SENATE—*Tuesday, June 23, 1970*

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

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

Most merciful and gracious God who in Thy Word has taught us to "trust in the Lord with all thine heart; and lean not upon thine own understanding," we would work this day as though everything depended upon us and trust as though everything depended upon Thee.

As we humbly bow in Thy presence make us mindful that the greatest and strongest have their sins and failures, and that the weakest have their virtues and noble moments. In all our strength and weakness unite us with Thee in new ventures for an order of life which has in it a love as inclusive as Thy heart. Spare us from cowardice or neutrality in life's moral and spiritual principles but keep us in companionship with those who do justly, love mercy, and walk humbly with Thee.

Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, June 22, 1970, be dispensed with.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Arizona (Mr. FANNIN) is now recognized for 15 minutes.

Mr. MANSFIELD. Mr. President, will the Senator from Arizona yield to me without losing his right to the floor or any of his time?

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the rule of germaneness not apply to the two bills I am about to call up.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 856 and 940.

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

CONVEYANCE OF CERTAIN REAL PROPERTY TO WASHAKIE COUNTY., WYO.

The Senate proceeded to consider the bill (S. 2583) to provide for the conveyance to the county of Washakie, State of Wyoming, of certain real property of the United States, which had been reported from the Committee on Government Operations with amendments, on page 2, line 12, after the word "the", strike out "land" and insert "real property"; in line 13, after the word "used", strike out "for public purposes" and insert "for a public museum and for other educational purposes"; and in line 21, after the word "Wyoming", insert "within the period of 30 years from the date of conveyance"; so as to make the bill read:

S. 2583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services shall, without monetary consideration therefor, convey to the County of Washakie, in the State of Wyoming, all right, title, and interest of the United States in and to the real property described in section 2 of this Act, comprising a lot and building formerly occupied by the United States Post Office Department as a local post office, and which has been declared surplus property to the needs of the United States Post Office Department by the General Services Administration.

SEC. 2. The real property referred to in the first section of this Act is located at the corner of Big Horn Avenue and North Ninth Street, in the city of Worland, County of Washakie, State of Wyoming, comprising a rectangular lot one hundred and forty feet in length and one hundred feet in width, together with a masonry and concrete building, containing five thousand forty-three square feet of floor space, situate thereon.

SEC. 3. Any deed of conveyance made pursuant to this Act shall—

(a) provide that the real property conveyed shall be used for a public museum and for other educational purposes;

(b) contain such additional terms, conditions, reservations, and restrictions as may reasonably be determined by the Administrator of the General Services Administration to protect the interest of the United States;

(c) provide that if the County of Washakie, State of Wyoming, within the period of thirty years from the date of conveyance violates any provision of the deed of conveyance or alienates or attempts to alienate all or any part of the property so conveyed, title, thereto shall revert to the United States; and

(d) provided that in the event of such reversion, all improvements made by the County of Washakie, State of Wyoming, during its occupancy shall vest in the United States without payment of compensation therefor.

Mr. McGEE. Mr. President, this bill, S. 2583, is very important, not only to the community of Worland, Wyo., but also to the general public.

It will authorize and direct the Administrator of the General Services Administration to transfer certain real property to Washakie County, Wyo. The board of county commissioners of Washakie County and the citizens who reside there primarily are interested in obtaining this property for the purpose of establishing a public museum. In addition to this, the community has a need for facilities in which to operate their Headstart program under the Office of Economic Opportunity and their adult education program.

A description of the property which is involved and a description of the local community may be helpful. It is the old Worland Post Office building which has served the community for many years and has now been vacated by the Post Office Department and has been declared surplus property by the General Services Administration. The value of the building and lot upon which it is located has been appraised by GSA at $28,000. It is located in the downtown area of Worland, Wyo., on a corner lot which is 100 feet in width and 140 feet in depth. The building is of masonry and concrete construction, one and a half stories high, containing approximately 5,000 square feet of floor space. The location and design of this building particularly suit it for the purposes for which the county wants to utilize it.

The town of Worland has a population of approximately 5,800 people and is the county seat of Washakie County, Wyo., which has a total population of approximately 8,800 people. This community is very progressive and its citizens are very public spirited, even though they are few in number. Worland, Wyo., is located on U.S. Highways 20 and 16, which are direct east-west routes to Yellowstone National Park and the Grand Teton National Park. Last year there were over two and a half million visitors to both of these national parks from every State in the Nation. The proposed museum, as you can see, would not only serve well the local community but also the general public of this Nation, as it is only a 3- or 4-hour drive to the two national parks which are located to the west of Worland. Also close by Worland the Girl Scouts of America have established a camp on a 15,000-acre site adjacent to the scenic Big Horn National Forest. This camp accommodates 10,000 Girl Scouts annually and provides additional facilities for adult leadership training. It is known as the Girl Scout National Center West and is the largest of its type in the world.

In my judgment, a public museum as planned by this local community is meritorious not only from a public service viewpoint but also as an educational facility.

Although the General Services Administration has reported that the present surplus property law is broad enough to allow transfer of surplus real property for museum purposes, from a practical standpoint this is not true. GSA and the Department of Health, Education, and Welfare have established rules and regulations which practically exclude local communities from taking advantage of surplus real property which becomes available under the law unless the transfer is to a public educational institution or a public health facility. In my judgment, this interpretation of the law is too narrow. Additional latitude should be given to certain smaller communities which are not fortunate enough or affluent enough to have a public educational system which could support and administer a public museum. Worland, Wyo., *falls into* this category

The local school board has reported to me that they have a need for the property in question; however, their revenue and current expenses are such that they are prohibited from incurring additional expenses for a physical plant and still maintain quality education in the classroom. For this reason, the local school board is supporting the county commissioners' efforts to obtain the property for the purpose of establishing a museum and other educational purposes. For these reasons, I have introduced S. 2583 which I am certain will make available a valuable facility not only for the local community but also for the large number of visitors who travel in this area from all parts of the country. The value of this property would not be lost to the Federal Government if it were donated to Washakie County. We should not try to measure in mere dollars and cents the value of this property to the public if it were utilized as proposed.

The value to the public would far exceed the appraised value of $28,000. In addition to this, the deed of conveyance from the Federal Government under my bill would contain the necessary restrictions requiring public use of the property. In the event these restrictions were violated by the grantee, the property would revert to the Federal Government. Therefore, the interest of the Federal Government would be protected and the general public would receive worthwhile and educational benefits.

By establishing and supporting our national museums, it is evident that Congress has long recognized the importance of public museums. On the State and local level, public museums play an equally important role by expanding educational opportunities and preserving our historic, artistic, scientific, and cultural heritage.

Mr. President, I urge the passage of this bill.

Mr. HANSEN. Mr. President, I am pleased to urge passage of S. 2583, a bill reported by the Committee on Government Operations to provide for the conveyance to Washakie County, Wyo., of jurisdiction over Federal Government property—the former Worland Post Office building—for use by that county for a public museum and for other educational purposes.

Both the land and the improvements will be conveyed to the jurisdiction of Washakie County officials, without monetary consideration.

This is great news for Worland, for Washakie County, and for the entire Big Horn Basin of Wyoming, because Worland's central location in the basin will make the building usable for a number of worthwile educational undertakings.

The central location of the building—with over 5,000 feet of floor space—makes it a most logical and ideal location for a public museum and for other educational purposes. The county will operate the public museum and the Worland School Board will make use of the basement for adult education programs carried out in cooperation with the University of Wyoming at Laramie.

It is my understanding that space will also be made available in the building for the Headstart program of the Department of Health, Education, and Welfare, to provide help to the young children of disadvantaged families. This is all to the good.

I am pleased to note that the committee report on this bill states that the committee believes that the use of the Worland Post Office property for a public museum and for other educational purposes "will prove," according to the committee, "to be of great benefit not only for the local community but also for the large number of visitors who travel and vacation in that area from all parts of the Nation."

It should be noted, too, that the committee believes the public benefit to be derived from the use of the old Worland Post Office property—now declared surplus to the needs of the Federal Government—will far exceed the appraised value of $28,000. To this, I can wholeheartedly agree.

Mr. President, I am pleased to urge enactment of this legislation and I applaud the citizens of Worland and Washakie County for their initiative concerning this proposal.

The new facility will mean much to future generations throughout the entire Big Horn Basin of Wyoming.

The amendments were agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–853), explaining the purposes of the measure.

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

EXPLANATION OF AMENDMENTS

S. 2583 as introduced did not expressly set forth the intent of the county of Washakie to use the property for a public museum and other educational purposes. The first amendment is a technical conforming amendment to insure that both the land and improvements thereon are conveyed for use as a public museum and for other educational purposes. The second amendment is to require the property to be used for a public museum and for other educational purposes. The third amendment modifies the right of reversion from perpetuity to a specified period of time, i.e., 30 years, thereby conforming that provision of the bill with current regulations on conveyance of surplus real property for health and educational purposes under section 203(k) of the Federal Property and Administrative Services Act of 1949, which limit the period of restrictions to 30 years. Restrictions in perpetuity can create administrative problems and serve no useful purpose, especially for small parcels of property such as that which is here involved.

PURPOSE

The purpose of S. 2583, as amended, is to provide for the conveyance by the Administrator of General Services to the county of Washakie, State of Wyoming, for a public museum and other educational purposes, and without monetary consideration therefor, of all right, title, and interest of the United States in and to a lot and building formerly occupied by a local post office, which property has been declared excess to the needs of the U.S. Post Office Department and has subsequently been determined to be surplus to Federal requirements by the General Services Administration.

BACKGROUND

The property proposed to be conveyed by S. 2583, to the county of Washakie, Wyo., without monetary consideration therefor, is comprised of a rectangular lot 140 feet in length and 100 feet in width, together with a 1½-story, masonry and concrete building situated thereon, which contains 5,043 square feet of floor space. It is located at the corner of Big Horn Avenue and North Ninth Street in the downtown area of the city of Worland, county of Washakie, State of Wyoming.

The county of Washakie intends to use the property for a public museum and for other educational purposes. The county would operate the public museum and the local school board would utilize the basement area of the building for its adult education program in cooperation with the University of Wyoming. In addition, space would be made available in the building for the Federal Head Start Program.

The location and design of this building particularly suit it for the purposes for which the county and the local school board wish to use it. The city of Worland has a population of approximately 5,800 persons and is the county seat of Washakie County, which has a population of approximately 8,800 people. Worland is located on U.S. Highways 20 and 16, which are direct east-west routes to Yellowstone National Park and the Grand Teton National Park. Last year there were over two and one-half million visitors to these two national parks and they came from every State in the Nation. Thus the proposed public museum would not only serve well the local community but also the general public of this Nation.

Also the proposed museum would have great potential as an educational facility for the Girl Scouts of America who have established a camp on a 15,000-acre site near Worland and adjacent to the Big Horn National Forest. This camp accommodates 10,000 Girl Scouts annually and provides additional facilities for adult leadership training. The camp is known as the Girl Scout National Center West and is the largest of its type in the world.

HEARINGS

Public hearings were held by an Ad Hoc Subcommittee on Surplus Property on October 9, 1969, on S. 2583, and several other related bills. Several witnesses, including Members of Congress, testified.

Testifying on S. 2583, were U.S. Senator Gale McGee, of Wyoming and several representatives of the General Services Administration.

The General Services Administration in its testimony on the bill stated that it is opposed in principle to the enactment of special legislation which has for its purpose the disposition of specific properties to public bodies or to others on terms less favorable to the Federal Government than are provided for under existing laws of general application. GSA also stated that the financial effect of the enactment of S. 2583 would be a loss to the Government of the amount which might be realized if the property were disposed of pursuant to existing law. GSA has estimated the fair market value of the property here involved to be $28,000.

Section 203(e)(3)(H) of the Federal Property Act, as amended (40 U.S.C. 484(e)(3)(H)), authorizes the negotiated disposal of surplus real property, subject to obtaining such competition as is feasible under the circumstances, to a State, territory, possession, political subdivision thereof, or tax supported agency therein, if the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation.

Other provisions of the Federal Property Act and related statutes authorize the conveyance of Federal surplus real property without monetary charge, for use for his-

toric monuments, wildlife conservation, education, public health, or public airport purposes. Also under that authority, Federal surplus real property may be conveyed at 50 percent of the fair market value for use for park and recreational purposes.

Congress has not enlarged the existing classes and purposes eligible to receive surplus real property since the enactment of the 1949 statute, although, by special legislation, it has authorized donations of specific properties for other public purposes in situations where justification for such action was indicated.

Testimony on behalf of Washakie County and the local school board was to the effect that despite their great need for the Worland post office property for the purposes heretofore stated, their revenue and current expenses are such that they are prohibited from incurring the additional financial obligation which would be involved in its purchase.

From the evidence submitted, the committee believes that the use of the Worland post office property for a public museum and for the other educational purposes as proposed by Washakie County and the local school board will prove to be of great benefit not only for the local community but also for the large number of visitors who travel and vacation in that area from all parts of the Nation. The committee further believes that the public benefit to be derived from the use of this facility in the manner proposed will far exceed the appraised value of $28,000.

The deed of conveyance from the Federal Government, under S. 2583, as amended, would contain the necessary restrictions to insure that the property would be used for the purposes stated in the bill. Therefore, the interests of the Federal Government would be protected and the general public would be assured of receiving the worthwhile benefits contemplated in the bill.

By establishing and supporting our national museums, Congress has demonstrated its recognition of the importance of public museums as educational facilities from which the public can and does derive worthwhile benefits. On the State and local level, public museums play an equally important role by expanding educational opportunities and preserving our historic, artistic, scientific, and cultural heritage.

The interest of the Senate in supporting our public museums was manifested as recently as September 26, 1969, when it passed and sent to the House a bill, S. 2210, which had been reported by this committee, to amend section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, so as to make public museums eligible to receive surplus Federal personal property. That bill is now pending before the House Committee on Government Operations. HEW has advised this committee that if S. 2210 is enacted into law, it will apply section 203(k)(1) of the Federal Property Act so as to make public museums eligible to obtain surplus Federal real property as well as personal property.

AGENCY REPORTS

Reports were received from the General Services Administration, the Department of Health, Education, and Welfare, and the Bureau of the Budget, on S. 2583 as it was introduced, and their opposition to the enactment of the bill was based on the ground that existing law of general application does not authorize the transfer of surplus real property to cities or counties without monetary consideration, for general, unspecified, public purposes.

The Department of Health, Education, and Welfare further stated that under its present interpretation of section 203(k)(1) of the Federal Property and Administrative Services Act of 1949, as amended, conveyance of surplus Federal real property to States, their instrumentalities and other eligible institutions, for use as public museums, is appropriate only where such museums conduct accredited or approved educational courses on a regular and continuing basis.

Subsequent to receipt of the aforementioned reports, S. 2583 was amended to expressly provide that the property conveyed by the bill shall be used for a "public museum and for other educational purposes." As it has already stated earlier in this report, this committee believes, on the basis of all the evidence which has been submitted to it, that use of the Worland post office property as proposed in S. 2583, as amended, will benefit the local community and the general public far in excess of its appraised market value.

LAND CONVEYANCE TO CENTRAL DAKOTA NURSING HOME

The Senate proceeded to consider the bill (S. 2209) to authorize and direct the Secretary of the Interior to convey certain property in the State of North Dakota to the Central Dakota Nursing Home which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, line 4, after the word "convey," strike out "by quitclaim deed and without consideration," and insert "subject to the conditions hereinafter set forth in this Act, by quitclaim deed"; on page 2, line 20, after "Sec. 2.", strike out:

Any conveyance pursuant to this Act shall be made subject to such conditions as the Secretary of the Interior deems necessary and appropriate to protect the interests of the United States. All expenses for surveys and the preparation and execution of legal documents necessary or appropriate to carry out the provisions of this Act shall be borne by the Central Dakota Nursing Home.

And, in lieu thereof, insert:

The conveyance authorized by this Act shall be made subject to the conditions that:

(1) The Central Dakota Nursing Home pay to the United States as consideration for the land authorized to be conveyed the amount of $5,500;

(2) All minerals, including oil and gas, in such lands authorized to be conveyed shall be reserved to the United States;

(3) The lands, including buildings and other improvements thereon, authorized to be conveyed shall be used by the Central Dakota Nursing Home solely for health care facilities, and in the event that such lands, including such buildings and improvements, cease to be used for that purpose, title thereto shall immediately revert, without payment of consideration, to the United States;

(4) The Central Dakota Nursing Home (including assignees and successors) agrees to waive any and all claims, arising on or before the date of any conveyance pursuant to this Act, which such home might have against the United States as a result of blown silt or other causes resulting from or in connection with construction, operation, or maintenance of the Jamestown Dam and Reservoir; and

(5) All expenses for surveys and the preparation and execution of legal documents necessary to carry out the provisions of this Act shall be paid by the Central Dakota Nursing Home.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to convey, subject to the conditions hereinafter set forth in this Act, by quitclaim deed, to the Central Dakota Nursing Home, Jamestown, North Dakota, all right, title, and interest of the United States in and to the following described lands near Jamestown, North Dakota, together with all buildings and other improvements thereon:

A tract of land situated in the southwest quarter northeast quarter and the southeast quarter northwest quarter, section 24, township 140 north, range 64 west, 5th principal meridian more particularly described as follows:

Beginning at the center of section 24, township 140 north, range 64 west, 5th principal meridian;

thence south 89 degrees 50 minutes east 771.5 feet;

thence north 00 degrees 21 minutes west 800.0 feet;

thence north 89 degrees 50 minutes west 1,065.8 feet;

thence south 23 degrees 52 minutes 30 seconds west 456.7 feet;

thence south 00 degrees 40 minutes 30 seconds east 385.6 feet;

thence north 89 degrees 44 minutes east 479.7 feet to the point of beginning and containing 22.1 acres, more or less.

SEC. 2. The conveyance authorized by this Act shall be made subject to the conditions that:

(1) The Central Dakota Nursing Home pay to the United States as consideration for the land authorized to be conveyed the amount of $5,500;

(2) All minerals, including oil and gas, in such lands authorized to be conveyed shall be reserved to the United States;

(3) The lands, including buildings and other improvements thereon, authorized to be conveyed shall be used by the Central Dakota Nursing Home solely for health care facilities, and in the event that such lands including such buildings and improvements, cease to be used for that purpose, title thereto shall immediately revert, without payment of consideration, to the United States;

(4) The Central Dakota Nursing Home (including its assignees and successors) agrees to waive any and all claims, arising on or before the date of any conveyance pursuant to this Act, which such home might have against the United States as a result of blown silt or other causes resulting from or in connection with the construction, operation, or maintenance of the Jamestown Dam and Reservoir; and

(5) All expenses for surveys and the preparation and execution of legal documents necessary to carry out the provisions of this Act shall be paid by the Central Dakota Nursing Home.

The amendments were agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-936), explaining the purposes of the measure.

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

PURPOSE

The objective of S. 2209 is to authorize and direct the Secretary of the Interior to convey, for fair market value, a 22.1-acre tract of land in Jamestown, N. Dak., to the Central Dakota Nursing Home, a nonprofit corporation. The corporation is presently operating under a 50-year lease which Interior signed in 1960, but needs to expand its facilities, and title to the property would enhance the possibility of loans and gifts.

AMENDMENTS

As originally written, S. 2209 would have authorized and directed the Secretary of Interior to convey the property to the nursing home without consideration. At the recommendation of the Department of the Interior, the committee amended the bill to provide that the conveyance will be made for fair market value of the estate conveyed, estimated at $5,500 (as of April 1970). The reservations are to be considered part of the fair market value. They provide that the property reverts to the United States if it is used for any other purpose than for health care facilities, that the United States would retain the mineral rights, and that the home could make no claims against the Federal Government for damages resulting from silt blowing or other activities in connection with the Jamestown Dam and Reservoir.

DESCRIPTION

The nursing home is of brick and tile construction, and contains space for 100 beds, including a central heating plant, kitchen, dining area, chapel, office spaces, therapy areas, beauty parlor, barbershop, and other rooms. The resident wings form the shape of the spokes of a wheel with a central nursing station at the hub, so that all corridors can be observed. The home has been operating at maximum capacity for the last 3 years or more.

MINERAL VALUES

The land covered by the bill has slight prospective value for oil and gas. The nearest petroleum production is 50 miles distant. The tract is reported to be without value for other minerals, or for geothermal resource development.

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.

S. 4001—INTRODUCTION OF A BILL TO AMEND FOUR EXISTING TRADE LAWS

Mr. FANNIN. Mr. President, I am introducing a bill, which I send to the desk for appropriate reference, the primary purpose of which is to amend four of our existing trade laws to insure that they will provide meaningful, effective and prompt relief to domestic industries injured by the unfair trade practices of our trading partners.

The ACTING PRESIDENT pro tempore (Mr. METCALF). The bill will be received and appropriately referred.

The bill (S. 4001) to transfer to the U.S. Tariff Commission certain functions and duties now vested in the President and Secretary of the Treasury under the Antidumping Act, 1921, the Tariff Act of 1930, and the Trade Expansion Act of 1962 introduced by Mr. FANNIN, was received, read twice by its title, and referred to the Committee on Finance.

Mr. FANNIN. Mr. President, now is the time for a new and more efficient organizational arrangement within the Government to provide proper administration of our foreign trade regulatory laws.

Mr. President, we have built a formidable barrier for our own industries in the administration of our foreign trade policy.

I wish to give an example in a telegram I received yesterday from Mr. George Konkol, vice president of Sylvania Electric Products, Inc., Waltham, Mass., and chairman of the Imports Committee of the Electronic Industries Association.

It illustrates the frustration after more than 2 years in no action by our Government after the industry complained against dumping of foreign products on the American market. Mr. President, allow me to read the telegram:

HON. PAUL J. FANNIN: The tube division of Electronic Industries Association has been fighting Japanese dumping of black and white and color TV sets for the past two years.

March 22, 1968 we filed with Treasury Dept. a complaint concerning this subject. After more than two years of investigation the Treasury Department is about to make a ruling on this complaint which has at stake the future of home entertainment products and supporting components industries.

Presently the Japanese have captured 47 percent of black and white TV set business and 31 percent of color TV set business. Our complaint alleges and we believe documents that this market penetration has largely been due to violations of our anti-dumping laws.

Without a favorable ruling the future of our industry is in serious jeopardy and thousands of jobs so involved.

We enlist and encourage your attention and support on this matter to assure proper consideration of the facts by the Treasury Department.

Mr. President, my bill would provide an essential time limit upon the governmental investigation and decision, requiring such determination to be made for three of the laws not later than 120 days after the date on which the petition is filed.

In keeping with the best tradition of the common law, my bill provides the right to a fair and open hearing, including the right to counsel, to present evidence, and to confront and cross examine. Moreover, both the importer and the domestic industry would have the right to seek judicial review.

This right of appeal not only is required by the Administrative Procedure Act, but is inherent in our system of government. Yet, at present, such review is available in most instances only to importers.

My bill would require full reports be published on the facts and reasoning of the Tariff Commission, thus judicial review would be facilitated and a body of law would be developed to guide the business decisions of importers as well as domestic industry.

In addition, Congress would have a record from which to review the operation and effectiveness of the acts.

By amending these acts, as I have proposed, Congress will assure domestic industries that the same standards of fair trade will be applied to importers. This should materially reduce the steady parade of domestic industries requesting quota restrictions.

The results of my bill merely forecloses to the foreign supplier any unfair advantage which he might derive from a foreign subsidy, price cutting, dumping, or other activities which have been recognized as unfair trade practices in this country for many years and universally condemned.

In no way would these amendments impede or restrict legitimate imports, nor provide protection to any domestic industry against legitimate competition.

My bill would do no more than impose upon imports the U.S. unfair trade laws that are now applied domestically.

Mr. President, some, because they either do not understand or do not want to understand the concept of our regulatory trade practice laws, have characterized the substance and full implementation of these amendments as "protectionism."

This is clearly erroneous. My amendments are not a barrier to free trade. They simply assure fair competition, and therefore promote free trade. This is unlike protective tariffs designed to restrict competition. My amendments will protect competition.

Mr. President, it is not my desire to bring about any unfairness or to bring about any restrictions on imports that comply with the law. But I do feel that because of the many barriers that have been placed by foreign countries on imports from the United States, and the unfair trade practices of certain of our trading partners, that we must take action.

In many instances their barriers are more effective than tariff barriers. I would give as an illustration the automotive industry where foreign companies are shipping into our country a large volume of imports. Still they have charges on such items as weight of cars, horsepower, wheel base, and other restrictions that we do not place upon the equipment that comes into this country.

What we are trying to do is to open those markets that are now closed to our manufacturers and, at the same time, encourage competition. We feel that this would be beneficial to world trade. And if this is not done, we will soon find that our exports will be declining at an even more accelerated rate than at present.

If we take into consideration what is happening to our balance of trade, I think that it will illustrate the problem. For many years we have had a very favorable balance of trade. Back not so many years ago, it was running about $5 billion or $6 billion a year. In recent years, we have seen this change. And it is changing very rapidly. Figures are being used now which I do not feel are helpful in evaluating our balance of trade.

If we consider the AID program, the Public Law 480 program, and other programs that do not really result in revenue to the United States, we find that, instead of a favorable balance of trade, we have an approximate $4.4 billion unfavorable trade balance.

Mr. President, although I have made reference to the electronics industry and specifically the TV industry and allied

equipment, this is only a very small part of what is involved. We could go into the shoe industry, the textile industry. We could talk about sewing machines and most any other product that is manufactured in large quantity. And we would find our trade position has been seriously jeopardized.

We realize that free trade is perhaps a misnomer, because many countries in the world would suffer if we had a true free trade policy worldwide. The smaller countries that are not industrialized could not compete with the highly industrialized countries of the world.

Thus, we are not talking about just a free trade policy. We are also talking about a fair trade policy.

I have introduced this bill in the hope that we can assist in bringing about a fair trade relationship with all countries of the world so that we will be in a competitive position and on an equitable basis with the other countries of the world that are now enjoying access to our domestic market.

Mr. President, I yield the floor.

ORDER OF BUSINESS

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

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

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business with a time limitation of 3 minutes on statements.

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

ORDER FOR ADJOURNMENT TO 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 o'clock tomorrow morning.

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

ORDER OF BUSINESS

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.

ORDER FOR RECOGNITION OF SENATOR STENNIS TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Mississippi (Mr. STENNIS) be recognized for not to exceed 15 minutes at the conclusion of the remarks of the distinguished Senator from Kansas.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. At this time, according to the previous order, the Chair recognizes the Senator from Kansas for not to exceed 30 minutes.

S. 4002—INTRODUCTION OF THE NATIONAL INFORMATION AND RESOURCE CENTER FOR THE HANDICAPPED ACT OF 1970

Mr. DOLE. Mr. President, I introduce today the National Information and Resource Center for the Handicapped Act. On several occasions I have called attention to the many areas of life in which the handicapped confront particularly difficult and frequently unique problems. Common to each of these areas of difficulty is the problem of information. It appears that the greater the availability and coordination of knowledge, the more progress the handicapped have made toward achieving meaningful solutions and progress. This is the intent of this bill.

For our Nation's 42 million handicapped persons and their families, yesterday, today, and tomorrow are not filled with "everyday" kinds of problems which can be solved or soothed by "everyday" kinds of answers. Their daily challenge is: accepting and working with a disability so that the handicapped person can become as active and useful, as independent, secure, and dignified as his ability will allow.

Too many handicapped persons lead lives of loneliness and despair; too many feel and too many are cut off from our work-oriented society; too many cannot fill empty hours in a satisfying, constructive manner. The leisure most of us crave can and has become a curse to many of our Nation's handicapped.

Employment is universally recognized as an area in which the handicapped are underutilized and often unjustifiably restricted. Numerous organizations and programs have sought to stimulate employment of handicapped workers and to open greater opportunities for them in the mainstream of life.

The economic problems which a handicap often generates are to a certain degree understood by the general public, but the impact on the lives of the afflicted and their families is frequently unappreciated. Some resources and financial benefits are available both through governmental and private channels, but often they are difficult to obtain or of only token significance.

The availability and access of needed health care facilities and personnel looms large in the lives of the handicapped. This is a matter which usually receives scant attention from the great mass of people, because they have no comparable needs in their lives.

In a similar sense, rehabilitation services can be tremendously significant to the handicapped and disabled, but the public is largely unaware of the critical nature of this need. In rehabilitation, the Department of Health, Education, and Welfare said recently that roughly 25 percent of America's disabled have not received rehabilitation services and do not know where to seek such help. They estimate at least 5 million may be eligible for assistance.

Also, in the field of education, the handicapped pose special difficulties in requirements of methodology, facilities and curricula. Slight attention and publicity have been given these matters outside fairly narrow corridors of concern and involvement.

Architectural, transportation, and housing problems are areas that cause tremendous concern for our handicapped. Again, these problems require special consideration. The many services provided by the Federal Government in conjunction with the State governments in financial assistance, rehabilitation, research, education, and training of the handicapped have helped many disabled Americans live as normal, as full and rich lives as possible.

Much has also been done to aid the handicapped through the great voluntary agencies. It is difficult to properly assess the many effects of the private sector—in health care, education, employment; in research, rehabilitation, by fund-raising drives and through professional groups for the handicapped themselves.

Our private economy and the resources of our people have combined to improve the quality of life in America in ways and for persons the Government could not begin to match.

In the framework of the presently available resources for our handicapped citizens, we must insure our efforts and money are not misplaced or misdirected—that they actively fill the needs. It is the design of this bill to insure that all the knowledge and information regarding services be consolidated and made available to the handicapped person in the form he can use and when he most needs it. Presently, no one source exists. There is a lack of coordination and centrally available information. For example, no one source exists where the handicapped can turn for information on colleges and universities with special programs and facilities for them.

Information on rehabilitation facilities and services is incomplete and often available only through professional channels.

Much the same can be said for information on employment, health care and economic aid. In other words, the knowledge about resources, research findings, technical assistance, reports and information about what other governmental

units, communities, business and colleges have done to accommodate handicapped people is diffused and completely lacking in centralization or coordination. The National Information and Resource Center for the Handicapped will provide a point of contact for individual citizens, families of the handicapped, the handicapped themselves, as well as private organizations, professional organizations, city and State officials who desire information or direction. The creation of this Center will fill this great void. It is an answer to a specific and well-defined need, and it will meet this need at a reasonable cost.

It is not the intent to duplicate the function of any programs in either the Government or private sectors. Rather, the intent is to coordinate information relating to all programs to the benefit of the handicapped. A small staff will be available to direct inquiries to specialized contacts to universities, individuals, organizations, and agencies which have special knowledge or have successfully worked on aspects of these problems. The 42 million Americans who belong to the handicapped minority will be the immediate and long-term beneficiaries of the center's services. America will be the ultimate beneficiary through increased contribution, well-being, and personal fulfillment of the handicapped.

This field truly knows no partisanship. Working together, we in the Senate as well as all interested individuals and organizations can do much to promote meaningful and productive lives for the handicapped. I urge and solicit the cosponsorship and support of my colleagues for the establishment of the center.

Mr. President, I ask unanimous consent that the National Information and Resource Center Act be printed in the RECORD.

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

The bill (S. 4002) to provide for the establishment, within the Department of Health, Education, and Welfare, of a National Information and Resource Center for the Handicapped, introduced by Mr. DOLE, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 4002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "National Information and Resource Center for the Handicapped Act".

SEC. 2. (a) There is hereby established, within the Department of Health, Education, and Welfare, a National Information and Resource Center for the Handicapped (hereinafter referred to as the "Center").

(b) The Center shall have a Director and such other personnel as may be necessary to enable the Center to carry out its duties and functions under this Act.

SEC. 3. (a) It shall be the duty and function of the Center to collect, review, organize, publish, and disseminate (through publications, conferences, workshops or technical consultation) information and data related to the particular problems caused by handicapping conditions, including information describing measures which are or may be employed for meeting or overcoming such problems, with a view to assisting individuals who are handicapped, and organizations and persons interested in the welfare of the handicapped, in meeting problems which are peculiar to, or are made more difficult for, individuals who are handicapped.

(b) The information and data with respect to which the Center shall carry out its duties and functions under subsection (a) shall include (but not be limited to) information and data with respect to the following—

(1) medical and rehabilitation facilities and services;

(2) day care and other programs for young children;

(3) education;

(4) vocational training;

(5) employment;

(6) transportation;

(7) architecture and housing (including household appliances and equipment);

(8) recreation; and

(9) public or private programs established for, or which may be used in, solving problems of the handicapped.

SEC. 4. (a) The Secretary shall make available to the Center all information and data, within the Department of Health, Education, and Welfare, which may be useful in carrying out the duties and functions of the Center.

(b) Each other Department or agency of the Federal Government is authorized to make available to the Secretary, for use by the Center, any information or data which the Secretary may request for such use.

(c) The Secretary of Health, Education, and Welfare shall to the maximum extent feasible enter into arrangements whereby State and other public and private agencies and institutions having information or data which is useful to the Center in carrying out its duties and functions will make such information and data available for use by the Center.

SEC. 5. There is authorized to be appropriated for carrying out the purposes of this Act for the fiscal year ending June 30, 1971, the sum of $300,000, and for each fiscal year thereafter such sums as may be necessary.

TWA CREW HONORED

Mr. DOLE. Mr. President, America's commercial airlines spend millions of dollars annually to insure the maximum possible safety of their passengers. The most modern equipment, navigation facilities, and maintenance procedures are employed to make commercial air travel the comfortable and safe means of transportation which it is today. No resource of the airlines, however, is more valuable or more important than their human investment—the crewmembers.

The entire Nation followed accounts of the June 4 hijacking of a Trans World Airways jet on a flight between Phoenix and Washington. Anxiety for the safety of those on board was matched only by admiration for the courage and daring of the crew in charge of the aircraft.

The members of this crew are heroes in the finest tradition of the term. They faced grave peril with a thoroughly professional attitude and dealt with the situation calmly and decisively. In so doing it is believed they saved the lives of everyone involved and preserved a multimillion-dollar airplane.

Recognition was paid to these crew members and their families on June 18 here in Washington at a congressional luncheon and at a Presidential reception at the White House.

Attending were Capt. and Mrs. Dale C. Hupe and their children, Dennis and Deann, of Perry, Kans. Captain Hupe was the pilot of the aircraft and received a serious gunshot wound when he courageously tackled the hijacker in the struggle to subdue him. Captain Hupe has been recovering from his wound in a Fairfax, Va., hospital and was released only that day.

Other members of the cockpit crew and their wives also attended. They were First Officer and Mrs. D. C. Salmonson of Overland Park, Kans.; and Flight Engineer and Mrs. James A. Hawkins of Kansas City, Mo.

In addition to the regular crew, Capt. and Mrs. Billy Williams of Amityville, L.I. were present. Captain Williams, chief international pilot for TWA, flew to Washington to pilot the aircraft in case it would be ordered to fly out of the country. This was the second hijacking mission for Captain Williams.

The crew members who had the responsibility of calming and reassuring passengers during the flight, the hostesses, were present. They were Miss Robyn Urrea of Mesa, Ariz.; Miss Renee Aulberry of Kansas City, Mo.; and Miss Jeanne Laughlin of Shawness Mission, Kans.

F. C. Wiser, president of TWA, also was present.

In the afternoon the group met with President Nixon at the White House for an informal visit. During the meeting in the oval office, the President saluted their heroism and courage and extended his congratulations. He also presented the crew with mementoes of their visit.

It was a proud day for the crew and the entire industry which they have so admirably represented.

Mr. President, I yield the floor and 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.

ORDER FOR RECOGNITION OF SENATOR HANSEN TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Wyoming (Mr. HANSEN) be recognized for not to exceed 30 minutes following the disposition of the Journal tomorrow morning.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. At this time, in accordance with the previous order, the Senator from Mississippi (Mr. STENNIS) is recognized for not to exceed 15 minutes.

PROGRESS REPORT ON COMMITTEE CONSIDERATION OF H.R. 17123, THE MILITARY AUTHORIZATION BILL

Mr. STENNIS. Mr. President, for the information of other Senators, and for the press and the public and other interested persons, I wish to make the following statement regarding the final action by the Senate Committee on Armed Services on H.R. 17123, the military procurement authorization legislation.

The committee voted unanimously on June 17 to report the bill in an amended form. Since the committee action is on the House bill, all differences in the House and Senate versions will be subject to conference between the House and the Senate.

Mr. President, there is nothing particularly new in this statement, but we have put together here the high points of information with reference to the weapons systems and other items in the bill that we thought ought to be brought to the attention of the Senate.

GENERAL SUMMARY

The Senate committee, in terms of procurement, research and development, reduced the House bill $1.328 billion—from $20.237 billion to $18.909 billion. This is an overall reduction of 6.6 percent, and a 6.7-percent reduction below the Department of Defense request. The committee added to the bill the amount of $334 million which represents the military construction authorization for that portion of the Safeguard antiballistic-missile system recommended by the committee. The total of the bill recommended by the committee, therefore, is $19.243 billion.

The committee was acutely aware of the need for reducing the bill to the lowest possible figure consistent with the minimum requirements of national security. This bill represents an austere procurement authorization. As an example, the number of aircraft approved for the Air Force is 375 of which the number of 213 are earmarked for transfer to other countries. This total figure is the lowest number of aircraft requested for procurement by the Air Force since 1935. The Navy aircraft being procured number 259 and represent the lowest "buy" since 1946.

The committee did approve certain new aircraft—the F–14 Navy fighter and the F–15 Air Force fighter—as essential modernization items. These new systems have been already deferred because of the Vietnam war, and the committee felt that the amounts for fiscal year 1971 should not be reduced.

These are the two new planes, Mr. President, that show the greatest kind of hope. They are going to be expensive, it is true, but they will represent the best in technology in weapons of this kind, and those are the only types that we should have on our production lines.

SAFEGUARD ANTIBALLISTIC-MISSILE SYSTEMS

The committee adopted the position that the Safeguard ABM system should be limited to the mission of protecting our strategic deterrent. The committee, therefore, adopted an amendment which prohibits the use of any funds for the advance preparation of the four area defense sites contained in the budget request and in the House bill. These area sites were designated as Northwest, Michigan/Ohio, Northeast, and National Command Authority. The committee, under the strategic deterrent concept, approved funds regarding four sites, Grand Forks and Malmstrom, both of which have been previously funded; Whiteman Air Force Base; and advance preparation funds only for Warren Air Force Base. The Safeguard funding elements consist of research and development, procurement, and military construction authority. The total request approved by the committee is $1.35 billion.

THE C–5A PROGRAM

Mr. President, there has been a great deal in the press about the C–5A program, and we gave that the utmost examination, and have had the Deputy Secretary of Defense, Mr. Packard, giving it his special attention for more than a year now. The committee approved all the funds, in the final analysis, that were requested for this year. This amount totaled $623 million for this item, which included the relatively small amount of $11.6 million for research. Of this amount, $344 million is owed under the contract, with $200 million being designated as a contingency above the amount legally due under the contract as interpreted by the Department of Defense. Remaining funds are designated as "below the line" items consisting of spares and other elements of the program. The committee approved the $200 million contingency for the reason that the production would cease after December 31, 1970, due to the serious cash position of the company. These aircraft are essential to our national defense. If the $200 million was not approved, the Government would receive only about 30 aircraft. With the $200 million, the total number to be received by June 30, 1971, would be approximately 42 planes.

The committee added two significant language items regarding the C–5A:

First. The $200 million in contingency funds will not be obligated by the Department of Defense until an overall plan for the C–5 program is approved by both the Senate and House Committees on Armed Services.

Second. Strict language was added insuring that the $200 million in funds would be utilized only for the C–5A program and not for any other programs of the contractor.

SIGNIFICANT DIFFERENCES IN THE CHANGES TO THE HOUSE VERSION OF THE BILL

In terms of weapons systems, the Senate committee made the following significant changes in the form of the bill as passed by the House:

First. Reduced the new obligational authority in the bill by a total of $334 million in recognition of previous appropriations which will be available for obligation if needed during fiscal year 1971.

Second. Deleted five ships added by the House, not requested by the Department of Defense, totaling $435 million.

Third. Deleted $152 million for lead items for the third *Nimitz* class carrier, CVAN–70. The executive branch has indicated that the funds, even if approved, would not be obligated until studies for the need of this carrier had been completed by the National Security Council.

Mr. President, the committee did not vote against the carrier. It did not determine that the carrier was not probably needed, or possibly needed, however one might wish to express it. The matter was passed over because there had not been a firm, unconditional, positive request made for this carrier in this particular authorization bill for fiscal 1971, and we thought that, in view of the lack of such a firm request, the matter ought to be deferred, and if there is a firm request later, of course, the committee can make a judgment on that.

Fourth. Deleted procurement funds for the Army and Marine Corps for the improved Hawk missile in the total amount of $51.8 million.

Fifth. Deleted the procurement funds in the Air Force account for the international freedom fighter of $30 million.

Sixth. Eliminated further funding of the Army tank, the M60A1E2, in the amount of $23 million. This tank program, representing an attempt to adapt the Shillelagh missile to the M60A1 has encountered great difficulty as well as lengthy delays. Under the circumstances, the committee felt this program should be canceled. Approximately $55 million can be utilized from the chassis of these tanks and can be used in the procurement of what we call the standby workhorse tank which is now used.

It should be noted that the committee approved, as requested, the funds in the amount of $56.7 million for further procurement of the tank, the M60A1, and the funds in the amount of $77 million for further research and development on the MBT–70. This is the tank of the future. It is in the research and development stage only. The A–1 is what we call the workhorse tank now.

SUMMARY OF RESEARCH AND DEVELOPMENT ACTIONS

The committee reduced the research and development request by $249 million as compared to the House bill—from $7.265 billion to $7.016 billion. In terms of the Department of Defense request, the committee reduction totals $385 million—from $7.401 billion to $7.016 billion.

Highlights of the committee action on specific items are as follows:

First. The $17.6 million requested for further development funds of the Cheyenne helicopter was deleted in view of the committee's approval of $27.9 million for the A–X for the Air Force program, and $17 million for the Army advanced helicopter technology program.

