by Dr. Woodrow W. Hayzlett, pastor of the First United Methodist Church in Hopewell, Va.

In a time when some radicals think it is fashionable to desecrate the flag, the words of Dr. Hayzlett are particularly appropriate.

June 14 marked the retirement of Dr. Hayzlett from his pastorate after 33 years of dedicated service. His many friends in Hopewell honored him for his service on the occasion of his retirement on June 14, Flag Day, which was the inspiration for his article.

I ask unanimous consent that his article be printed in the Extensions of Remarks.

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

DOES THE FLAG STILL WAVE OVER LAND OF THE FREE, BRAVE

(By Woodrow W. Hayzlett)

June the 14th will mark the 193rd anniversary of the ad option by the Continental Congress, of the red, white and blue flag of the United States of America. At the time of its adoption, George Washington and his thin ranks of the Continental Army were engaged in our war of liberation from the tyranny of George III of England.

It first flew over a land battle on August 16, 1777, when troops under John Stark fought in the Battle of Bennington in Southwestern Vermont. It was first carried on a U.S. Navy ship on November 1, 1777, when John Paul Jones left Portsmouth, New Hampshire in the Ranger.

The piece of red, white and blue bunting should be loved by every citizen of this country and respected by every country on the face of this earth.

Red in the flag, is for hardiness and courage. The history of the United States of America is resplendent with stories of a people who by hardiness and courage, carved out this land and made it what it is.

The white in the flag is for purity and innocence. The government and the people of the United States of America have never had designs on the territory or the possessions of any other people.

Whenever our flag has been carried into battle on foreign soil it has been in the interest of freedom and not for any personal gain to our country or its people. Witness the millions of dollars poured into the Philippines after the Spanish American War and the billions for Reconstruction after World War I and the added billions of the Marshall Plan after World War II and the monies spent in South Korea and in South Vietnam.

Blue is for vigilance, perseverance and justice. Our forefathers learned to live with danger, "they kept their powder dry." Dare we relax and be indifferent at a time when the United States of America is engaged in a battle without and within to determine whether "a government of the people, for the people and by the people" shall perish from the face of this earth?

This is not a time for weakness. We must "be strong and in the power of His might. We must put on the whole armor of God that we might withstand the wiles of the Devil." Initiative and finishitive are equally important. In our struggle to preserve our way of life, we must be like Captain John Paul Jones on his sinking ship, "I have just begun to fight." At the same time we must be on guard, lest we be so occupied that the smallest act of injustice go unnoticed and not corrected.

The flag code or set of rules for displaying and honoring our flag are guide lines given to us to show our patriotism and respect for our flag and the country for which it stands.

During these turbulent times our flag has been disgraced by being used as a garment, by being burned, by being dragged in the filth of the street and by being torn by the lawless on our streets and college and university campuses.

When this is done, not only is our flag desecrated but our country insulted, every red blooded American slapped in the face but more than all this, over one million men and women who have given their lives in all our country's wars, have had their graves and memories scarred by those who would tear down and destroy their sacred heritage.

You might say that life in our country today is a paradox, from rags to riches thence to rags in four generations. The first generation worked hard to carve out this land and make it. The second generation tries to consolidate and enhance it. The third generation tries its best to dissipate, to tear down and destroy. The fourth generation must begin all over again.

Will we never learn?

In the light of what is taking place in the United States of America today there are many serious-minded people who wake each morning, as did Francis Scott Key and ask, "Does the flag still wave o'er the land of the free and the home of the brave."

My fellow Americans it's high time this country has a new birth of freedom. It begins when we feel a tug at our heart, a lump in our throat and a tear in our eye as we look at old Glory and say:

"I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all."