Second. The committee reduced by $50 million—from $100 million to $50 million—the request for development funds for the B–1 advanced bomber for the Air Force. The committee observes that $65 million of funds approved last year remain unobligated.

Third. The committee reduced research and development by $56 million representing prior year funding which will be available if needed during 1971.

Fourth. The committee transferred $79 million requested for S–3A antisubmarine warfare aircraft from the procurement appropriation to the R.D.T. & E. appropriation.

Fifth. The committee denied the request for $33.6 million for the subsonic cruise armed decoy because the Department of Defense has delayed the start of this program and some $8 million of fiscal year 1970 funds approved for this program have not been used.

The many details of the committee actions on research and development will be set forth in the committee report.

SELECTED RESERVES

The committee approved the recommended strengths for each of the Selected Reserve components as contained in the budget request and in the House bill except for the Selected Reserve of the Coast Guard. The budget request recommended no strength for the Coast Guard Reserve, the House bill a strength of 16,950. The Senate committee recommends a strength for fiscal year 1971 of 10,000.

LANGUAGE CHANGES IN THE SENATE VERSION

The following language provisions in the House version of the bill were deleted:

First. Language which would have precluded the obligation of any ship construction funds until a recommendation has been made by the National Security Council regarding the CVAN–70 program.

Second. Deletion of the requirement that $600 million be expended from fiscal year 1971 funds in naval shipyards.

Third. Language which would have required the DD–963 destroyer program to utilize the facilities of at least two shipyards.

Fourth. The prohibition of the obligation of funds for the M–16 rifle unless the Secretary of the Army maintains at least three active production sources for the weapon.

Fifth. Deletion of language prohibiting the use of research and development funds for new contracts in institutions of higher learning where the Secretary of Defense has determined that the institution is barring recruiting of personnel for the armed services from the institution premises.

LANGUAGE ADDED BY THE SENATE COMMITTEE

The Senate committee added to the House version the following language and other changes to the bill:

First. Limitation of $2.5 billion on the amount of appropriations for defense which can be used for Vietnamese and other free world forces in Southeast Asia. That relates to the military aid that was in the bill last year, and we asked the Senate then to put a ceiling of $2.5 billion on it, and it is the same amount this year.

Second. A clarification that the use of defense funds for non-U.S. free world forces in Southeast Asia can be utilized for supporting operations of the South Vietnamese and other free world forces in the sanctuary areas.

Third. A prohibition on the obligation of the funds for the purchase of the F–111F until the Secretary of Defense has certified to the Committees on Armed Services on the structural soundness of the aircraft and its airworthiness generally. This item may come in for some debate, but we feel that the planes are needed. We feel that this testing will prove the success of the craft, and we did require the personal attention of the Secretary of Defense and a personal certificate by him as to the structural soundness of the aircraft before the money could be spent.

Fourth. With respect to the C–5, the adoption of language previously discussed requiring committee approval of the overall program recommended by Defense, together with strict language insuring that the $200 million being requested is used only for the C–5A program.

Fifth. Requirement that beginning in fiscal year 1972 funds for procurement of naval torpedoes be authorized prior to appropriation in the same manner as other weapon systems contained in the bill. This is a rather expensive torpedo, and we thought it ought to be brought under the surveillance of the authorization legislation.

Sixth, Reenactment of language requiring that research and development funds be utilized only for projects having a direct and apparent relationship to a defense mission.

Seventh. Creation of interdepartmental machinery under which military research projects also may be utilized for civilian domestic purposes. The purpose of this amendment is to insure that the byproducts of defense research be utilized for domestic needs where possible.

Eighth. Language, paralleling existing law with respect to military sales, requiring approval by the U.S. Government in instances where certain Southeast Asian countries donate U.S. equipment to third countries.

Ninth. Language relating to independent research and development which, among other things, establishes a ceiling of $625 million for fiscal year 1971 on this general activity.

Tenth. Language relating to chemical and biological warfare which reinstates last year's provision prohibiting procurement of delivery systems for lethal chemical and all biological warfare agents; adds a provision relating to the safety procedures involving disposal of lethal chemical and all biological warfare agents; and directs a study on ecological and physiological effects of using herbicides.

Eleventh. The committee adopted language authorizing the transfer to Israel of aircraft and supporting equipment by sales, by credit sales, or guarantee as a means of assistance in providing for the security of that nation.

The foregoing statement summarizes the highlights of the actions of the committee. The committee report, which will be filed in a few days, will discuss in detail all of the committee recommendations.

Mr. President, when the report can be finished and the bill filed, the bill will represent the very best effort of the Senate Armed Services Committee over a period of almost a year, in working on the major items, delving deeply into the need, and weighing the comparative values and trying to bring before the Senate a well-considered and exhaustively considered bill, with definite reasons for our recommendations.

We do not know yet when this bill will come up for debate—the majority cannot say definitely—but we hope it can be soon after the July 4 short recess. We are going to file the report and testimony in advance of the commencement of debate. We feel that the Members of the Senate are entitled to it. As a fallout from that, we believe that there will be opportunity for preparation on the part of anyone who wishes to take part in the debate and that we can move with dispatch into the merits of any matter that any Senator wants to take up. We hope that there will be a good debate, but we do not believe it will be necessary this time to have as long a debate as we had last year.

The committee does not represent all these items to be unanimous in recommendation, but I believe every item here was considered by every member of the Armed Services Committee more than just casually, with judgment then passed on it. I believe that the members will close ranks as much as they can and present the items in the bill to the Senate for consideration.

I thank the majority leader for this time.

Mr. MANSFIELD. Mr. President, I have listened to the Senator's remarks with interest.

It would be my hope that sometime next month it would be possible to take up the bill—certainly, sometime after the end of the Fourth of July recess. Much will depend upon what happens to the calendar in the meantime. But I am hoping that the same spirit of cooperation among the Members of this body which was displayed last night will be shown in the consideration of the second session of our daily sessions, beginning at approximately 5 p.m. today.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to the transaction of routine morning business, with a limitation of 3 minutes on statements therein.

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 SOUTH TEXAS ELECTRIC COOPERATIVE, INC., VICTORIA, TEX.

A letter from the Administrator, Rural Electrification Administration, transmitting, pursuant to law, a report on the approval of a loan to the South Texas Electric Cooperative, Inc., Victoria, Tex., for the financing of certain new transmission facilities, minor improvements to existing generation facilities, and the completion of previously

loaned facilities with an accompanying report); to the Committee on Appropriations.

REPORT ON VALUE OF PROPERTY, SUPPLIES AND COMMODITIES PROVIDED BY THE BERLIN MAGISTRAT

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, on the value of property, supplies, and commodities provided by the Berlin magistrate for the quarter ended March 31, 1970; to the Committee on Appropriations.

FINAL REPORT OF THE NATIONAL COMMISSION ON PRODUCT SAFETY

A letter from the Chairman, National Commission on Product Safety, transmitting, pursuant to law, the final report of the Commission, dated June 1970 (with an accompanying report); to the Committee on Commerce.

PROSPECTUS FOR PROPOSED ALTERATION OF POTOMAC ANNEX, BUILDING 6, WASHINGTON, D.C.

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at Washington, D.C., of Potomac Annex, Building 6 (with an accompanying paper); to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Banking and Currency, without amendment:

S.J. Res. 201. Joint resolution to extend the reporting date of the National Commission on Consumer Finance (Rept. No. 91-939).

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 8512. An act to suspend for a temporary period the import duty on L-Dopa (Rept. No. 91-940).

TEMPORARY EXTENSIONS OF CLEAN AIR AND SOLID WASTE DISPOSAL ACT—REPORT OF A COMMITTEE (S. REPT. NO. 91-941)

Mr. MUSKIE, from the Committee on Public Works, reported an original bill (S. 4012) to extend the Clean Air Act, as amended, and the Solid Waste Disposal Act, as amended, for a period of 60 days, and submitted a report thereon, which bill was placed on the calendar, and the report was ordered to be printed.

BILLS INTRODUCED OR REPORTED

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

By Mr. FANNIN:

S. 4001. A bill to transfer to the United States Tariff Commission certain functions and duties now vested in the President and Secretary of the Treasury under the Antidumping Act, 1921, the Tariff Act of 1930, and the Trade Expansion Act of 1962; to the Committee on Finance.

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

By Mr. DOLE:

S. 4002. A bill to provide for the establishment, within the Department of Health, Education, and Welfare, of a National Information and Resource Center for the Handicapped; to the Committee on Labor and Public Welfare.

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

By Mr. MUSKIE (for himself and Mr. EAGLETON):

S. 4003. A bill to amend the Securities and Exchange Act of 1934 to expand the right of American shareholders to participate in corporate decision making; to the Committee on Banking and Currency.

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

By Mr. BENNETT (for himself and Mr. SPARKMAN):

S. 4004. A bill to limit membership on National Securities Exchanges to the Committee on Banking and Currency.

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

By Mr. DOMINICK (for himself, Mr. BENNETT, Mr. CURTIS, Mr. TOWER, and Mr. THURMOND):

S. 4005. A bill to amend the Labor-Management Reporting and Disclosure Act of 1959 so as to prohibit the use for political purposes of certain funds collected by labor organizations from their members, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. DOMINICK (for himself, Mr. BENNETT, Mr. PACKWOOD, and Mr. TOWER):

S. 4006. A bill to amend the National Labor Relations Act so as to make it an unfair labor practice for a labor organization to discriminate on account of race, color, religion, or national rigin; to the Committee on Labor and Public Welfare.

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

By Mr. DOMINICK (for himself, Mr. BENNETT, Mr. TOWER, and Mr. THURMOND):

S. 4007. A bill to amend the National Labor Relations Act and the Railway Labor Act so as to provide for the certification of representatives only upon vote by secret ballot of fifty per centum of employees entitled to vote in the election, and to require that employees voting in such elections be afforded an opportunity to vote against representation by any individual or organization;

S. 4008. A bill to make it an unfair labor practice to require a person who conscientiously objects to membership in a labor organization to be a member of such an organization as a condition of employment; and

S. 4009. A bill to amend the National Labor Relations Act so as to make it an unfair labor practice for a labor organization to impose sanctions against its members for exceeding production quotas; to the Committee on Labor and Public Welfare.

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

By Mr. YOUNG of North Dakota:

S. 4010. A bill for the relief of Sarvar Houshyar; to the Committee on the Judiciary.

By Mr. COTTON:

S. 4011. A bill to assure performance by railroads engaged in interstate commerce of transportation services necessary to the maintenance of a national transportation system, and for other purposes; to the Committee on Commerce.

By Mr. MUSKIE:

S. 4012. A bill to extend the Clean Air Act, as amended, and the Solid Waste Disposal Act, as amended, for a period of 60 days; placed on the calendar.

(See reference to the bill when reported by Mr. MUSKIE, which appears under the heading "Reports of Committees.")

By Mr. METCALF:

S. 4013. A bill to prohibit certain combinations and control between electric and gas utilities; to the Committee on the Judiciary, by unanimous consent.

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

By Mr. JAVITS (for himself and Mr. GOODELL):

S. 4014. A bill to authorize the Secretary of Transportation to guarantee loans to rail carriers to assist them in the performance of transportation services necessary to the maintenance of a national transportation system, and for other purposes and to establish a joint congressional committee to carry out a study and investigation for the purpose of making recommendations for the solution of the problems of the Nation's railroads; to the Committee on Commerce.

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

By Mr. MURPHY:

S. 4015. A bill to amend title 10 of the United States Code to establish an equitable survivors' annuity plan for the uniformed services; to the Committee on Armed Services.

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

S. 4003—INTRODUCTION OF THE CORPORATE PARTICIPATION ACT

Mr. MUSKIE. Mr. President, I introduce for myself and the Senator from Missouri (Mr. EAGLETON) a bill to expand the right of American shareholders to participate more effectively in corporate decisionmaking.

Few aspects of American life fail to be influenced by the actions of our major corporations. Decisions made in the board rooms of large corporations have lasting effects on the quality of life of each American. Many American corporations far outstrip in total revenues the production of every nation except our own and the Soviet Union. The financial resources controlled by the giants of industry are greater than most nations.

We rely primarily on the profit motive to guide corporations toward our social purposes. The profit motive often increases public welfare but, on occasion, profit maximization produces results which destroy our countryside or reduce the quality of life in our society.

One way to increase the effectiveness with which corporations serve society is to increase the voice of shareholders on issues which affect them both as owners of corporations and as citizens in their everyday lives. By providing another channel for shareholders to direct their corporations to advance the general welfare, this bill attempts to improve corporate responsiveness to social and environmental issues.

We are a Nation of many stockholders. Some 26 million Americans are direct owners of securities in domestic corporations. Another 100 million participate in the securities markets through investment companies, pension fund, trust funds, and similar types of institutional investing.

Americans are becoming increasingly aware of the need to solve our common

problems through available channels. The public is concerned about the environment, housing, mass transportation, consumer protection, and product safety. Expression of these concerns can and should be permitted through corporate democratic processes.

The bill I am introducing grants to the stockholding public the opportunity to participate, in an effective way, in the corporate decision process. However, as was demonstrated recently when General Motors' shareholders defeated shareholder proposals motivated by concern for the general welfare, the likelihood of success for socially motivated proxy proposals is not now very great. Indeed, few shareholder proposals opposed by management are ever accepted by a majority of shareholders. Nonetheless, the value of shareholder proxy proposals rests not alone in their immediate hope for success but also in their ability to apprise management of the intensity of stockholder concern over the manner in which the corporation is conducting business.

Shareholders have three alternatives for expressing their dissatisfaction within the framework of corporate government. They may engage management in a proxy contest by soliciting their own proxies. Or they may request management to include stockholder proposals in management's proxy.

A divesting stockholder has no real effect on corporate policy. By selling, he is only disenfranchising himself.

The second alternative, of soliciting proxies in compensation with management, involves extraordinary expense and therefore is not a practical alternative for stockholders wishing to change corporate policies.

The only viable method available to shareholders to communicate with other shareholders and to challenge management's policies is by the use of the shareholder proposal.

Section 14(a) of the Securities Exchange Act of 1934 authorizes the Securities and Exchange Commission to regulate the solicitation of proxies. That section was enacted because the increasing geographic dispersal of shareholders in the 1920's had made personal attendance at stockholders' meetings impractical for a majority of shareholders, leaving them without an effective voice in corporate affairs. Accordingly, under section 14(a) the SEC has given stockholders the right to include shareholder proposals of certain kinds in management proxy materials. However, the SEC regulations permit management to exclude stockholder proposals which promote "general economic, political, racial, religious, social or similar causes."

It is clear from the early interpretations of this regulatory language that it was intended, quite properly, to prevent shareholders from raising issues of general public concern over which the corporation had no control. Recently, however, the SEC has interpreted this language to prevent inclusion in proxy materials of shareholder proposals for actions which are within the corporation's control—for example, whether or not the corporation should discontinue manufacture of one of its products—on the ground that the purpose of the proposal involved promotion of a social or political cause.

This interpretation by the SEC is contrary to the purpose of section 14(a) which was to promote shareholder suffrage by giving shareholders the right to vote on any issue of major corporate policy regardless of whether or not it might have some relevance to broader questions of social policy. It may well be that a majority of shareholders will vote against proposals for major company actions which have some relevance to improving our environment or bettering race relations. But at least they should have the chance to vote.

Accordingly, the bill which I am introducing would amend section 14(a) of the 1934 act to provide that, as long as the proposed action is one within the control of the corporation, the SEC may not permit corporate management to refuse to include that proposal in its proxy materials simply because the proposal may in some way also relate to an economic, political, racial, religious or social cause. Passage of this bill will assure that the original purpose of section 14(a)—to promote shareholder suffrage—is not eroded.

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

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

The bill (S. 4003) to amend the Securities and Exchange Act of 1934 to expand the right of American shareholders to participate in corporate decision making introduced by Mr. MUSKIE (for himself and Mr. EAGLETON), was received, read twice by its title, referred to the Commitee on banking and Currency, and ordered to be printed in the RECORD, as follows:

S. 4003

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

SECTION 1. This Act may be cited as the "Corporate Participation Act."

SEC. 2. Section 14(a) of the Securities and Exchange Act of 1934 is amended to add after "section 12 of this title" the following sentence:

"Inclusion in such solicitation of a proposal submitted by a security holder shall not be prohibited on the ground that such proposal may involve economic, political, racial, religious or similar issues, unless the matter or action proposed is not within the control of the issuer."

S. 4004—INTRODUCTION OF A BILL TO LIMIT MEMBERSHIP ON NATIONAL SECURITIES EXCHANGES

Mr. BENNETT. Mr. President, on behalf of the Senator from Alabama (Mr. SPARKMAN), the distinguished chairman of the Senate Banking and Currency Committee, and myself, I introduce legislation which would limit membership on securities exchanges.

This legislation deals with a potential problem of major importance to America's business and financial communities and to the welfare of its people.

The problem arises because of the enormous growth of institutions that are managers of other peoples' money—mutual funds, investment companies, banks and insurance companies.

These institutions are vital, important and valuable parts of the American economy. They serve indispensable purposes in marshaling and investing public money in useful and essential enterprises, as well as in the performance of their own primary functions.

But our Nation, our economy, our system of free enterprise and open-door opportunity, depend upon diversity and a multiplicity of the sources of money available to American business, and upon a free and diversified market for securities.

American business enterprises must have available to them the opportunity to appeal to a large number of sources for the capital that they need.

They must be assured that the price tag for their securities, from day to day—the value placed upon the worth and prospects of their business—is arrived at in a free and open market, reflecting the judgment of hundreds and thousands of investors and dealers, and not just the judgment of a handful of vast institutions or money managers, however competent or sincere they may be.

In short, American business enterprises require a wide open, auction market in which public investors as well as owners of huge blocks of their securities participate as buyers and sellers and traders, all operating under rules designed to protect the interests of all.

The dynamic growth of American industry and business has, in large part, been due to the availability of just such a market, principally represented by the New York Stock Exchange and the American Stock Exchange, as well as smaller, regional exchanges.

Under the Securities Exchange Act of 1934, these national securities exchanges have been open, public markets, operating under stringent and effective regulation pursuant to their own rules and the regulations and surveillance by the Securities and Exchange Commission.

The system has worked well. It is not perfect, and in our volatile economy, it is constantly faced with the need for adjustments to meet changing circumstances. The New York Stock Exchange, for example, is certainly the preeminent securities market in the world to which hundreds of thousands of people and thousands of businesses resort with confidence that it is not dominated by any special group or segment and that it is truly a public auction market, registering the views of thousands of investors and independent broker dealers.

This enviable reputation of our securities exchanges is the result of the fact that they have been operated by members who are subject to rigid controls and who are predominantly agents for the investing public.

In 1969, only 7 percent of the trading on the New York Stock Exchange was by members for their own account, excluding, or course, the operations of

specialists, floor traders and odd-lot brokers.

The members of the exchange are predominantly agents, executing the orders of others, fashioning the rules of the exchange and conducting its operations, responsive to the needs and interests of their clients who are the investing public and broker-dealers throughout the Nation.

There is concern now, however, in some quarters, that this system may be threatened by proposals that institutions, managers of vast funds that they accumulate from the public primarily by means of the sales of mutual fund interests and insurance policies, should be permitted also to be members of the stock exchanges, either directly or through subsidiaries that they will acquire or have acquired.

These institutions, it is estimated, control more than $200 billion of capital funds.

The magnitude of the impact that membership by institutions would have on the securities exchanges can be judged by the fact that during the first half of 1969, a total 54 percent of the share volume of orders executed by members of the New York Stock Exchange, and 60 percent of its total dollar volume, represented trading by institutions, including banks.

If institutions representing a substantial part of this volume were members of the exchange, directly or through subsidiaries, it is not too difficult to foresee the possible consequences.

First. Many independent brokers and dealers throughout the Nation, in large numbers, would be absorbed or would simply go out of business because of the lack of volume.

Second. The thousands of public investors who now rely on the judgment of those broker-dealers would be deprived of that judgment and would be forced to create new relationships with broker-dealers whom they do not know.

Third. To add the power of the broker-dealer to the power of the actual investor would create an enormous concentration of financial power in those institutions, creating units of power which could dominate the markets by their own actions as well as by their potential for influencing the public and others whose business they handled as broker-dealer members of the exchanges.

Fourth. American business enterprises would no longer be able to rely upon thousands of public investors and broker-dealers to make the market in their securities by their independent judgments. Control of prices for their securities and the evalution of their business would be in the hands of relatively few institutions.

Fifth. American business enterprises which need capital for expansion or refunding would be at the mercy of these institutions. They would no longer be able to turn with assurance to the general public and the strong, nationwide network of independent broker-dealers and investment bankers. A few institutions would have the power to decide the fate of all new enterprises that sought to obtain the financing needed to enter business or to expand or to refinance.

Sixth. The public auction aspect of the market represented by the exchanges would largely disappear. Trading would no longer truly reflect the diverse views of thousands of investors and broker-dealers. Liquidity—the essential condition of public participation in the securities market and of financial stability—would be seriously reduced because trading would be in the hands of relatively few institutions. It is by no means inconceivable that the exchanges as we know them today could no longer continue to exist if this happened. We have already seen the virtual disappearance of an exchange market in bonds, and if the volume and number of trades in stocks were to be severely reduced as a result of the dominance of institutions trading in large blocks, the business of the exchanges would necessarily tend to diminish to the point where their continuance would no longer be feasible.

Seventh. The institution members of the exchanges could dominate the operations and control the rules of the exchanges, including the structure of rates charged to execute buy and sell orders; and it is possible that public investors would suffer.

I do not believe that we as a nation desire this type of concentration of financial power.

Many institutions realize this and are opposed to opening the doors of the exchanges to institutional membership. I should like at this point to offer for the record a statement made by Edmund A. Mennis, senior vice president of the Republic National Bank of Dallas, Tex., and of Howard Stein, president of the Dreyfus Fund.

Each of these men, speaking on behalf of the institution with which he is connected, cogently presents reasons why institutional membership should not be permitted.

I also call attention to the statements of John L. Loeb, senior partner of the banking house Loeb, Rhoades & Co., against institutional membership. Mr. Loeb's statements were introduced in the CONGRESSIONAL RECORD by the distinguished junior Senator from New York (Mr. GOODELL) and appear in the RECORD for April 23, 1970, on page 12792.

I would like to mention some of the reasons why the idea of institutional membership on the exchanges should be carefully studied by the Congress before it is permitted.

In the nature of the operations of securities exchanges, the number of members must be limited. Obviously, not all financial institutions can possibly be members. Thus, a mutual fund or an insurance company which achieves membership would have a competitive advantage over a company engaged in the same business which is not a member, or over any company, such as a bank, which is also engaged in money management, but is not able to become a member. The member institution would have the benefit of lower transaction rates which are necessarily accorded to members. It would have the advantage of access to information which comes from representation on the floor of the exchange. It would have and be able to exploit the prestige of exchange membership. It would have the extra power to affect prices that would be incident to its influence with public customers, as a broker-dealer member.

Next, and of the utmost importance, is the fact that institutions cannot be members of an exchange, either directly or through a broker-dealer subsidiary, without raising the question of potential conflicts of interest.

For example, if an institution were a member, it would vote on commission rates for executing transactions. If so, it could naturally be expected to favor substantially reduced rates on large-block trades which are characteristic of institutions. If so, it could be making a choice contrary to the interests of small investors because the total yield from commission rates must cover the expenses of operating the exchanges and the professionals who use its facilities—and the lower the rate for big blocks, the higher must be the rate for little ones.

Perhaps more alarming than this prospect, however, is the conflict of interest that the institution-member would have to face in connection with its dual position when it is both trading for its own account and as a broker-dealer representing the public. If the institution, for example, decided to sell General Motors stock in its own portfolio, would it not have a duty to advise all of the public customers of its broker-dealer-member subsidiary also to sell General Motors? If it did not do so, would it not be subject to criticism of proceeding in bad faith? If, on the other hand, an institution which had membership on the exchange through a broker-dealer subsidiary and also had many public customers, simultaneously sold its own holdings and advised its public-investor customers to sell, it could be greatly accentuating a market swing, and in any event, it would be prejudicing its own position by advising public investors to sell and thereby risk depressing the market upon which it, also, would be selling.

It can also be expected that if the broker-dealer subsidiary became a member of an exchange, it would in time engage in the underwriting of securities of other corporations. Dangerous conflict of interest problems could arise if the institution-member has undertaken an unsuccessful underwriting commitment which its parent is in a position to liquidate by investing money which it is managing for the public. The dangers inherent in this type of conflict was one of the factors which led Congress to separate commercial and investment banking in the Glass-Steagall Banking Act of 1933.

It is for these reasons that I am introducing this bill which would amend the Securities Exchange Act of 1934 to require that national securities exchanges, by their own rules, provide that no person may be a member of the exchange or a parent of a member unless it is primarily engaged in the transaction

of business as a broker or dealer in securities. This bill is drafted so that the Securities and Exchange Commission and the various exchanges can implement its provisions by specific definitions, adapted to their special needs.

I should point out, Mr. President, that there are some problem areas in this proposal which I would like to call to the attention of the Senate.

First, it is my understanding that there are some institutions such as mutual funds which have membership on one or more of the regional stock exchanges. This bill as introduced would prohibit such membership. This problem, of course, requires careful examination, which I am sure the committee is prepared to give.

Second, there are also some institutions such as mutual funds that are owned by or affiliated with broker-dealers which are members of the New York and other stock exchanges. This bill would permit continuation of that situation. This problem also has to be carefully explored, and again, I feel that the committee will give it careful consideration.

Mr. President, the recent turbulence in the securities exchanges has raised many questions about the whole process of buying and selling in which they are involved. It has also focused attention on the possible permanent effects of the trading in very large blocks of stock by mutual funds and other volume stockholders.

This combination further affected by the need to find new methods of handling the paperwork involved in daily volume often far above 10 million shares suggests that the time has come when Congress should take a new look at the organization and operation of these exchanges. It is against this background that the problem of institutional membership must be studied and evaluated.

To that end this bill is offered not as a solution but as a point of departure to give all factors in the industry a chance to help us work out a new pattern or confirm that the present one is acceptable.

I hope that the Senate Banking and Currency Committee can find time on its program for early hearings and consideration.

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

The bill (S. 4004) to limit membership on national securities exchanges, introduced by Mr. BENNETT (for himself and Mr. SPARKMAN), was received, read twice by its title, and referred to the Committee on Banking and Currency.

S. 4005—INTRODUCTION OF A BILL TO PROHIBIT THE USE FOR POLITICAL PURPOSES OF CERTAIN FUNDS COLLECTED BY LABOR ORGANIZATIONS FROM THEIR MEMBERS

Mr. DOMINICK. Mr. President, on behalf of myself, Mr. BENNETT, Mr. CURTIS, Mr. TOWER, and Mr. THURMOND, I introduce, for appropriate reference, a bill to amend the Labor Management Reporting and Disclosure Act of 1959 so as to prohibit the use for political purposes of certain funds collected by labor organizations from their members, and for other purposes.

Direct use of union dues money for supporting presidential, senatorial, or congressional candidates in campaigns is now illegal under title 18, section 619, of the United States Code. However, labor leaders can and do use dues money in State and local elections; and, as we all know, it is quite simple to get around this law by setting up a separate committee to support political candidates. This is frequently accomplished with only the thinnest veil of disguise.

When this happens, the individual union member from whom these funds are obtained has no choice of how the moneys are to be used. The choice of financially supporting particular candidates is that of union leaders, not the individual union members. The individual member is often put in the position of contributing to the support of a candidate with whom he does not agree. The only remedy available to a union member is to bring a law suit to get back part of his dues if he does not agree with the union leader's choice of candidates. This remedy is expensive, inadequate, and, in reality, impractical. The cost of such a law suit, even in the nature of a class action, would be many times that of the dues paid. The remedy is fine in theory; in reality, it is nonexistent.

Mr. President, my bill is of particular importance in today's society where the political funds of a large union coupled with the impact of today's sophisticated communications media could reverse the outcome of an election. My bill would not halt a union from having this amount of political influence if it were accomplished by finances voluntarily paid by union members and collected separately from dues. Nor would my bill prevent unions from using union funds for lobbying or other purposes directly related to legitimate labor ends. It would only preclude a union from using any dues money collected from a member covered by an agreement requiring membership in such labor organization as a condition of employment for political purposes.

The net effect of my bill would be to allow all union members to contribute or not contribute to the political cause of their choosing. This would be accomplished without dilution of legitimate union political influence.

This bill is a fair and equitable solution to the serious problem of abuse of individual political rights. I hope that my colleagues in the Senate will support such necessary legislation.

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

The bill (S. 4005) to amend the Labor-Management Reporting and Disclosure Act of 1959 so as to prohibit the use for political purposes of certain funds collected by labor organizations from their members, and for other purposes, introduced by Mr. DOMINICK (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

S. 4006—INTRODUCTION OF A BILL TO MAKE IT AN UNFAIR LABOR PRACTICE FOR A LABOR ORGANIZATION TO DISCRIMINATE ON ACCOUNT OF RACE, COLOR, RELIGION, OR NATIONAL ORIGIN

Mr. DOMINICK. Mr. President, on behalf of myself, Mr. BENNETT, Mr. PACKWOOD, and Mr. TOWER, I introduce, for appropriate reference, a bill to amend the National Labor Relations Act so as to make it an unfair labor practice for a labor organization to discriminate on account of race, color, religion, or national origin.

The past several years have seen an awakening of the American conscience to the realization that discrimination still exists in America and that the American minority groups do not have an equal opportunity in our society.

Following that realization came a flurry of activity in American courts and legislatures seeking to undo almost 200 years of discrimination. The result of all this activity has been significant and beneficial steps toward equal opportunity for all Americans in such areas as voting, housing, and education. But before the flurry subsides and before the American conscience can rest there is much to be done.

The area of equal employment opportunity is one area of civil rights which must be improved. It is particularly offensive to see the backbone of our free enterprise system wracked with employment discrimination. Employment discrimination becomes more offensive as it grows in scale and practice. For this reason my bill is aimed at the largest and strongest factor in the labor field today, the labor unions. Labor unions, through their power as certified exclusive bargaining agents of the employees, are in a perfect position to control hirings, firings, advancements, seniority, and other employment practices which easily lend themselves to abuse.

Certainly my bill is not the first to realize and attempt to attack the problem. Hopefully, mine will prevail where others failed. Various Presidents have seen the gravity of the situation and have acted on a very limited scale to control employment discrimination through the issuance of executive orders. These orders only forbade discrimination as involved in Federal contracts, a minor segment of the labor world. Congress enacted the Civil Rights Act of 1964, which created the Equal Employment Opportunity Commission in title VII. The primary function of the EEOC was to enforce employment equality but it was not delegated enough sanction power to accomplish its function. Attempted Supreme Court enforcement of title VII has proven more effective but legal technicalities have prevented the Court from achieving full implementation of title VII intent.

My bill would remedy the heretofore confused state of the law by placing

union employment discriminations where they rightfully belong, under the unfair labor practices of the National Labor Relations Act. This would place such acts under the jurisdiction of the National Labor Relations Board; the net result being faster and cheaper enforcement of a national policy by an organization which is more conversant with unions and their hiring practices.

Mr. President, I am sure that all Americans of conscience will support this act. I ask my colleagues to do the same.

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

The bill (S. 4006) to amend the National Labor Relations Act so as to make it unfair labor practice for a labor organization to discriminate on account of race, color, religion, or national origin, introduced by Mr. DOMINICK (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

S. 4007—INTRODUCTION OF A BILL TO REQUIRE THAT EMPLOYEES VOTING IN CERTAIN ELECTIONS BE AFFORDED AN OPPORTUNITY TO VOTE AGAINST REPRESENTATION BY ANY INDIVIDUAL OR ORGANIZATION

Mr. DOMINICK. Mr. President, on behalf of myself, Mr. BENNETT, Mr. TOWER, and Mr. THURMOND, I introduce for appropriate reference a bill to amend the National Labor Relations Act and the Railway Labor Act so as to provide for the certification of representatives only upon vote by secret ballot of 50 percent of employees entitled to vote in the election, and to require that employees voting in such elections be afforded an opportunity to vote against representation by an individual or organization.

During the past 35 years much effective and beneficial labor legislation has been enacted. Original labor legislation curtailed the powers and abuses of management by strengthening labor's position by providing effective labor union machinery. Strengthened labor unions provided sufficient protection from management abuses but created an environment where labor union domination lead to union abuse of the workers. Later legislation, principally the Labor Management Reporting and Disclosure Act of 1959, sought to rectify this imbalance by specifically protecting various individual rights from union abuse. The 1959 act was effective but it failed to protect some inviolable individual rights. One such right left unprotected was the democratic principle of majority rule.

One of the most important factors in the collective bargaining process is the choice of the union which is to be the exclusive bargaining agent for the whole unit. The present status of labor law is such that a minority of the laborers can choose the exclusive bargaining agent. Today, the National Labor Relations Board will recognize a union as the exclusive bargaining agent for a unit if such union presents authorization cards signed or forged by a substantial number of the unit laborers. Certification elections are won by a majority of those voting rather than a majority of the unit.

This bill eliminates such questionable practices by requiring that an election be held in every contest for union representation, thus eliminating the authorization card technique.

It also provides that in any election a majority, as opposed to a plurality, of employees must vote for a specific union before its representation will be certified as valid. In the event that a majority preference for a specific union or nonrepresentation is not evinced, then a runoff election will be held in order to determine the final choice of the employees. Finally, the bill requires that each ballot specifically provide a choice for "no union representation," thus making clear to the employee that he does have a choice.

Mr. President, this bill simply guarantees laborers the same election rights that all the rest of us take for granted.

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

The bill (S. 4007) to amend the National Labor Relations Act and the Railway Labor Act so as to provide for the certification of representatives only upon vote by secret ballot of 50 percent of employees entitled to vote in the election, and to require that employees voting in such elections be afforded an opportunity to vote against representation by any individual or organization, introduced by Mr. DOMINICK (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

S. 4008—INTRODUCTION OF A BILL TO MAKE IT AN UNFAIR LABOR PRACTICE TO REQUIRE A PERSON WHO CONSCIENTIOUSLY OBJECTS TO MEMBERSHIP IN A LABOR ORGANIZATION TO BE A MEMBER OF SUCH AN ORGANIZATION AS A CONDITION OF EMPLOYMENT

Mr. DOMINICK. Mr. President, on behalf of myself, Mr. BENNETT, Mr. TOWER, and Mr. THURMOND, I introduce for appropriate reference, a bill to amend the National Labor Relations Act so as to make it an unfair labor practice to require a person to join a labor organization as a condition of employment where such person's religious beliefs are contrary to labor organization membership.

The first amendment of the Constitution recognizes and protects the free exercise of religious belief in the United States. Just as important as the written first amendment is the unwritten fundamental tradition of religious freedom in America. This tradition was born with our Founding Fathers who colonized America to avoid religious persecution in Europe.

There are people in the United States today who are inadvertently being denied their freedom of religion. These are the people who belong to religious denominations which believe that membership in or support of a labor organization is wrong. Members of these denominations are forced to violate their religious conscience and join labor unions or suffer the obvious economic consequences.

My bill would protect the religious freedom of these people by allowing them to work for an employer without being required to join or financially support a union organization. It protects the religious beliefs of union members without allowing them to avoid dues paying responsibilities, by providing that in lieu of paying dues, the individual contribute a like amount to any nonreligious charitable fund exempt from taxation under section 501(c)(3) of the Internal Revenue Code. The particular charity would be designated by mutual consent of the individual and the union.

Admittedly the number of persons affected by my bill would be relatively small, although more than many people would suppose. The number affected is not relevant because religious freedom should never be predicated on practical political factors of majorities or votes.

Mr. President, my bill perhaps seems inconsequential to many people, but who are we or they to deny a very important and fundamental right to those people who have different religious views than our own. We must correct this situation as rapidly as possible so that our practices are consistent with our fundamental principles.

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

The bill (S. 4008) to make it an unfair labor practice to require a person who conscientiously objects to membership in a labor organization to be a member of such an organization as a condition of employment; introduced by Mr. DOMINICK (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

S. 4009—INTRODUCTION OF A BILL TO MAKE IT AN UNFAIR LABOR PRACTICE FOR A LABOR ORGANIZATION TO IMPOSE SANCTIONS AGAINST ITS MEMBERS FOR EXCEEDING PRODUCTION QUOTAS

Mr. DOMINICK. Mr. President, on behalf of myself, Mr. BENNETT, Mr. TOWER, and Mr. THURMOND I introduce for appropriate reference a bill to amend the National Labor Relations Act so as to make it an unfair labor practice for a labor organization to impose sanctions against its members for exceeding production quotas.

The foundation of our economic system rests firmly on the principle that a person shall be compensated proportionately to the labor that he expends. Under our system no one is compensated for the labor of others and conversely no one is thwarted or retarded by the accomplishments of his coworkers. Our free enterprise system encourages and rewards individual accomplishments.

Many of the leading citizens of this country rose from humble beginnings. Where would these people be today without the incentive and impetus of the competitive free enterprise system?

A recent decision of the National Labor Relations Board indicates that per-

haps the above principles no longer apply in today's labor markets. The Board upheld the right of unions to set production quotas and enforce the quotas by appropriate sanctions. Thus, an efficient employee who produces more than a set quota can be fined or otherwise punished.

This decision discourages and frustrates the efficient employee and encourages and supports the mediocre laborer. My bill would rectify this present status of the law by denying the unions the power to set and enforce production quotas.

The result of my bill would be to once again encourage each employee to work to the best of his abilities and be proportionately compensated for his labors without being restricted by arbitrary union quotas.

Management would benefit by receiving efficient work rather than the previous token labor efforts in return for labor expenses. Unions would surely support this effort to remove quotas and thus remove earning ceilings. The only detractors to my bill would be the previously protected lazy and inefficient employees.

Mr. President, I know that the industrious working men and women of this country will support my bill. I hope that my colleagues in the Senate will do likewise.

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

The bill (S. 4009) to amend the National Labor Relations Act so as to make it an unfair labor practice for a labor organization to impose sanctions against its members for exceeding production quotas, introduced by Mr. DOMINICK (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

Mr. TOWER. Mr. President, I wish to commend the distinguished Senator from Colorado (Mr. DOMINICK) for reintroducing the five bills to reform existing labor legislation under the National Labor Relations Act and the Railway Labor Act.

I am proud to be a cosponsor of all of these bills. Labor reform is an area to which Congress should be giving a great amount of attention in light of the recent turmoil in labor-management relations. Passage of the bills just introduced by Senator DOMINICK would be a great step toward improving our existing labor laws. The time for reform is long overdue.

I think we can all admit that the amazing growth of collective bargaining has strengthened the negotiating position of blue collar workers, which in turn has contributed to the strengthening of the free-market economy. Union growth has paralleled the growth of business and management to produce a unique balance in labor-management relations: A relationship not found in centrally directed authoritarian systems.

However, it should always be the job of those who write the laws to insure the continuation of this balance in labor-management relations. For the most part, Congress in the past has reacted responsibly to this task. The result of this action has been represented by the passage of such monumental legislation as the Fair Labor Standards Act, the Railway Labor Act, the Taft-Hartley Act, and the Landrum-Griffin Act. The need for this legislation was apparent at the time of its passage. However, the responsibility of Congress is a continuing and updating process, and it must recognize the need for revision of existing laws already on the books.

The Senate's consideration and eventual passage of the bills I now cosponsor with Senator DOMINICK would assist in maintaining this balance. More important, however, it would protect the rights of both union and nonunion workers whose protection should be foremost in the minds of those debating this type of legislation. In many instances, in my opinion, the rights of the individual laborer have been either forgotten or abused for the purpose of promoting the interests of a few who maintain that they speak for the entire American working force. The individual's rights within the working community should and must be protected. Therefore, I urge prompt consideration of the bills just introduced and explained by Senator DOMINICK of Colorado.

S. 4013—INTRODUCTION OF A BILL TO PROHIBIT CERTAIN COMBINATIONS AND CONTROL BETWEEN ELECTRIC AND GAS UTILITIES

Mr. METCALF. Mr. President, I introduce for appropriate reference a bill to require divestiture of combination gas-electric companies, and other interlocking interests between these forms of energy.

There presently are 78 such combination companies. Together they account for 43 percent of the total sales of electric power by private companies.

I offer this legislation because competition between electricity and gas induces lower rates and better service. We need more competition to curb inflation.

The record made during 6 days of hearings by the Senate Antitrust and Monopoly Subcommittee, headed by the distinguished senior Senator from Michigan (Mr. HART), shows that it is time to rein in galloping oligopoly in the energy industries. Oil companies have acquired the major coal companies. Large investor-owned utilities are leasing coal reserves crucially important to municipal electric systems. The traditional source of federally generated electricity—hydropower—is a steadily decreasing component of our total generation. And in a giveaway scheme worse than Dixon-Yates, the administration has proposed the sale of the Federal Government's uranium enrichment plants to private industry.

The right to choose—one of the basic consumer rights enunciated by President Kennedy—is a sharply diminished right for utility consumers. As their options in shopping for utility service dwindles, the control of energy accumulates in fewer and fewer hands, farther and farther removed from the ineffectual regulatory commissions and the public, whose only function is to pay the bills emitting from distant computers.

Mr. President, the legislation today introduced is supported by officials of straight gas companies. They point out that investors in straight gas companies do as well as investors in combination companies, but that straight gas companies provide more service at lower rates, because they have to compete. Later in my remarks I shall include in the record pertinent comments by President Robert H. Willis of the Connecticut Natural Gas Corp. Part IV of the hearings on S. 607, the utility consumers' counsel bill, also includes supporting commentary from William J. Crowley, executive vice president of the American Gas Association.

However, the Edison Electric Institute, which represents combination and straight electric companies, has hedged on the important question of competition through divestiture. I hope that the spirit of the Fourth of July will imbue EEI speakers with the good old American free enterprise competition concept embodied in my bill.

It is my hope, Mr. President, that the industries and agencies affected by this bill and other interested parties will offer their comments on it during the next 6 months. I intend to reintroduce the bill, or a revision incorporating suggested changes, early next year, and to request hearings at that time.

Mr. President, I ask unanimous consent to include at this point in the RECORD the text of the bill, remarks by Robert H. Willis, president of the Connecticut Natural Gas Corp., and the names of the 78 combination companies.

The PRESIDING OFFICER (Mr. SPONG). The bill will be received and, by unanimous consent, referred to the Committee on the Judiciary; and, without objection, the bill, statement, and list of combination companies will be printed in the RECORD.

The bill (S. 4013) to prohibit certain combinations and control between electric and gas utilities, introduced by Mr. METCALF, was received, read twice by its title, referred to the Committee on the Judiciary by unanimous consent, and ordered to be printed in the RECORD, as follows:

S. 4013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Power Act is amended by inserting at the end thereof a new part as follows:

PART IV—SEPARATION BETWEEN ELECTRIC AND GAS UTILITY FACILITIES, OPERATIONS, AND INTERESTS

SEC. 401. Declaration of Policy. It is declared that the national public interest, the interests of consumers of electrical and gas services, and the interests of the national defense in a strong and competitive energy industry, may be materially affected when the generation, transmission, distribution or sale of electricity and gas are under common ownership or control within, or outside, a general sales area; and that it is in the national interest to promote inter-energy competition between electricity and gas whenever possible, and to ensure that their rates and the quality of their services, shall relate to costs of providing such forms of energy, as well as to the independent management decisions of their respective operations.

SEC. 402. Definitions. As used in this Part, unless the context otherwise requires—

(a) The term "person" means an individual or company.

(b) The term "company" means a corporation, a partnership, an association, a joint stock company, a business trust or an organized group of persons, whether incorporated or not; or any receiver, trustee or other liquidating agent of any of the foregoing in his capacity as such; having an annual gross operating revenue in excess of $1 million; but not including any cooperatively, federally, municipally, or other publicly owned person, company or organization.

(c) The term "electric utility" means any company which owns or operates facilities used for the generation, transmission or distribution of electric energy for sale, other than sale to tenants of the employees of the company operating such facilities for their own use and not for resale.

(d) The term "gas utility" means any company which owns or operates facilities used in the production, generation or distribution of natural or manufactured gas for heat, light and power (other than distribution to tenants or employees of the company operating such facilities for their own use and not for resale.)

(e) The term "control" means actual as well as legal control, whether maintained or exercised through or by reason of the method or circumstance surrounding organizations or operations, through or by common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or through or by any other direct or indirect means, and also includes the power to exercise control.

(f) The term "commission" means the Federal Power Commission and a member thereof, respectively.

SEC. 403. Prohibited Conduct. On or after January 1, 1972, it shall be unlawful:

(a) for any electrical utility, directly or indirectly, to own or operate facilities used in the production, generation or distribution of natural or manufactured gas for heat, light and power; and for any gas utility, directly or indirectly, to own or operate facilities used for the generation, transmission or distribution of electric energy for sale;

(b) for any electric utility, or any person controlling, controlled by, or under common control with such a utility, directly or indirectly, to acquire any interest in or control of, or to continue to maintain any interest in or control of, any gas utility;

(c) for any director, officer, or agent of an electric utility or of any person controlling, controlled by, or under common control with such a utility, in his or their own personal pecuniary interest, to own, lease, control, or hold any interest in any gas utility, directly or indirectly;

(d) for any gas utility or any person controlling, controlled by, or under common control with such a utility, directly or indirectly, to acquire any interest in or control of, or to continue to maintain any interest in or control of, any electric utility; or

(e) for any director, officer, or agent of a gas utility or of any person controlling, controlled by, or under common control with such a utility, in his or their own personal pecuniary interest, to own, lease, control, or hold any interest in, any electric utility, directly or indirectly.

SEC. 404. Authority of the Commission: Investigation and Enforcement.

(a) The Commission is hereby authorized, upon complaint, or upon its own initiative without complaint, but after notice and hearing, to investigate and determine whether any person is violating any of the provisions set forth in Section 403 of this part. If the Commission finds after such investigation that any person is violating any of such provisions, it shall by order require such person to take such action as may be necessary, in the opinion of the Commission, to prevent continuance of such violation. The provisions of the subsection shall be in addition to, and not in substitution for, any other enforcement provisions contained in, or applicable for purposes of enforcement of, this Act.

(b) The district court of the United States shall have jurisdiction upon the complaint of the Commission or any other party in interest, alleging a violation of any of the provisions of Section 403, or disobedience of any order issued by the Commission thereunder by any person; and to issue such writs of injunction or other proper process, mandatory or otherwise, as may be necessary to restrain such person from violation of such provision or to compel obedience to such order.

(c) The Commission may from time to time, for good cause shown, make such orders supplemental to any order made under the foregoing provisions of this section as it may deem necessary or appropriate.

SEC. 405. Penalties. Any individual who willfully violates any provisions of this Part or any rule, regulation or order, thereunder, shall upon conviction be fined not more than $100,000 or imprisoned for not more than two years or both, except that in a case of violation by a person which is not an individual the fine imposed upon such person shall be a fine not exceeding $1,000,000.

The material presented by Mr. METCALF is as follows:

ARE COMBINATION UTILITIES IN THE PUBLIC INTEREST?

(By Robert H. Willis, president, Connecticut Natural Gas Corp.)

Honorable moderator O'Connor, fellow panelists and guests. It is an honor and a pleasure to be a panelist in this Second Briefing Conference Toward a Comprehensive National Energy Policy. It so happens that my views on National Energy Policy and on combination utilities are almost identical, namely—that the public interest is served best by policies which stimulate maximum competition amongst energy suppliers.

As the only member of this panel from a non-combination utility operating company, I hope to convince you that a straight gas or electric company, with a marketing strategy dictated by competition, will perform better than a combination company. I am fortunate to represent this position on the panel since it is the one in which I believe deeply. In fact, I hope to prove to you that non-combination companies, which for convenience I will call straight utilities, show *superior* performance.

As would be reasonably expected, my directness in answering the question posed to the panel is based in part on personal prejudice, since I am very much involved in what is referred to in the utility business as a "straight" company. For more than 120 years, Connecticut Natural Gas Corporation, as our name describes, has been serving only one master—gas! More importantly, however, my answer is based on fact and first hand experience.

The superiority of performance of straight utilities lies in the fact that their singularity of energy source carries with it healthy, built-in competition which provides far greater benefits to the public than are possible under two-headed electric/gas, arrangements. Admittedly, a combination company can achieve measurable economies in meter reading, billing and certain administrative expenses, but these fall short of the basic obligation of serving the interests of the public to the fullest. A fair "public interest standard" is the rendering of the highest quality utility service to the greatest possible number of people at the lowest possible costs.

I want to turn shortly to some actual cases from the Connecticut Natural Gas Corporation's service area as the best proof of my thesis that straight utilities serve the public interest better than combination companies, but permit me to succumb for a moment to national statistics. The annual survey of gas appliance use in residential dwellings compiled by the American Gas Association Bureau of Statistics shows:

(1) That 12% more new homes install gas heat in straight gas company service areas than in combination company areas.

(2) That the number of new homes *without* available gas service has increased from 15% in 1963 to 19% in 1966 for combination companies compared with a constant 11% for straight companies.

(3) That competition for the air conditioning market made gas air conditioning available to ten times the number of new multi-family structures using gas in straight gas company areas than in combination company areas.

(4) That average gas use per residential customer is 9% higher in straight gas utility areas than is gas use in combination company areas.

(5) That average residential gas rates are 75% *higher* in combination company areas than in straight gas areas.

(6) That average residential gas rates have been *declining* in straight gas areas over the last three or four years while these rates have not declined in combination company areas.

This past January, a distinguished panel made a straight vs combination company presentation to the New York Society of Security Analysts. One of our panelists today also participated in that presentation, defending combination utilities. In that debate there was rather surprising unanimity that the results *for investors* in straight utility companies had been about the same as for those investing in combination companies.

If the conclusion can be accepted as valid, and if the previously enumerated AGA statistics are also supportable, and I believe they are, then only one logical conclusion can be drawn:

If results for investors are the same, but straight gas companies provide more service at lower rates, the straight gas companies must be forced by competition to conduct more efficient operations; the beneficial effects of competitive forces on economy-of-operation must be *substantially greater* than the savings from single meter reading, billing and administrative costs.

I may appear to be critical of the management of combination utilities. Nothing could be further from my intention. Rather, I believe it is inherent that the manager of a combination company carry water on both shoulders. The combination company system requires this. No, the fault is not with management. It is with the system and its lack of the competitive hormone which, in turn, stunts its economic performance with the public.

To focus more clearly on these forces, permit me to deal briefly with several case histories of some first hand comparisons of straight vs combination utility company operations in and near the franchise area of our company.

In Connecticut, we enjoy *no exclusive* franchise to serve the public. In some territories, the state legislature has granted franchise rights to several companies to serve customers with identical utility services. In other areas within the state, the legal background of franchise rights is controversial. In these situations, several utilities find themselves serving the same territory. For example, in 1964, we inaugurated gas service to the Town of Windsor, one of the fastest growing communities in the area; a town that has been served by a combination utility since 1905. During the past 10 years the number of gas customers served by them has remained virtually static while the number of electric customers has increased rapidly. From a standing start in 1964, CNG is pres-

ently supplying one-third the number of gas customers still retained by the combination company.

By 1974, a period of nine years, at the present rate of growth, our company will be serving a far greater number of customers than the number the combination company could retain after seventy years.

Another indication of comparative growth rates in serving the public with gas can be found in the readily available statistics of wholesale gas supply. Algonquin Gas Transmission Company supplies gas at wholesale to the two combination utilities in Connecticut as well as to several straight gas utilities. Our gas requirements have been growing at a rate 17% faster in the last three years than the fastest growing gas operation of the combination companies. In contrast with a 34% growth for Connecticut Natural Gas in requirements from this pipeline supplier, one of the combination companies actually *reduced* its gas requirements ½% in the past three years.

In another case history, one of our large swimming pool dealers built a new sales office, model demonstration area and warehouse in a location served by a combination company. Much of this dealer's business was conducted in our service area. Naturally, he wished to install *operating* swimming pools complete with heaters to keep the water at comfortable temperatures in spring and fall. Unfortunately, in his new location the dealer was 1600 feet from the nearest gas line.

For a contribution of approximately $2,500 from the dealer, the combination utility would install a gas line extension. The same company, however, would run underground electric lines to the dealer's location at no cost whatsoever. When he checked into the shockingly high cost for the electricity required to sufficiently heat his pool water as compared to gas, the dealer came to us for help. Had he located in our service area, the pool dealer's gas requirements would have easily justified our extending a gas line to provide service, but a combination company was unable to find economic justification for anything other than an underground electric extension. Our swimming pool dealer is not alone in his high-priced dilemma. I am aware from conversations with some of our leading builders that this episode is representative of many similar experiences in new home, commercial and industrial construction.

Another interesting point deals with installation of cooking equipment in the home economic kitchens of schools. We believe that it is very important for the future of our business to provide modern equipment for use by future homemakers. Therefore our policy is to install gas ranges in schools within our service area and replace these ranges at least every four years. If natural gas service is not available we still provide the ranges at no cost and arrange for bottled gas service.

Our combination utility neighbors do not provide ranges. Instead, they pressure the large electric appliance manufacturers to provide equipment at no cost to the schools and insist upon replacement every 18 months to two years. As a result in many of the schools in this area, the classrooms are equipped with the most modern electric ranges but the gas ranges are as much as 20 years old and many are inoperative.

Although there are exceptions to the rule, gas operations usually are the minority business in combination gas and electric utilities. It is natural that company managements concentrate their best efforts on the major contributors to their business. Thus, it is not surprising to see and hear the overwhelming preference given to electric advertising in newspapers and on radio and television by combination companies. Gas takes a back seat, if any seat at all, in the advertising scheme.

In many respects, this ability of the combination company to promote and expand one portion of its business while "keeping the lid" on the competing service in the same area, is the best means yet devised for stifling competition which is the life-blood of public utility service. It is both a subtle and effective device but one that cannot be acknowledged by any combination company official.

A series of 1966 hearings before the Connecticut Public Utilities Commission inquiring into utility promotional practices was quite revealing as to the disparity of promotional treatment accorded gas and electric services. A combination company president testified that his company devoted nearly twice as much per unit to the promotion of electric homes as to the promotion of gas homes. Ironically, a second combination utility's cost allocation system showed four to eight times as much promotion is accorded electric units than gas units, while 8% of the electric promotion costs are charged against gas operations and ultimately paid by gas customers.

A word might also be in order on the legal status of combination companies in relation to the Clayton and Sherman Acts. I have the advantage of not being a lawyer and therefore, less constrained with my legal opinions than if I were a member of the profession. However, I have discussed this matter with several specialists in anti-trust law and have been surprised at the degree of unanimity they express.

The Public Utility Holding Company Act contains a presumption in favor of divesture of one of the operations of a combination utility unless the Holding Company could prove serious adverse economic results. This was a statement of Congressional Public policy contained in the Act and seems to imply an antitrust exemption for only one exclusively franchised utility service. Of course, there are no cases directly on the point, and exemptions from the anti-trust laws, if any, seem to have been read into the laws based on the peculiarities of the utility field.

Most franchises are granted by state or local authority, although the Federal Power Commission has the right and duty to award certificates of Public Convenience and Necessity. It seems, possible, therefore, that any governmental authority (Federal, State or Local) which has granted an exclusive franchise to a combination utility to render a second utility service in an area, where one utility service is already rendered, might be engaged in a conspiracy with the combination utility in restraint of trade, if the governmental authority acquiesces in any way in the underdevelopment of one energy source. This may constitute unlawful monopolization in violation of Section 2 of the Sherman Act. The serious injury to competition resulting from the existence of combination utilities is not offset by any substantial benefit to the governmental authority granting a franchise, and no serious governmental interest would be injured by application of antitrust laws by the FTC or Justice Department.

So far, neither the Federal Trade Commission nor the Justice Department has chosen to act under any of the presumptions I have outlined, but time may vindicate my presently "far out" view of the possible legal ramifications of this problem.

In summary, I would like to reiterate that I am strongly in favor of a national energy policy, a policy which to the best of its ability will stimulate competition. In this day of consumerism, A.D. 1968, I am convinced that the free enterprise system is more important than ever, that the consumer wants and is entitled to a choice, and that the *modern* utility is a far different entity than it was just a few years ago when electricity would serve certain markets and gas others. The public charter of a utility is to provide the best possible service to its customers at the most economical cost, realized by the ability to market its services in open competition, with the final choice or decision within the consumer's control.

Total electric operating revenues, 1967

[*In thousands of dollars*]

Arizona Public Service Company, Arizona	78,051
Tuscon Gas, Electric Light & Power Co. Arizona	30,570
Ark.-Mo. Power Co., Arkansas, Missouri	11,922
Pacific Gas & Electric Co., California	600,650
San Diego Gas & Electric Co., California	79,976
Public Service Company of Colorado	103,918
Western Power & Gas Company, Colorado, Kansas	28,457
Connecticut Light & Power Company, Connecticut	118,171
Delmarva Power & Light Co., Delaware	46,436
Florida Public Utilities Co., Florida	2,652
Central Illinois Light Co., Illinois	39,243
Central Illinois Public Service Co., Illinois	78,437
Illinois Power Co., Illinois	116,286
Mt. Caramel Public Util. Co., Illinois	1,606
Southern Beloit Water, Gas & Elec. Co., Illinois	1,536
Northern Indiana Public Service, Indiana	102,340
Southern Indiana Gas & Electric Co., Indiana	24,229
Interstate Power Co., Iowa, Illinois, Minnesota, South Dakota	39,850
Iowa Electric Light & Power Co., Iowa	41,519
Iowa-Ill. Gas & Electric Co., Iowa, Illinois	38,316
Iowa Power & Light Co., Iowa	43,422
Iowa Public Service Co., Iowa, South Dakota	34,006
Iowa Southern Utilities Co., Iowa	19,860
Central Kansas Power Co. Inc., Kansas	5,573
Kansas Power & Light Co., Kansas	53,967
Louisville Gas & Electric Co., Kentucky	63,746
Central La. Electric Co., The, Louisiana	27,969
New Orleans Public Service, Inc., Louisiana	55,963
Baltimore Gas & Electric Co., Maryland	177,017
Fitchburg Gas & Electric Light Co., Massachusetts	6,208
New Bedford Gas & Electric Light Co., Massachusetts	20,291
Consumers Power Co., Michigan	270,086
Michigan Gas & Electric Co., Michigan	5,217
Northern States Power Co., Minnesota	198,415
Mo. Power & Light Co., Missouri	20,450
Mo. Public Service Co., Missouri	21,679
Mo. Utilities Co., Missouri	8,967
Montana Power Co., The, Montana	42,843
Sierra Pacific Power Co., Nevada, California	22,973
Public Service Elec. & Gas Co., New Jersey	387,672
Central Hudson Gas & Elec. Corp., New York	45,412
Consolidated Edison, New York	780,379
Long Island Lighting Co., New York	173,178
N.Y. State Electric & Gas Corp., New York	118,812
Niagara-Mohawk Power Corp., New York	312,208
Orange, Rockland Utilities, Inc., York	30,005
Rochester Gas & Electric Corp., New York	65,927
Montana-Dakota Utilities Co., North	

Dakota, South Dakota, Montana, Wyoming	21,138
Cincinnati Gas & Electric Co., The, Ohio	122,408
Dayton Power & Light Co., The, Ohio	89,656
California-Pacific Utilities Co., Oregon	9,616
Philadelphia Electric Co., Pennsylvania	298,013
United Gas Improvement Co., The, Pennsylvania	8,171
South Carolina Electric & Gas Co., South Carolina	72,092
Northwestern Public Service Co., South Dakota	10,491
Community Public Service Co., Texas, New Mexico	26,559
Citizens Utilities Co., Vermont, Arizona, Idaho	6,490
Virginia Electric & Power Co., Virginia	251,110
Washington Water Power Co., The, Washington	46,468
Lake Superior District Power Co., Wisconsin, Michigan	8,875
Madison Gas & Electric Co., Wisconsin	14,472
Northern States Power Co., Wisconsin	31,553
Superior Water-Light & Power Co., Wisconsin	3,861
Wisc.-Mich. Power Co., Wisconsin	26,990
Wisconsin Power & Light Co., Wisconsin	59,475
Wisconsin Public Service Co., Wisconsin	48,882
Cheyenne Light Fuel & Power Co., Wyoming	3,886

The following companies sell both electricity and natural gas but over 90 per cent of their operations are in one or the other.

Southern California Edison Co., California, Nevada	552,240
Hartford Electric and Light, Co., Connecticut	73,977
Commonwealth Edison Co., Illinois	682,412
Boston Gas Co., Massachusetts	1,685
Missouri Edison Co., Missouri	5,397
St. Joseph Light & Power Co., Missouri	10,945
Union Electric Co., Missouri, Iowa, Illinois	213,002
Otter Tail Power Co., North Dakota, South Dakota, Minnesota	28,169
Toledo Edison Co., The, Ohio	68,389
Gulf States Utilities Co., Texas, Louisiana	133,921

Source: Federal Power Commission.

S. 4014—INTRODUCTION OF THE "EMERGENCY TRANSPORTATION ASSISTANCE ACT OF 1970"

Mr. JAVITS. Mr. President, the recently publicized financial troubles of the Penn Central Railroad make it imperative that Congress act swiftly but reasonably to correct what appear to be structural deficiencies in our rail transportation system. When the largest rail carrier in the United States—the sixth largest corporation in the United States—seeks help under the bankruptcy laws, we cannot stand passively by.

I, therefore, introduce a two-part bill, which is being introduced today also in the House of Representatives by my distinguished fellow New Yorker, Representative OGDEN R. REID, to deal with this rail crisis. My New York colleague, Senator GOODELL, is a cosponsor. Specifically, the bill provides emergency loan guarantee authority of $750 million to assist financially distressed railroads in maintaining essential transportation operations. The bill explicitly safeguards the interests of the taxpayer by stipulating that any loan guarantee must be used solely for railroad transportation purposes. In other words, it is the clear intention of this legislation that funds obtained hereunder shall not be used, directly or indirectly, to assist any nonrailroad aspects of the rail carrier's operations.

Title II of the bill establishes a Joint Congressional Committee on Railroads to conduct a comprehensive investigation of the financial and other problems of the Nation's rail carriers and to make recommendations for solutions of these problems before September 30, 1970. Such an investigation is necessary in order to get at the roots of a problem that encompasses not only the financial aspects of the railroad industry but also geographic factors, competing forms of transportation, structural conditions affecting rail carriers, labor conditions and the effect of regulation of their operations. It is our intention that the Joint Committee therefore include key members of the Commerce Committees, the Banking and Currency Committees, and possibly also of the Labor Committees of both Houses.

I realize that I am not alone in submitting legislative proposals or calling for hearings on the rail crisis. I understand that the administration rail loan guarantee bill—which is quite similar to mine—will be introduced this morning. I also understand that Senator HARTKE is holding hearings on the rail situation at this moment. All of our efforts seek solutions to the same problem and are not, in my view, mutually exclusive.

Mr. President, we should not normally let the bankruptcy of one company be the cause for national concern; but Penn Central's condition is a national issue. This railroad affects our economy in the following major ways:

The Penn Central originates about 20 percent of the railroad industry's total carloads. Equally important, 70 percent of the PC tonnage is interline traffic—that is, handled in conjunction with other railroads. The PC is thus like the mainspring in a watch. If it fails, or if its service is substantially impaired, the total national rail system is affected.

Penn Central owns and operates over 20,000 miles of track in the northeastern part of the United States, extending from Massachusetts to the Mississippi River and from the Great Lakes and Canada to the Ohio River and Washington. It serves 16 States and two Canadian provinces.

The Penn Central handles over 90 million passengers annually. This includes 20 million intercity passengers and 70 million commuters. It operates about 1,300 passenger trains daily, of which 1,100 are commuter trains.

The Penn Central is a significant factor in defense transportation serving 203 military installations.

The Penn Central is a major factor in the Nation's sensitive financial system. It has 120,000 stockholders. Its long-term debt is $2.6 billion, with the bulk held by major life insurance companies. Pension funds and mutual funds are also principal holders of its debt and equity securities.

Penn Central has 94,000 employees. Its weekly payroll amounts to $19 million.

The magnitude of these figures suggests not only the economic importance of the Penn Central but also the necessarily complicated nature of any solution to the immediate problems of the rail industry. Immediate help is necessary, but such help unaccompanied by a comprehensive attack on the structural problems of the industry will only be self-defeating.

In this regard, I commend to my colleagues an editorial in yesterday's Wall Street Journal, which I ask unanimous consent to have printed in the RECORD. While I cannot agree with the editorial word for word, I do believe that it explains how great and how complicated are these problems and how they cannot be solved by loan guarantees alone. A comprehensive approach, such as can be supplied by the joint committee described in my bill, should sort out the issues and give a comprehensive approach to our Nation's rail problems.

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

BAILING OUT THE PENN CENTRAL

No one was entirely happy with the Government's plan to guarantee sizable loans to the Penn Central Transportation Co., and perhaps the Administration was correct in withdrawing from its promise for the time being. In the circumstances, though, some such action now seems in evitable.

Under the bankruptcy petition the company filed yesterday, it will continue to provide vital rail services during the reorganization period. The court-appointed trustees will presumably still need substantial Federal help.

In the current uncertain economic climate, no one can say for sure what the impact of the bankruptcy of so large a corporation will be. The Administration's original aid plan was obviously aimed at preventing damage to Penn Central's suppliers and customers, as well as to its stockholders.

A large part of the company's trouble stemmed from its own mismanagement. There is no guarantee that a new management will be any better, but a change was clearly in order. Even with the best of management, however, the Government will have to take a number of other steps if it wants to keep other railroads from going the way of the Penn Central.

The first step involves the railroads' abysmal labor relations. Earlier this year the Administration proposed a major overhaul of the Railway Labor Act, whose complex provisions in recent years have done little to promote labor peace.

Perhaps some of the provisions of the overhaul are arguable, but Congress has seemed to prefer to try to forget the whole matter. Yet the problem simply will not go away. The many railroad unions are coming in for new contracts all the time, and any disputes carries the real danger of a national rail shutdown.

The Administration also has proposed a corporation to take over vital rail passenger service, most of which is a money-losing proposition for the railroads. For months before the Penn Central crisis came to a head, the company had been trying to discontinue most of its long-haul passenger service.

It's pretty pointless to argue now over who or what should be blamed for the rail pas-

senger troubles; there's plenty of blame to go around. Rail management deserves a share, along with the growing availability of highway and airline alternatives.

At the moment the fact is that the nation does need some rail passenger trains; they're still the most economical means of transporting large numbers of people from place to place. Someone must do a careful, conscientious job of deciding what service is really essential, giving no weight to such matters as local civic pride and the pleas of rail buffs, some of whom haven't ridden long-distance passenger trains in years.

A Federally sponsored system is an imperfect answer, especially with no more funds than appear to be available. But it's no answer, either, to expect the railroads to go on subsidizing passenger service with other earnings which, as in Penn Central's case, may disappear.

If the Government should do more in the passenger area, it also should do less in freight. Nearly a decade ago President John F. Kennedy proposed a major relaxation of railroad freight rate regulation, but the idea was sidetracked by opposition from barge lines and other rail competitors.

The opponents of greater rate freedom still argue that railroads hold vast monopolistic power that must be curbed by the rate-fixing activities of the Interstate Commerce Commission. That notion seems especially silly in the light of the current troubles of the Penn Central. In any case, the antitrust statutes should suffice to curb any railroad that did manage to act monopolistically.

Emergency financial aid to the Penn Central could, as some of the critics claim, set a precedent for similar help in even more questionable cases. For that reason it's probably desirable to set up more systematic procedures to consider requests for aid, as Senator William Proxmire urged last week.

Helping out the Penn Central or any other large corporation, moreover, fuzzes the line between private and public enterprise. If, in the case of the railroads, the nation wants to avoid obliterating the line altogether, it's going to have to launch a broader attack on the problems than it has up to now.

And the solution to those problems requires much more than loan guarantees.

The PRESIDING OFFICER (Mr. SPONG). Without objection the bill will be received and appropriately referred.

The bill (S. 4014) to authorize the Secretary of Transportation to guarantee loans to rail carriers to assist them in the performance of transportation services necessary to the maintenance of a national transportation system, and for other purposes and to establish a joint congressional committee to carry out a study and investigation for the purpose of making recommendations for the solution of the problems of the Nation's railroads introduced by Mr. JAVITS (for himself and Mr. GOODELL), was received, read twice by its title, and referred to the Committee on Commerce.

S. 4015—INTRODUCTION OF A BILL PROVIDING EQUITY FOR WIDOWS OF CAREER SERVICEMEN

Mr. MURPHY. Mr. President, I am introducing a bill which would create a fair and equitable system for providing economic security to the surviving dependents of career members of the uniformed services. This bill would provide the surviving dependents of the retired members of the uniformed services with the benefits that are now provided for the survivors of civilian employees of the Federal Government.

Many Americans would, I believe, be surprised to learn that the widow of a man who has retired from a career of service to his country does not continue to receive a portion of her husband's pension after his death. In order to qualify for the meager benefits provided by the Veterans' Administration, the surviving dependent must be able to meet a needs test—unless the death of the service member was due to a service-connected disability. This widow's pension—ranging from $17 to $74 per month—is available to the dependents of any veteran, whether he served 20 years or 90 days. No special provision is made for the dependents of our career servicemen.

The bill I have introduced would provide that whenever a retired member of the uniformed services dies, his wife and children, or if he is unmarried, a designated person who has an "insurable interest," would be granted an immediate annuity. This annuity for the surviving wife would be 55 percent of the retired pay the former member had received when he was alive, while each child, under 18, or under 23 and attending school, or over 18 and disabled would receive an additional amount depending on the number of children in the family and the amount of the member's retired pay.

The cost of paying this survivor's annuity would be paid for, like the similar annuity for survivor's of civilian employees, by reducing the retired pay received by the member while he is alive. This reduction would be made under the same formula used for civilian employees; that is, the retired pay of the member would be reduced by 2½ percent of the first $3,600 and by 10 percent of everything above $3,600. This reduction would be automatic in the case of a person who was married at the time he qualified for retired pay, unless he states in writing that he does not wish to provide a survivor annuity for his wife or that he wishes her survivor's annuity to be based on only a part of his retired pay.

There is much discussion, Mr. President, of proposals to eliminate conscription in favor of "all volunteer" Armed Forces. President Nixon has committed his administration to this goal. As a member of the Armed Services Committee, I have carefully studied the matter and have made known my support for this concept. In the past, I have supported the enactment of every measure voted by the Senate to increase the compensation of men and women in uniform. I will continue to do so. This is because I feel that the excellence of the job they do is, in no small way, responsible for the freedom and prosperity our Nation enjoys. Should they not then share fully in the way of life they unswervingly defend?

If the "all volunteer" Armed Forces are to become reality we must take the additional steps necessary to attract and retain sufficient numbers of qualified personnel to meet our defense requirements. Our efforts to achieve "comparability" of remuneration for our military with their civilian counterparts are not yet equal to this task. In fact, in the "Study of Military Compensation of 1964," the Defense Department noted:

> The evidence is conclusive that the military fringe benefits trends are running counter to private industry trends, with the net result that the military man is rapidly losing ground to his civilian counterpart in this significant part of the compensation package.
>
> Reductions in benefits are effectively reductions in pay. The study group is of the opinion that positive measures are necessary to arrest this trend . . .

The U.S. Veterans Advisory Commission in a report dated March 18, 1968, stated:

> The Government now contributes to survivors' benefits programs for Civil Service employees and to railroad workers. In good conscience and equity, the Commission feels the nation cannot deny such support to members of the Armed Services.
>
> Therefore, the Commission recommends that a request be made to the Secretary of Defense to initiate and support the establishment of a federally financed survivors' benefits program as an adjunct of the present servicemen's retirement program.

I am sure that every American man wants to assure that his wife will be provided for after his passing; but if he elects a military career he soon learns that although he endures the reduced income that is his contribution to his retirement pay, his wife cannot collect one penny of his pension after his death.

As we make progress toward correcting the imbalance in actual pay between civilian Federal employees and servicemen, so must we also eliminate the manifestly inequitous arrangement in their respective death benefits. Delay in enacting this measure will not only penalize those noble women who have shared the hardships of their husbands' military career; it will undermine our efforts to build the all-volunteer Armed Forces.

The Congress has not been blind to the military man's need to assure that his family is provided for. In 1953, there was enacted a program which allowed military retirees to contribute to a survivor annuity plan. Seventeen years and seven amendments later, the adequacy of this effort is best described by the fact that only 15 percent of those eligible to participate in it do so.

Because the employer—The U.S. Government—does not contribute a cent to this so-called "Retired Serviceman's Family Protection Plan," it is prohibitively expensive for the employee—the serviceman—to do so.

I ask unanimous consent that two figures illustrating cost data of the RSFPP appear at this point in the RECORD. These charts demonstrate that the military retiree pays 2.5 to 5 times as much as the civil service retiree for the same survivor annuity.

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

TABLE I.—COMPARISON OF COSTS OF RETIRED PERSONNEL SURVIVOR ANNUITY PLANS—MILITARY VS. CIVIL SERVICE

Grade	Years of service	Age at retirement	Survivors annuity payable (monthly)	Military deductions (options 1 and 4 at ½)	Civil service deduction for the same annuity
Staff Sergeant	20	40	$86.42	$12.71	$3.93
Technical Sergeant	24	44	120.75	20.94	5.49
Master Sergeant	30	50	201.88	43.77	14.21
Do	30	60	195.15	57.24	12.98
Do	30	65	191.46	64.62	12.31
Major	24	46	256.96	48.23	24.22
Lieutenant Colonel	26	48	330.65	66.84	37.62
Colonel	30	52	461.42	107.00	61.40
Do	30	60	449.06	131.72	69.15
Do	30	65	440.56	148.71	57.60
Major General	30	54	600.09	148.03	86.61
General	30	56	749.23	196.25	113.72
Do	30	60	738.98	216.75	112.86

TABLE II.—COMPARATIVE COSTS OF CENTS PER DOLLAR OF COVERAGE

Annual Annuity	Dollars cost per year		Cents per dollars of coverage	
	RSFPP	Civil service	RSFPP	Civil Service
Man 55, wife 53:				
10,000	3,764	1,548	37.6	15.5
8,000	2,521	1,185	37.6	14.8
6,000	1,890	821	37.6	13.7
4,000	1,260	457	37.6	11.4
2,000	630	94	37.6	4.7
1,000	315	45	37.6	4.5
Man 60, wife 58:				
10,000	3,764	1,548	37.6	15.5
8,000	3,011	1,185	37.6	14.8
6,000	2,258	821	37.6	13.7
4,000	1,505	457	37.6	11.4
2,000	753	94	37.6	4.7
1,000	376	45	37.6	4.5

Mr. MURPHY. Mr. President, in addition to the high cost of the RSFPP program—which falls hardest upon the enlisted man—the complexity of its provisions offers another reason that servicemen have rejected it by nearly the same overwhelming margin as their fellow Government employees have accepted their annuity program.

The measure I propose today is essentially identical to the program that governs the survivor annuities for the civil service employee. It is simple, and avoids the complexity that hobbles RSFPP. It is comparable in cost to the participant. It is manifestly needed. I believe it would result in a participation rate equal to that of the civilian annuity program—better than 90 percent.

My friend and fellow Californian, our distinguished colleague of the other body, the Honorable CHARLES GUBSER, has introduced H.R. 6226 and leads this effort in the House. I join him and ask my Senate colleagues to join me, in committee, and on the floor, in working for passage of this bill to provide equal and equitable annuities for widows of career servicemen. Clearly, the time is past to put an end to the injustice of a situation in which the widow of one Federal employee is entitled to an annuity as a matter of right, while another is denied any portion of her husband's retirement pay and must show need for a pittance that could maintain her only at a subsistence level.

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

The bill (S. 4015) to amend title 10 of the United States Code to establish an equitable survivors' annuity plan for the uniformed services, introduced by Mr. MURPHY, was received, read twice by its title, and referred to the Committee on Armed Services.

ADDITIONAL COSPONSORS OF BILLS

S. 864

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from New Hampshire (Mr. COTTON), I ask unanimous consent that at the next printing the name of the Senator from Indiana (Mr. HARTKE) be added as a cosponsor of S. 864, to provide for the expansion of trade in manufactured products.

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

S. 1812

Mr. MANSFIELD. Mr. President, at the request of the Senator from New Mexico (Mr. ANDERSON), I ask unanimous consent that at the next printing, the name of the Senator from Mississippi (Mr. EASTLAND) be added as a cosponsor of S. 1812, to amend title XVIII of the Social Security Act to include chiropractic services among the benefits provided under subpart (B) of this title.

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

S. 2705

Mr. FANNIN. Mr. President, I ask unanimous consent that, at the next printing, the name of my colleague from Arizona (Mr. GOLDWATER) be added as a cosponsor of S. 2705, to provide for medical and hospital care through a system of voluntary health insurance, and for other purposes.

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

S. 3388

Mr. SCOTT. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from California (Mr. MURPHY) be added as a cosponsor to S. 3388, a bill to establish the environmental Quality Administration.

When the bill was introduced, the name of the Senator from California (Mr. MURPHY) was inadvertently omitted from the list of cosponsors.

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

S. 3607

Mr. PEARSON. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from New York (Mr. GOODELL) be added as a cosponsor of S. 3607, to create a Rural Community Development Bank to assist in rural community development by making financial, technical, and other assistance available for the establishment or expansion of commercial, industrial, and related private and public facilities and services and for other purposes.

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

S. 3942

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Wyoming (Mr. HANSEN) be added as a cosponsor of S. 3942, seeking to place appropriate health and sanitary regulations, specifications, and standards on imports of frozen meat, beef, and veal and like products.

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

SENATE RESOLUTION 421—SUBMISSION OF A RESOLUTION TO PRINT AS A SENATE DOCUMENT THE REPORT OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ENTITLED "AIR POLLUTION ABATEMENT BY FEDERAL FACILITIES"

Mr. BYRD of West Virginia (for Mr. RANDOLPH) submitted the following resolution (S. Res. 421); which was referred to the Committee on Rules and Administration:

S. RES. 421

"Resolved, That there be printed, with illustrations, as a Senate document, the report of the Secretary of Health, Education, and Welfare, entitled, "Air Pollution Abatement by Federal Facilities," submit to the Congress in accordance with Section 111(b) of the Clear Air Act, as amended, and that there be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

PROPOSED AMENDMENT OF TITLE 18, UNITED STATES CODE, CONCERNING ILLEGAL USE, TRANSPORTATION, OR POSSESSION OF EXPLOSIVES—AMENDMENTS

AMENDMENT NO. 728

Mr. SCHWEIKER. Mr. President, I submit amendments, intended to be proposed by me to S. 3650, a bill designed to strengthen Federal legislation concerning the illegal use, transportation and possession of explosives, and ask that they be appropriately referred.

The PRESIDING OFFICER (Mr. ALLEN). The amendments will be received and printed and will be appropriately referred.

The amendments (No. 728) were referred to the Committee on the Judiciary.

Mr. SCHWEIKER. I am pleased to have the distinguished senior Senator from Pennsylvania (Mr. SCOTT) join me as cosponsor of this amendment. Mr.

President, I am in full accord with President Nixon's efforts to crack down on the distressing increase of violence in this country, and am shocked by the use of bombs and explosives which can kill and injure innocent and helpless citizens. We must have effective tools to fight crime and legislation with severe penalties to deter these vicious criminals.

The broad scope of the bill, however, would result in needlessly penalizing law-abiding sportsmen who, because of the expense involved in purchasing ammunition and as a hobby, hand-load their own shells to be used for legitimate sporting purposes. Many Pennsylvania sportsmen, and I am certain many others around the country, engage in this type of activity. Gun control legislation in the past has inhibited legitimate sporting activities and I am interested in seeing that this much needed strengthening of Federal law have the effect of deterring criminals from committing crimes without penalizing our law-abiding sportsmen.

I am sure that the bill was not intended to cover this type of sporting activity and my amendments simply exempt a reasonable amount of smokeless powder and black powder which is used for sport shooting purposes from the provisions for the proposed legislation.

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

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

AMENDMENT No. 728

On page 4, between lines 24 and 25, insert the following new subsection:

"(h) Nothing in this section shall apply to the possession by any person of not to exceed 25 pounds of smokeless powder and not to exceed 6 pounds of black powder for use for lawful sporting purposes."

On page 4, line 25, strike out "(h)" and insert in lieu thereof "(i)"

On page 5, line 10, strike out "(i)" and insert in lieu thereof "(j)".

TREATMENT OF POW'S IS AMORAL

Mr. GOLDWATER. Mr. President, among the most amoral acts in a long history of unmoral behavior on the part of the Communist world has been the treatment of American prisoners of war by the North Vietnamese. Every standard of decency has been violated in the manner in which 1,400 Americans have been held totally in violation of the Geneva Convention. This is but another demonstration of the utter disregard for humanity on the part of our enemies in Vietnam.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. EAGLETON). Is there further morning 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. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to proceed for an additional 5 minutes.

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

TRIBUTE TO SENATOR MANSFIELD, MAJORITY LEADER

Mr. BYRD of West Virginia. Mr. President, I take the floor today to announce that the able majority leader (Mr. MANSFIELD) has, as of June 18, last week, held the office of majority floor leader of the U.S. Senate longer than has any other individual since the Senate began meeting in 1789.

Up until June 18, 1970, the late great majority leader of the U.S. Senate, Senator Alben Barkley, of Kentucky, held the record, having served in the office for a period of 9 years and 165 days beginning with the date of July 22, 1937, and extending through the date of January 3, 1947.

Senator MANSFIELD was first elected by his Democratic colleagues to the office of majority leader on January 3, 1961. Through the close of business on June 17, 1970, Senator MANSFIELD had acted as majority leader in the U.S. Senate for a period of 9 years and 165 days; so, beginning with the date of June 18, 1970, Mr. MANSFIELD exceeded the record held heretofore by the late Senator from Kentucky, Mr. Barkley.

Several weeks ago—perhaps as much as 2 or 3 months ago—I asked the Senate Parliamentarian to research the matter so that the Senate could be informed at such time as Mr. MANSFIELD's tenure of office as majority leader exceeded that of all other Senate leaders. During these many weeks the Parliamentarian's office has been researching this matter and I have been informed, as I have already stated, that Senator MANSFIELD has now held the office of majority leader longer than any other Senator in either party.

Mr. President, in January of this year a very interesting document, Senate Document 91-53, was prepared and published under the direction of the Secretary of the Senate, Francis R. Valeo, and the Parliamentarian of the Senate, Dr. Floyd M. Riddick, entitled "Majority and Minority Leaders of the Senate."

This document is a history of the development of the offices of majority leader and minority leader of the Senate. I think it would be not only worthwhile but also interesting to extract certain paragraphs from this publication for the CONGRESSIONAL RECORD at this point. I now read from the document:

The "offices" of the majority and minority leader, as we know them today, are of recent development in the history of the Senate although individual Senators since 1789 have assumed leading roles in the determination of what the Senate would or would not do. Some of these Senators, at one time or another, have stood high in the ranks of their respective political parties. The power or influence of some Senators, in various periods of our history, to guide or lead their respective parties, or even the Senate itself, in the determination of a legislative program, has been particularly noteworthy. Caucuses of Senators of a particular party, of a common interest, of a geographical area, or of some "blocs" have been called from time to time from the beginning of the first Senate for all kinds of purposes, including the determination of the position to be taken on certain proposed legislation, or such things as to determine the names and sizes of committees. These meetings, however, were not invoked to perform as organized political caucuses for the purpose of selecting persons to serve as floor leaders for the parties during the sessions of the Senate until the latter part of the 19th century.

It was not until the latter part of the 19th century that the Senators of each political party organized and assembled separately as a unit for the purpose of electing certain members from among their own to represent each, respectively, as agents in helping to run the legislative machine. According to the best available records, it was not until the 20th century that the posts of majority and minority leaders became official political positions.

It is difficult, if not impossible, to point to anyone who functioned as the "majority leader of the Senate" until the end of the 19th century. The conferences or caucuses had frequently served as an instrument of party leadership, but "Senators in the 1870's usually performed their tasks without party superintendence. * * * Democratic and Republican organizations rarely attempted to schedule legislation or enforce unity in voting."

Various Senators, at different times, have stood out as legislative leaders but they were not selected by organized political parties in that capacity. Historians cite numerous such Senators in different eras of the American Senate.

To illustrate by a few examples, note the following: Senator Maclay of Pennsylvania left a characteristic account of the proceedings of the Senate on the last day of the first Congress, March 3, 1791. He wrote, "It was patching, piecing, altering and amending, and even originating new business. It was, however, only for Ellsworth, King, or some of Hamilton's people to rise, and the thing was generally done * * *."

It became clear by the beginning of the 20th century who the chairmen of the party caucuses were but it was still not clear who the majority leader of the Senate was since neither party elected "leaders" as such.

Available minutes of the caucuses or conferences of the Democrats and Republicans which go back to 1903 and 1911, respectively, reveal that each party since those dates has elected one of its members to be chairman of its respective caucuses. For example, on December 8, 1905, the Democrats elected Senator Arthur P. Gorman to be chairman of its caucus. On June 9, 1906, Senator Joseph C. S. Blackburn of Kentucky was selected to that position, but not to be its "leader." The caucus then adopted the following resolution:

The Democratic Senators in selecting as the chairman of this conference Senator Blackburn of Kentucky, congratulate themselves and their several constituencies upon the fact that they have among their number one so well fitted by his marked capacity, his great acquirements, and his large experience in Congressional work, and especially by his power as an orator and as a debator, to render to his party associates the most signal and valuable services as their chosen official leader in the great forum of the Senate of the United States.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I be recognized for an additional 5 minutes.

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

Mr. BYRD of West Virginia. Mr. President, I continue to read from the document:

In these early years of the 20th century each of the parties elected its own chairman for its party conference or caucus, but no Senator was elected to be the majority leader as we know these offices today. As a matter of fact, down into the 1930's it was common practice for the chairmen of the standing committees to move to proceed to the consideration of and then manage the proposed legislation reported by their respective committees. The center aisle seats until that date were not always occupied by the "leaders," nor were the "leaders" always spokesmen for their party on the floor—they were chairmen of the party meetings of their respective parties and they played an important role in the determination of legislation in that capacity.

In the early part of the 20th century, the caucuses or conferences were more frequently called than they are today. These meetings were called to resolve such things as positions on pending proposed legislation and to assure how the members of a party would vote on issues.

On January 15, 1920, a Democratic conference was called by its chairman for the announced purpose "of selecting a leader for the Democrats of the Senate." This was the first time that the caucus minutes showed that the meeting was being called to elect a "leader" for the party and not just a chairman of the party caucus. At the conference on May 21, 1920, it was stated for the first time that the meeting was "called to order by Senator Underwood, minority leader"; * * *.

At the meeting of March 5, 1921, the Democratic conference was called to elect officers of the party, "including the Democratic leader." Thus it had been fully established that the Democratic Party had created the office of party leader to serve as minority or majority leader of the Senate, depending upon whether it was the majority or minority party.

It was a half-century ago that the Democratic Conference first elected a Democratic leader.

The story of the Republican conference was much the same. According to the minutes of its conference, from 1911 until 1925, the Republicans, just as the Democrats, had elected one of its members to be chairman of its conference. But on March 5, 1925, James E. Watson of Indiana nominated Senator Charles Curtis to be chairman of the conference and floor leader—and he was unanimously elected. From this date until January 4, 1945, the same person was elected to serve both as chairman and floor leader.

And not until 4 years later did the Republican Conference select a floor leader for the Republican Party in the U.S. Senate.

The term "floor leader" as applied to the party heads of the Democrats and Republicans in the Senate has been one of considerable confusion. Newspapers and magazines used the term before the turn of the century to label these party heads; and the term was commonly used before caucuses of the two parties began actually to elect "floor leaders," who were to serve in such capacity on the floor of the Senate. To sum up, however, the Democrats in conference voted in 1920 for the first time to elect "a leader," and this person has served since that date as ex-officio chairman of the Democratic conference. The Republicans first voted in 1925 to elect its leader, who also served as chairman of the Republican conference down until 1945. Since that date a different person has been elected for each office.

Mr. President, I shall not read further from the document. I would, however, ask unanimous consent to insert in the RECORD, at the conclusion of my remarks, tables showing the names of Senators, both Democrats and Republicans, who have served as caucus chairmen and floor leaders. These tables are from unofficial sources and data predating the caucus minutes.

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

(See exhibit 1.)

Mr. BYRD of West Virginia. Mr. President, some of the names of the outstanding Senators who have served as leaders of the Democratic Party in the Senate are as follows:

Arthur P. Gorman, of Maryland.
Joseph C. S. Blackburn, of Kentucky.
Charles A. Culberson, of Texas.
Hernando D. Money, of Mississippi.
Thomas S. Martin, of Virginia.
John W. Kern, of Indiana.
Again, Thomas S. Martin, of Virginia.

It appears that Oscar Underwood, of Alabama, was the first man actually to be called a floor leader in the caucus minutes. Oscar Underwood was elected to the office on April 27, 1920.

Then, following Oscar Underwood came Joseph T. Robinson, of Arkansas, who was elected on December 3, 1923.

I am sure that the able Senator from Arkansas who is now on the floor (Mr. FULBRIGHT) takes pride in the fact that a great Senator from his State was elected as the second floor leader since the election of floor leaders actually began in 1920.

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

Mr. BYRD of West Virginia. Yes, if I may just state that following Senator Robinson, Senator Barkley served, and then Senator Lyndon Johnson, and then, of course, our own beloved Senator MANSFIELD.

Mr. FULBRIGHT. Senator Lucas served.

Mr. BYRD of West Virginia. I am just naming the Democrats at the moment.

Mr. FULBRIGHT. Senator Scott Lucas and Senator Ernest McFarland.

Mr. BYRD of West Virginia. Yes, exactly. I am glad the Senator has noted this oversight on my part. Following Senator Robinson, Senator Scott Lucas, of Illinois, and Senator Ernest McFarland, of Arizona, and then Senator Lyndon Johnson served as floor leaders.

Mr. FULBRIGHT. I am glad the Senator called attention to Senator Joseph T. Robinson. I knew him, but only slightly He antedated my time somewhat. When I was in school he was a powerful person. If my memory serves me right, he was leader of the Democrats for 14 years. Was he not?

Mr. BYRD of West Virginia. Probably as chairman of the caucus.

Mr. FULBRIGHT. The Republicans were in the majority during some of those years and then he was minority leader. As I understand it, Senator MANSFIELD has served as majority leader longer than any other Senator.

Mr. BYRD of West Virginia. Longer than any other Senator.

Mr. FULBRIGHT. I wanted to make clear that Senator Robinson, while he was leader of the Democrats part of that time during those 14 years, was minority leader rather than majority leader.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for an additional 5 minutes.

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

Mr. FULBRIGHT. Senator Robinson was a very powerful leader. He died in office in 1937, I believe.

Mr. BYRD of West Virginia. I am very proud to serve under the able leadership of Senator MANSFIELD. At all times during my 12 years in the Senate, he has been eminently fair and most, most considerate and never, never heavy-handed in his role as leader. He has always been a just man, an even-minded man, and he has commanded the respect of Members of both sides of the aisle. He has performed in a most excellent way as majority leader.

He is not only an able and dedicated majority leader of the Senate; he is also an outstanding leader of the Democratic party and, more importantly, of the Nation and of the world; and I am proud today to call to the Senate's attention the fact that his great man, Mr. MANSFIELD of Montana, has now held the office of majority leader of the U.S. Senate longer than any other man since the Senate became the constitutional bedrock of our republican form of government.

Mr. MANSFIELD, I predict, will set a record that will be very, very difficult to equal in the years to come. The Lord willing, Senator MANSFIELD will soon enter upon a new 6-year term in the Senate, and I can foresee that, with the guiding hand of a Divine Providence, he will serve as majority leader of the Senate more than any other man will serve for many, many decades to come. I hope so, because the Senate and the Nation will be well served.

EXHIBIT 1

TABLE I.—*Caucus chairmen (floor leaders)*

From Unofficial Sources in the Period Predating the Caucus Minutes.

[The name of the leader is in roman type when his party was in the majority, and in italic type when his party was in the minority]

DEMOCRATS

Arthur P. Gorman (Md.), 1893–95.
Arthur P. Gorman (Md.), 1895–98.

REPUBLICANS

John Sherman (Ohio), 1893–95.
John Sherman (Ohio), 1895–97.
William B. Allison (Iowa), 1897.
* * * * * [1]

DEMOCRATS

John T. Morgan (Ala.), 1901–02.
James K. Jones (Ark.), 1902–03.

REPUBLICANS

Eugene Hale (Maine), 1901–02.
Orville Platt (Conn.), 1902–03.
George F. Hoar (Mass.), 1903.
Eugene Hale (Maine), 1903–04.
William B. Allison (Iowa), 1904–06.
Eugene Hale (Maine), 1906–07.
William B. Allison (Iowa), 1907–08.
Nelson W. Aldrich (R.I.), 1908–09.
Eugene Hale (Maine), 1909–10.
Shelby Cullom (Ill.), 1910–11.

[1] Data missing for this period.

TABLE II.—*Caucus chairman and floor leaders of the Senate as determined from the caucus minutes of the two major parties*

[The name of the leader is in roman type when his party was in the majority and in italic type when his party was in the minority]

DEMOCRATS

Arthur P. Gorman (Md.) Elected March 16, 1903, Died June 4, 1906.

Joseph C. S. Blackburn (Ky.), Elected June 9, 1906, Term ended March 3, 1907.

Charles A. Culberson (Texas), Elected Dec. 3, 1907.

Hernando D. Money (Miss.), Elected Dec. 9, 1909, Term ended March 3, 1911.

Thomas S. Martin (Va.), Elected April 7, 1911.

John W. Kern (Ind.), Elected March 5, 1913, Term ended March 3, 1917.

Thomas S. Martin (Va.) Elected March 6, 1917.

Thomas S. Martin (Va.),[1] Democrats in minority, March 4, 1919, Died Nov. 12, 1919.

Oscar W. Underwood (Ala.),[2] Elected April 27, 1920.

Joseph T. Robinson (Ark.), Elected Dec. 3, 1923.

Joseph T. Robinson (Ark.), Democrats in majority, March 4, 1933, Died July 14, 1937.

Alben W. Barkley (Ky.), Elected July 22, 1937.

Alben W. Barkley (Ky.), Democrats in minority, Jan. 3, 1947, Resigned Jan. 19, 1949.

Scott W. Lucas (Ill.), Elected Jan. 20, 1949, Term ended Jan. 3, 1951.

Ernest W. McFarland (Ariz.), Elected Feb. 22, 1951, Term ended Jan. 3, 1953.

Lyndon B. Johnson (Texas), Elected Jan. 2, 1953.

Lyndon B. Johnson (Texas), Democrats in majority, Nov. 10, 1953 [4], Resigned Jan. 3, 1961.

Mike Mansfield (Mont.), Elected Jan. 3, 1961–

REPUBLICANS

Shelby M. Cullom (Ill.), Elected April 4, 1911.

Jacob H. Gallinger (N.H.) Elected March 5, 1913, Died Aug. 17, 1918.

Henry Cabot Lodge (Mass.), Elected August 24, 1918.

Henry Cabot Lodge (Mass.), Republicans in majority, March 4, 1919, Died Nov. 9, 1924.

Charles Curtis (Kansas),[2] Elected Nov. 28, 1924, Resigned March 3, 1929.

James E. Watson (Ind.), Elected March 5, 1929, Term ended March 3, 1933.

Charles L. McNary (Ore.), Elected March 7, 1933, Died Feb. 25, 1944.

Wallace H. White, Jr. (Maine),[3] Elected Jan. 4, 1945.

Wallace H. White, Jr. (Maine), Republicans in majority, Jan. 3, 1947, Term ended Jan. 3, 1949.

Kenneth S. Wherry (Neb.), Elected Jan. 3, 1949, Died Nov. 29, 1951.

Styles Bridges (N.H.), Elected Jan. 8, 1952, Robert A. Taft (Ohio), Elected Jan. 2, 1953, Died July 31, 1953.[4]

William F. Knowland (Calif.), Elected Aug. 4, 1953.

William F. Knowland (Calif.), Republicans in minority, Nov. 10, 1953. Term ended Jan. 3, 1959.

Everett McKinley Dirksen (Ill.), Elected Jan. 7, 1959, Died Sept. 7, 1969.

Hugh Scott (Pa.), Elected Sept. 24, 1969.

[1] Senator Hitchcock served as acting leader for a while until Underwood was elected on April 27, 1920; when the caucus first met to elect a leader following the death of Martin, the vote was a tie between Hitchcock and Underwood.

[2] These were the first men to actually be called "floor leaders" in the caucus minutes.

[3] In 1940 at the request of Senator McNary, Senator Austin served as acting leader and in succeeding years until he became leader, Senator White served as acting leader.

[4] With the death of Robert Taft of Ohio and his replacement by Thomas Burke on November 10, 1953, the division was 48 Democrats, 47 Republicans and 1 Independent. William F. Knowland remained majority leader, however, until the commencement of the 84th Congress in 1955. (See 83 *Cong. Rec.* 2217, Feb. 24, 1954.)

TABLE III.—SENIORITY OF MAJORITY AND MINORITY LEADERS OF THE SENATE (1911–)

Democrats—Years of service in Senate	Before becoming leader	As leader	Republicans—Years of service in Senate	Before becoming leader	As leader
Mansfield	6	(1)	Scott	10	(2)
Johnson	4	8	Dirksen	8	10
McFarland	10	2	Knowland	9	5
Lucas	10	2	Taft	14	1
Barkley	10	11	Bridges	15	1
Robinson	10	14	Wherry	6	2
Underwood	5	3	White	13	3
Martin [3]	16	5	McNary	15	11
Kern	2	4	Watson	13	4
			Curtis	10	4
			Lodge	26	5
			Gallinger	22	5
			Cullom	17	2

[1] Since 1961.
[2] Since 1969.
[3] Broken terms.

TABLE IV.—CHART SHOWING THE OCCUPANTS OF THE TWO FRONT ROW SEATS ON EITHER SIDE OF THE CENTER OF THE U.S. SENATE FROM 1920 TO DATE [1]

Year	Republican side occupant	Democratic side occupant
1920–21	LaFollette	Chamberlain.
1921–23	do	Underwood.[2]
1923–25	do	Do.
1925–26	Cummins	Do.
1926–27	Phipps	Do.
1927–31	do	Robinson.[2]
1931–33	Capper	Do.[2]
1933–36	do	Do.[3]
1937	McNary [2]	Do.[3]
1938–44	do	Barkley.[2]
1945–46	White [2]	Do.[3]
1947–48	do [3]	Do.[3]
1949–50	Wherry [2]	Lucas.[3]
1951	do [2]	McFarland.[3]
1952	Bridges [2]	Do.[3]
1953	Taft [3]	Johnson.[2]
1954	Knowland [3]	Do.[2]
1955–58	do [3]	Do.[3]
1959–60 [4]	Dirksen [2]	Do.[3]
1961	do [2]	Mansfield.[3]
1969	Scott [2]	Do.[3]

[1] Congressional Directory is the source of the above information.
[2] Minority leader.
[3] Majority leader.
[4] On January 6, 1960, the Republican conference confirmed that the front row center aisle seat on the Republican side was to be occupied by the Republican leader.

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

Mr. BYRD of West Virginia. I yield.

Mr. FULBRIGHT. I should like to associate myself with the sentiments the Senator has expressed so well. Of course, I have worked closely with MIKE MANSFIELD ever since we have been in the Senate together. He has been a member of the Committee on Foreign Relations. Before that we served in the House together.

I agree with the Senator from West Virginia that there is no man under the pressures he endures in that office who could better maintain his equilibrium and be as fair and as kind as he is. He is just as fair with those who disagree with him as he is with those who agree with him. In fact, sometimes, in his effort to be fair, he may lean over backward to be a little fairer to those who disagree with his views than with those who agree with him. But he has brought great wisdom, calm, justice, and fair play to this body which, after all, is the essence of this institution. If it is to be a constructive force in our democracy, it has to be led in that fashion.

I am glad the Senator from West Virginia has brought these facts out. I had not realized that he had been majority leader longer than anyone else. It is only evidence of how long some of us have been here.

I am glad the Senator from West Virginia has brought this fact to the attention of the Senate.

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

Mr. BYRD of West Virginia. Yes, I yield to the able Senator from Alabama.

Mr. ALLEN. I ask unanimous consent that the colloquy be permitted to proceed for 10 additional minutes.

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

Mr. ALLEN. Mr. President, I wish to express my thanks and appreciation to the distinguished Senator from West Virginia for the fine remarks he has made about the service of our distinguished majority leader. I associate myself with the remarks he has made.

I, too, congratulate and salute the distinguished majority leader, the able and dedicated Senator from Montana (Mr. MANSFIELD), on having passed the record of the late Senator Alben Barkley for longevity of service in the position of the majority leader, he now having attained a length of service greater than Senator Barkley's record of 9 years and 165 days.

It was not until I came to the U.S. Senate in January 1969 that I had the pleasure of meeting Senator MANSFIELD, but since then I have been greatly impressed by his ability, sincerity, and dedication. He has been extremely fair and impartial. We have not always voted alike, and I suppose, if a label were to be applied to the majority leader, he would have to be classed as a liberal, whereas if a label were applied to me it would probably be that of conservative.

Nevertheless, whether I have agreed with Senator MANSFIELD or not, I have always found him to be most fair, and always willing to give each side of any controversy an opportunity to be heard and to present its case before the Senate.

On at least two occasions the Senator from Montana cast votes with which I agreed wholeheartedly. Very vividly do I recall the first such vote. It occurred in January of 1969. I believe it to have been the most important vote that has been taken in the Senate during the 91st Congress. That was the vote on the appeal by the distinguished senior Senator from Florida (Mr. HOLLAND) from a ruling of Vice President Humphrey.

The then Vice President had ruled that, at the opening session of a Congress, a majority of the Members of the Senate could apply cloture to debate on a motion to amend the rules; and more than a majority did vote to apply cloture to the debate on that motion to amend the rules.

The then Vice President ruled that the cloture motion had carried because more than a majority had voted in its favor. An appeal was taken from the ruling of the Chair and I remember that on that vote, I was impressed very much when Senator MANSFIELD, the Democratic leader of the Senate, voted to overrule a Democratic Vice President on a ruling which, in my opinion, was clearly erroneous. The Senate did overrule the ruling of the Chair on the cloture motion to cut off debate on the motion to amend the rules to provide for cloture on a three-fifths vote of a quorum of the Senators present.

That vote by the distinguished Senator from Montana impressed me very much. Then again on the Stennis amendment, which sought to achieve uniformity in the application of Federal criteria and guidelines for desegregation of public schools throughout the country, a very important amendment, we found the distinguished Senator from Montana voting in favor of the amendment. The distinguished majority leader votes his convictions, and lets the chips fall where they will.

The majority leader of the Senate, as I found when I came here, controls the flow of legislation to be considered by the Senate. That, of course, makes him the most powerful single Senator. But in my observation, that power has not been misused by the majority leader in a single instant, because everyone receives an opportunity to speak, and everyone gets an opportunity to have his bill considered by the Senate if it reaches the calendar.

I also appreciate very much the reference of the distinguished Senator from West Virginia to some of the able Senators of the past who have served as Democratic leaders in the U.S. Senate. He referred to one of my distinguished predecessors as Senator from the State of Alabama, when he mentioned the great and able Senator Oscar W. Underwood, of Alabama, who, I might add, not only served as Democratic leader in the Senate, but prior to that time had served as Democratic leader of the House of Representatives. In the House and Senate he was a recognized authority on tariff laws and taxation and in both 1912 and 1924 was a leading candidate for the Democratic nomination for President. He is remembered as a great statesman. A well-known incident in his political career is the fact that in the 1924 Democratic National Convention—back before the days of amplifying systems as we know them now—the then Governor of Alabama, W. W. Brandon, throughout the 103 ballots cast at that convention, in a thundering voice, cast the votes of the Alabama delegation in that convention as "Alabama casts 24 votes for Oscar W. Underwood."

Senator Underwood, when a Member of the Senate, owned and resided at the estate near Mount Vernon known as Woodlawn. He was one of the great Senators in the history of the Senate, and I am proud to occupy the seat in the class of which Senator Underwood was a Member.

It is indeed appropriate that the distinguished Senator from West Virginia has called attention to the fact that the majority leader now has the record of having served longer in that position than any other Senator in the history of the U.S. Senate, and I predict that he will be reelected as majority leader—and I use this word advisedly—when the 92d Congress meets in January of next year.

So I wish to associate myself with the able remarks made by the distinguished Senator from West Virginia regarding our outstanding majority leader.

Mr. BYRD of West Virginia. I thank the able Senator from Alabama for his very pertinent and incisive observations. I think his comments reflect the attitude, the viewpoint, and the feeling of every Senator in this body, regardless of whether a Senator may be a conservative or a liberal or may like to speak of himself as a centrist or middle-of-the-roader.

MIKE MANSFIELD treats every Senator alike; and with respect to the use of his great power as majority leader, he is very, very careful in exercising that power. I respect him, as every Senator respects him. I admire him as every Senator admires him. In the words of Alexander Pope, I would say to MIKE MANSFIELD:

> Thou wert my guide, philosopher, and friend.

Mr. President, in closing my remarks, I wish to express appreciation to the Parliamentarian's office for the assistance rendered in researching this matter.

Some days ago, Dr. Riddick indicated that he had developed the matter very well but that there was a possibility of some error, and he was reviewing the subject just to make sure that I would have the correct information in calling the attention of Senators to the superior record that has been set by the able majority leader.

Mr. President, I yield the floor.

Mr. METCALF. Mr. President, I, too, wish to join in congratulating Montana's senior Senator on achieving the distinction of having served as majority leader for a longer consecutive term than any of his distinguished predecessors.

Early in 1961 as my first official act as a newly elected Senator, it was my privilege to nominate MIKE for the first time as majority leader. This may have been the most significant nomination I have ever made.

After more than 9 years of Senator MANSFIELD'S leadership, we have all come to appreciate the Mansfield technique. We know we have a majority leader who regards every Senator as an equal in a peerage that he respects. He enjoys the profound respect and the deep affection of all who have served—not under him, the majority leader, but with him.

He is fortunate in that he has effectively combined the duties of Senator from Montana with those of the majority leader of the Senate, whose principal job is directing a national legislative program to enactment.

This honest, unassuming, and decent man has demonstrated what Senator Smathers said a few years ago, "Nice guys may finish last in baseball, but in politics nice guys are winners."

Our Nation and the free world are the beneficiaries of 9 years of devoted service by MIKE MANSFIELD, one of the nicest guys I know.

Mr. YOUNG of North Dakota. Mr. President, during my time in the Senate, which has spanned quite a number of years, I have seen many Senators come and go. Many of them able and hard working and most of them very personable. Some, of course, were more effective than others as legislators.

One of the most effective Members during my time is our beloved friend from Montana, the distinguished majority leader, MIKE MANSFIELD. His is an assignment that is far more difficult than most people realize. It requires great ability, good judgment and, above all, understanding and patience in working with all the Members of the Senate on both sides of the aisle.

I oftentimes marvel at the patience of our friend, MIKE MANSFIELD. If he is greatly disturbed—and I know that sometimes he is and has reason to be, there is little outward manifestation. I know that sometimes he has a virtual storm within himself. His patience, understanding, and friendly attitude toward every Member of the Senate are among the major reasons why he has served longer than anyone else as majority leader.

I am amazed at how MIKE has been able to maintain himself in this difficult assignment for so many years. Oftentimes, he has to take issue, and sometimes rather sharply, with powerful and influential Members of the Senate. More often than not they are his best friends.

I cite these examples, Mr. President, because I think they are unique in MIKE MANSFIELD'S personality and they speak louder than any words I could utter as the reason for the great record he has established.

No leader of the Senate, Republican or Democrat, has been more considerate and

understanding of any problems I have had. MIKE just does not turn people away if he thinks they have a reasonable cause. There is much more that could be said about our friend but, to sum it up, may I say that he is one of the most honorable and decent men I have ever known.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, notwithstanding the fact that the morning hour will have expired within approximately 6 minutes, the period for the transaction of routine morning business be extended beyond 12 o'clock today, after which the unfinished business will be laid before the Senate.

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

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NOTICE OF PERIOD TO BE SET ASIDE ON THURSDAY NEXT TO PAY TRIBUTE TO MAJORITY LEADER MANSFIELD

Mr. KENNEDY. Mr. President, as has been pointed out earlier, our distinguished majority leader, MIKE MANSFIELD, last week surpassed, in time served, all previous records of service as majority leader of the U.S. Senate.

On June 18, he had served 9 years and 155 days as majority leader, exceeding the record previously established by Alben W. Barkley of Kentucky.

It is my intention, as assistant majority leader, to exercise such authority as the leader will permit, to set a time, on Thursday of this week, some time shortly after 3 p.m., when Senators will be invited to participate in expressing their esteem and affection for this man, whom many of us acknowledge to be the greatest of living legislators.

I make this statement to give notice to all Senators who wish to take part.

I have mentioned this also to my colleague, the distinguished Republican leader, and he has expressed full support for the idea. I make this without the knowledge of my distinguished leader because I am sure that he would be most reluctant to set aside any of the important business of the Senate which is now before us. But I think it would be appropriate, for a short period of time, to take this opportunity to express our appreciation to our distinguished majority leader.

Mr. SCOTT. Let me say to the distinguished acting majority leader that I concur wholeheartedly in what he has just said.

We are all aware of the modesty of the distinguished majority leader. We may have a little trouble getting him here, but I think we should ask him to listen to his colleagues on this occasion, because we have something to say that we want very much to say.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

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

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

RECESS

Mr. KENNEDY. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair, but not later than 1:30 p.m.

The PRESIDING OFFICER (Mr. BURDICK). The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to, and at 12:11 p.m. the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 1:19 p.m. when called to order by the Presiding Officer (Mr. HUGHES).

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The PRESIDING OFFICER (Mr. HUGHES). The Chair lays before the Senate the unfinished business which will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 15628) to amend the Foreign Military Sales Act.

The Senate resumed consideration of the bill.

A SENATOR WITH AN EYE FOR DETAIL

Mr. MANSFIELD. Mr. President, in the New York Times of today, June 23, there is an article about men in the news entitled "Senator With an Eye for Detail." The Senator referred to is our esteemed colleague, the Senator from West Virginia, ROBERT CARLYLE BYRD. I must admit that this is the first time I knew Senator BYRD's middle name. I am always delighted, as is Senator BYRD, when I pick up details and little bits of information.

I was impressed with the article about Senator BYRD. I was especially impressed in view of the fact that only yesterday he accomplished at least two triumphs of considerable magnitude. First, he succeeded in getting the Byrd amendment to the Cooper-Church amendment passed overwhelmingly. In my opinion his amendment certainly does not detract in any way, shape, or form from the meaning or intent of the Cooper-Church amendment but in effect states what the proponents of that amendment have been saying all along. Second, I commend him for the great job he did in connection with the passage of the supplemental appropriation bill. The latter accomplishment occurred, of course, after the hour of 5 o'clock yesterday afternoon after, I should say, Senator BYRD, had already put in a full and fruitful day.

Senator BYRD is one who knows his bills and his amendments in the greatest detail. He has a remarkable memory. I recall the first year he was chairman of the committee handling the District of Columbia appropriation bill. He never referred to the hearings or to the report for a statement, for a statistic, or a note of any kind, but purely from memory he was able to detail that particularly cumbersome appropriation bill to the Senate in a way which caused me to marvel. I was struck deeply with how good his memory was and with how much he understood the details and implications of the details which were within that bill. The same can be said for other bills in which the distinguished Senator from West Virginia is interested, plays a vital part, or manages outright.

Mr. President, I ask unanimous consent that the article about our distinguished colleague, Senator ROBERT CARLYLE BYRD of West Virginia, be printed in the RECORD.

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

SENATOR WITH AN EYE FOR DETAIL: ROBERT CARLYLE BYRD

WASHINGTON, June 22—As the roll-call moved inexorably forward to overwhelming passage today, Robert Carlyle Byrd rested comfortably in his back-row Senate seat, one hand to his mouth, and savored the dimensions of his victory.

Though he was rebuffed in a vote last week despite the Nixon Administration's backing, he had just won approval for an amendment that he regarded as a significant contribution to the high-pitched Senate debate on Cambodia and the President's authority to make war. Only five of the most tenacious doves had opposed him.

In 24 years as a legislator—six back in West Virginia, six in the House of Representatives and 12 in the Senate—Mr. Byrd has learned to draw discernible satisfaction from such high points in his career, moments of victory painstakingly earned by his willingness to consider no senatorial favor too petty.

PLEASED TO DO THE FAVOR

A dark, dapper man, given to gesticulation, the 52-year-old Byrd is known for his command of floor procedure, his ability to keep the machinery moving with his sometimes-astonishing stamina on the floor. His colleagues credit him with a fast mind, a keen memory

For four years Senator Byrd has been secretary of the Senate Democratic Conference, a precarious perch on the outer reaches of the party leadership that he has built into a bustle of floor activity and a determined attention to detail, however small.

If a staff aide asks Mr. Byrd to insert another Senator's speech in the record, the West Virginian writes the Senator a letter telling him how pleased he was to do the favor. He keeps a copy in his files. When a Senator has a birthday, Mr. Byrd writes his congratulations; if the Senator replies, Mr. Byrd writes back to thank him for his letter.

"Bobby Byrd invests the most trivial act with a sense of selfimportance," a long-time congressional observer said. "With two Senators on the floor, nothing happening and nothing likely to happen, he'll move to rescind a quorum call as though it were a high drama."

ORPHAN ON A DIRT FARM

Mr. Byrd, who is no kin of the prominent Byrd family of Virginia, was born Jan. 15, 1918, in Wilkesboro, N.C., and, he recalls, was raised as an orphan on a dirt farm. He was valedictorian of his high-school class but was too poor to go on to college except for some sporadic attendance while serving in the West Virginia Legislature.

In 1963, at the age of 45, he received a law degree from American University here. He had studied nights and weekends for, as a teetotaler, he has little interest in the social circuit.

Senator Byrd is as painstaking about his political contacts back in West Virginia as he is in the Senate. Nearly every weekend he makes 50 or more telephone calls to constituents, many of them city and county officers or employes, asking about their children and their views on issues. He takes notes and keeps files so subsequent calls have a personal touch.

The West Virginian married Erma Ora James in 1937, and they have two daughters.

In West Virginia the Senator is regarded as all but unbeatable. Earlier this year there was a flurry of anti-Byrd activity but it came to nothing. He was renominated in the primary by a margin of better than seven to one over a more liberal candidate.

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. COOPER. 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 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 1:31 p.m., the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 1:44 p.m. when called to order by the Presiding Officer (Mr. HUGHES).

ADDITIONAL STATEMENTS OF SENATORS

THE 100TH ANNIVERSARY, ST. FRANCIS XAVIER CHURCH, PARKERSBURG, W. VA.

Mr. BYRD of West Virginia. Mr. President, in October 1970, the Church of St. Francis Xavier in Parkersburg, W. Va., will celebrate the 100th anniversary of its dedication. This beautiful church, one of the finest of its time west of the Allegheny Mountains, was built in 1869 under the direction of the first resident pastor, the Very Reverend Henry F. Parke, and dedicated in October 1870, by the first Bishop of Wheeling, the Most Reverend Richard V. Whelan.

The parish at St. Francis Xavier antedates the War Between the States, as it dates back to 1847. The present church building, erected on the site of an earlier smaller church, is admired for its handsome French Gothic architecture, magnificient stained glass windows, and exquisitely carved white wooden altar. It is especially noted in artistic circles for the beautiful mural paintings of religious subjects by a painter named Daniel Mueller. This same artist is said to have assisted in executing, in similar style, some of the paintings in the rotunda of this Capitol Building.

Schools have been an important adjunct to the work of St. Francis Xavier Parish. The earlier grammar school was started in 1855 in the back of the earlier church building; it has been in several other, successively larger quarters, and, renamed the Parkersburg Catholic Elementary School, is now in a fine building in downtown Parkersburg, erected in 1950. The parish also contributed to the building, in 1959, of Parkersburg Catholic High School for use by its own students and those of other nearby parishes.

St. Francis Xavier is the parent church of a number of other churches in the area, extending from New Martinsville on the north to Ravenswood on the south.

My distinguished colleague from West Virginia (Mr. RANDOLPH) and I extend our best wishes to the present pastor, the Very Reverend Leo B. Lydon; to his bishop, the Most Reverend Joseph H. Hodges, of the diocese of Wheeling; and to all the parishioners and friends of St. Francis Xavier Church on the occasion of this centennial.

VIETNAM REPRISALS THEORY DISPUTED

Mr. KENNEDY. Mr. President, considerable attention has been given recently to the so-called "bloodbath" argument—the argument which says that American troops cannot be withdrawn from South Vietnam without precipitating a bloodbath of reprisals. This argument, which is speculative at best, has come, nonetheless, to have a kind of truth of its own by its constant repetition.

As I suggested in the Chamber on May 26, I am deeply skeptical of this argument, especially as it is phrased by administration spokesmen. It seems to me that the argument is being used to evade the hard issues involved in reaching a political settlement in Vietnam—a negotiated peace—that will end once and for all the military bloodbath that is going on today. As used by the administration, the bloodbath argument seeks only to win support for the short-term military plans of the President, not long-term efforts for peace.

This conclusion was most recently discussed by Mr. Stephen Rosenfeld in a column written for the Washington Post on June 19. After carefully reading documents used by the administration to support the bloodbath argument—including a recent declassified Rand study—Mr. Rosenfeld concludes that "if Mr. Nixon is truly interested in deterring a bloodbath, then he should be emphasizing those elements of policy—a negotiated solution, pledges and guarantees against reprisals, sanctuaries for especially frightened people, international observers, and so forth—which could be of practical value in limiting repressions against any Vietnamese." To do otherwise, says Rosenfeld, is only to continue the bloodbath that is going on today.

I commend Mr. Rosenfeld's column to all Senators concerned about the bloodbath argument and ask unanimous consent that it be printed in the RECORD.

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

VIETNAM REPRISALS THEORY DISPUTED

(By Stephen S. Rosenfeld)

To the list of expert witnesses who dispute President Nixon's insistent claim that only his own policy will avert a "bloodbath" in South Vietnam, add North Vietnamese Premier Pham Van Dong and—look here—social scientist Stephen T. Hosmer, author of a new Pentagon-commissioned Rand Corp. study of "Vietcong Repression and Its Implications for the Future."

Though they differ predictably in some of their judgments, particularly on how to read Hanoi's past record, they argue on strikingly similar lines that, after an American withdrawal, the political requirements of the Vietcong would tend to dictate a policy of less repression, not more.

Pham Van Dong's views were published, evidently for the first time, in the May 26 Congressional Record in a memo to Senator Kennedy from Richard J. Barnet. Barnet, co-director of the Institute for Policy Studies, visited Hanoi last November and talked with the premier and other officials.

"I had many discussions on the question of reprisals raised by President Nixon in his Nov. 3 speech," Barnet wrote. "Premier Pham Van Dong told me flatly, "there will be no reprisals. He and others then went on to explain that national reconciliation was necessary to avoid the disintegration of South Vietnamese society . . . 'It is imperative' he told me, 'that all Vietnamese in the south be admitted into the national community—with the same status.' "

Summarizing what a number of officials had told him, Barnet said: "Any political forces in South Vietnam that wants to reconstruct the shattered Vietnamese society must work with all other significant religious and political groups. The front is building up its political base because Catholics,

Buddhists, Cao Dai and middle-class professionals are becoming increasingly antiwar and anti-American. The destruction and uncontrolled inflation in Saigon are building a nationalist coalition for peace."

"The NLF leadership understands, it appears to me, that these nationalist forces are for the most part anti-Communist as well and that once the Americans leave, the front's only hope of building its power is to promote a political program that will appeal to many diverse interests . . ."

"Some NLF officials indicate that they may well be prepared to accept specific safeguards such as international inspection of elections and an international force to guard against and to report on possible political reprisals. But the very pledges they are prepared to give to other Vietnamese they will resist giving to us. For one thing, they told me, they do not see that the United States is entitled to assurance about the future character of the South Vietnamese government. . . They said they view with considerable skepticism expressions of humanitarian concern for the South Vietnamese from a country that has dropped more than a million tons of bombs on South Vietnam."

Are these arguments mere persiflage? Hosmer, like President Nixon, assumes that Saigon's own million-man armed force will somehow dissolve and that Communists will take full power. He expects a bloodbath "of very large proportions" if they do so in battle, "say, following a withdrawal of all U.S. military forces."

But, he says, "if, on the other hand, the Communists were to win control of a different road—say, through the gradual subversion and eventual capture of a coalition government established under an international arrangement—then the likelihood of widespread violence, at least during the takeover period, might be significantly smaller."

Moreover, he states: (1) Disintegration of the Saigon regime would have removed a major reason for repression. (2) Needing to run the country, a Communist regime "presumably would want to avoid actions that might hamper its major task of political consolidation and mobilization . . . in particular, to eschew the kind of indiscriminate mass reprisals that might permanently alienate much of the population." (3) A Communist regime might fear that excessive repression would breed "adverse reactions in other Communist states or parties and among the uncommitted nations."

Hosmer nonetheless states as his personal belief that the Communists, out of a temptation to consolidate control and out of what he says is a peculiar Vietnamese taste for revenge, would execute upwards of 100,000 people. He does not say why this belief should be given more weight than his argumentation, which goes mostly in the opposite direction and which corresponds in its important aspects with that of Pham Van Dong.

What the North Vietnamese official contends and what the Rand scholar concedes come out quite the same: there would be important political considerations pressing upon the Vietcong to conciliate rather than to kill their erstwhile political foes. Whether these considerations would finally govern the policy of the Vietcong is, of course, necessarily a matter of judgment and conjecture.

This suggests at the least that it is misleading if not downright unfair for the President to pass over the several hundred thousand *actual* deaths of Vietnamese civilians—a great many of them victims of American bombs and shells—and to raise the *prospect* of an enemy massacre of civilians "by the millions," as though it were a certain thing. This is a tactic unworthy of a President whose stated objective is a negotiated settlement to the war.

If Mr. Nixon is truly interested in deterring a bloodbath, then he should be emphasizing those elements of policy—a negotiated solution, pledges of guarantees against reprisals, sanctuaries for especially frightened people, international observers—which could be of practical value in limiting repressions against any Vietnamese. To stay on the military track alone, as Hanoi and the Rand study agree, is to assure the bloodiest outcome of all.

THE "WASHINGTON PLAN" FOR MINORITY HIRING AND THE SEX DISCRIMINATION GUIDELINES

Mr. ERVIN. Mr. President, the Department of Labor recently issued two orders relating to discriminatory hiring on Government contract work. I refer to the so-called "Washington Plan" governing Federal construction work in the Washington metropolitan area, and to the guidelines prohibiting sex discrimination on all Government contract work. The latter of these orders was announced by a distinguished North Carolinian, Mrs. Elizabeth Duncan Koontz, Director of the Women's Bureau.

While the sex discrimination guidelines may not run afoul of the dictates of the Civil Rights Act of 1964, the "Washington Plan" openly and brazenly violates title VII of that same act by granting preferences to minority workers.

Section 703(j) of the act is as clear to me as the crystal waters of a mountain lake:

> Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

Mr. President, that statutory provision is the law of the land, and to my mind it means that the Labor Department cannot lawfully require Government contractors to give preference to any person or group of persons because the total number of workers in any skill or trade reflects any imbalance in race, color, religion, sex, or national origin. Yet, that is exactly what the "Washington Plan" does.

Boiled down to its essentials, the plan tells Government contractors in the Washington area that they must employ a certain percentage of minority workers in specified construction trades, beginning next year and culminating in 1974. For example, the plan requires that 10 to 16 percent of all electricians employed must be minority workers by May 31, 1971. By 1974, the percentages for electricians must be from 28 to 34 percent.

The Labor Department refers to these figures as "ranges," just as it did last year when it attempted to defend the "Philadelphia Plan" in hearings before the Senate Subcommittee on Separation of Powers, which I chair. During those hearings the Department contended that the ranges were merely goals which contractors should strive to attain through affirmative-action programs, and that once the goals were met, they would serve as proof that the contractor had done his part under the Civil Rights Act. The subcommittee hearings demonstrated beyond doubt that Labor Department bureaucrats are bent upon forcing contractors to hire workers on the basis of race, whether or not these potential employees are qualified for the job.

Despite these denials to the contrary, Mr. President, I contend that the Labor Department is imposing quotas of minority employment on Federal construction projects in the Washington area. Furthermore, by the terms of the order creating the "Washington Plan," contractors on Federal projects must apply the same quotas to non-Federal building in order to keep their Government contracts. This is coercion by whatever name it is called.

Two aspects of the order clearly indicate that the Labor Department intended to impose quotas. For one thing, the order eliminates from its application several trades which already employ significant percentages of minority workers. Of all the Washington area carpenters, for example, 16.2 percent belong to minority groups. Therefore, carpenters were exempted. Plasterers were excused because 25.4 percent of them belong to minority groups. Other exempted groups employ the following percentages of minority workers: bricklayers, 56.9 percent; cement masons, 71.1 percent; laborers, 90.6 percent; operating engineers, 24.4 percent; reinforce rodmen, 32.4 percent; roofers, 85.3 percent; and teamsters, 87 percent. In other words, the Labor Department is telling these trades that they have already met their quotas.

Second, the order contains an analysis of job openings in different construction trades and states how many minority applicants a contractor should recruit for each job. The "Washington Plan" order is clear in its findings:

> Based upon the fact that the minority population in Washington (a major source of construction manpower) is three times that of the non-minority population, upon the fact that minority unemployment rate in the Washington area is twice that of non-minority unemployment, upon the fact there exists substantial minority underemployment in the area and upon the fact that significant and effective training programs now exist, it may be reasonably expected that in the filling of new and vacant jobs effective affirmative action efforts should produce at least one minority applicant for each non-minority applicant for effective construction employment.

Here, Mr. President, the Labor Department is saying to Federal construction contractors that in effect you must come up with a 1-to-1 ratio of minority to majority applicants for all new and va-

cant jobs. Again, we have a quota system designed to attack an imbalance in racial ratios, a quota system designed to give preferential treatment to minorities.

Regardless of what definition the Labor Department may use—ratio, balance, range—a quota by any other name is still a quota. And quotas are being demanded in the "Washington Plan," contrary to the 1964 Civil Rights Act.

In the great American game of football, the rules require the team with possession of the ball to make so many yards in four downs in order to keep the ball. Down in North Carolina, where football is improving year after year, we play the game according to the rules—including the rule which requires the offensive team to make at least 10 yards in four downs. Now, this rule does not say that you must make between 9 and 11 yards. It says 10 yards, and that is a quota. But even if it said between 9 and 11 yards, that still would be a quota.

According to my Webster's dictionary, quota means "the number or amount constituting a proportional share." That definition is clear, and it also is clear that the Labor Department is imposing quotas—by whatever name—on the construction contractors in the Washington area. Clearly the Department is assigning a "proportional share" of all construction jobs to minority workers.

Mr. President, I am by no means a foe of equal opportunity and equal freedom for all Americans, regardless of race, color, sex, religion, or national origin. But I am a foe of the executive bureaucracy's insatiable thirst to press beyond the limits of the authority granted it by Congress. I strongly believe that the "Washington Plan"—like the "Philadelphia Plan" before it—exceeds the authority of the Labor Department because it stands in direct conflict with section 703(j) of title VII of the Civil Rights Act of 1964.

I have long opposed the practice of the executive branch of the Federal Government making law; that is territory reserved by the Constitution to the Congress. Therefore, I shall observe closely the application of the sex discrimination guidelines handed down by the Labor Department through the Women's Bureau. If Congress wanted such guidelines to apply to Federal contractors, then it should have written them into the law in the first place. However, the sex guidelines issued last week pale in comparison to the "Washington Plan." So far as I can tell, they at least remain within the dictates of the Civil Rights Act of 1964 from which they spring.

If I may indulge in facetiousness for just a moment, I would like to pose a question that might boggle the mind and open an interesting discussion about how we treat the fairer—though by no means unequal—sex. The question is this:

If the Labor Department is going to demand that a certain percentage of construction jobs go to minority workers, why does it not demand that a certain percentage of these jobs go to women?

Indeed, that plays with the imagination. The new sex discrimination guidelines indicate that sex can be a bona fide occupational qualification, but they do not attempt to define what these qualifications are. Therefore, we can speculate that women could make excellent electricians, painters and paperhangers, plumbers, ironworkers, sheetmetal workers, elevator constructors, or any number of other construction trades. Well must we remember the job done by women during the Second World War in the defense and other industries of our Nation when the source of manpower was short.

If women can do the job, then why not require quotas of women workers in the construction industry? The Bureau of the Census informs me that women comprise 50.9 percent of our population, so why not require that percentage throughout the construction trades?

Ridiculous? Of course. But I submit, Mr. President, that such whimsical thoughts are not more ridiculous than what the Labor Department has done with its "Washington Plan."

The Civil Rights Act of 1964 treated race, color, religion, sex, and national origin equally and without distinction among them. As far as I can tell, the Labor Department has seen fit to distinguish between sex and race by requiring quotas when it comes to hiring members of a minority race, but not demanding any such thing when it comes to the majority sex. That, I submit, is not appropriately applying our great concept of equal protection of the laws for all persons.

Mr. President, the Labor Department has gone beyond the intent of the Congress by making these unreasonable demands of Government contractors in the Washington area. The so-called "Washington Plan" puts an undue burden on the contractor, who must get his workers through union shop agreements with the construction trade unions. The Labor Department has authority under the Civil Rights Act of 1964 to bring class actions against the unions if it feels that they are discriminating. That should be adequate power to remedy any problem of discrimination in the Washington area. On the other hand, the "Washington Plan" is based on authority which I do not feel the Labor Department has. I call upon the Department to reassess its authority and to administer the Civil Rights Act of 1964 in accordance with the plain language Congress gave to it.

THE GRIFFIN-TYDINGS AMENDMENT TO DIRECT ELECTION PROPOSAL

Mr. GRIFFIN. Mr. President, I ask unanimous consent that an editorial published in the Washington Post of June 23, 1970, be printed in the RECORD.

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

AN ALTERNATIVE TO PRESIDENTIAL RUNOFFS

As the Senate approaches a vote on the proposed constitutional amendment for direct election of the President, all of the lesser reforms designed to abolish the electoral college appear to have been discarded. The votes in the Senate Judiciary Committee two months ago clearly indicated, as did the previous action of the House, that only the direct-election plan has a chance of enactment. But the Bayh resolution adopted by the committee is still open to amendment, and efforts to improve it will continue on the floor.

The most interesting proposal of this sort to come to our attention is sponsored by Senators Griffin and Tydings. It is designed, as were some of the amendments considered by the Judiciary Committee, as a substitute for the runoff election contemplated by the Bayh resolution in case no candidate for President should receive at least 40 per cent of the popular vote. The two senators fear, as do many others, that resort to a runoff would encourage splinter parties and political bargaining. They have tried to give additional underpinning to the two-party system and to remove all incentive for the two front runners in a multiple-candidate contest to bargain with third or fourth parties.

The Griffin-Tydings mechanism would come into operation only if no candidate should win 40 per cent of the vote. In that event, it would declare the front-runner elected if he "received the greatest number of the votes cast in each of several states which in combination are entitled to a number of senators and representatives in the Congress constituting a majority of the whole number of members of both houses of the Congress . . ." This is a technical way of saying that a candidate would win if he had a majority of electoral votes even if he did not have 40 per cent of the popular vote. In effect it is a blow to Abraham Lincoln, as he is the only person who has won the presidency in the past with less than 40 per cent of the popular vote. Lincoln had 39.9 per cent.

If no candidate could qualify under either of these tests, the Griffin-Tydings formula would have the President elected by a joint session of Congress, with each member casting one vote. A special session of the new Congress elected in November would meet on the first Monday in December and make the choice from the two top candidates. No minority party candidate would still be in the running at this point—a provision deliberately intended to discourage third parties and to eliminate bargaining for the presidency.

This contingency election plan is designed to discourage its own use. If it had been in the Constitution from the beginning, no presidential election in our entire history would have been decided by Congress. While electoral votes might still be used to determine the winner in rare cases, the unfaithful elector problem would be eliminated and electoral votes could not be used to put the popular-vote loser in the White House. Congress might, in one of those rare instances in which the choice would fall to it, elect the second man in the popular-vote contest, but sponsors of this proposal feel that, with the country so divided, it would be better for the minority President to start his term with a working majority in Congress.

The fate of this proposal will depend upon whether a majority in the Senate is worried about the uncertainties of possible runoff elections. If a majority is so worried, it is good to have at hand a reasonable alternative. But the differences between Senators Griffin and Tydings on one hand and the Judiciary Committee on the other should not be allowed to imperil the enactment of the direct-election amendment. The American people have indicated in many ways that they want to elect their Presidents by their own direct votes, and we think the Senate and then the state legislatures should lose no time in giving them that right.

SENATOR MUSKIE'S REMARKS ON CORPORATE RESPONSIBILITY FOR THE ENVIRONMENT

Mr. EAGLETON. Mr. President, yesterday the junior Senator from Maine

(Mr. MUSKIE) spoke to the Advanced Management Institute in New York City. His speech dealt with corporate responsibility for the environment.

In the speech, Senator MUSKIE described the legislation that the Subcommittee on Air and Water Pollution is drafting to amend the Clean Air Act. It is expected that this legislation will provide strict standards and deadlines for all areas of the country set on the basis of the strongest possible protection of the public health.

However, as Senator MUSKIE said in his speech, the leadership in the fight to restore the environment must come not alone from the Government, but "it must also be the business of corporations to become involved in the environmental effort and to eliminate the barriers of distrust which exist" between corporations and many Americans.

Senator MUSKIE offered the corporate community some good, prudent, and constructive advice on this score. I ask unanimous consent that the text of his speech be printed in the RECORD.

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

CORPORATE RESPONSIBILITY AND THE ENVIRONMENT

The environmental honeymoon is over. The days of rhetoric are fading, the surge of multi-page advertising supplements is ebbing and the glow of togetherness and cooperation may be on the wane.

We saw an early and welcome spurt of enthusiasm—by students, corporations and public officials. That enthusiasm created great expectations.

Students thought they had at last found an issue that could embrace all Americans in an effort to reclaim and restore the society.

Corporations thought that their expressions of concern and announcements of plans for action could remake images tarnished by years of neglect.

Public officials thought that the time had finally come when the public would support expensive programs to restore the environment—and, not incidentally, support them for their efforts.

Now students have gone back to the war, industries are turning to other advertising themes and public officials are filling fewer pages of the Congressional Record with environmental statements.

And our air, and water and land? They are still waiting for the kind of attention they deserve.

The visibility of the environmental movement may have declined, but the public will not forget the promises that were made during that honeymoon.

So what is in store for those promises?

The Congress has been responding and will continue to respond with new laws.

The Environmental Policy Act of 1969 and the Water Quality Improvement Act of 1969 have been passed and signed into law.

Congress voted four times more money for water pollution control in the last fiscal year than the President requested. And major legislation in three areas—air pollution, water pollution and solid wastes—is under active consideration in the Subcommittee on Air and Water Pollution.

As this legislation takes shape, it is clear that "business as usual" will no longer be good enough—for any of us.

For example, the committee is considering the establishment of national ambient air quality standards.

These standards, under a proposal initiated by Senator Eagleton of Missouri, would require that by a fixed date—three, four or five years in the future—the level of specific pollutants in the ambient air must be reduced below that level which produces adverse effects on health. A second standard would be set—with a longer but still specific deadline—that would require the reduction in the level of those pollutants to virtual background levels.

To achieve this would require the maximum use of available technology on existing and new industrial plants, power plants, municipal and institutional incinerators;

It would require public control over the siting of new plants;

It could require the control of emissions from used as well as new cars;

It could require restrictions on the use of motor vehicles in urban areas and on the kinds of fuels burned by homes and industries.

These are the kinds of restrictions on our activities as individuals, as businesses and as communities which we must consider if pollution is to be brought under control.

These are the kinds of policies which we are considering to impose those restrictions.

They are the price which must be paid if we are to avoid the environmental consequences of unrestrained technological and economic growth.

Congress is responding, but is industry?

In recent years, our rhetoric—your advertising and our speeches—no matter how well-intentioned, has too often exceeded the effectiveness of our efforts to deal with our problems.

To a great extent, the leadership in moving to reclaim our environment must come from Government. It is the business of Government to regulate industries and to inform the public of health hazards—no matter which companies may be hurt.

But it must also be the business of corporations to become involved in the environmental effort and to eliminate the barriers of distrust which exist between your corporations and so many Americans.

And after the honeymoon—what is happening?

Are DDT manufacturers diverting production to less dangerous, non-persistent insecticides?

Is the automobile industry really exerting itself as it should to develop a clean, non-polluting engine?

Are soft-drink manufacturers discontinuing the use of non-returnable and non-degradable bottles?

To the best of my knowledge, the answers are no.

As long as the answers are no, we can all look forward to spending future tax dollars to develop an artificial environment for our survival and the survival of our children—complete with climate control, air control, gas masks and breathing filters.

As long as the answers are no, American corporations can look forward to more and more movements like campaign GM.

Most supporters of campaign GM—and I supported that effort—did not see it as a blind assault on corporate practices, but rather as a direct appeal to corporate consciences. A corporate response of increased advertising and public relations efforts is not an adequate answer to that appeal. Students and other concerned Americans can tell the difference between an advertising budget and a research budget.

The corporate response must change, but all of us know that corporations—like the government—are institutions, and institutions do not talk or think or respond by themselves. They must be made to respond—by people in and out of the corporate structure.

Campaign GM was an illustration of how people outside the corporation can apply pressure for change. I supported that effort because I felt that the pressure was appropriately applied. General motors and the automotive industry had not met their responsibility to control automotive emissions.

But campaign GM found it difficult to challenge the management of General Motors on behalf of the stockholders. The securities and exchange commission has said that proxies were not the place for social questions. General Motors admitted to a social responsibility, but it felt that social questions were out of place on the stockholders' ballots.

This must change. If the owners of a corporation cannot control the activities of the company, no one can. The credibility of private enterprise will vanish.

Therefore, tomorrow I shall introduce a bill in the Senate to expand the opportunities for shareholders to have a say in the policies of the corporations which they own. The Corporate Participation Act will amend the securities exchange act to allow shareholders to place on the company ballot any proposal which promotes economic, or social causes related to the business of the corporation.

Shareholder democracy will help bring the social and environmental concerns of the public home to the corporation. Pollution—as well as profits—should be an object of corporate concern.

The pressures for more open corporate structures should also come from inside the corporations. The movement for corporate environmental responsibility can and should come from management.

As managers you do not live your whole lives in the corporate structure. Each of you, as an individual, faces problems that all of us share.

You and your families breathe dirty air, you vacation beside dying lakes, and you travel on crowded roads. You feel the effects of uncontrolled technology, you experience the discomforts of contemporary life, and you know that we cannot go on forever in this direction.

And you are not alone. The members of your unions are confronting the same problems, and many of the unions will be coming to the bargaining table with new demands in mind.

A corporation can be no healthier and no happier than the people who work in it. The time has come to put an end to the notion that our corporations live lives of their own, surviving on profits made at the expense of our human and natural environments.

For those of you who may dissent from the present practices of your corporation, for those of you who insist that corporations must do more to protect and enhance the environment, the road will not be easy. The pressure to conform will be great.

I hope that you will remember what E. B. White wrote some years ago:

"People are beginning to suspect that the greatest freedom is not achieved by sheer irresponsibility. The earth is common ground and we are its overlords, whether we hold title or not. Gradually the idea is taking form that the land must be held in safekeeping, that one generation is to some extent responsible for the next; and that it is contrary to the public good to allow an individual to destroy almost beyond repair any part of the soil or the water or even the view."

We are beginning to appreciate that philosophy. It is a philosophy that tells us that survival will not take care of itself. That we owe a future of our children. And that all of us must be guardians of that future.

The time must pass when we relax in the notion that some of us—corporations in particular—can evade that responsibility.

C. I. MOYER, GOVERNMENT'S SMALL BUSINESSMAN

Mr. PEARSON. Mr. President, C. I. Moyer has been doing an exceptional and unsung job for nearly 17 years as the Government's small businessman in Missouri, Kansas, Iowa, and Nebraska. As a fellow Kansan, I wish to pay tribute to a man who has served Kansas and the Nation for 40 years.

I ask unanimous consent that an article written by Bill Moore, of the Kansas City Star, be printed in the RECORD, so as to take note of the man and also to illuminate some changes that have been taking place in the Small Business Administration over the last few years.

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

[From the Kansas City Star, June 10, 1970]

SMALL BUSINESS MAN AN OLD FARM BOY

(By Bill Moore)

One of the things C. I. Moyer likes about his job is that his regular paid staff is augmented by about 200 gung-ho volunteers who stand by, ready to spring into action at a moment's notice and pull off a piece of work for his agency.

Moyer is regional director of the Small Business administration; offices high up in the old Federal Office building at 911 Walnut street, with what would be a wonderful view from his window except that it looks straight into the back side of the big new Commerce Tower.

Mr. Moyer is a most friendly fellow and I have known him or at least known of him since his old political days out in Kansas and if I knew how to spell it I would set down his first name as it is known to all his friends. They pronounce his name as "sigh," which is, of course, a contraction of the initials, "C" and "I," but whether you would write it Ci, Si, Sy, Sigh, or something else has never been determined.

As the federal government's Small Business man in Missouri, Kansas, Iowa and Nebraska, Mr. Moyer deals in money and is a man who is known to all the bankers and lenders, and a man to be consulted.

But money is a shadowy topic to me. All I know about money is that I have got a steady paycheck twice a month for a great many years and that the "deducts" keep getting larger. I am lost in talk of high finance.

I would rather say that almost 40 years ago I worked on a small newspaper in North Central Kansas and that there was a wheat farmer who dropped in once in a while to talk to the boss about politics. He wore blue denim overalls, blue denim shirt, and had a manner as though he was on the way up. I figured he was. His name was Frank Carlson.

And I think it was about that time I began to hear about another young fellow, not a whole lot older than me, who was believed to be on the way up and already making quite a figure in Republican politics. His name was Moyer.

C. I. or CI if your prefer, originated on a farm between Severance and Highland, Kans., and at an early age took to serving on township boards and such. In those days, if my memory serves, a chief function of a township board was to see to it that the dirt roads were kept graded. I did a little grading myself in those days. It was a dusty job, but not too demanding.

I suppose he must have been a Republican precinct committeeman. Anyhow with a law degree from the University of Kansas behind him and a farm and a record of community service as a power base, he got elected to the Kansas Legislature in 1938. Then he got elected to the Kansas Senate in 1940, served four years and made friends with everyone. He was Ed Arn's campaign manager when Ed was elected governor in 1950 and again in 1952. And in 1952, Ci Moyer was one of the big men in Kansas close to Gen. Dwight Eisenhower. And as state Republican chairman when Ike took over as President, Ci Moyer was indeed on very solid ground.

He was appointed regional director of the SBA in October, 1953. He maintained his home in Kansas (still lives in Fairway) but the step across the state line, for business purposes, was not a hard one. Ci always had a lot of friends on the Missouri side.

Ci Moyer rode out the Democratic years and now that we again have a Republican administration his situation couldn't look better.

The Small Business Administration has changed its complexion somewhat since Moyer took over the Kansas City office nearly 17 years ago. For one thing (and this probably was inevitable) the volume of loans which it has a finger in is more than 10 times that of 1953.

On the other hand the SBA has been getting out of the direct loan business. It is virtually out right now, Moyer says. What it does is tell the guy to go to the bank and borrow the money and the SBA will assure the bank that it will be safe enough just in case—just in the possible case—the guy won't be able to pay off as expeditiously as he hoped.

Of course, the loan client is checked out by the SBA before he is directed to the bank. The SBA tries to make certain that he's a reasonable sort of a risk.

The SBA does a lot of counseling with small business men these days; much more than it used to. If the small business man is having trouble the SBA tries to show him how he can maybe work himself out of it.

And finally those volunteers: They're members of the Service Corps of Retired Executives (SCORE, since the government is eternally searching for acronyms), and they are at the ready when it comes to giving management assistance to small business men in trouble. There's about 100 of these SCORE members in Iowa alone.

They serve pretty much for free, although it's said they are reimbursed for actual out-of-pocket expense.

Ci Moyer's grandfather homesteaded a tract of 80 acres which today is a part of the present 320-acre farm. On weekends you'll find our SBA man up there on the Doniphan County farm poking around among his cattle and looking down the corn rows.

ADDITIONAL DEATHS OF CALIFORNIANS IN SOUTHEAST ASIA

Mr. CRANSTON. Mr. President, between Monday, May 25, 1970, and Thursday, June 11, 1970, the Pentagon has notified 28 more California families of the death of a loved one in Vietnam and Southeast Asia.

Those killed:

Pfc. Stephen R. Barkley, husband of Mrs. Linda S. Barkley, of Norwalk.

Spc. Freddy L. Bratton, son of Mr. and Mrs. John C. Bratton, of Sepulveda.

Pvt. Tommy M. Clayton, husband of Mrs. Glenda Clayton of Los Angeles.

L. Cpl. Albert R. Cortez, son of Mr. and Mrs. Eligio Cortez, of Los Angeles.

Sgt. 1c. Carl W. Crowe, husband of Mrs. Patsy R. Crowe, of Ventura.

Lt. Dennis W. Dotson, son of Mr. and Mrs. Billy M. Dotson, of El Centro.

Maj. Robert M. Fitzgerald, husband of Mrs. Robert M. Fitzgerald, of Point Mugu.

L. Cpl. Dale F. Fleischmann, son of Mr. and Mrs. Dale Fleischmann, of Huntington Beach.

Spc. Gary W. Gear, husband of Mrs. Joann Gear, of Carmichael.

Pfc. Kenneth M. Gray, son of Mrs. Armistice L. Gray, of San Francisco.

Spc. Sammy M. Gullart, son of Mr. and Mrs. Gilbert Martinez, of Los Angeles.

Pfc. John L. Harley, husband of Mrs. M. Harley, of San Jose.

S. Sgt. Will Isaac, husband of Mrs. Eva Isaac, of San Francisco.

Spc. Stanley R. Kimmel, son of Mrs. Martha F. Kimmel, of Summit City.

Pvt. Stephen A. McCauley, husband of Mrs. Joan C. McCauley, of Long Beach.

Pfc. John R. Mariani, son of Mrs. Marie B. Mariani, of Stockton.

Sgt. John Marquez, husband of Mrs. Kathleen A. Marquez, of Pinole.

Spc. Armando Monterrurio, son of Mr. and Mrs. Mario Monterrurio, of Glendale.

Lt. Lester N. Moulton, husband of Mrs. Marcia R. Moulton, of Sacramento.

Lt. John M. Mulcahy, husband of Mrs. Tessianna A. Mulcahy, of San Diego.

Spc. Michael P. Murphy, son of Mr. and Mrs. Charles E. Murphy, of San Diego.

Spc. Kris M. Perdomo, son of Mrs. Helen D. Jouvert, of Newport Beach.

Spc. Joe D. Ramey, son of Mr. and Mrs. Emmett A. Ramey, of Arroyo Grande.

Pfc. Michael A. Rasmusson, husband of Mrs. Judith Rasmusson, of Sacramento.

Lt. William L. Reynolds, husband of Mrs. Mary K. Reynolds, of Marina.

Pfc. Larry A. Salmon, son of Mr. and Mrs. Thomas E. Salmon, of Lakeside.

Spc. Steven R. Stefanski, husband of Mrs. Robin E. Stefanski, of San Diego.

Capt. William J. White, Jr., son of Mr. and Mrs. William J. White, of Orange.

They bring to 4,120 the total number of Californians killed in the war.

THE INTERNATIONAL ASPECTS OF POLLUTION

Mr. MATHIAS. Mr. President, when one nation, through technological progress, human carelessness, or governmental myopia, pollutes the environment, every man suffers.

It would appear that in at least one area—pollution control—the countries of the world need to realize that immediate cooperation is required.

In an article published in the Perspective section of the Sunday Denver Post, Prof. Ved P. Nanda, of the University of Denver School of Law, points out the international nature of the problem as well as several cooperative ventures to alleviate it.

As the writer suggests, three questions must be answered before pollution can be combated successfully.

First. Who is to institute corrective measures?

Second. Who is to pay?

Third. What regulations, controls, and machinery would insure compliance?

I commend Professor Nanda's article, entitled "Does Man Face Self-Destruction?", to the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

DOES MAN FACE SELF-DESTRUCTION?—NEW INTERNATIONAL AGENCY SUGGESTED AS A SOLUTION FOR ENVIRONMENT PROBLEMS

(By Ved P. Nanda)

(EDITOR'S NOTE.—The author is associate professor of law at the University of Denver School of Law.)

"Irked Italians rename town on a polluted river 'Stinkville' "

"Soviets sound pollution alarm"

"Pollution perils a French church"

"Europe's industrial cesspool—the North Sea"

"Salmon: natural death or killed by Danes?"

"Mercury curbs fishing in Ontario"

Are those news items unique? Not any more, for Europe and North America are in the grip of a growing concern about their environment.

This concern was expressed this spring on a variety of issues on campuses and communities across the nation in a host of activities culminating with "Earth Day" teachings on April 22. The focus, though occasionally global, is primarily domestic.

Across the border on the North, the Canadian Parliament has unanimously adopted legislation extending her control to regulate activities over the Northwest Passage. It is setting up shipping safety-control zones as wide as 100 miles.

Despite U.S. objections on the ground that this Canadian move might set a precedent for other similar claims by other countries, thus restricting freedom of the seas, Prime Minister Trudeau declared: "We cannot wait for a disaster to prompt us to act. We need law now to prevent pollution of our Arctic territories."

AIR PROBLEMS

Several European countries are confronting serious problems of air and water pollution. But there the concern is not only national; it is primarily across national boundaries.

A recent warning from a leading Norwegian scientist, Dr. Brynjulf Ottar, director of the Norwegian Institute for Air Research, highlights the issue: "Our fresh-water fish and our forests will be destroyed if these developments continue uncontrolled." He was referring to the rising acidity Norway is experiencing in its rain and snow, the acidity being caused by combustion pollutants which occasionally drift over Norway from England, and Western Europe, notably West Germany.

Similarly, Sweden has complained about a rising sulphur content in its atmosphere, 50 per cent of which is attributed to wastes from industrial Europe.

Both Norway and Sweden fear that high acidity could upset the ecological balance of plant and animal life. Studies to date suggest that high sulphur content could adversely affect soil and water and cause considerable economic damage, though damage would be hard to assess.

France, Germany and Luxembourg, among others, have international air pollution problems.

Scientists can identify the source of pollution by studying the direction of winds and analyzing the content of combustion pollutants. But national boundaries and the resulting jurisdictional problems hamper any effective measures to combat pollution hazards.

What recourses do Norway and Sweden, for example, have? To be workable, the solution has to be international. The Council of Europe in Strasbourg has been confronting the issue, and hopes to suggest specific proposals.

The first step the Council took was to convene a European Conference on Air Pollution in 1964. Since then it has set up a committee of experts on air pollution. Four years later, in March 1968, it adopted a Declaration of Principles to prevent and combat pollution, which calls for cooperation in legislation, administration and information. In several other parleys and study groups Europeans have conferred to draft programs of international cooperation and devise some machinery to accomplish their objective of combating air pollution.

WATER POLLUTION

Pollution of the seas, international waterways and rivers alike is reaching alarming proportions. Recent reports by marine scientists that dumping sludge off New York had created a vast "Dead Sea" that was spreading toward New York and New Jersey beaches have dramatized the growing menace of water pollution.

Cleaning of rivers and lakes, a costly undertaking but certainly a necessary one, is under way or at least under consideration in this country, thanks to the persistent demands and efforts of many concerned citizens who have been warning of the perils of contaminated waterways.

In regulating international waterways, some efforts, including U.S.-Canada International Joint Commission, and U.S.-Mexico International Boundary and Water Commission has suggested useful guidelines for others. Recently the U.S.-Canada Joint Commission has actively sought to prevent further pollution of Lake Erie. The Indus Water Agreement is also partially successful.

In Europe, an international commission for the protection of the Rhine was formed in 1950 by Switzerland, France, Luxenbourg, West Germany and The Netherlands. The group agreed to the joint testing of water quality. Fifteen years later, in 1965, they signed a formal treaty on the subject under which they have undertaken to:

Prepare studies to determine nature, extent and origin of pollution.

Recommended to members appropriate measures to protect the Rhine.

Prepare drafts which may serve as a basis of future international agreements.

Much more needs to be done if the Rhine is to regain its purity of bygone days. At a recent meeting of the Council of Europe, the French agricultural minister has proposed the creation of a European antipollution fund which he said "could be useful in financing large scale measures" in case of pollution disasters as that of the Rhine in the summer of 1969 when millions of fish died.

The World Health Organization has shown considerable interest in setting up a project aimed at preventing pollution in the Danube basin.

Most of these bilateral agreements prescribe for prevention of pollution in general terms without setting specific standards. They generally prohibit polluting affluents or discharges. There are three major questions, none of which can be satisfactorily answered at present, and everyone of which is crucial to combat pollution:

Who is to institute corrective measures?

Who is to pay?

What regulations, controls and machinery would ensure compliance?

THE SEA, TOO

The Torrey Canyon disaster in March 1967 (which occurred off Southwest England, spilled approximately 80,000 tons of crude oil into the sea, fouled both English and French beaches, and caused millions of dollars of damages besides inflicting extensive harmful effects on marine life) had given ample warning to nations of what lay ahead: supertankers, crowded sea lanes and an accelerating demand for petroleum products which would further lead to bigger tankers, increased sea traffic, and perhaps another accidental spill. As a matter of fact, pollution from tanker wrecks and from tankers dumping slops in the oceans has caused serious problems in the last three years.

Coastal waters also face pollution hazards from offshore exploration, and exploitation for oil and gas is growing at an accelerated pace. For example, while in 1967 the oceans supplied about 12 per cent of the oil and 10 per cent of the gas to meet U.S. needs, the percentage is expected to rise substantially over the next decade. Presently, offshore activities are either in progress or are expected to be started soon in over 50 countries.

The 1969 blowout in the Santa Barbara Channel was the first major spill caused by offshore activities. While it incensed people all over the country and raised serious questions about the adequacy of technology on oil spills and about operational problems in handling effectively major oil spills, it also focused attention on equally important noneconomic factors such as natural beauty and esthetic well-being. Above all, it forced policy makers to re-evaluate national priorities, keeping in view the overriding goal of achieving a total ecological balance.

However, the more recent blowouts in the Gulf of Mexico have again demonstrated that there are no guarantees that such disasters can be eliminated, and that it is imperative to undertake preventive regulatory steps and effective restorative steps both on national and international levels. The problem is further accentuated in the control of developing countries, for their need for increased revenues is likely to override the noneconomic, esthetic environmental concerns on which no price tag can be put.

Significant international measures have been recently undertaken to prevent and control oil pollution from tankers. For instance:

In November 1969, the 1954 Convention for the Prevention of Pollution of the Sea by Oil was amended, providing for stricter, higher, tighter arrangements.

In November 1969, an international conference adopted two important conventions: International Convention on Civil Liability for Oil Pollution Damage and International Convention relating to Intervention on the High Seas on the case of Oil Pollution Casualties.

Presently, under the auspices of the International Maritime Consultative Organization (IMCO), a U.N. body, maritime powers are discussing measures to combat pollution of the seas by agents other than oil and are seriously considering the establishment of an international compensation fund for oil pollution damage.

Tanker owners have recently entered into a voluntary agreement concerning liability for oil pollution.

The U.N. has undertaken an extensive study on marine pollution.

For most developing countries which do not presently have adequate legislation on their offshore activities, U.S. legislation and its responses following the Santa Barbara spill (congressional hearings; presidential panels; Interior's studies and promulgation of stricter regulations and providing for enforcement machinery) are useful guidelines.

Besides air and water pollution hazards, growing population and space activities are likely to confront man with environmental challenges. Though at present many environmental pollution problems are primarily the problems of the developed, industrial countries, the rest of the countries are going to be affected and affected soon, for these problems do not respect national boundaries, and the earth is one ecological unit. Thus it seems necessary to devise international regulatory measures now to save man from self-destruction.

"What kind of international machinery?" is certainly a valid question. But the need for one—a special U.N. agency, a new inter-

national body, a composite of many regional agencies, or all of them—is so overwhelming that an immediate, urgent and concerted action by all countries seems imperative.

THE VIETNAM WAR—NO END IN SIGHT

Mr. KENNEDY. Mr. President, 3 years ago this month the Saigon correspondent of the Washington Post, Mr. Ward Just, wrote a final dispatch before leaving South Vietnam after 18 months of reporting. In good journalistic fashion, Mr. Just began his last report—on June 4, 1967—by coming directly to the point. He wrote:

> This war is not being won, and by any reasonable estimate, it is not going to be won in the foreseeable future. It may be unwinable. Frustrated at the resiliency and resources of the enemy, the administration revises its rules of engagement and widens the war. South Vietnam, unattainable at best, threatens to become unmoored altogether.

Now, 3 years later, what has really changed, Mr. President? We are still, as Mr. Just wrote, "chasing straws in the wind." Recent articles by Washington Post correspondents Robert Kaiser and Laurence Stern provide the latest documentation that this war is "recycling itself—returning full circle to a low-level, guerrilla-type war, based upon attrition and the political isolation of rural areas by the Vietcong.

Today, after years of war, we are returning to the point where we came in and we call it progress—although political "pacification" remains as illusive as it has always been. Mr. Stern writes:

> The unglamorous war in Vietnam is still waiting to be fought; while it has not been lost by any means, it is still—as ever—far from won.

Mr. President, on how many tombstones must that epitaph appear—"yet to be won"—before we change our priorities and take negotiations seriously?

I ask unanimous consent that the recent articles written by Messrs. Kaiser and Stern and published in the Washington Post be printed in the RECORD.

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

[From the Washington Post, May 31, 1970]

THE VIEW FROM SAIGON: NO END IN SIGHT

(By Robert G. Kaiser)

"O mouse, do you know the way out of this pool? I am very tired of swimming about here, O mouse!"—Alice in Wonderland.

SAIGON.—If the mouse knows, he isn't saying. After a month of foraging in Communist sanctuaries in Cambodia, after a year of Vietnamization and 16 months after Richard Nixon took office promising to end the war, the United States is still swimming about in Indochina. The end may be in sight in presidential speeches, but it isn't in sight from here.

The Cambodian adventure has reopened the breach between the image of the war one gets by looking at it in Vietnam, and the image conveyed by the speeches of high officials in Washington. While President Nixon and Secretary of Defense Laird imply that the Cambodian incursions will accelerate the American withdrawal and ensure the success of Vietnamization, the men most directly responsible for conducting the war in Vietnam refuse adamantly to make any such predictions.

Many American officials here are still shaking their heads at the terms of President Nixon's April 30 speech announcing the Cambodian offensive. "A move that was taken for small tactical reasons got swept up in the big strategic picture," as one senior official put it in a somewhat helpless tone of voice.

To an outsider with no claim to expertise beyond 14 months experience chasing his sense of curiosity around Vietnam and Cambodia, the qualms of these officials seem thoroughly justified. Neither the situation before April 30 nor the situation since then much resembles the descriptions coming from Washington.

From here, the fall of Prince Norodom Sihanouk in Cambodia seems to have changed the Indochina situation radically. Though spokesmen for the administration aren't saying so, the United States' ability to control events on this peninsula—which has never been great—seems less now than ever before.

On April 30, the President said attacks against the sanctuaries were necessary "to guarantee the continued success of our withdrawal and Vietnamization programs." He added that the enemy is "concentrating his main forces in these sanctuaries . . . where they are building up to launch massive attacks on our forces and those of South Vietnam."

As it has turned out, that concentration of enemy troops in the sanctuaries did not exist. Thus U.S. and South Vietnamese troops met almost no opposition when they entered them early this month.

This is one of those small errors of fact that have recurred throughout the war in Vietnam, disturbing but not crucial. Much more important was the President's basic contention that the sanctuaries *had* to be attacked to allow withdrawal and Vietnamization to continue successfully.

On that question, like all the big questions in the history of the Vietnam war, there can be no certain answer. There is only one way to try to predict events in Vietnam: One assembles a portion of the information available (there is too much ever to consider it all), judges it on the basis of experience and intuition and ends up with a guess, more or less educated. For most who have tried it, this system has proven woefully imperfect. But it is all that exists, so we continue to use it.

A NEW DEPARTURE

President Nixon's prognostication came as a surprise in Vietnam. What he said, in effect, was that all the boasts about Vietnamization in the past were hollow: the program couldn't work because of the enemy's sanctuaries in Cambodia. Those sanctuaries existed before Sihanouk was deposed March 18. Nothing that happened after March 18 made them any more dangerous, according to Mr. Nixon's own commanders in Vietnam.

It is difficult to begrudge Mr. Nixon his decision to change his mind about the allegedly rosy future of Vietnamization. The theory that a relatively constant number of Vietnamese soldiers could grow in stature—but not in numbers—to replace half a million Americans has always been questionable. Many of the President's critics had accused him of dreaming on this score, or of deliberately misleading the public.

And yet in Vietnam, Vietnamization has looked like a reasonable bet—not a sure thing, not even a clear favorite, but by Vietnamese standards, a wager with a fair chance of success.

To be sure, it was a risky idea, not least because the North Vietnamese did have large forces in the Cambodia sanctuaries. But one could travel all around this country asking Americans and Vietnamese and outsiders, too, if they thought it would work, and the answer has been a conditional but widespread "yes" for many months.

The question had to be posed carefully: Could the United States withdraw its forces without the last men having to shoot their way to their airplanes? Could the South Vietnamese army and government hold up the tent until the Americans got out from under it? As the geopoliticians sometimes put it, could the Americans withdraw and leave behind a decent interval before fate took its course in South Vietnam?

The question had to be put in those terms because any broader assertion could not be justified. The long-term future of South Vietnam depends on so many variables, so few of them dependent on the outcome of the current shooting war, that any grander prediction would be foolhardy. Americans and Vietnamese here tend to agree about that.

When you asked those who answered a cautious "yes" if they could think of another way to get the United States out of Vietnam in an orderly fashion, you heard two answers. The first, and much the more popular, was "no"; the other was that America might negotiate a settlement with the North Vietnamese that would allow a complete and quick withdrawal.

This idea, so popular among war critics in Washington, is not very popular here. Among Vietnamese and Americans in Vietnam, there is widespread doubt that the North Vietnamese will negotiate a settlement unless they can be sure it is to their advantage. From here, where the Communists appear to be weak on the ground, negotiation does not look like an appealing alternative for Hanoi. A negotiated settlement that accurately reflected the current balance of power in South Vietnam would, in effect, force Hanoi to give up most of its stated objectives. And it is hard to imagine the South Vietnamese or the United States agreeing to a settlement that did not accurately reflect the current balance of power.

BASIS FOR OPTIMISM

The limited optimism that has existed here was due to a few apparent facts about the state of the war that have gained wide acceptance in the last year or so. Briefly stated, these are the principal ones:

The government has established a dominant physical presence in all of the urban areas and in most of the countryside, including the crucial Mekong Delta, the area around Saigon and heavily populated coastal regions in the north. U.S., ARVN and local militia forces have obliterated most of the old Vietcong army, pushing its remnants out of the populated areas. The Communists now must rely on North Vietnamese to do most of their fighting.

Most of the remaining enemy force units, primarily northern, have been forced to stay close to their sanctuaries.

Without its local military forces, the Vietcong's political organization has been weakened, at least ostensibly. People in the countryside are therefore less conscious of the Vietcong's presence while more active government programs have made them more conscious of the Saigon regime.

Apparent rural prosperity has also helped the government. Economists say the prosperity is false, based entirely on props provided by American dollars, but it is real to the farmer who can buy a radio, a motorbike or a tractor.

And President Thieu, with the army, has established an unprecedented degree of political stability in wartime Vietnam. The chaos of the 1963–6 period has been superseded by a remarkable calm, relatively speaking.

If those generally optimistic assertions were widely accepted here, so were a number of doubts and questions that put any optimistic conclusions in jeopardy. The fundamental reservation must be that none of

these factors can be counted on in the long term. The Vietcong have demonstrated an ability to revive their organization, and all the Saigon government's apparent strengths seem to be based on slender reeds. All could be reversed in one way or another.

The future of Vietnamization has long seemed to depend on the answers to these questions: Could the lamentable ARVN officer corps become effective? Could the local militia, now extremely erratic, assure local security without U.S. and ARVN assistance? Could the army survive without the American props that now support them at every level?

Could official corruption in Vietnam be controlled or regularized? Could the woefully weak civil administration be improved? Could economic collapse and chaos in South Vietnam be avoided? Could the non-Communists ever compete with the political organizing skill of the Vietcong? And finally, could South Vietnam ever cope with enemy forces in the northern half of the country, where the Communists have much more secure sanctuaries and a much better tactical position than in the south?

These were the long-term problems. Despite them, it seemed possible that over a short term of, say, five years, the South Vietnamese might be able to hold their own—not because of their strengths so much as because of the Communists' grave, if temporary weaknesses.

The offensive into Cambodia seems unlikely to help provide any satisfactory answer to the questions about the long-term prospects for Vietnamization. But by further weakening the Communists' tactical position, the new offensive should make the situation on the ground in South Vietnam even more hopeful.

In sum, if the Nixon's administration was pursuing a short-term strategy of getting out of Vietnam as quickly as possible without the tent collapsing in the process, the Cambodian operation might have been very helpful. Might have been, had others remained equal. But of course they have not. For reasons over which the Nixon administration had only slight control, the entire Indochina situation changed dramatically during the past several months.

THE HOPES FADED

Before this change, the United States had what seemed a fair chance of escaping more or less honorably from Indochina if it could cope with the situation in South Vietnam. The war in Laos seemed stalemated, albeit precariously. Cambodia's neutrality under Sihanouk, though benevolent to the Vietnamese Communists, seemed to assure stability in that country for the foreseeable future (in this part of the world, no more than a few years). So in those good old days, the United States just might have escaped from the region, leaving Indochina intact, at least for a reasonable period of time.

The good old days are gone. The situation in Laos looks more precarious than ever. The Communists are in a stronger position, especially after their recent offensive in southern Laos. Souvanna Phouma's neutralist government faces a gloomy future.

More important, the pretense of Cambodian stability is gone. Cambodia has become an active battlefield of the war, a third front for the North Vietnamese. In the first days after the March 18 coup, there might have been a chance for Lou Nol to negotiate a modus vivendi with the North Vietnamese. But instead, he threw down the gauntlet, and the North Vietnamese responded in kind.

The new government in Cambodia is weak, uncertain and apparently ineffectual. The same adjectives would flatter the Cambodian army. The Cambodian economy is in shambles, and will almost certainly get very much worse. The rubber industry, which provides almost all of Cambodia's exports, has already been severely disrupted by the new war.

U.S. intelligence now expects the Lon Nol regime to be challenged by a Cambodian liberation movement, led at least in name by Prince Sihanouk, whose personal popularity is said to remain high in the Cambodian countryside. The new regime's ability to cope with this challenge is, at the very best, problematical. If any prediction in Indochina is justifiable, it is that Cambodia will be in turmoil (or in Communist hands) for a long time to come.

Despite these baleful prospects, the United States seems to be tied to the new Cambodian regime almost willy-nilly. President Nixon said it was necessary to attack the Cambodian sanctuaries to assure the success of U.S. policy in Vietnam. If Sihanouk returns to power, all of Cambodia will probably become a sanctuary for the Communists. Must the whole country then be invaded?

Moreover, regardless of presidential rhetoric, it seems impossible not to interpret the offensive into Cambodia as a signal to Hanoi that the United States would not allow Cambodia to fall. Such a signal must have seemed unavoidable in Washington, if 50,000 dead in Vietnam were not to be written off as a bad go.

If one defends the Vietnam war for its stated purpose—to assure self-determination in South Vietnam—or for its cold war purpose—to stop the advance of communism in Asia—the reaction to events in Cambodia must be the same: Cambodia must be saved. But in the long run, barring a re-creation of the American presence in Vietnam, there appears to be no way Americans can prevent Communists (or pro-Communists under Sihanouk) from taking over Cambodia.

As a result of the coup against Sihanouk and events since, Indochina is now a maelstrom of conflicting vital interests: The North and South Vietnamese, the Laotians, the Cambodians and now even the Thais all see their vital interests in jeopardy.

President Nixon apparently sees America's vital interests at stake here too. But these vital interests are not compatible—in several combinations, they are mutually exclusive.

And there is no foreseeable way that the maelstrom can be calmed, unless North Vietnam abandons its Indochina campaign.

That, of course, has always been the dream of American officials, in both the Johnson and Nixon administrations. Someday, the United States always believed or hoped, the men in Hanoi would have to cry uncle. One can hear that talk again: They've overextended themselves, according to the new version of the old line; they can't fight on three fronts in the rainy season after losing their supplies, with hostile forces on all sides.

Perhaps this time it is true, but the small bits of evidence available suggest the contrary. Skeptical Westerners very recently in Hanoi were impressed by the apparent high morale and resiliency of the leadership. According to one of these recent travelers, the morale of the masses has apparently risen lately, because the government has cut prices and ended rationing of many consumer goods.

LONG FIGHT AHEAD

In the field, the Communists show every sign of having the patience to carry on the war. In Cambodia, according to U.S. intelligence and captured documents, they are beginning the long difficult task of building an indigenous revolutionary movement from the hamlets up.

Surely the North Vietnamese have grave supply problems, but they have already secured a new infiltration route via the Sekong and Mekong rivers into southeast Cambodia, which conceivably could be extended to their forces in southern South Vietnam.

And if it is true, as Presidents Johnson and Nixon have both said, that North Vietnam is counting on the American opponents of the war to win their victories, then the men in Hanoi must now be dancing the North Vietnamese version of a jig. Perhaps something resembling the gloomy picture that now seems to face the United States was inevitable even before Sihanouk's fall. Some old Indochina hands have long criticized American policy as shortsighted and self-deluding, because it failed to face up to the entire Indochina problem.

The United States has devoted its attention to South Vietnam, these critics have said, hoping that the Communists would do the same, thus localizing the problem. The criticism is harsh but difficult to dispute, if one assumes the United States has had long-term objectives in this region. Almost certainly there would have been serious instability in Indochina's future even if Vietnamization in the old context had been a smashing success.

Even in the new context, Vietnamization seems certain to continue. In Vietnam it is assumed that the end of the Cambodian operation on June 30 will be quickly followed by a substantial further withdrawal of U.S. troops. These withdrawals should be possible without serious repercussions in South Vietnam. Three months ago, that alone would have been very good news. It is still, on balance, good news; but now one must wonder if the orderly withdrawal of Americans from South Vietnam will be seen, a year or two from now, as a very significant achievement.

[From the Washington Post, June 19, 1970]

REDS MOUNT GUERRILLA DRIVE, DISRUPTING PACIFICATION

(By Laurence Stern)

DANANG, SOUTH VIETNAM, June 18.—While Cambodia has preempted the world headlines, the Communists in South Vietnam have mounted a fierce and determined guerrilla-style military campaign.

The reversion to guerrilla war tactics by the North Vietnamese and Vietcong cadres has been foreshadowed for nearly a year in Communist military proclamations and directives, starting with a much-publicized Vietcong resolution (COSVN nine).

American and Vietnamese military commanders call the new strategy a policy of "desperation" that is being waged by an adversary who knows he is "losing."

Whatever the motive, the current Communist offensive has sent pacification scores—the elaborate accounting system used here for measuring government security—tumbling in numerous South Vietnamese provinces since the onset of spring.

It has also exposed gaping weaknesses in the ability of South Vietnamese territorial forces to defend civilian populations in the so-called pacified areas from Communist attack.

In II corps, the central highland region which contains half of South Vietnam's land mass, the number of "D" and "E" hamlets (lowest on the pacification scoreboard) has doubled from 10 to 20 per cent since February. American military observers expect the trend to continue, partially in response to the Cambodians operations.

Northward in I corps, which extends from the highlands to the Demilitarized Zone, small Communist units have attacked government-controlled villages, government military dependents quarters and American firebases with growing boldness and intensity in recent months.

SCENE OF ATTACKS

During a four-day tour of the central and northern provinces I visited the dependents quarters of Vietnamese ranger units at Pleiku where 31 had been killed and 83 wounded—nearly all the wives and children of rangers—in three successive Communist attacks. The last was on June 3.

This narrow neck of South Vietnam lying

just below the DMZ has been the scene of the fiercest fighting in both Indochina wars, the French and the American.

In both I and II corps there is every evidence that the Communists—following a meticulously formulated game plan—have broken down many elements of their main forces into small assault units whose mission is to strike at American military targets as well as civilian population centers (the Communists still call them "strategic hamlets") then fade back into the forests and jungle.

The objective is not to hold territory against the massive retaliatory firepower of the Americans and South Vietnamese so much as to demonstrate the ability of the Communist guerrillas to strike at will and to terrorize civilian populations living within the military occupation zones of the Americans and the Saigon government.

To the unknowing the word "pacification" may be misleading since there are few areas in Vietnam, no matter how pacified, without guns, sandbags and soldiers.

The Communist strategy is based on patience and attrition, the two staple elements of revolutionary war as it has been practiced in Vietnam over the past two decades. Now, in a climate of American withdrawal, such tactics could have all the more telling effect on the allegiance of Vietnamese villagers and peasants—especially in this hardcore region called the cradle of the Vietminh movement.

Some South Vietnamese commanders, who will inherit greater and greater responsibility as the Americans leave, are frank to voice their anxieties.

YANKEE COME BACK

"Is there anything I can do for you?" an American general recently asked the Vietnamese chief of an important province in II corps. "Yes," the Vietnamese official replied. "Please bring back the Fourth (U.S. infantry) Division."

Since the American unit had left, security in the province, Pleiku, had dropped sharply. Several weeks ago, Communist sappers staged a daring ground offensive into the provincial capital of Pleiku, coming within 200 yards of the headquarters in which the American pacification staff was housed.

"Pacification," sighed an American official in that headquarters, "is like a balloon."

The upsurge in small force, hit-and-run Communist attacks is a reflection, only in part, of the spring-fall offensive pattern that governs the cycles of the war. American military observers familiar with that pattern are almost unanimous in their judgment that something new is afoot.

The successes of the new tactics in the Central Highlands have already cost the chiefs of two important provinces—Tuyenduc and Phuyen—their jobs.

The chief of Tuyenduc doubled as mayor of Dalat, the resort city that is absentee-owned by Saigon's elite. It was effortlessly invaded last month by a small Vietcong force which escaped unscathed. "They let the little bastards get out," fumed one American adviser, "and I want to find out why."

CAMPAIGN SUCCESS

In Phuyen, the Communists had been highly successful in a campaign of kidnapings and assassination directed mainly at village and district officials. In February, the number of abductions reached 300.

The most spectacular act of terrorism in I Corps recently was the strike by North Vietnamese Sapper Battalion 89 against the village of Phuthanh south of Danang. The Sappers killed about 100 civilians and wounded about 170.

Not a single member of the local territorial force impeded the invading force. Today's Quangnam provincial hospital in Danang is still crammed with the burned and disfigured survivors of the attack aimed with deadly precision at the families of the regional and popular force members.

The victims can take little comfort in the statistics recited with utter conviction by American officials here, showing that I Corps regional and popular forces have outperformed all the rest in South Vietnam.

Small Communist units have also waged intense attacks at the string of special forces camps manned by Vietnamese civilian irregular defense groups, who operations are masked in heavy security. The camps, 12 to 15 run along the Laotian border from the triborder area with Cambodia at Kontum to Quangduc.

NOT WON OR LOST

All this is not to say that the war is being lost in the two northern corps which have always borne the brunt of the bitterest fighting in South Vietnam. It does mean, however, that despite all the widely heralded successes of "pacification," the Communists are still able to wage what the late Bernard Fall called "revolutionary war" across a wide expanse of South Vietnamese terrain.

It means that despite the extra territorial allure of battle in neighboring Cambodia, the unglamourous war in Vietnam is still waiting to be fought. While it has not been lost by any means, it is still—as ever—far from won. The Communist objective, at the moment, is to keep things that way, or so it appears.

HOMEBUILDING IN THE SEVENTIES: PREDICTIONS BY MR. J. WILLIAM BROSIUS

Mr. MATHIAS. Mr. President, an increasingly important segment of the American housing industry is the vacation home and second-home market. Although this market is still relatively small, it is growing rapidly, in spite of the tragic national shortage of basic family housing today. It may not be vain to hope that within a generation, the second home may be the kind of goal for American families that the second car is today.

Recently the prospects for vacation homes and second homes in this decade were surveyed by Mr. J. William Brosius, president of the Linganor Corp. Mr. Brosius is well qualified to review this industry's future, for he is a director of the National Association of Home Builders and past chairman of the Association's Institute of Environmental Design. Currently he is developing the Lake Linganor at Eaglehead Community, a recreational project encompassing about 3,200 acres of woodland in Frederick County, Md.

Mr. Brosius' report is interesting and informative on a little noticed but rapidly expanding aspect of the construction industry. I ask unanimous consent that it be printed in the RECORD.

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

HOMEBUILDING IN THE SEVENTIES

(By J. William Brosius)

(The Linganore Corporation is currently developing Lake Linganore at Eaglehead, a 3,200 acre recreational community near Frederick. Mr. Brosius is a director of the National Association of Home Builders and past chairman of its Institute of Environmental Design.)

The one to watch in home building in the Seventies is the vacation and second home market.

Secondary homes within a one or two hour drive from the primary home could easily double in number in the next decade—a recent survey shows 1.7 million Americans own second homes, accounting for three per cent of the total 59 million homes in this country.

In the Seventies, second homes could easily number one-fifth of the 200,000 to 250,000 new homes expected to be constructed each year.

These new second homes will reflect a strong interest in design and function according to a family's activities. They will be built in areas focusing on such recreation facilities as lakes, the ocean, or forests.

Environmental design will be of paramount importance. There will be a renewed awareness of the natural setting of the home, and definite attempts to fit the home to the landscape, rather than to level trees and terrain to accommodate the house.

Recognizing this, better builders will take added pains to minimize any effects their communities might have on the ecological balance. Some builders are already consulting with ecologists and water, beach and forestry experts before designing their communities.

Based on past performance, the Washington region should be in for the biggest share of the second home building boom. The number of vacation homes built in the Northeast has doubled since 1950, and now represents 38 per cent of vacation homes in the country. (The North Central area accounts for another 30 per cent, the South for 17 per cent and the West, Hawaii and Alaska share the remaining 15 per cent.)

Cottages account for three-fifths of these, houses for one-third and cabins for the remainder.

Last year alone, 150,000 vacation homes were built. By contrast, 55,000 were built in the early and mid-Sixties; 20,000 during the Forties. We're closing out 1969 with spending for second homes up 67 per cent over 1965.

In that same time period, vacation land and lots spending came up 86 per cent. Industry experts anticipate a record $1.5 million second home market for this past year.

The character of the market buyers has changed, too. No longer are upper and upper middle level income families the only ones buying: a number of people with incomes ranging between $10,000 and $18,000 per year are buying. And more people are shopping. A University of Michigan survey earlier this year found that one of 10 U.S. families are saving for a second home, and that 50 per cent of all American families want a vacation home.

The age level of second home owners is dropping, too, and will continue to lower in the Seventies. By the end of the Sixties, eight per cent of all second home owners were under 35, some 71 per cent were 35–64 years of age, and 21 per cent were 65 or older. These figures should gradually change over the next decade, with the under 35's forging way ahead in the percentage.

As the age level falls, there is less resistance to longer drives between the first and second homes. Three-fifths of all vacation homes today are within 100 miles of the primary home. A full 80 per cent are within 200 miles.

Increased air transportation service, new roads, and even the shorter work week will help to push the range even farther from the metropolitan areas.

Another new phase of the second home market that is just beginning to blossom is rental programs. A number of recreational area developers and vacation home builders offer the prospective buyer rental service, enabling him to rent during periods he isn't using the house.

In New England, for instance, a person buying a home for summer sports can rent from December to April for winter sports and bring in from $1,500 to $2,000 in rent.

An estimated one-half of all second homes today are used only 30 to 90 days a year. When a second home is available for rent most of the year it qualifies for income tax deduction of business expenses (repairs, maintenance, management fees and depreciation.)

Variations abound, of course. Some developers are finding vacation condominiums an excellent sales packet. Average sales currently run from $15,000 to $50,000, taking in one room studios to four bedroom villas.

Renting is especially attractive to condominium owners. Rates can go as high as $5,000 or $6,000 per year, giving rise to excellent investment opportunities.

The only cloud threatening on the horizon is mortgage rates. But even here the picture in the Washington area is somewhat encouraging. Locally, buyers of second homes and/or vacation land average down payments of $9,000 for a $30,000 purchase with a 10-year payment period. Nationally, the average downpayment is only 25 per cent.

A SON'S AND A FATHER'S LETTERS ON THE WAR IN SOUTHEAST ASIA

Mr. CRANSTON. Mr. President, a fellow Member of Congress recently showed me an astonishing letter he had received from his son, a 23-year-old officer in the Marine Corps. Though the young man had volunteered for military service and has asked to be assigned to duty in Vietnam, he warns eloquently and chillingly of the terrible things he believes the Indochina war is doing to our country.

His letter, along with his father's reply, dramatically point up the conflicting emotions this war has aroused in the so-called younger and older generations. The young, who are troubled by a sense of duty as well as a social conscience, are beginning to despair that the answers to today's problems can be found within the present system; the old, who have a troubled conscience as well as a long-standing sense of duty, are still confident that the answers can be found within the democratic process.

But we who believe in democracy have a lot of work to do and little time left in which to do it if we are going to save democracy. The first, indispensable step is to stop this awful war that sends our boys to die in defense of dictatorships abroad while freedom and diversity are threatened at home and our country is being torn apart.

Mr. President, acting with the permission of my fellow Member of Congress and respecting his request for anonymity, I ask unanimous consent that the young Marine's letter and his father's reply be printed in the RECORD.

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

DEAR DAD: It may seem trite to speak out on what's happening here in the USA and what I say won't be new to you. I'm not trying to be original, just sincere.

Being in the Marines, I feel I have a strange perspective on the confusion here in the country. I'm going to have to risk my life in Southeast Asia within the next year . . . Risking my life in a war that hasn't been declared. Can't be fought and can't be won. What's more, a war that is contrary to everything I've been taught to believe about America. Sure, I'm not unique. Thousands have already gone with their minds doubting the purpose of it all. More than 50,000 have died. It's not that I'm reluctant to go. I'm actually intrigued by the thought of having to do something exciting and dangerous. The problem is that in the past year I've come to the realization that our country has fallen so very short of its ideals—not necessarily through unfortunate, naive blundering, but because of a conscious effort by a large number of stubborn, uncompromising traditionalists who fear any interference with their project mission for the United States. These xenophobes seek to maintain a level of suspicion within our country in order to continue the economic and political status quo not only here but abroad. You know as well as I the old theory of "you're with us or you're against" no longer holds any water in a world of emerging independent nations who seek no formal binding ties or allegiances to the powers that be in either the "Communist" or "Free World." Yet we continue to politically, economically, and militarily intimidate countries who don't toe the line; we encourage and finance counter-insurgency programs in countries whose present governments are farther away from democracy than any liberalizations in these nations that would enhance the local populations at the expense of American interests.

Well, you say, these observations and criticisms are all fairly true—but what do I plan to do about it all, what's my solution? The fact that I can offer no solutions that would satisfy all concerned interests is not important. For the last decade Americans have been electing men who said they had the solutions. You were one of those men. Going through the campaign you and many others promised to go to Washington and see that the war was ended in as long as it would take to get the troops out. President Nixon pledged to put an end to the insanity and the war, fight inflation, promote continued social reform and bring us together. Promises have been compromised, the war has been expanded as it was in 1964 and 1968, the economy has gone to hell, racism has been ignored, and the Government has made a strong effort to polarize the country into two hostile camps with no middle ground. The people who have seen the enormity of the problem and have taken to the streets to protest the duplicity of the Administration's words and actions have been ignored by the man in the White House while his "internal security forces" have been unleashed to beat, maim and kill those who dissent. The people who are demanding the peace they were promised for 10 years are being portrayed as traitors in order to alienate them from the "silent majority." Nixon seems to be employing the same tactic in the United States as he is continuing abroad—strengthening the police and security forces of the Nation rather than diverting funds necessary to alleviate the causes of the ills that beset us.

The old generation gap concept is no joke anymore. The Indochina war is a war your generation started and continued to preserve your generation's concepts of world order and America's role. My generation is being used to fight that war. Old soldiers never die, just the young ones. A large number of people are directing all their energies at resisting the war they regard as unjust and unnecessary. The Nixon administration labels them cowards and traitors. It sends out troops to repress them and even kill them.

There's much talk about the irresponsible revolutionaries. Well, I don't think you'll deny that the National Guard and the police have had much more luck and opportunity to beat, shoot, and kill. I used to think that all the talk of revolution was just romantic speculation on the part of my generation—but no more. I've watched close friends discard the banner of peaceful dissent for the bricks of defense and resistance.

If the war doesn't end soon, I see an underground development that would seek to disrupt the country with arson, sabotage, and assassination. The development is difficult to imagine, but just stop to listen to the words of songs played on current radio programs. No more singing about peace and flowers, but about "tearing down the walls" and killing cops. It's very much for real. If it comes to a civil war it would, of course, be a slaughter, but the movement is being pushed and radicalized to the point of no return. What else can you expect the youth to do when the alternatives are to go to Vietnam and get blown away or stay here and get blown away. "Brother" and "sister" are becoming part of the new language—I'm sure much like "comrade" was somewhere else another time. I'm 23 and my brothers and sisters are my future. I am greatly disturbed by the number of people who come to me for instruction in street warfare and similar actions.

Hopefully, people like you, Dad, will prevail and get the U.S.A. back on the right track. People like you can save America but you'd better get busy, because I think the Administration is rapidly destroying the relative harmony that the schools teach kids always existed in the U.S.A. I love you and Mom very much and hope you can understand what I've tried to say.

Love,

YOUR SON.

JUNE 11, 1970.

DEAR SON: Your well composed letter certainly organized the current case against Congress and the Administration. I recognize that this letter was not a casual expression but represented deep conviction.

I assure you that many in the Senate share your concern and I further assure you that we are determined to do the many things that are on the national agenda. The Administration is slow to respond. The urgency just isn't there but today for the first time a majority of the Senate stuck together for the cause of peace and rationality, however obscured it was in the Cooper-Church amendment fight. If we can but hold this small edge perhaps we can proceed in a manner that will demonstrate to the dismayed and discouraged that our elected officials are responsive and that democracy can and will work toward solving our many problems.

As you perhaps know I have been making Commencement Addresses and have been straining to bring words of assurance. There are still many who believe the system is the best possible arrangement for people to govern themselves. I would hope that your serious examination will further convince you that this is true. But frustration is not sufficient ground for even thinking of violence. Our system is the most open and available to change of any in the world. The safeguards, the machinery for dissent is there and available. We have long stressed and admired the fact that we govern by consent of the governed. This means by consent of the majority. Disgruntled minorities always have the opportunity to become victorious majorities. Our House of Representatives is elected en toto every two years. One third of the Senate on each biennial election. Congress can assume and exercise its policymaking function. Its members can and perhaps should be changed; just remember that the opportunity is there and available. But if the disgruntled take to the barricades and abandon their legal and constitutional role they will assure the election of those they feel unresponsive and perhaps pull the whole structure down on their heads with disastrous results to the whole of mankind.

Violence breeds violence and once unleashed cannot be recaptured or controlled. The real danger is not the take over by

anarchy but the introduction of repressive measures followed by the use of force that would make our country little different than the totalitarian governments we abhor.

I recognize we must have a new agenda for the nation. The areas are well recognized and identified. What we need is the resolve to embark on new and uncharted courses, for one thing is plain, we cannot solve the problems of war, discrimination, pollution and population by the old methods. Dynamic charismatic leadership is called for and we hope it will emerge. But we must recognize there is no other way at the present but to take one dogged step after another in the pursuit of the goals established. These steps include vigorous campaigning that the true majority view is exposed.

As for me I am convinced that the President does want to end the war. Perhaps he does not feel the urgency that you and I do. I am distressed when he says or intimates that we can both get out of Viet Nam and win the war. I do not believe this possible but I am willing to forego a face-saving sort of victory and I hereby commit myself totally to the effort to achieve a quick and country-saving exodus that will permit us to turn our undivided attention to the desperate domestic problems now demanding our attention.

I'm sure you are correct as you interpret and relay the feeling of frustration that grips your contemporaries. I spent many hours talking to the hordes of students and young adults that descended on Washington after the Kent State tragedy. I appreciate your and their concern but I cannot appreciate their lack of knowledge of our political structure and their unwillingness to become involved as they say, "inside the system." You have had more exposure to this so-called system than most and I am therefor dismayed that you have not expressed more confidence that this so-called system can and will work. I want to assure you that it can and in time will respond.

You are engaged now in what has long been considered the most honorable of callings, a warrior in the service of a just and democratic nation. You are to be admired and respected that you have volunteered in the most honorable but also most dangerous branch of our services. We are proud of you and know that you take your oath of allegiance seriously, that you are a dedicated and responsible officer. Do not let your resolve be undermined by the feeling that there are not men of good will, just as dedicated and loyal as you, and who are determined to continue the battle to end the war, bind up the wounds, and tackle those items you refer to as only campaign rhetoric.

A start has been made and support is needed. I hope you will urge your dissident brothers and sisters not to sulk in their tents or take to the barricades but rather to join those embattled workers in the system who many days feel just as disgusted and forgotten as you and your compatriots.

Your letter is great, your motivation good. Follow up now with a determination to do the best possible job for the Marines, then jump into the struggle to right the wrongs by new and innovative programs that now seem beyond our capacity.

Love, DAD.

RED TERROR IN LITHUANIA, LATVIA, AND ESTONIA—ENSLAVEMENT OF THE BALTIC STATES BY THE SOVIETS FOR 30 YEARS

Mr. DOMINICK. Mr. President, some 30 years ago the U.S.S.R. invaded the Baltic States in violation of all rights and took over the Governments of Estonia, Latvia, and Lithuania, which they have illegally retained since that time.

The Kremlin is fond of saying that Russian imperialism died with the czar. But the fate of the Baltic nations—Lithuania, Latvia, and Estonia—shows this to be a cruel fiction. The Communist regime did not come to power in the Baltic States by legal or democratic process. The Soviet Union took over Lithuania, Latvia, and Estonia by force of arms. The Soviets invaded and occupied the Baltic States in June of 1940, and the Baltic people have been suffering in Russian-Communist slavery for 30 years.

The Balts are proud peoples who have lived peacefully on the shores of the Baltic from time immemorial. For instance, this year marks the 719th anniversary of the formation of the Lithuanian State when Mindaugas the Great unified all Lithuanian principalities into one kingdom in 1251.

The Lithuanians, Latvians, and Estonians have suffered for centuries from the "accident of geography." From the West they were invaded by the Teutonic Knights, from the East by the Russians. It took remarkable spiritual and ethnic strength to survive the pressures from both sides. The Balts, it should be kept in mind, are ethnically related neither to the Germans nor the Russians.

After the Nazis and Soviets smashed Poland in September of 1939, the Kremlin moved troops into the Baltic republics and annexed them in June of 1940. In one of history's greatest frauds, "elections" were held under Red army guns. The Kremlin then claimed that Lithuania, Latvia, and Estonia voted for inclusion in the Soviet empire.

Then began one of the most brutal occupants of all time. Hundreds of thousands of Balts were dragged off to trains and jammed into cars without food or water. Many died from suffocation. The pitiful survivors were dumped out in the Arctic or Siberia. The Baltic peoples have never experienced such an extermination and annihilation of their people in their long history through centuries as during the last three decades. Since June 15, 1940, these three nations have lost more than one-fourth of their entire population. The genocidal operations and practices being carried out by the Soviets continue with no end in sight.

Since the very beginning of Soviet Russian occupation, however, the Balts have waged an intensive fight for freedom. During the period between 1940 and 1952 alone, some 30,000 Lithuanian freedom fighters lost their lives in an organized resistance movement against the invaders. The cessation of armed guerrilla warfare in 1952 did not spell the end of the Baltic resistance against Soviet domination. On the contrary, resistance by passive means gained a new impetus.

The Government of the United States of America has refused to recognize the seizure and forced "incorporation" of Lithuania, Latvia, and Estonia by the Communists into the Union of Soviet Socialist Republics. Our Government maintains diplomatic relations with the former free governments of the Baltic States. Since June of 1940, when the Soviet Union took over Lithuania, Latvia, and Estonia, all the Presidents of the United States—Franklin D. Roosevelt, Harry S Truman, Dwight D. Eisenhower, John F. Kennedy, Lyndon B. Johnson, and Richard M. Nixon—have stated, restated and confirmed our country's nonrecognition policy of the occupation of the Baltic States by the Kremlin dictators. However, our country has done very little, if anything, to help the suffering Baltic peoples to get rid of the Communist regimes in their countries.

The case of the Baltic States is not a question about the rights of self-rule of Lithuania, Latvia, and Estonia, since this is established beyond any reasonable doubt, but the question is how to stop the Soviet crime and restore the freedom and independence of these countries. The Select Committee of the House of Representatives To Investigate the Incorporation of the Baltic States into the U.S.S.R., created by the 83d Congress, after having held 50 public hearings during which the testimony of 335 persons was taken, made a number of recommendations to our Government pertaining to the whole question of liberation of the Baltic States. According to the findings of this House committee, "no nation, including the Russian Federated Soviet Republic, has ever voluntarily adopted communism." All of them were enslaved by the use of infiltration, subversion, and force. The American foreign policy toward the Communist enslaved nations, the aforesaid House committee stated, must be guided by "the moral and political principles of the American Declaration of Independence." The present generation of Americans, this committee suggested, should recognize that the bonds which many Americans have with enslaved lands of their ancestry are a great asset to the struggle against communism and that, furthermore, the Communist danger should be abolished during the present generation. The only hope of avoiding a new world war, according to this committee, is a "bold, positive political offensive by the United States and the entire free world." The committee included a declaration of the U.S. Congress which states that the eventual liberation of self-determination of nations are "firm and unchanging parts of our policy."

At a time when the Western Powers have granted freedom and independence to many nations in Africa, Asia, and other parts of the world, we must insist that the Communist colonial empire likewise extend freedom and independence to the people of Lithuania, Latvia, and Estonia whose lands have been unjustly occupied and whose rightful place among the nations of the world is being denied. Today, not tomorrow, is the time to brand the Kremlin dictators as the largest colonial empire in the world. By timidity, we invite further Communist aggression.

In 1966 Congress adopted House Concurrent Resolution 416 that calls for freedom for Lithuania, Latvia, and Estonia. We should have a single standard for freedom. Its denial in the whole or in part, anywhere in the world, including the Soviet Union, is surely intolerable—the feeling of Congress and the American people on this subject should be ex-

pressed strongly not only here but before the U.N.

Mr. President, I ask unanimous consent that House Concurrent Resolution 416 be printed in the RECORD.

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

H. CON. RES. 416

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all people have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its efforts to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: Be it

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples.

DISTRICT OF COLUMBIA CRIME

Mr. MATHIAS. Mr. President, shockingly, during the first 3 months of 1970, reported crime in the District of Columbia was 2.7 percent over the comparable months in 1969. Since Congress has chosen to retain virtually exclusive governmental authority within the District, the crime problem becomes our direct responsibility.

In light of this, I ask unanimous consent to have printed in the RECORD a list of crimes committed within the District yesterday, as reported by the Washington Post. Whether the list grows longer or shorter depends on Congress.

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

INTRUDER RAPES GIRL, 16, AT HOME, STEALS $65 BEFORE ESCAPING

A 16-year-old Cardozo High School student was raped and robbed at knifepoint early yesterday by a young man who awakened her in her bedroom early yesterday, police said.

The victim told police the intruder, who apparently entered through an unlocked front window, awakened her at about 3:45 a.m. She said he placed a knife at her head and threatened, "Keep quiet or I'll kill you."

The man then ordered her to disrobe, covered her face with a pillow and raped her, according to police.

After taking $65 from a dresser in the home, police said, the assailant ran out of the front door. The victim was treated at D.C. General Hospital and released.

In other serious crimes reported by area police up to 6 p.m. yesterday:

STABBED

Denise Davis, of 1058 Wahler Pl. SE, was treated at D.C. General Hospital for stab wounds she suffered when a young woman wielding a knife stabbed her in the arm, apparently without provocation, as she was riding her bicycle in front of her home.

VANDALIZED

The teachers lounge at Charles Young School, 24th Street and Benning Road SE, was ransacked when vandals broke in sometime between 4 and 11 p.m. Thursday.

An undetermined amount of food in the kitchen and a film strip machine and a camera screen in the library were destroyed about 1:30 p.m. Sunday by vandals who broke into Harris Elementary School, 53d and C Streets SE.

ASSAULTED

Mary Lawson, of Washington, was treated at Rogers Memorial Hospital after she was struck in the face by an unseen assailant who attacked her in front of her home about 5:25 p.m. Saturday.

Barbara A. McGhee of Washington, was treated at Rogers Memorial Hospital after she was struck over the head with a brick by an unseen assailant who attacked her at the playground at 13th and E Streets NE, about 5:30 p.m. on June 11.

Milton L. Price, of 605 Condon Ter. SE., was admitted to Cafritz Memorial Hospital in serious conditions after he was shot in the abdomen about 11:10 p.m. Sunday during a fight with a man wielding a gun in his home.

Hayward W. Mease, of Washington, was treated at Veterans Administration Hospital after he was shot in the chest by a man armed with a gun who assaulted him in the 1400 block of Chapin Street NW.

Shawn V. Moragne, of 4556 Quarles St. NE, was treated at Providence Hospital for elbow injuries he suffered during a fight with a youth behind his home about 3 p.m. Sunday. The youth threw a glass bottle at Moragne, cutting him on the arm.

Lingood Graves, of Washington was admitted to Providence Hospital with a gunshot wound in his left knee. Graves told police three men approached him at 4th and Farragut Streets NW and began talking to him. He said one of them then drew a gun and fired a shot at him.

Percy Walters, of Washington, was treated at Rogers Memorial Hospital after he was shot in the leg by a man who fired at him about 3:35 a.m. at the intersection of 12th and D Streets NE.

Durand Ford, of 3867 Alabama Ave. SE, was treated at D.C. General Hospital after he was shot in the foot by one of several persons who had gathered about 4 a.m. in front of his apartment building.

ROBBED

Earl Purcell Gibson, of Washington, an employee of the Metropolitan Detective Agency, was held up about 3:45 a.m. Sunday when he halted his car at a stop sign at 4th Street and Florida NW. Four youths dragged Gibson from the car and struck him over the head with a hard object. The assailants then took his wallet, watch, keys and handcuffs and drove off in Gibson's car, leaving him at the intersection.

Roy F. Harris, of Washington, was beaten and robbed shortly after 1 a.m. Saturday by six men who surrounded him at 5th Street and Rhode Island Avenue NW. After hitting Harris in the face and body the men took a large amount of cash from him and fled on foot into an alleyway.

Harold A. Haswell, of Dallas, was robbed of a large amount of money by three youths who approached him about 4:40 p.m. as he was walking in the 1200 block of M Street NW. "This is a pistol," one of them told Haswell and the trio forced him to surrender his wallet, credit cards and watch.

Paul Capel, of 4954 Just St. NE, was held up about 10.30 p.m. Saturday as he was getting out of his car in front of his home. Ten men, one of them brandishing a gun, confronted Capel and the gunman warned, "I'll blow your brains out if you say anything." The gunman then struck Capel over the head until he fell to the ground. The group removed his watch and wallet.

BP Service Station, 3710 Minnesota Ave. NE, was held up shortly after midnight Saturday by three youths who entered the station as the attendant was closing for the night. The trio, one of whom carried a revolver forced the employee to hand over the money and escaped west on Ames Street.

Thomas Melvin and Louis Williams, both of 772 Kenilworth Ter. NE, were held up about 8:35 p.m. Saturday by two young men who approached them in front of their apartment building. "Okay, this is a stickup," one of them told the men and drew a pistol. "My money is in my pockets," Williams told the men and they took his cash. When Melvin resisted, the pair began hitting him in the face and then fled on foot.

Michael A. Sylvester, of Washington, a cab driver, was held up about 2:05 a.m. Saturday by a man who hailed his taxi at 14th and K Streets NW and asked to be driven to the 900 block of Girard NW. There the passenger drew a revolver, held it at Sylvester's neck and demanded his money. The gunman then told the driver and a female passenger to get out of the cab and drove off, heading south on Georgia Avenue.

Herbert William Craig, of Capitol Heights was held up about 7:35 p.m. Saturday by two young men who approached him at East Capitol Street and Minnesota Avenue SE and asked for a dollar. When Craig replied he did not have it, one of them drew a handgun from under his T-shirt and took cash from Craigs' pocket.

Richard Franklin Ross, a Bethesda student, was beaten and robbed at the National Zoological Park, 3000 Connecticut Ave. NW, by six youths who demanded his money. When he refused, the youths struck him in the face, grabbed him and took his bills and change.

Charles C. Peterson, of Washington, was beaten and robbed about 4:45 p.m. Sunday by three young men who grabbed him by the neck. After one of them forced Peterson to the ground, the other men kicked him in the side and face and removed his wallet. The trio then fled through the Langley Junior High School playground. Petersen was taken to Walter Reed Hospital where he was treated for eye and head injuries.

James Taylor, of Washington, was beaten and robbed about 6:45 p.m. Sunday by three men who attacked him in the 2600 block of University Place NW. After knocking Taylor to the ground and striking him in the face and head with a brake shoe, his assailants took the bills from his pocket and fled on foot.

Janet Howard, of Adelphi, was held up about 2:20 a.m. as she waited for a friend in the 1500 block of 16th Street NW. Two men, one of them wielding a gun, approached her, one demanding, "Give me your purse." The gunman pointed his pistol at her until she surrendered the pocketbook, then fled with his partner.

Daniel David Campbell, of Friendly, Md., was held up by two youths who approached him about 9 a.m. while he was parked in his car at Oxon Run and Branch Avenue. One of them drew a knife and ordered Campbell to drive them to Suitland Parkway and Stanton

Road, SE where they forced him to hand over his money, then fled on foot.

Helen Estelle Marmoll and Jerrold Waldo Guyn, both of Arlington, were held up about 11:10 p.m. Saturday by six teen-agers who surrounded them in the 1400 block of U Street NW. One of them pulled out a handgun and told the couple, "This is a holdup." The group then took a purse from Miss Marmoll and a wallet from Guyn and escaped into an alleyway. The pocketbook and wallet were later recovered in the alley without the money.

STOLEN

A television set, an AM–FM radio, a lamp, nine Oriental rugs and five boxes of silverware, with a total value of $2,932, were stolen between 1 p.m. Sunday and 1:10 a.m. yesterday from Charles David Stinson, of 4881 Colorado Ave. NW, an employee of Charles I, 2602 Connecticut Ave. NW.

An adding machine and an IBM electric typewriter, worth a total of $550, were stolen sometime between Saturday and 6:30 a.m. yesterday from the Georgetown Maintenance and Repair Co., 1001 Wisconsin Ave. NW.

A $4,600 jeweled ring, a pair of earrings, a gold ring, a jewel watch, a pearl necklace and a silver bracelet, with a total value of more than $7,100 were stolen from a car belonging to Jesus San Luis, of Alexandria. The car was stolen between 9 and 9:45 p.m. Saturday from the 500 block of H Street NW and later recovered in the 400 block of Neal Place NW. The jewelry was missing.

A clock was stolen between 4 p.m. Friday and 9:30 a.m. Sunday from Stanton Elementary School, Alabama Avenue and Naylor Road SE.

A 1,200-pound safe, containing about $2,500, was stolen sometime between 11 p.m. Sunday and 6:30 a.m. yesterday from Scot Gas Station, 4727 Wisconsin Ave. NW. The station manager told police he discovered the theft when he reported for work yesterday and found the front door lock broken and the safe missing.

An electric can opener, a toaster and assorted silverware, a television set, a clock radio, a pearl necklace and bracelet, a diamond ring and two charm bracelets were stolen from the home of Richard J. Whalen, author of "The Founding Father," the story of Joseph P. Kennedy. Whalen told police burglars broke into his home at 3846 Macomb St. NW through a kitchen window sometime between 5 p.m. Thursday and 6:40 p.m. Sunday.

An air-conditioner was stolen between 3 p.m. Friday and 8:30 a.m. yesterday from the George Washington University office at 729 22d St. NW.

Roscoe Arlington Green, of 3815 New Hampshire Ave. NW, was held up about 2:55 p.m. on June 14 by three men who confronted him in front of his home. One of them pulled a revolver and held Green at bay while the other two searched his pockets and took his wallet. The trio then fled north on New Hampshire Avenue.

COMBAT DEATH

Mr. DOLE. Mr. President, when a soldier is killed in combat, his fellow citizens often seek out his last words and ascribe to them either profundity or premonition—sometimes unjustifiably or unfairly. But the last letter of Lt. Charles Hemmingway is above that kind of labeling. It is a clear and simple statement. He has done what few other men do well; he has written his own epitaph. It says something not only about Charles but about the nature of the cause for which he gave his life:

I'll say one more thing and then I must close. This I say to you as a soldier. Remember there are men fighting and dying every day so you can walk into a free classroom and learn the facts, so you can walk into church and worship, so you can watch that television and laugh. Don't let yourself down and don't let the memory of these men down. Remember these men for what they could have done in peace, whether it be clear a field or write a book. Since they have died for us we are going to have to do that much more. That is the challenge with which I leave you.

Mr. President, the Middletown, N.Y., Times Herald-Record of June 1, 1970, discussed the odyssey of Charles Hemmingway. 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:

IN 1965, A GRADUATION; IN 1970, A WREATH FOR A GRAVE

(By Chris Farlekas)

WEST POINT.—Five years ago, Mr. and Mrs. William Hemmingway came to West Point from their home in Dodge City, Kans., to see their son graduate.

Five years later, they made the journey again, but this time it was to place flowers on his grave and to participate in a special ceremony on Memorial Day.

The ceremony also marked the next-to-last step of a 12,000-mile odyssey of a poem about their son, Lt. Charles Hemmingway.

Hemmingway graduated from high school as "the person most likely to succeed." At West Point, he was one of the most popular cadets.

He grew to love the Hudson River Valley. He did volunteer work with migrants and underprivileged children.

He married after graduation and was sent to Vietnam, where he died June 13, 1967. Four months later his son was born.

He is buried in a neat, orderly row with other men from the class of 1965 who were killed in Vietnam.

His parents treasure letters about their son. One, from a fellow officer, reads: "A pall of gloom hangs over the barracks. We all liked him more than we should have liked anyone in a combat theater . . .

"I ran into an old American first sergeant from the Quang Tri area, one of the roughest men in the Army. When he heard about Chuck, he broke down and cried."

The Vietnamese soldiers, to whom Hemmingway was an adviser, also loved him. Once during a monsoon he carried the men across a river, one at a time, on his back. These and other kind acts caused Vietnamese Maj. Tran Quoc-Lich to write his poem: "Memory of a Friend."

The 20-line poem was kept in Vietnamese Army headquarters.

Last summer, Maj. Sava Stepanovitch was in Vietnam on a temporary duty tour. He is a Frenchman and an old Vietnamese hand. He parachuted into Dien Bien Phu for that last climatic battle in 1954 before the French retreated from Indochina.

He joined the American Army five years ago and is currently teaching French at the academy.

He was with Hemmingway in Vietnam.

Last autumn he brought back the scroll with the poem. It was placed in the library foyer.

When he found that the Hemmingways were coming to West Point for Memorial Day, he arranged Saturday's ceremony. Officially, the scroll was presented to them. They are leaving it at the library on display for the summer.

In the autumn, it will be taken to Dodge City.

After the ceremony, the Hemmingways talked of their son. They tried to keep the remembered incidents light and joyous, but pain betrayed their thoughts as they spoke.

Hemmingway's grandmother, who took her first plane ride at 72 to come, kept remembering "a little boy who crawled way underneath the bed so he wouldn't have to leave the farm."

Hemmingway's life will be a feature in the autumn edition of the West Point alumni magazine.

So when the leaves turn, the scroll will complete its journey and be at home in Dodge City.

Part of the poem reads: "You lost your life. Why did it end? I will remember you my friend. I'll write your name in our history; 'A courageous soldier died for liberty.'

"One day, the war will be over in our country. I'll go to the United States to see your grave, on which I'll place flowers with much regret and affection."

MEDICAL CARE FOR VIETNAM VETERANS

Mr. CRANSTON. Mr. President, last November the Labor and Public Welfare Committee's Subcommittee on Veterans' Affairs, of which I am privileged to be chairman, began comprehensive oversight hearings on the quality of medical care provided veterans wounded in Vietnam. The results of these hearings, which concluded on April 28, served as the basis for my testimony on May 27 before Senator PASTORE's Appropriations Subcommittee urging the addition of $189 million to the fiscal year 1971 Veterans' Administration appropriation. Of this proposed increase, $174 million would be for the VA medical and hospital care programs, to meet the most urgent needs uncovered during the subcommittee's investigation.

In the course of the hearings, and especially during the past month as a result of reports in the media detailing the deteriorating conditions in many of our veterans' hospitals, I have received over 300 letters and telegrams from every corner of the United States from citizens concerned about the effect of these conditions on our ability to render first-quality, compassionate care to disabled veterans, especially those from the Vietnam war. The writers of these letters and telegrams have impressed me with their eloquent and impassioned concern for the welfare of those who have made great sacrifices for their country. A common thread running through these communications was expressed by a woman who, in a letter dated May 28, wrote as follows:

Why is it that the wealthiest nation in the world can supply these men equipment to fight and kill with, but can't afford to give them proper medical care? . . . Anyone who is injured in defense of his country deserves the best possible medical treatment.

I intend to place into the RECORD today, and each day for the rest of the week, two letters representative of the many I have received, some of which describe personal experiences similar to those which the subcommittee's investigation found were all too frequent in veterans' hospitals today. I believe that Senators will find the strong commitment to first-quality medical care for veterans expressed in these letters further compelling evidence in support of the appropriations increases I have rec-

ommended and which are now pending before the Appropriations Committee.

Mr. President, I ask unanimous consent that two letters regarding VA medical care be printed in the RECORD.

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

VISALIA MEDICAL CLINIC,
Visalia, Calif., May 21, 1970.

Senator ALAN CRANSTON,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: I have recently become aware of the investigation into the problems of the Wadsworth Veterans Administration Hospital in Los Angeles. As a recent alumnus of the Wadsworth Training Program, I would like to comment on the allegations which have been made by the Wadsworth Residents Association.

First—the shortage in nursing personnel was at the critical level prior to my leaving the hospital on July 1, 1969. It is undeniably true that patients at times did not receive the necessary nursing care, despite the best efforts of the over-worked nursing staff. Because of the excessive work load, when medical emergencies would arise, all regular nursing activities would be interrupted and the patient care temporarily abandoned. This was unavoidable in the existing short staff situation and would often result in inadequate nursing care, omission of needed medication, and other problems. At best, staffing was marginal and not compatible with a standard of care comparable to that of the average Southern California private hospital. I consider the understaffing at Wadsworth Hospital a medically dangerous situation.

Second—there have been numerous complaints regarding the hospital cleanliness. With the exception of the Administrative Wing which houses the offices of the hospital officials, the entire hospital is filthy. The wards, nursing stations, and physicians' offices are extremely dirty, and the bathrooms are a definite public health menace. Last year, I personally observed the bathrooms on Ward A–3 East were filthy and not cleaned for a period of one week. During this time I contacted the Chief of Housekeeping and ultimately the Assistant Hospital Director before the bathrooms were cleaned. During this interval, feces were spattered on the commodes, floors, and walls of the bathroom. The walls were encrusted with many months accumulation of grime and filth, and often even soap and towels were not available for simple hand washing. Ambulatory Veterans were able to use facilities in the Administrative Wing which were somewhat cleaner. Unfortunately, the sicker Veterans had no alternative facilities available. Despite the unsanitary conditions in the hospital, unsupervised housekeeping personnel are often found lounging about the hospital corridors and dining room by the hour.

Third—laboratory and x-ray facilities are totally inadequate for a hospital of Wadsworth's size. The Veterans Administration has often been condemned for its exceptionally long average patient hospital confinement. This in large part is attributable to inadequate laboratory and x-ray facilities, where there is often a wait of days to weeks before essential studies can be completed. Frequently, necessary diagnostic studies cannot be performed when money is not available to obtain necessary laboratory studies from commercial sources. Because of the complexity of modern medicine, no single hospital can provide totally comprehensive laboratory studies. Because of this, all hospitals rely on outside reference laboratories for some procedures.

Fourth—there is ongoing agitation for further increases in the Internship and Residency wage scales. I personally do not believe further increases are necessary, as the present wage is certainly consistent with a decent standard of living for one in a post graduate learning situation.

An unannounced tour of Wadsworth Hospital on any Sunday afternoon with interrogation of the physicians, nurses, and patients in the building would undoubtedly confirm the allegations of the resident staff. An announced inspection would be much less beneficial, as it would inevitably be preceded by a typical Veterans Administration bureaucratic cover-up procedure.

Yours truly,

D. L. HEIGES, M.D.

MIAMI, FLA.,
June 6, 1970.

Hon. ALAN CRANSTON,
Washington, D.C.

DEAR SENATOR: I read with much interest an article where you and Veterans Administrator Donald E. Johnson appeared before a Senate appropriations subcommittee considering the VA's budget for fiscal year starting July 1, 1970. His response that he (Johnson) could not use the $174 million proposed by you is ridiculous. My son was in one of these so-called VA hospitals. Conditions were so lousy, he went AWOL from hospital and was discharged. While visiting here, he spent five hours trying to get a 20¢ catheter at the VA hospital and would be there yet had not a volunteer worker come along and took care of him in less than five minutes. Catheters cannot be purchased at local drug stores, pharmaceutical warehouses or the VA pharmacy without a doctors prescription. This is ridiculous. A VA Hospital should have a qualified Pharmacist who should certainly be aware of the fact that a paraplegic in a wheelchair would need a catheter without a five hour formality filling out papers and waiting for a doctor's prescription. What Johnson needs is one of these paraplegic patients in his home for 24 hours so he can see how much attention just one patient needs for that period of time. This entire administration has destroyed the confidence and hopes of Americans.

We are proud to have an Honorable Senator like yourself in our congress to help fight the problems that face the people of this great country of ours. Keep up the good work and may God bless you.

Sincerely yours,

Mrs. JOHN W. KUHL.

JUNE 7, 1970.
LETTERS TO THE EDITOR

Veterans Administration Chief Donald E. Johnson insists that he cannot use $174 million additional funds for VA hospitals. Apparently he has never visited one. I hope he received the May 22, 1970 copy of Life magazine. Television recently ran a series on VA hospitals interviewing patients and their grievances. All phases of the news media have been overly criticized. Thank God they have the courage to tell it like it is. Bless them all because without them such bludgeoning antics as this would never be known to the public.

It takes little over one hour after being wounded to be taken by a Medevac helicopter to a medical center or hospital ship. Some are flown to hospitals in Japan or Guam. As soon as able, they are flown to U.S. Army and Navy hospitals where care is excellent. Then disaster strikes! They are transferred to VA hospitals where help and services are not readily available and sanitary conditions are at their worst. My information comes first hand. My son paralyzed for life from the waist down needs therapy but he insists its not worth staying in these prison cells or dungeons for the little service rendered and the contamination you are subjected to. Having known the conditions he was coming home to with no appreciation for what he had done, even as a patriotic American, I believe I would have suggested he evade the draft and pay the penalty.

The penalty could not have been as great as the one he is paying under this mixed up administration and the exquisite irresponsibility of Veterans Administration Chief Donald E. Johnson, who insists he cannot use additional funds.

Mrs. BARBARA S. KUHL.
MIAMI, FLORIDA.

NOTE.—I am an annual subscriber to your paper and inasmuch as he was confined in the VA Hospital there in Richmond, I felt my sentiments described the service and conditions there rather than here. True we have a new hospital here so sanitary conditions are reasonably good but we do not have sufficient staff to render necessary services. This is a nationwide problem.

ALCOHOLISM AND ALCOHOL ABUSE IN MARYLAND

Mr. MATHIAS. Mr. President, in the Washington Post of June 14, 1970, Mr. John Hanrahan calls attention to the magnitude of the problem of alcoholism and alcohol abuse in the State of Maryland. Despite the fact that our State laws and programs are among the most progressive in the Nation, a great deal more must be done.

Dr. Roger O. Egeberg, Assistant Secretary of Health, Education, and Welfare for Health and Scientific Affairs, has recently termed alcoholism the No. 1 health problem in the Nation. The latest estimates indicate that about 9 million Americans suffer from the compulsive overuse of alcohol. Alcoholism is rated our fourth major killing illness.

Under these circumstances, I believe that prompt action on the Hughes-Javits bill, S. 3835, is imperative. As a cosponsor of the proposed Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act, I am hopeful that the Committee on Labor and Public Welfare, which has so expeditiously conducted hearings, will be able to report the bill to the Senate in the near future. I believe the need for a unit of NIMH to concentrate on prevention and control of the alcohol problem is self-evident, as is the need for Federal assistance to carefully formulated State and local programs in this area. 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:

ALCOHOLISM IN MARYLAND: A NEGLECTED KILLER

(By John Hanrahan)

The people who work to treat and rehabilitate alcoholics in Maryland are angry. They are upset over what they consider to be the great local and nationwide hoopla over drug abuse and the general ho-hum attitude toward the problem of alcoholism.

Mention the magic word "drugs," these people say, and the legislators come running to pass new laws, set up new programs, spend more money. Mention alcoholism, they say, and the same legislators say yes, it would be nice but the budget is tight and maybe next year.

They charge that the mass media have helped make the drug problem fashionable but paying scant attention to the deplorable handling of alcoholics.

To buttress their case, representatives of state and private agencies cite these statistics for Maryland which, ironically, they

claim, has the best programs for alcoholics in the nation.

There are an estimated 100,000 alcoholics in Maryland, according to state health officials. There are an estimated 2,000 to 10,000 hard-core drug addicts in the state, according to a 1969 study by the governor's Commission on Drug Abuse.

Maryland's state and county governments will spend twice as much on drug abuse programs as on alcoholism programs in the fiscal year beginning July 1.

An estimated 1,400 deaths annually in Maryland can be attributed to alcohol abuse—auto crashes, murders, suicides, cirrhosis of the liver and other physical ailments, according to Dr. Russell Fisher, president of Maryland's Medical and Chirurgical Faculty. An estimated 70 deaths—only one-twentieth as many—can be attributed annually in Maryland to drug abuse, he says.

Dr. Maxwell Weisman, who recently assumed control of alcoholism programs at Springfield State Hospital, Sykesville, says conditions there for alcoholics are "deplorable." Much of the administration and the staff at the hospital regard alcoholic patients as "dirty bums" and "third-class citizens," Dr. Weisman charges.

He said that most doctors, nurses and social workers in Maryland—and across the nation—know little or nothing about alcoholism.

To Riley Regan, an alcoholism social worker who kicked the heroin habit by himself but needed help to turn completely away from drinking, alcohol is "the most dangerous drug of all." Yet, a major part of the problem, he says, is that the public and the legislators don't view alcohol as a drug at all.

"I was a drug addict and I'm a recovered alcoholic," Regan says. "Being an alcoholic is worse."

Weisman, medical director on the Division of Alcoholism Control in the Maryland Department of Health and Mental Hygiene, came to the Sykesvile hospital earlier this spring to assume control of the alcoholic unit.

"There was one doctor who was unqualified to run the program, one rehabilitation counselor and one alcoholism counselor for the unit here," Weisman said in a recent interview at the hospital.

"This was for a hospital that admits 400 patients each month, of whom 240 are alcoholics. The physical condition of the buildings was horribly run down. The pajamas they were wearing were falling apart. The men were in rags.

"Much of the hospital staff and administration regards this alcoholic unit as the lowest rung on the ladder and that the alcoholics are a bunch of drunken skid-row bums and so they don't need new pajamas. That's the kind of attitude that seems to prevail throughout the society."

At Springfield, there are 110 beds for men in the alcoholic unit. A separate unit accomodating 20 women has recently been set up at the hospital. There are no other similar units for women at any other state hospital.

Weisman explained that the Springfield program lasts 28 days and consists of group therapy, individual threapy, Alcoholics Anonymous-type meetings and use of Antabus pills.

The program at the hospital, which serves Montgomery County and six other counties, is believed to be about 40 per cent successful in rehabilitating alcoholics.

Williard O. Foster, a recovered alcoholic who works for Weisman in coordinatnig state programs for alcoholics with the counties, says he is currently conducting a study that he believes will show that an overwhelming number of people in state prisons got in trouble because of alcohol, while very few are there because of drugs.

There is a bright side to the picture, Weisman acknowledges. Recently, when he testified before the subcommittee of Sen. Harold E. Hughes (D-Iowa), himself a recovered alcoholic, Weisman was told that Maryland was far out in front of the rest of the nation in the treatment of alcoholics.

In 1968, the Maryland General Assembly passed a pioneering law that recognized alcoholism as a disease and wiped off the books the crime of public drunkenness. Since then, the District of Columbia and Hawaii have followed suit with similar laws. Maryland's program was first funded in this fiscal year with $200,000. The amount is doubled for fiscal 1971.

Citing progress in the last two years, Weisman says, the fully 50 per cent of the state's general hospitals have agreed to admit alcoholics for diagnosis. Public and private agencies and many industries have appointed alcoholism counselors. Twenty-one counties (including Montgomery with three and Prince Georges with one) have outpatient clinics for alcoholics.

Baltimore City and 15 counties (including Montgomery) have established alcoholism coordinators in the county government within the last two years. (Prince Georges will be authorized to establish the post July 1.)

Three counties (including Montgomery) and Baltimore City have set up halfway houses for alcoholics to help them bridge the gap back into society. Montgomery County and Baltimore City have "quarterway houses" for those who are not sick enough to remain hospitalized, but who do need medical attention.

Still, as Foster notes, there's a long way to go. There is a need, he says, for more long-term facilities, more halfway houses, better training for those who must care for alcoholics.

"It's a very difficult thing in this society not to drink," says Weisman. "If you can't 'hold your liquor' you're not a man. Some people can do it, but others become alcoholics. It's time we recognized the magnitude of this problem."

SUPPORT FOR THE PRESIDENT ON VIETNAM WAR

Mr. TOWER. Mr. President, a very interesting editorial was published in one of my home State newspapers, the Kilgore News Herald. The editorial hits hard, and I believe it hits the bullseye. The editorialist realizes that President Nixon shares with us all the desire to end the war in Southeast Asia but that some people in our country have, either through frustration or malice, so separated themselves from the President and the goal which he shares with us all that they cannot afford to see him succeed. I believe that this editorial deserves the consideration of all Senators; therefore, I ask unanimous consent that it be printed in the RECORD.

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

[From the Kilgore (Tex.) News Herald, June 5, 1970]

SUPPORT MR. NIXON

From an unexpected source, Harvard University, usually a fount of anti-Administration talk, comes a thoughtful look at the Vietnam war predicament.

The writer is Gottfried Haberler, Harvard professor of international trade, whose letter appeared in the Wall Street Journal. It said:

The war in Vietnam is a national disaster. The Eisenhower and Kennedy Administrations should not have started it and Johnson should not have escalated it, at least not piecemeal. If the war had to go on he should have immediately hit hard. For example, if seaborne supplies to the enemy through Haiphong and Cambodia had been halted, the war would probably have been finished some time ago. But all that cannot be changed any more. The problem now is to get out as fast as possible with a minimum of human and political loss. This is what the present Administration to trying to do, with some success. Troop strength has been substantially reduced and Vietnamization is apparently making good progress.

The foray into Cambodia is no real escalation. On the face of it, it makes excellent sense. There was after all an anti-Communist revolution and the sanctuaries 30 miles from Saigon are right before our noses. This offered a rare opportunity with very little military risk to greatly improve the military situation, to cut down losses and enhance the chances of an eventual disengagement. It would have been gross negligence to miss this unique opportunity. It nevertheless required great courage to act.

The internal reaction has been deplorable and threatens, by encouraging the enemy, to nullify the military benefits and to reduce the chances of an acceptable peace.

That militant students would seize the opportunity to intensify violence and disruptions was to be expected. That they were able to carry along many moderates is most unfortunate, though understandable. But the students' protest would have been less irrational and destructive without the hysterical and irresponsible reaction of many of their elders. The eagerness of many embattled university administrators and professors to make common cause with the student activists is a sorry spectacle. Sure, it deflects student pressure from the universities to Washington, but it also diverts the universities from their tasks and turns them into political battle wagons. Blaming the campus turmoil on "inflammatory" statements on the campus disruptures, their abettors and tolerators, by the President and Vice President is a transparent diversionary maneuver. Throwing fire bombs is evidently not inflammatory, but castigating the bomb throwers is!

That so many professors, journalists, other intellectuals and politicians completely misunderstand or willfully misinterpret the opportunities and limited nature of the Cambodian operation is a real tragedy. It polarizes American society, encourages the enemy, and may well prolong the war and lead to defeat. Victory does, of course, not mean—let it be repeated—military or political subjugation of Hanoi but merely withdrawal of U.S. forces without immediate surrender of South Vietnam to the Communists.

All Americans are sick and tired of the war, but there should be no blinking at the fact that many have acquired a strong vested interest in American defeat and humiliation, especially if the present Administration has to preside over the ordeal. To understand this, it is sufficient to imagine what a tolerable termination of the war would mean in terms of political prestige and elections. Many politicians would lose their elections, innumerable doubters, defeatists and Nixon-haters in the press (from the New York Times down) and elsewhere would stand revealed and embarrassed, and the many professor-politicians who have found shelter in the universities would find their chances of returning to the corridors of power in Washington drastically reduced.

To the ordinary citizens this will look as a small price to pay for extricating the country from its terrible predicament. But the power of intellectual to convince themselves—and others—of the truth and righteousness of a basically absurd and indefensible position should not be underrated.

PRISONERS OF WAR

Mr. DOLE. Mr. President, apologists for the North Vietnamese, whether they defend the massacre of South Vietnamese civilians, the detention of newsmen, or the barbaric treatment received by American prisoners of war often answer these criticisms by calling for a settlement on Hanoi's terms—as if our policy in South Vietnam somehow justifies the North Vietnamese conduct. They give their own political views on the war primacy over humanitarian considerations.

A reply from the Polish Government to an inquiry from Mrs. Eileen Doyle, concerning the treatment of Americans imprisoned in North Vietnam, is a clear but tragic example of this kind of rationalization. I ask unanimous consent that both letters be printed in the RECORD.

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

JUNE 9, 1970.

Senator ROBERT DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: Inasmuch as you have donated much of your time and energy to act in behalf of American POW's I thought the attached letter might be of interest to you. This letter is the most recent response I have received from Poland replying to my letters to them regarding captive servicemen held by the Hanoi regime.

The Polish Government clearly has one point to make—that we Americans get out of Vietnam. I can understand their reasoning, inasmuch as it would be much easier for the Red enemy to enslave Indo-China; misery likes company. I received two replies from Poland their contents were exactly alike—only the writers were different.

In closing I would like to commend you on your efforts in behalf of Americans MIA and POW in Southeast Asia.

Very truly yours,

Mrs. EILEEN DOYLE.

NEW WINDSOR, N.Y.

WARSAW, POLAND,
May 30, 1970.

Mrs. EILEEN DOYLE,
New Windsor, N.Y.

DEAR MADAM: I have been authorized by the Minister of Foreign Affairs of the Polish People's Republic, Mr. Stefan Jedrychowski, to reply to your letter concerning the American airmen who remain captive in the Democratic Republic of Vietnam.

I should not fail to tell you that the well-known statements by the Government of the Democratic Republic of Vietnam and informations available to us indicate that these men are treated in a humanitarian manner.

The motives of your letter arising your concern for the fate of the American airmen now far away from home, are understandable. May I, however, draw your attention to the fact that they have been captured while on terrorist bombing raids over the Democratic Republic of Vietnam in result of which thousands of Vietnamese men, women and children have been killed or injured and enormous damage has been done to the material and cultural property of Vietnam.

The people of South Vietnam still continue to suffer tremendous losses due to the operations of the military forces of the United States and their allies present there. Particularly heavy losses are inflicted through the use of B–52 bombers, napalm, chemical agents and other devastating weapons.

While carrying out these unjust aggressive operations, the American military forces even commit mass-murder on the Vietnamese population as it is certainly known to you from already published press reports. Vietnamese prisoners of war are being tortured and killed.

I believe that the only way to avoid miseries and sufferings, including those endured by the families of American airmen, is to restore peace in Vietnam.

On May 8, 1969, the Government of the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam submitted in Paris their proposals concerning the cessation of hostilities and establishing of a lasting peace in Vietnam. The proposals are concrete, equitable and based upon the principles of respect for the right of Vietnamese people to self-determination. The Government of the United States, unfortunately, refused to respond to these proposals. Military operations are being continued. The people of Vietnam suffer the most but, indeed, so do also the families of American soldiers sent to Vietnam for purposes incompatible with the principles of peaceful coexistence of nations.

I may assure you, Madam, that my country has spared no effort to bring about a speedy peace in Vietnam, so that the people of Vietnam and other nations alike may enjoy the fruits of peace and progress and all the young Americans now risking their lives in that struggle for the wrong cause in Vietnam may join beloved at home.

Yours sincerely,

K. NOWAKOWSKI,
Director.

PRESIDENT'S VETO OF FUNDS FOR HOSPITAL CONSTRUCTION

Mr. HARRIS. Mr. President, President Nixon's veto yesterday of the appropriation for hospital construction and modernization under the Hill-Burton Act marks the second time this year his veto has been used to limit funds urgently needed for health.

Since hospital beds are in short supply and the demand is expanding, the President's action is inflationary and will continue to force medical costs up.

The President's veto certainly will not help to solve our ever-growing health crisis. Our health care delivery system is presently inadequate and continues to fall farther behind each year.

Fifteen years ago the United States ranked second among industrial countries in the survival of mothers at childbirth. Now we rank 12th.

The United States ranks 14th among industrial countries in infant mortality, while in 1955 we ranked seventh. We are 18th among nations in life expectancy of males, and 11th for females.

Thousands of persons needing medical attention are daily denied or delayed entrance into America's hospitals because of a lack of hospital beds which the Hospital Construction Act would have improved.

It is a shame, I think, that Russia, Czechoslovakia, Bulgaria, Hungary, Austria, and West Germany all have more physicians per 100,000 population than has the United States. The present shortage of doctors in the United States is now estimated at 50,000, and we greatly need additional thousands of technicians and other health care personnel.

For the past 24 years the Hill-Burton program has been a major factor in providing health facilities in my own State of Oklahoma. However, there remain many unmet needs—needs which will continue unmet as a result of the President's veto. It is estimated that Oklahoma alone has an immediate need for at least $20,891,000 in Federal funds for the construction and modernization of health facilities involving some 200 different medical institutions across the State.

Mr. President, I believe that all Americans have a fundamental right to good health. With that in mind, I plan to do all that I can in order to restore these funds which are so urgently needed for the better health of all of our citizens. I hope that an effort will be made to override the President's veto.

CBW I—THE GENEVA PROTOCOL OF 1925

Mr. PROXMIRE. Mr. President, during the last three sessions of Congress, I have taken the floor daily to remind the Senate that it has not yet ratified the International Conventions on Forced Labor, the Political Rights of Women, and Genocide. For the next few days, rather than speaking of these, I would like to discuss an issue which I feel pertains to guaranteeing universal "human rights"—the issue of CBW, chemical and biological warfare.

My hope in discussing the issue of CBW is that the President will fulfill a promise he made by resubmitting to the Senate the Geneva Protocol of 1925 prohibiting the use in war of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare.

As my colleagues know well, the United States was shocked by the thousands of men who were maimed or killed by the use of gas in World War I. We reacted by proposing the arms limitation conference which drafted the Geneva protocol. We signed the protocol. However the Senate, faced with strong opposition, refused to ratify the document. After the protocol languished in this body for over 20 years President Truman decided to remove it.

Mr. President, U.S. conduct in regard to the Geneva Protocol has been quite similar to our conduct with regard to the U.N. Human Rights Treaties. We were the first Nation to take the initiative on these documents. We argued for them on the basis of some very strong principles. However, when it came time to bring our principles into force as international law we have stalled. In very strong language this Nation from time to time has stated that it will never be the first to use chemical or biological weapons.

President Nixon has taken a giant step by unilaterally cutting U.S. CBW testing, production, and stockpiling and I applaud him for it. It remains now for him to resubmit the Geneva Protocol of 1925 and for this Senate to ratify it.

Mr. President, I ask unanimous consent that the Geneva Protocol of 1925 be printed in the RECORD.

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

PROTOCOL PROHIBITING THE USE IN WAR OF ASPHYXIATING, POISONOUS OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS OF WARFARE, GENEVA, JUNE 17, 1925

The undersigned plenipotentiaries, in the name of their respective Governments:

Whereas the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilized world; and

Whereas the prohibition of such use has been declared in Treaties to which the majority of Powers of the world are Parties; and

To the end that this prohibition shall be universally accepted as a part of International Law, binding alike the conscience and the practice of nations;

Declare:

That the High Contracting Parties, so far as they are not already Parties to Treaties prohibiting such use, accept this prohibition, agree to extend this prohibition to the use of bacteriological methods of warfare and agree to be bound as between themselves according to the terms of this declaration.

The High Contracting Parties will exert every effort to induce other States to accede to the present Protocol. Such accession will be notified to the Government of the French Republic, and by the latter to all signatory and acceding Powers, and will take effect on the date of the notification by the Government of the French Republic.

The present Protocol, of which the French and English texts are both authentic, shall be ratified as soon as possible. It shall bear to-day's date.

The ratifications of the present Protocol shall be addressed to the Government of the French Republic, which will at once notify the deposit of such ratification to each of the signatory and acceding Powers.

The instruments of ratification of and accession to the present Protocol will remain deposited in the archives of the Government of the French Republic.

The present Protocol will come into force for each signatory Power as from the date of deposit of its ratification, and, from that moment, each Power will be bound as regards other Powers which have already deposited their ratification.

In witness whereof the Plenipotentiaries have signed the present Protocol.

Done at Geneva in a single copy, this seventeenth day of June, One Thousand Nine Hundred and Twenty-Five.

THE DEFENSE OF LIBERTY

Mr. MOSS. Mr. President, there is no doubt in anyone's mind that we face troubled times throughout our country. The important question we all face is: What must be done to solve these troubled times and reestablish peace and tranquillity throughout the country?

Chief Justice Warren E. Burger has had some things to say about this problem and he warned that we must not meet current public disorder by abridging constitutional guarantees.

In reporting on this speech by the Chief Justice, the Los Angeles Times on May 22 published an editorial entitled "The Defense of Liberty." I ask unanimous consent that the editorial be printed in the RECORD.

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

THE DEFENSE OF LIBERTY . . .

Issue: Is not Chief Justice Burger correct in warning that personal liberty must not be sacrificed to repressive social order?

Chief Justice Warren E. Burger had some things to say about order and law the other day which we believe are worth repeating, and worth thinking about, in these violent, passionate times.

The American system of justice, he said, is resilient enough to meet the current crisis of public discipline without abridging our constitutional guarantees of liberty.

"Some say that we must 'crack down,' that we must 'smash' the challengers and restore tight discipline," he said. ". . . In periods of stress there are always some voices raised urging that we suspend some fundamental guarantees and take short cuts as a matter of self-protection."

But he said that "in those few periods of history when we suspended basic guarantees of the individual in times of great national stress, we have found, in retrospect, that we have overreacted."

The chief justice said that "it would be foolhardy not to be concerned about the turmoil and strife and violence," but added, "we must not give way to panic . . .

"A great number of students and, sadly, a great number of parents who ought to know better have missed the relevance of order."

But in the long view, he said, "we can see that we have never been a tightly disciplined people and, reflecting this, our legal structure has perhaps been more relaxed than that of many other societies. If this has negative aspects, it also affords us a resiliency to tide us over and enable us to meet any crisis as it arises."

Note that these words come from a judge, who, while on the federal appeals bench in Washington, D.C., often argued that the courts were bending too far to protect defendants without enough regard for law enforcement and the requirements of the social order. The chief justice's credentials as a judicial conservative are excellent, which was one reason President Nixon chose him.

So when he warns against curtailing personal liberty, he deserves to be taken seriously.

And there are those who would take the "short cuts" toward restoring order, and are taking them. There are legislative proposals, some of them from the Administration, for preventive detention, for the loose use of wire tapping, for "no-knock" laws. There is the unsettling evidence in a recent CBS poll that many Americans do not approve of such Constitutional guarantees as those for peaceable assembly, for freedom of the press, against double jeopardy.

There is, too, the short cut of brutally excessive force by governmental authorities against public disorder, as we saw, appallingly, at Kent State, Jackson, Augusta. (It shouldn't have to be said, but alas does, that such outrages to the national conscience must not recur, that they must be thoroughly investigated, that the perpetrators must be punished.)

Against this background of public anger and public anguish, the chief justice is saying, it seems to us: keep cool, remember our first principles; restore order, but remember in restoring it that the purpose for which we restore it is liberty under the even-handed rule of law.

HOSPITAL CONSTRUCTION VETO IGNORES CRITICAL HEALTH CARE NEEDS

Mr. WILLIAMS of New Jersey. Mr. President, it was with utter disbelief that I learned last night of the President's veto of the hospital construction bill of 1970. For the second time this year the President has forsaken the vital needs of the people of this great Nation in the name of "fiscal irresponsibility."

If there is anything which America needs, clearly it is an all-out effort to provide the means to overcome our crisis in health care. The bill which was before the President would have provided us with part of those means. It authorized $2.79 billion over the next 3 years for construction and modernization of health facilities. Authorized for categorical grants was $1.29 billion and $1.5 billion for federally guaranteed and direct loans. This is hardly too much when we recognize that health officials from all 50 States have shown an immediate need for $16.5 billion to construct new hospitals and to expand and modernize already existing facilities.

In his veto message, the President himself pointed out that the major requirements today are to modernize obsolete hospitals, particularly in the inner cities, and in the face of skyrocketing medical costs, to expand other types of medical facilities which will serve as efficient alternatives to hospital care.

However, we cannot delude ourselves into thinking that such approaches will satisfy the ever-increasing demand for more hospitals and more beds.

In his April message to Congress, the President suggested that the way to rehabilitate hospital facilities and provide more beds where required was not through direct grants in aid but by a program consisting solely of guaranteed private loans. Frankly, I think this is an impossible approach. The President cannot be serious in his belief that the private money market can assume the burden of providing loans for all of our major social needs—the needs of every American citizen. For let us not forget that he has asked the Congress to require the American people to go to the banks for loans for more than just hospital beds. That would be difficult enough. But the President also includes higher education, pollution control, and housing for the elderly, as part of this approach.

Perhaps part of the reason he feels we cannot provide direct grants for these programs is due to his unreserved willingness to spend money on the Cambodian invasion, to pay the salaries of Laotian and Thai soldiers, to deploy the ABM, or to build an SST.

Mr. President, the Congress has worked long and hard to pass a bill which would help bring adequate health services to all our citizens. Health care is not a privilege. It is a basic right. Certainly this is the biggest hospital construction bill in our history. Yet, the President seeks to make us ashamed of the fact that we care.

Finally, I cannot help but remind my colleagues that this bill is not a matter of partisan politics. The House version passed that body by a unanimous vote. The Senate measure was also passed without opposition. After some very hard bargaining in the conference the House again gave the bill its unanimous approval and the Senate cleared it by a voice vote. I do not think, when the leadership of both bodies on both sides of the aisle so clearly commits itself to so important a piece of legislation as this,

that we can allow the President to act as he has and accuse us of being irresponsible.

I implore every Senator to consider the impact of this veto for now and the future. We must not sound a retreat from the promise of decent health care for the American people. We must demonstrate that the United States can and will take its place in the world with other nations which have done so much to provide for the health of their people.

DROPOUT PREVENTION PROGRAM

Mr. MURPHY. Mr. President, Senators may recall that I was the author of the dropout prevention program, which is now incorporated as title VIII of the Elementary and Secondary Education Act. This program has attracted a great deal of attention.

One project in particular is being followed by people interested in education all across the country. I am referring to the Texarkana project. Under this project, the local school system has entered into a performance contract with private industry to raise reading and math scores one grade level in 80 hours of instruction for $80. The preliminary results are most encouraging. That is why I am so pleased to hear that on May 14, the Office of Economic Opportunity decided to encourage performance contracting in education.

That agency plans to conduct an experiment in performance education aimed at upgrading the reading and mathematics level of children from poor families. The contracting firms will have programs which include a variety of educational technologies and performance incentives. The former may involve teaching machines, specialized programs, and specialized teachers, while the latter includes incentives directed at the entire school system and individual teachers and students, as well as the contractors themselves. The project will establish the precedent of allocating resources based on the final product of the educational process; that is, the measurable increases in the students' educational achievement.

The experiment will cost between $3.5 million and $5.5 million, and will involve some 12,000 to 17,000 schoolchildren in as many as 24 school districts across the country. The program will be in place by September and run during the next school year.

Mr. President, it is not necessary for me to point out the significance which this experiment can have on public policy. Because I believe that education offers the best long-range solution to our problems of poverty, I am particularly pleased that the OEO has decided to give emphasis and encourage experimentation in this area.

Mr. President, I ask unanimous consent that a copy of the press release issued by OEO and some newspaper accounts of this effort be printed in the RECORD.

Along with the Senator from Minnesota (Mr. MONDALE), I plan to offer an amendment which would add an additional $5 million to the dropout prevention program. I hope the Senate will adopt the amendment, for it will enable the search for solutions to our educational problems that have been taking place under the dropout prevention program to continue.

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

PERFORMANCE CONTRACTING IN EDUCATION

An experiment in performance education, aimed at upgrading the reading and mathematics level of poor children, will be launched this fall by the Office of Economic Opportunity, it was announced today by Director Donald Rumsfeld at a press conference.

The experiment will involve incentives to learn for students and incentives to teach for teachers. Contracts to educational firms will, in some instances, provide for payment according to the level of achievement reached by the pupils. Teaching machines, specialized programs and specialized teachers will be used in the experiment.

The Office of Economic Opportunity experiment will be conducted by the Agency's Office of Planning Research and Evaluation. The cost of the one-year experiment is expected to be between $3.5 million and $5.5 million. An estimated 12,000 to 17,000 children in as many as 24 school districts will participate.

Contracts will be on a performance basis. Firms will be paid for their success in increasing the capacity of students to benefit from the educational process. The project will establish the precedent of allocating resources based upon the final product of the educational process: i.e., measurable increases in the student's educational achievement.

The Office of Economic Opportunity experiments will concern themselves with upgrading reading and mathematics levels. They are expected to be conducted in two sets of grades: first through third and seventh through ninth. This Agency will provide grants to the school districts to conduct the experiment. The school districts chosen will contract with the private firms.

Proposals from the private sector have been received and are under study.

An independent evaluation will include pre-measurements and post-measurements of both students in the experiment and students in a carefully selected control group. Students in both groups will be tested several months after the experiment has been concluded to determine the instruction's long-range effectiveness.

AN EXPERIMENT IN PERFORMANCE CONTRACTING

INTRODUCTION

Past and present poverty programs have stressed the marginal provision of compensatory educational services. They have been a piecemeal offering of more funds to poor school districts, additional books and tutors, summer study programs, smaller class size, and counseling to improve "attitudes" towards learning. Until recently, it has been assumed that positive results would follow from this provision of traditional educational imputs.

In light of the rapid development by private industry of innovative educational techniques, the Office of Economic Opportunity has decided to mount a major experiment designed to test the effectiveness of performance contracting in education. The purpose of the experiment is to examine a variety of techniques (both technological and incentive based) in order to determine the extent to which such techniques can improve the basic reading and math skills of students whose performance in these areas has been below the general achievement level. Results may provide evidence that the society has at its disposal the means for upgrading the basic learning skills of students whose proficiency levels are well below their peers. If such results accrue, they would permit students to take full advantage of the educational system in the United States, and would enhance their abilities to compete on an equal footing with their contemporaries.

THE EXPERIMENT

Various educational innovations which show great promise are currently being developed by private industry. Therefore, the Office of Economic Opportunity will select approximately six firms whose proposals provide a variety of educational technologies and performance incentives. The former may involve teaching machines, specialized programs, and/or specialized teachers. The latter may involve incentives directed at entire school systems, individual teachers, and/or individual students, as well as the contractors themselves.

The experiment will include approximately 24 different school districts and an estimated 12,000 to 17,000 students in grades 1–3 and 7–9. This means that the experiment will be large enough to test the variety of educational techniques (technology, incentive, and the two combined) in a range of settings; examine their impacts on both younger and older students; and set up control groups of students in math and reading either through the schools' standard curricula or through the reading and math specialists which many schools now provide as part of their standard programs.

Measurement of reading and math skills will be conducted by an independent contractor, not connected with the performance contracting firms or the school districts. The skills of each student will be tested at the beginning of the experiment, periodically throughout the school year, and six months after the experiment has been completed. This last testing will permit assessment of the permanence of the gains which may have been realized during the instructional period itself.

On the basis of these results, the Office of Economic Opportunity will be able to make judgments as to which specific techniques are most effective under various sets of circumstances. Assuming that one or more techniques do prove successful, a variety of policy questions will arise regarding their dissemination and implementation: the role of the public sector at the Federal, state, and local level; the role of the private sector through the contracting of services; cost and universe of need projections; and legislative requirements. OEO is preparing to undertake a separate, systematic investigation of these and other policy implications in order to set forth the various alternatives.

The administrative structure of the experiment, the experimental design, and the size of the performance contracting experiment are set forth in Charts I and III.

CHART I—*Size of the experiment*

Number of school districts, up to 24.
Number of students, 12,000–17,000.
Number of contracting firms, approximately 6.
Cost, $3.5 to $5.5 million.

CHART II.—*Experimental design*

1. Control groups:
a. Regular classroom instruction and
b. Reading and math specialists.
2. Technology.
3. Incentives:
a. Contractor;
b. School;
c. Teacher; and
d. Children.
4. Technology and incentives.

[From the Washington Post, May 15, 1970]

OEO EDUCATION TEST BASED ON PERFORMANCE CONTRACTS

(By Eric Wentworth)

The Office of Economic Opportunity will launch a multimillion-dollar experiment using performance contracts with private companies to boost reading and mathematics skills of poor children.

The announcement yesterday by Donald Rumsfeld, OEO director, marks the Nixon administration's largest single effort so far to promote accountability in education.

Under typical performance contracts, the companies are paid on a graduated scale based on the students' achievement gains. Thus they are held accountable for producing results.

In broader terms, accountability calls for measuring school and teacher quality by how well their students progress rather than by class size, per-pupil spending and other "inputs."

Rumsfeld said OEO plans to spend as much as $5.5 million for contracts in as many as 24 school districts around the country. From 12,000 to 17,000 youngsters in grades 1–3 and 7–9 will be involved, with up to 10,000 others scrutinized as "control groups."

OEO plans to start the one-year experiment when classes resume next fall. John O. Wilson, OEO's planning, research and evaluation chief, reported that at least 29 companies have submitted proposals.

About six companies offering a variety of teaching techniques and incentive schemes will be picked. While performance contracts will be used in a majority of cases, OEO officials said, companies in some instances will sign more conventional pacts.

OEO officials said a number of school systems are showing interest in taking part. Among them are Prince Georges County, Md., Athens, Ga.; Montclair, N.J.; Jacksonville, Fla; Dallas, Seattle, Minneapolis and San Diego.

The only performance-contract project known to be operating so far is one that began last fall in Texarkana, Ark., involving Dorsett Educational Systems of Norman, Okla. Funded by the U.S. Office of Education, the Texarkana project is designed to curb school dropouts and also ease the stresses of desegregation. First reports show that students' reading and mathematics gains are surpassing Dorsett's guarantee.

San Diego has also approved a performance contract but was reported still looking for funds. The State of Virginia, Dallas, Detroit and some New Jersey school systems are also planning to try this approach.

Officials at both OEO and the Office of Education insisted yesterday that there was no rivalry between the two agencies over who would promote performance contracting. The Office of Education was said to be short of unfettered funds.

OEO views its effort as a highly sophisticated, carefully designed and controlled test of whether performance contracts really work. It wants to explore the relative effectiveness of the companies' teaching machines or learning programs and the special incentives they may offer—such as Dorsett's trading stamps for students who make good progress.

The agency will use independent firms to check out the students' achievements and thus contractors' performance.

On another front in education reform, Rumsfeld said OEO definitely wants to go ahead with a trial of school vouchers. Under this system, parents would receive vouchers representing each child's share of the local public school budget. They could "spend" the vouchers to send the child to a public, parochial or private school—whichever they chose.

[From the Washington Star, May 14, 1970]

OEO TO PAY PRIVATE FIRMS FOR TEACHING

(By John Mathews)

The Office of Economic Opportunity today announced a multimillion dollar one-year experiment in education contracts designed to pay private companies according to how well they teach basic reading and mathematics skills to poor children.

The federal antipoverty office's experiment represents the first attempt to introduce the much talked about concept of accountability to education on a large scale.

If successful, an approach that closely measures the effectiveness of educational programs by how well students achieve "could indeed revolutionize education in this country," OEO director Donald Rumsfeld said.

Before the end of June, OEO will choose six educational firms and award them contracts to upgrade the reading and math skills of poor children in 24 school districts around the nation. An estimated 12,000 to 17,000 children will participate in the experiment, which is expected to cost between $3.5 million and $5.5 million.

VARIETY OF APPROACHES

Firms will use a variety of approaches, including new educational technology and programmed instruction, to teach the basic skills to poor children for up to one hour a day in both reading and mathematics. The children will include first through third grade students, and seventh through ninth grade students.

Their performance will be closely measured against the achievement of children in control groups who will be taught by methods currently in use.

Firms will be paid generally on a sliding scale, depending upon the length of time and success they have in bringing low achieving students up to and beyond grade-level performance in the basic subjects.

TUITION OPTION MOVE

The experiment conceivably could have the same significance for public education that an OEO experiment testing the family income maintenance system has had upon the country's welfare system. OEO's income maintenance experiment in New Jersey served as the testing ground for the Nixon administration's legislation, now in Congress, to institute a nationwide guaranteed family income program.

At a news conference today, Rumsfeld said his office also plans to move forward in another experimental area in education, tuition voucher systems. The antipoverty office has received a preliminary report from the Center for the Study of Public Policy in Cambridge, Mass., that recommends a large-scale voucher experiment.

Such a system would give parents in a selected city neighborhood, for instance, vouchers to cover the annual costs of educating their children. Parents could then decide whether they wanted to spend their voucher in public, private or other types of schools.

Rumsfeld said he expected such experiments would be in operation by the fall of 1971.

The performance contracting setup announced today has been attempted on a smaller scale by the U.S. Office of Education in the combined school systems of Texarkana, Tex., and Ark., since last fall.

In that project, about 400 low-achieving students have received special help in reading and mathematics through a system that uses small television-type consoles in an individualized approach. Students are rewarded with incentives, including trading stamps.

The company is paid according to how quickly it raises student achievement.

PERFORMANCE UP

In less than six months, project officials claim that students on the average have improved their reading performance by 2.4 grade levels and their performance in mathematics by 1.9 grade levels. The rate of drop-outs among seventh, eighth, and ninth grade students have decreased and school vandalism is less of a problem, Texarkana officials claim.

Twenty-nine leading educational firms have already submitted bids for the nationwide experiments, Rumsfeld said, and a number of school systems, including Prince Georges County, have already expressed an interest in participating. An OEO official said the District school system probably would be approached as a possible participant.

SYSTEM OF EFFLUENT CHARGES TO CURB WATER POLLUTION GAINS ADDITIONAL SUPPORT

Mr. PROXMIRE. Mr. President, last November, 11 other Senators and myself introduced the Regional Water Quality Act of 1970. Since that time I have received a great many letters supporting the proposed system of national effluent charges to curb water pollution. In late April the Senate Public Works Committee held hearings on the proposal during which a number of top economists and other water pollution experts expressed support for the measure. I have been especially pleased by the attitude of the distinguished chairman of the Subcommittee on Air and Water Pollution (Mr. MUSKIE) who presided over the hearings. As leader of the fight against water pollution, the Senator from Maine (Mr. MUSKIE) has consistently maintained an open mind and has always been receptive to new approaches to improve our present efforts. In a recent speech to the National Association of Counties, the Senator from Maine stated that:

> There may be a very useful way in which charges related to waste disposal can be applied, both for the purpose of meeting the costs of pollution control and abatement, and for the purpose of encouraging industries to reduce their output of wastes and to recover and re-use materials.

In recent weeks S. 3181 has gained additional backing from both the General Accounting Office and from various conservation groups. In a special report released May 8 the GAO suggested that Congress consider other alternatives to present practices for the financing and construction of waste treatment facilities. It recommended that industries be required to share in the cost of construction and that these costs should be based not only on the volume of wastes produced, but also on the strength and toxicity of the wastes. This is precisely what S. 3181 uses as the criteria for the establishment of a national system of effluent charges. Thus, the more toxic the waste, the higher the charge placed on it. This insures that industries pay the full costs of treatment of their wastes. In addition, the GAO correctly pointed out that such sharing of costs would encourage industry to make in-plant process changes to reduce its waste load. Once again, this is precisely what we can expect under a system of national effluent charges.

A number of prominent conservation groups have also recently expressed support for S. 3181. Recently the League of Women Voters, which endorsed both the use of effluent and user charges at the hearings on the bill, was joined by two citizens' groups, the Santa Maria Air Pollution Reduction Team and the Princeton Ecology Action Committee. Last week I received petitions from both these groups which urged support for effluent charges and speedy passage of S. 3181. Each petition was signed by over 200 people and stressed the urgent need for a new approach to pollution abatement.

Mr. President, the need for swift action to improve our water pollution abatement efforts is clear. Just recently the Federal Water Quality Administration—FWQA—reported that despite our best efforts Lake Erie is in worse shape today than when the first enforcement conference was held in 1965. The report conceded that most polluters were anywhere from 2 to 3 years behind schedule in cleaning up. Instead of 1972, Federal and State officials now estimate that no significant progress against pollution in the lake can be expected before 1976. Other experts, somewhat less optimistic, have already written off the lake as beyond hope and thus "dead." Unfortunately this is not an isolated case. All across the country we are falling dangerously behind in our efforts to clean up the filth which clogs our waterways.

The reason for the delays and lack of progress are not hard to find. First, we are not spending nearly enough money. Second, and equally important, we are failing in our enforcement efforts to bring reluctant polluters to heel. The cumbersome and drawn-out procedure involving conferences, hearings, and finally court action, creates 2- to 3-year delays during which effective abatement action slows to a virtual standstill.

The need for a new strategy in the face of such a crisis is only too clear. We must make rapid progress within the next few years if we are to have any hope at all of saving Lake Erie and averting similar tragedies in the future. The Regional Water Quality Act provides that new strategy. By imposing a system of national effluent charges we can make rapid progress toward cleaning up our Nation's waterways. Not only will the revenue from such a system guarantee that we will have the necessary funds to build the treatment plants, but the charges themselves will provide the strongest possible incentive for the polluter to cut back on his waste production.

Perhaps most important, we can expect almost immediate improvement following the imposition of effluent charges. The experience of Cincinnati with industrial surcharges is an excellent example. In 1953 the city, faced with an increasing industrial waste load on its municipal treatment plant, decided to impose a charge of 1.3 cents per pound on oxygen demanding waste. In just 1 year the amount of industrial waste had been reduced by 36 percent. Further reductions continued over the next 12 years despite substantial economic growth in the area. The experience of Cincinnati is typical of the many other cities which have imposed similar charges. In every case substantial reductions in waste production were accomplished within the space of 1 or 2 years. In many cases reductions of as much as 40 to 50 percent were achieved with charges between 1 and 2 cents per pound.

One of the most important advantages of a system of effluent charges would be the provision of additional sources of revenue for the construction of municipal and regional treatment plants. The critical shortage of funds for such construction has seriously slowed clean-up efforts. The backlog of Federal funds due to the States has grown tremendously in recent years. Unless new revenue sources are found quickly the success of the entire construction grant program will be in serious jeopardy. S. 3181 will provide these sources of badly needed revenue. It has been estimated that an average charge of just 10 cents per pound would produce over $1½ billion of new revenues for treatment plant construction in the first year of operation. This new money would enable us to turn the corner in the battle against the rising tide of waste. Without it, no one can predict when the problem will be brought under control. The hard truth is that, according to GAO we have made no real progress against water pollution in the last 12 years despite the expenditure of over $5.4 billion. Unfortunately we cannot afford to wait another 12 years. Time is running out for many lakes and rivers. We must take swift, effective action now. S. 3181 provides the new strategy which will guarantee such action.

DOCTOR-PRIEST TEAM ATTACKS CAMDEN AREA'S DRUG PROBLEM

Mr. WILLIAMS of New Jersey. Mr. President, last January, the Special Subcommittee on Alcoholism and Narcotics held hearings in New Jersey on one of the most serious problems confronting our society today—the problem of drug abuse. It was my good fortune, in chairing these hearings, to meet two men who have devoted so much of their lives to helping those afflicted with this dreadful illness: Rev. Edward J. Walsh and Dr. Charles E. Brimm. Their testimony at the hearings was of immense help to the subcommittee. More important, their work in the Camden community is an inspiration, not only to the drug abusers they treat, but to the community at large.

I ask unanimous consent that there be printed in the RECORD a well-written account of their efforts as it appeared in the Catholic Star Herald of May 15, 1970.

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

DOCTOR-PRIEST TEAM ATTACKS CAMDEN AREA'S DRUG PROBLEM—TV'S STRESS ON PILLS HELD MAJOR INFLUENCE

(By Charles Germain)

CAMDEN.—Fishermen are notorious for talking about the "one that got away" and those involved in more serious ventures often do the same thing.

Take the drug problem. A distraught mother contacts a priest, tells how her son has become addicted and is ruining his life, and asks what she can do to help the boy.

The priest requests that the mother attempt to get the boy to voluntarily visit a drug clinic he has formed with a local physician. The mother agrees, but two days later a newspaper headline reads:

YOUTH DIES OF DRUG OVERDOSE

Fr. Edward J. Walsh, assistant director of the Neighborhood Apostolate of the Camden diocese and active in drug addiction work, related the foregoing story to the Star Herald last week and cited the incident as one of the "stark realities" of the drug problem.

"This happened last year," he said, "but it could happen again tomorrow. Somewhere it is happening today. We are trying to prevent future incidents like this, but a great deal of help is needed."

Just a few days after the interview with Fr. Walsh it was reported that two teenagers in Philadelphia died of overdoses of narcotics.

Fr. Walsh has been working closely for the last two years with Dr. Charles E. Brimm, a general practitioner with offices at 514 Kaighn Ave. in South Camden, and they have treated over 100 addicts in Camden County over that period.

Dr. Brimm said the drug problem has skyrocketed since he opened his private medical practice in Camden in 1956.

"At that time," he said, "I only knew of about three drug addicts in the area, but right now I know of at least two or three hundred. There has been a marked increase in the last two years."

BLAMES TV ADVERTISING

In an interview at his office, Dr. Brimm said there were three reasons he believed to be responsible for the increase in drug abuse in two years.

"First of all," said the physician, "there is an ease in which users are now obtaining drugs. They don't have to travel far for supplies now. Secondly, there is a lack of fear now about drugs. Years ago the youth had a fear and a respect for these things, but that has changed."

"The third reason actually ties in with the second. It's the way television has shown how pills can solve everyone's problems. They have a pill for everything. There is a pill to wake you up in the morning, to relax you in the evening, to prevent pregnancy, to enhance pregnancy, and to put you to sleep at night.

"The young people see their parents going through the 'pill routine' and think if it's good enough for them, it's all right for the kids. The result is that they naturally lack respect for drugs.

"Even aspirin can be a very dangerous drug. I wonder how many people die each year from an overdose of aspirin. You don't see any surveys on this, do you?"

A MEANS TO SHOCK ELDERS

Fr. Walsh brought out another aspect of the teenage inclination toward experimentation with drugs.

"I think everybody should realize that we are living in a drug society," he said. "Drugs have become a cause among teenagers, a crusade, a symbol of rebellion, a new and powerful method to shock their elders.

"Their parents often don't understand. Their parents can understand drinking because this is of their generation, but drugs are puzzling and frightening. Teenagers who turn to drugs want to puzzle and frighten, not realizing the consequences."

Both Fr. Walsh and Dr. Brimm, in addition to operating their private clinic for drug addicts, are on the advisory board of the Camden County Drug Abuse Center. The latter has been in existence since last September when the Camden County Freeholders voted to provide $20,000 to go with the state's $60,000 to get the program started.

The drug abuse center has yet to treat its first addict. The difficulties in getting a program started have been due to problems in "staffing" to meet the requirements of the freeholders. Therefore, until the center becomes active, Fr. Walsh and Dr. Brimm must continue their two-man crusade against drug addiction, minus state or county financial help.

"We must continue to do whatever we can until the drug abuse center is operative," said Fr. Walsh, "because this problem is not unique to any single segment of our society in New Jersey. Nor is it restricted to any particular locale. There are no boundaries. The problem affects the affluent as well as the disadvantaged youth; the student as well as the dropout.

"To help overcome this, we must have educational and rehabilitation programs, not just one-shot programs, but ongoing ones."

Fr. Walsh and Dr. Brimm are frequent speakers at school assemblies and public meetings in their attempts to inform the public of the extent of the drug problem, its dangers, and what the individuals and groups can do to help alleviate the problem.

"You have to start somewhere," said Fr. Walsh. "The purpose of the Camden County Drug Abuse Center is to establish an induction treatment center for addicts and it's a step in the right direction to prevent drug abuse in Camden County.

"Our goal is to identify, confront, control, prevent, and destroy drug abuse problems, the time schedule for the implementation depending on the wishes of the freeholders."

Fr. Walsh is chairman of the CCDAC advisory board and Dr. Brimm is chairman of its medical committee. Offices have been set up at 834 Broadway, Camden, and in late February Joseph Martin, formerly of the Camden County Parole Office, was named director of the unit.

TO INVOLVE FOUR MAJOR AREAS

The work of CCDAC will involve four major areas of service when the program finally gets rolling. Plans currently call for an induction program, aftercare program, community involvement, and an educational program.

The induction services include: establishing neighborhood contacts; identifying collaterally involved persons and physical environment of addict's neighborhood; evaluation by recruitment team and development of a treatment plan; referral to a residential center; motivational and supportive therapy and counseling; follow-up at the treatment center; and development of resources for a 24-hour crises intervention system.

Included in aftercare services are: counseling services; social services; family membership involvement; vocational training; remedial education; employment aid; referral to social agencies; regular urine monitoring services; emergency services; and methadone maintenance services.

The community involvement phase of the program includes a review of the community's needs, speakers bureau, training programs and a coffee house.

The educational phase would include consultation services for the area schools, plans for teacher education, development of curriculum, and aiding the delinquent or underachieving students.

The Camden County program is modeled after the very successful Hudson County Out-Reach Center, located in Union City, and includes several concepts in use at Day Top Centers in the New York City area.

Many communities are just beginning to realize they have a drug problem and are confused as to what to do about it, according to Fr. Walsh. He feels that through educational programs the many different elements of a community can be brought together in a coordinated action to make an effective start in dealing with the problem.

"Motivation without knowledge results in 'do-gooders' who create needless tensions and who often become, by their actions, part of the problem rather than part of the solution," he said. It is important that knowledgeable, well-motivated leadership be formed to provide the foundation for carefully planned effective action.

STRESS EDUCATIONAL PROGRAM

"I would like to see a major emphasis in the education area, with drug education programs from kindergarten through college. This would act as the 'preventative medicine' for the drug abuse problem.

"Secondly, there is an urgent need for facilities for youths under 18 who have a drug problem, so they can be treated within the state.

"Another important need is for programs to be set up for education of families; mothers and fathers must have an understanding of what drugs will do to the individual, what they should do, and how they should react toward the addict. The family can play a major role in the rehabilitation area, but first they must be trained in the various facets of drug use and drug abuse."

Dr. Brimm, through his many hours spent in treating addicts at his office at 514 Kaighn Ave., has developed a keen insight into the motivations of those addicted to narcotics. He explained his views on the subject before the Special Subcommittee on Alcoholism and Narcotics, headed by Sen. Harrison A. Williams Jr., held Jan. 26 at Kenney's Suburban House, Cherry Hill.

"Concerning the drug addict," he told the committee, "in relation to physical and psychological dependence, one should note that a person may be physically dependent on a substance not considered part of the drug problem. A very good example would be the people who are dependent on alcohol.

"One can also become emotionally dependent in many cases on drugs not listed as habit-forming but these substances may affect one's consciousness, such as substances used to escape from reality, or adjustment toward simple pleasures and these are the tranquilizer drugs."

UNDERSTANDING IS NECESSARY

Dr. Brimm said it is necessary to understand the reasons for a person's use of drugs in order to administer proper treatment which should include rehabilitative measures.

"Withdrawal is most easily carried out in a drug-free environment or specialized ward, an installation for narcotic addicts. Under certain circumstances withdrawal must be carried out in other agencies or institutions. The withdrawal of the drug must be accomplished before rehabilitation phases of the treatment can begin.

"At times it can be considered ethical to administer maintenance doses of the new drug methadone, a synthetic narcotic, to an addict who is awaiting admission to narcotic facilities and to administer limited doses to an addict in the process of withdrawal."

Dr. Brimm said last week that there may be some addicts who will have to be on methadone as the lesser of two evils, but he said the best results he and Fr. Walsh have had was "with those we detoxified cold turkey."

Dr. Brimm's feelings about the methadone program was seconded by Dr. James Cowen of the New Jersey Department of Health in a televised interview on Channel 3 Sunday night.

"The use of methadone," said Dr. Cowen, is being abused and we have no control over it. Some doctors are using the drug for detoxification and this is valid, but others are prescribing for other reasons and this is bad.

"Some addicts just go from one doctor to another to get enough for their addiction to this drug."

METHADONE NOT A CURE

Still, it is only a crutch for the hard-core addict and its effects last only as long as it is administered. The treatment must be regular, and for a lifetime.

Drug experts say the methadone user will revert quickly back to heroin if he does not take methadone even for a day. But, relieved from his craving, he can return to a normal existence. Critics of the *methadone* program insist that drugs should not be given to addicts because it encourages their habit. They say it should be a last resort treatment.

Dr. Brimm feels methadone maintenance can be avoided except in the case where every other method of getting a patient "unhooked" is unsuccessful.

The physician said the addicts who were "cold turkeyed," which is without any medication at all, are the ones that say you are getting easy when you go toward the methadone program. They know it is replacing one addiction with another.

Dr. Brimm is well aware of the social implications of the narcotics problem. He said one of the favorite expressions of one local group of teenagers is "you're not hip, unless you're on skag."

"Skag," said Dr. Brimm, "is the slang term the kids use for heroin. The sad thing is that many youngsters feel that they have to try this stuff in order to show they are one of the gang. We have to reevaluate our social concepts as far as youth is concerned when we hear some of our teenagers talk like this."

Talk of the legalization of marijuana has been in vogue on many college campuses during the past year, but Dr. Brimm simply asks "what is the benefit?" He said the most important thing about marijuana is the fact that we don't know enough about it.

"It's legal to smoke," he said, "and it's legal to drink. Why add a third unknown like marijuana to the list. They say that it isn't addictive, but I think some people become habituated to marijuana and they must smoke pot.

"What about the driving hazard of pot users? It has definitely been proven that pot affects one's perception. Many of the heroin users I've seen said they started by smoking pot. That is not to say that all marijuana users will go on to harder drugs, but many do.

"Lately I've found that a lot of kids are starting their drugs habits by snorting heroin. It's easier to get than marijuana in some places and there's more money in it for the pusher."

The Camden physician feels strongly that the whole penal system concerning drugs should be reevaluated and revised.

"Pushers should be placed into two categories," he said, "the ones who push for money, and the ones who push to support a habit. The penalties should be less for those supporting a habit, but not lenient. The addict shouldn't get off the hook simply because he is motivated due to his habit. He should be penalized for the damage he contributes to others by his pushing narcotics, but not as severely as the pusher motivated by profit only. I don't think any penalty can be strong enough for this person."

GAMES ADDICTS PLAY

In his work with drug addicts (Fr. Walsh estimates that he averages about two or three hours a day treating them), Dr. Brimm says it is necessary to have a real compassion for them.

"They like to play games with you," he said. "They try to con you as to the reason they come to see you. Most of them fall into one of four categories:

The addict may come to you to beat a rap. This means he is usually under the threat of being sentenced and has been given

the choice of either receiving treatment or going to jail.

"The second group come to you merely because they want to reduce their habit. It is becoming too expensive for them. They want to reduce intake but don't really want to quit.

"The third group no longer get a thrill from drugs. Often their veins are collapsed so they are no longer "mainliners" and are now giving themselves drugs intramuscularly.

"The fourth group is made up of those who honestly desire to kick the habit and this is the group we find that we have the most success with. They have to have a real commitment.

"In all four of these groups we find three common denominators. There is the element which we call the addictive personality, the situation or proper circumstance for the use of the drug, and there must be the availability of the drug.

"Without any one of these three elements, one can easily see how difficult it would be to become an addict."

FURTHER STUDY NEEDED

Dr. Brimm said that in his experience he finds addiction to be a symptom of personality maladjustment, "although at the present time I've not been able to identify any typical addictive personality."

He said one of the unusual things he has found is that most addicts have a common denominator as far as the "cop out" is concerned. The addicts tend to place the blame on "society," as an example.

"It is extremely valuable," said Dr. Brimm, "to determine the true reason for an addict's turning to drugs in the first place. This information can be an invaluable aid in the rehabilitation process and can also be very helpful in preventing future addiction cases."

A Camden native, Dr. Brimm graduated from Camden High School in 1942, spent three years in the Army, and then attended Rutgers University for one year before earning a scholarship to the University of Ottawa where he studied pre-med. He attended medical school at the University of Ottawa and interned at Ottawa General Hospital for one year before returning to Camden.

Dr. Brimm is married to the former Edith Mapp, a registered nurse, and the couple have two children, Charles, 12, and Linda, 9.

A SALUTE TO BABE RUTH BASEBALL

Mr. WILLIAMS of New Jersey. Mr. President, it is with particular pride that I take this opportunity to salute the Babe Ruth Baseball program.

Almost a quarter of a million young people today benefit from this program which has become as great as the man for whom it is named.

We in New Jersey are especially gratified with the success of Babe Ruth Baseball because it was founded in our State and currently has its headquarters in Trenton, N.J. This is appropriate since some authorities say that baseball itself is a New Jersey product.

In saluting this program, I think we should most strongly laud the many people who give so generously of their time and effort to make Babe Ruth Baseball possible.

This is an age of great turmoil; a time when we hear much about generation gaps. When it comes to Babe Ruth Baseball, there is no generation gap as father and son, adult and young person, participate together.

Despite this turmoil and change, baseball remains a symbol of the American dream; a chance to "make it big" despite any of the chance factors of skin color or economic status. A high hard fast ball is no respector of social credentials.

Babe Ruth, himself the product of an orphanage, lives on as a symbol of that dream in the program named in his honor.

But, even for the countless majority of young people who will never reap the rewards of professional baseball, the Babe Ruth leagues provide a richly rewarding experience; the thrill and satisfaction of competition.

It is an excellent summer outlet for the boundless energies of our young people. It stills in advance the plea of teenagers who lament, "I've got nothing to do."

I think that everyone should give their full support to this program. We as legislators should do all that we can to insure not only its continuance but its continued growth.

It clearly is a program that our Nation needs and wants.

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 MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. HUGHES) 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.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 2315) to restore the golden eagle program to the Land and Water Conservation Fund Act, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which is requested the concurrence of the Senate:

H.R. 4605. An act to amend the Tariff Act of 1930 and the United States Code to remove the prohibitions against importing, transporting, and mailing in the United States mails articles for preventing conception;

H.R. 16506. An act to amend the Internal Revenue Code of 1954 to clarify the applicability of the exemption from income taxation of cemetery corporations;

H.R. 16745. An act to exempt shrimp vessels from the duty imposed on repairs made to, and repair parts and equipments purchased for, United States vessels in foreign countries, and for other purposes;

H.R. 17070. An act to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes; and

H.R. 17473. An act to extend the period for filing certain manufacturers claims for floor stocks refunds under section 209 (b) of the Excise Tax Reduction Act of 1965.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (H.R. 16516) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and programs management, and for other purposes, and it was signed by the Acting President pro tempore (Mr. METCALF).

HOUSE BILLS REFERRED OR PLACED ON CALENDAR

The following bills were severally read twice by their titles and referred or placed on the calendar, as indicated:

H.R. 4605. An act to amend the Tariff Act of 1930 and the United States Code to remove the prohibitions against importing, transporting, and mailing in the U.S. mails articles for preventing conception;

H.R. 16506. An act to amend the Internal Revenue Code of 1954 to clarify the applicability of the exemption from income taxation of cemetery corporations;

H.R. 16745. An act to exempt shrimp vessels from the duty imposed on repairs made to, and repair parts and equipments purchased for, U.S. vessels in foreign countries, and for other purposes; and

H.R. 17473. An act to extend the period for filing certain manufacturers claims for floor stocks refunds under section 209(b) of the Excise Tax Reduction Act of 1965; to the Committee on Finance.

H.R. 17070. An act to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes; placed on the calendar.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill, H.R. 15628, to amend the Foreign Military Sales Act.

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

The PRESIDING OFFICER (Mr. HUGHES). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the amendment of the Senator from Kansas (Mr. DOLE).

The Senator from Maryland is recognized.

THE CAMBODIAN EXPEDITION

Mr. MATHIAS. René Dubos expressed in a recent book the fundamental perception of our religious and humanist traditions. He said:

Each human being is unique, unprecedented, and unrepeatable.

This conviction is a premise of our national belief in the sanctity of human

life. And from this faith we draw not only practical guidance in governing ourselves and our affairs, but also spiritual inspiration in sustaining our national purpose and identity as a part of mankind.

As we are all aware, this faith and commitment—which far transcends national boundaries—has been deeply eroded in the stress of battle in Southeast Asia.

The extent of the erosion—and its consequences—were vividly described to me by a young Marine lieutenant in Vietnam. His letter, written in long hand, came in with the flood of mail on Cambodia and impressed me with its eloquence—its ring of truth, earned by hard experience. I would like to read from it now:

I am writing in support of your continued opposition to the expansion of the war into Cambodia and of your efforts to end the tragic conflict in Vietnam. The death and destruction are horrible . . . But the damage being inflicted goes far beyond the mutilation and death that have become a daily, accepted occurrence. Mr. Daniel Lang, in his book *The Casualties of War*, gives a powerful illustration of the further tragic mutilation that is happening to the minds of those who are not wounded or killed. With so much killing and brutal insensitivity, men are accepting slaughter without thought or question. Death, and with it life, are losing significance and value.

I have heard my men describe with excitement and pleasure the killing of a young woman with a 50-calibre machine gun, detailing how they laughed when the woman was knocked thirty feet by the impact. To many Americans, Vietnamese have long ceased to be people. In this war we are killing our own humanity, and with its death I worry greatly over the future of the United States. As we deaden ourselves, from what source will the solutions come to our crying domestic problems?

The arguments offered by the Administration in support of the Cambodian invasion have an all too haunting ring. Again the United States widens a war to end it, and with the rhetoric of disengagement expands a war accepted as a tragic period in our history. The young, and the nation, were promised a speedy end to this war. A failure on this pledge will further fracture the weakened faith that so many have in our political system. In addressing the House of Lords over the 1832 Reform Act, Lord Melbourne stated ". . . that there must come a time when both the legislative and executive powers must yield to the popular voice or be annihilated."

In the interests of humanity, and for the preservation of America's people and her institutions, I strongly encourage your actions in opposing the Cambodian intervention and in ending this tragic war.

Respectfully,

(Name deleted),
1st Lt. USMCR.

I think I understand the case made by the White House for the dispatch of troops into Cambodia. It is the military osmosis theory. It holds in effect that when a body of troops is potentially imperiled by an apparent threat in adjacent territory, the Commander in Chief may act against the danger as he sees fit. The entry into yet another country in Southeast Asia is said to be based on purely military considerations, which the Senate has no grounds to second guess—and which civilians cannot patriotically protest.

Yet the troops did not march across a topographical map; and the effects of "Operation Total Victory"—for all its classic military aplomb—will not be recorded only in textbooks of military strategy. The American troops crossed the border of Cambodia into the annals of history; and it is not a history which Americans alone will write.

Though the troops may have succeeded in their military purpose—and be celebrated in the American accounts of their undertaking—it should be remembered that they are also moving into a new phase of Asian history. And as the cruel osmosis of war extends destruction from military targets to villages, schools, hospitals and factories, our troops unconsciously take their place in a long saga of American intervention in Asia. To many of us, it may be a saga of brave battles. To Asians—even to Asians sympathetic to our country—it is often seen as a saga of disruption of an age-old cultural tapestry. It is a saga recently marked by bombing in Vietnam and Laos which has ravaged two cultures. And everywhere the military osmosis spreads, there stretches a long, bedraggled wake of refugees, who walk also under a flag of military exigency.

Combatants, particularly when insulated in airplanes far above the lands they attack, may feel a moral exemption. Eluding Asian artillery, they may feel they escape Asian judgment—and nemesis. But all of us—soldier, Senator, and citizen—will be part of this alien history despite ourselves. We will for long years remain part of the cultural consciousness of these realms that contain almost one-half the world's population and that will inevitably claim an increasing role in world politics. In years to come, every American visitor to these lands—whether his mission be business, diplomacy or charity—will suffer a chill judgment for decisions made today in the heat of battle.

This judgment may not apply so remorselessly to the acts of Asians. I condemn unreservedly the Vietcong program of assassinations in South Vietnam. I condemn the rampant atrocities at Hue. I condemn the agrarian programs in the North. I condemn the cruel exploitation of prisoners of war—and believe all should be condemned by the world. All these acts must be remembered so that they will not be repeated. But as abominable as they are, these offenses tend to take their place on a different moral registry in Asian eyes. American actions issue from an immensely powerful country thousands of miles away—with a proud claim of a higher moral concern for human life—and a record that seems to relegate Asians to a lesser human standard. Our escalations, after all, with their myriad Asian victims, are usually justified only by their promise in saving American lives. The acts of Asian Communists, on the other hand, tend to be extenuated by the very presence of an outside military force, whose footsteps echo the unhappy colonial past to the ears of many listeners.

Of course, we contend that our intervention is designed to promote "democracy." But there can be little democracy in the embattled realm of South Vietnam where General Thieu has recently closed three more newspapers. Or we say we are preserving "self-determination"—though its meaning is questionable after the long and massive American presence. Both concepts—democracy and self-determination—become phantom concepts in this distant land.

Together with the ideological illusions, our policies have been beset by strategic chimeras embracing all of Asia. On the left, the United States was said to have great imperial ambitions. Yet no one could say what we could do with our empire when we stopped bombing it. We have little business investment or other national interest. For there is nothing in Southeast Asia that we need—except the brave men who are fighting there. And many of them will never come back.

The phantom of continuing American imperialism has been opposed by the phantom of the domino theory. The Chinese Communists have contended that Communist victory in Vietnam would bring a chain of Communist victories around the world. This claim is preposterous in view of the continuing failures of Communists to make gains anywhere except in Southeast Asia where the United States has intervened. But, ironically, some Americans accept this Chinese Communist view of international reality—this Chinese vision of Communist movements everywhere looking to Vietnam for inspiration and guidance and interconnected by a kind of political telepathy.

The basic flaw of this thesis is that—contrary to the hopes of the Chinese and perhaps the fears of American hawks—Vietnam is not typical of other Asian countries. What happens there will not greatly affect other nations in the region, except to the degree they are embroiled in the war. Vietnam is virtually unique. It is the only country in the world where the Communists led an anticolonial war and won it, and thus won the mantle of national liberation. Thus we have chosen for the exemplary confrontation with the Communists that country where the Communists have greater popular support—and better claim to nationalist legitimacy—than in any other non-Communist country in the world.

Because of our massive intervention and the death of Ho Chi Minh, the situation has changed. President Eisenhower's memoirs report a CIA estimate that in 1956 Ho Chi Minh could have won 80 percent of the vote, North and South—80 percent of the vote in a phantom democratic process, establishing a Communist dictatorship. After years of Communist guerrilla activity, there is no evidence that the Vietcong are still preferred by 80 percent of the population of the South. But the Communists have increased their influence in Laos and Cambodia, and are prepared to resume effective effort in South Vietnam whenever we leave the country. The domino theory, in fact, seems to work in reverse. As we thwart the 30-year resolve of the Communists to unify Vietnam, they shift their forces to other

countries in the region to maintain momentum.

This situation does not accord with the rhetoric of either side: "American imperialism," "Vietnamese self-determination," "American military victory," "South Vietnamese democracy" are all phantom concepts in this terrible conflict. The words pursue the realities and never catch them in the jungle of an all-engrossing war. Every ideal proclaimed by either side is dissolved by the cruel logic of combat. For, regardless of the phantom quality of much of our thinking about Vietnam, the bombs and the bullets are all too real. And all too real, also, are the perversions of American democracy and morality to which the war has so heavily contributed.

As part of a phased program of Congressional participation in the process of disengagement from Southeast Asia, I am therefore supporting the Cooper-Church amendment to the Military Sales Act. This amendment would prohibit resumption of military operations in Cambodia without authorization by Congress. It would in no way infringe on the true constitutional prerogatives of the Commander in Chief, which cannot be affected by statute. This amendment would merely exercise the comprehensive war powers of Congress stipulated in article I, section 8 of the Constitution, ranging from raising and regulating the Armed Forces to defining and punishing piracies and other violations of international law. A Constitution that assigns to Congress decisions relating to piracies and other limited 18th century conflict situations clearly requires congressional participation in the far more important matter of engagement of troops in a foreign country. The Senate reaffirmed this requirement in its national commitments resolution of last summer.

The United States, with all its great wealth, cannot buy moral rectitude. We can, however, earn it with sound and humane policy. We can and should mitigate the effects of our military operations by contributing to the relief of war-ravaged areas in Southeast Asia. I think, therefore, that we should take special care to assure that no action taken by the Senate may be interpreted as prohibiting the use of funds for this humane purpose. Although there are as yet no reliable statistics relating to the impact of our Cambodian operations on neutral civilians and noncombatants, it is clear from press reports that Snuol and several other villages have been destroyed and U.S. military officials in South Vietnam report arrival of some 60,000 refugees from Cambodia.

The Department of Defense has advised that specific plans were made in advance of the Cambodian expedition by U.S. troops to provide for the problems of refugees and noncombatant casualties. I was glad to know that the system in use in Vietnam for several years, providing for prompt payments to persons apparently wounded by U.S. action and the families of persons apparently killed by U.S. action, is being followed in the areas in which our troops have been involved in Cambodia. I am told, also, that the process for accepting claims for greater damages or loss is being administered through the usual military and diplomatic channels. No matter how careful any military force may be, the noncombatants who have the misfortune to reside in what suddenly becomes a war zone are always those who suffer most.

After passage of the Cooper-Church amendment, Congress should proceed to develop and enact legislation to assure expeditious withdrawal from Vietnam. We must assist the President to fulfill his expressed determination to remove all American troops from South Vietnam. At present Congress remains on the record in the Tonkin Gulf resolution as supporting an essentially military solution in the area.

Congress should repeal this enactment and all others which implicitly support the claim that the President can commit American troops to military campaigns abroad without specific congressional authorization. Then Congress should extend such specific authorization to the President to conduct military operations in South Vietnam in territory controlled by American troops, as part of a program for their complete withdrawal.

I would hope, incidentally, that such proposals would not include language implicitly suggesting that declaration of war is the chief congressional war power or that the appropriations process is the "only vehicle" available to the Congress to participate in decisions of war and peace. Clearly if Congress is to fulfill the principle espoused in the national commitments resolution, it must be able to act at any time by joint resolution to authorize or curtail military commitments abroad. A joint resolution, moreover, is as binding on the President as any other constitutionally valid enactment.

In fulfilling our constitutional responsibilities at this crucial time, we must act with deliberation as well as decisiveness, choosing the appropriate legislative instruments and employing them as judiciously as we can. We must understand that in acting to end the Vietnam war, we also may act to establish for a long time to come the terms of congressional participation in the great decisions of war and peace in the nuclear age. And we may redeem the American political process—not only in the eyes of Americans but also in the eyes of Asians—and we can fulfill our moral debt to those patriotic young Americans, such as the U.S. marine whose letter I quoted, who are spiritually stranded in a disastrous war.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. BYRD of Virginia). The question is on agreeing to amendment No. 715 proposed by the Senator from Kansas (Mr. DOLE) and others to the Foreign Military Sales Act.

Mr. MANSFIELD. Mr. President, have the yeas and nays been ordered on the pending amendment?

The PRESIDING OFFICER. Yes, they have.

Mr. MANSFIELD. I thank the Chair. We are prepared to go forward with the discussion, but before we do, let me say to the distinguished Senator from Maryland, who has just concluded a most exemplary and worthwhile speech that, speaking of the Mathias resolution on Tonkin Gulf which was originally introduced by him, and which is now pending in the name of the distinguished Senator from Kansas (Mr. DOLE), it is the intention of the leadership, at the appropriate time, to call up that particular concurrent resolution. It, of course, was reported from the Committee on Foreign Relations, is on the calendar, and, what debate will not be expended at this time, will certainly proceed when the Mathias resolution is formally before the Senate.

Mr. President, I want the Senate to be on notice that with adoption of the Dole amendment—and I expect it to pass and I shall vote for it gladly—the Senate will have the opportunity to vote as well for the Mathias concurrent resolution, which has been on the calendar for over a month now.

With that brief note of explanation, I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I must say to the majority leader that I believe he made an historic statement just now.

This is a resolution which I have the honor to have my name on because, indeed, with the Senator from Rhode Island (Mr. PELL), we were the first to offer this particular resolution. The Senator from Maryland (Mr. MATHIAS) offered an omnibus resolution on all these matters.

I think that one thing more than any other—to wit, termination of the Gulf of Tonkin resolution, even if we do it in this bill and this bill may not become law, it may go out in conference—we have the opportunity, in fairness to the chairman whose heart is in this, to show our views on it now, which is very important, because once we dispel this, and the majority leader has put his finger on the thing which is agitating the country, then we are even.

The President stands where he stands under the Constitution. We stand where we stand under the Constitution. No one has an old piece of paper to wave under anyone else's nose. This could do more to restore balance to this debate than any other single thing we can contribute in Congress.

I express my deep appreciation—and the country will, when it realizes what has been done here—to the distinguished majority leader for his consistency in this particular matter.

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

Mr. MANSFIELD. I yield.

Mr. CHURCH. I join the Senator from New York in his remarks. I think it is appropriate for the Senate to act on the separate concurrent resolution which has been reported by the Committee on Foreign Relations, just to make certain that if this bill fails to emerge from conference, and if it fails to reach the President's desk, the separate repealer would have a chance to do so.

I do not know how the Senate could give greater emphasis to its desire to repeal the Gulf of Tonkin resolution than to do it twice.

Mr. MANSFIELD. May I say, especially in view of the fact that the President and the administration, likewise, favor the repeal of the Gulf of Tonkin resolution, that this is one time that we can, without any if's, and's, or but's, work in harmony.

May I say, also, before I yield to the distinguished Senator from Arizona (Mr. GOLDWATER) that the distinguished gentleman from Kansas has every right as a Senator to offer this amendment. But, by the same token, the extensive consideration, the numerous hearings, and the calling and questioning of witnesses on this matter by the Committee on Foreign Relations likewise has every right to be presented and heard. In that connection, the concurrent resolution came out of the committee by an overwhelming vote. I therefore want to assure the Senate that, as a separate proposal, it will be brought up at the appropriate time so that the Senate can work its will on that particular piece of legislation—as we will, hopefully and in the affirmative, on the pending amendment.

Mr. GOLDWATER. Mr. President, I ask this question of the majority leader only as a single Member of this body. But there is so much importance attached to the repeal of the Gulf of Tonkin resolution that I wonder, would it be improper to suggest that the pending business be laid aside and that we take up the Mathias resolution at this time?

Mr. MANSFIELD. It certainly is proper to make that request but, regretfully, I will have to decline because I have stated that it is not the intention of the Senator from Montana to lay aside the pending legislation until it is disposed of in orderly fashion and in harmony with the "5-o'clock shadow" arrangement which has been worked out by the joint leadership.

Mr. GOLDWATER. I asked the question for two reasons. One, it is rather obvious to most Senators here, who want to see the resolution done away with, as does the President, that we have the rather pressing problem of the extension of the debt limit which I think depends a great deal upon the annual calendar for its passage. Am I wrong on that?

Mr. MANSFIELD. That is true. It expires at the end of this month. If something is not done, the debt ceiling reverts from $370 billion or $380 billion down to around $365 billion, as I recall. What the administration is requesting is an $18-billion increase above the ceiling which expires at the end of this month. However, we could always consider the possibility of a continuing resolution on the debt ceiling, to keep it at the present level while we dispose of the arms sales legislation pending before the Senate, which I think is itself long overdue—having already gone 6 weeks. As well as I can determine, there is an amendment to be offered by the Senator from Iowa (Mr. MILLER), an amendment to be offered by the Senator from Washington (Mr. MAGNUSON) dealing with the shipment of gas from Okinawa to the United States. There is an amendment to be offered by the Senator from Indiana (Mr. HARTKE) dealing with the Greek situation, and an amendment to be offered by the distinguished acting minority leader, the Senator from Michigan (Mr. GRIFFIN), on which he is keeping his options open.

Mr. GOLDWATER. Mr. President, I might say that I have an amendment which I might call up. I have not made up my mind as yet. I was trying to figure out a timetable. We have a weekend coming up and long night sessions. The 5 o'clock agreement has pretty well precluded any discussion of the Cooper-Church amendment. It is, I might say, a built-in filibuster in a way. I know that it was not intended that way.

We have to get on with the business of the Senate. And I admire the majority leader for making the suggestion. However, would it be possible, in the opinion of the majority leader, that we might get to a vote on the Dole amendment sometime this afternoon?

Mr. MANSFIELD. I would think so.

Mr. FULBRIGHT. Mr. President, there are not many Senators here. I thought that some debate should develop a little later on.

Mr. MANSFIELD. But is there a possibility of getting a vote this afternoon?

Mr. FULBRIGHT. I do not know. The Senate has been debating the Cooper-Church proposal for 6 weeks now. The pending amendment is perhaps a more important one. I think that it should be discussed. If it were taken up and considered as a concurrent resolution, it would have, of course, a few hours of discussion.

As the Senator from New York has said, this involves an important constitutional question. It has constitutional implications as between the rights and responsibilities of the Senate and of the President.

Mr. MANSFIELD. Mr. President, may I say that I would hope we would be able to vote on the Dole amendment this afternoon and perhaps on one other. Whether we will be able to do so remains to be seen. However, if we do not finish the pending business by the time we adjourn on the second of July, we shall have to come back to this matter after we return from a very brief Independence Day recess.

As far as I am concerned, it really makes no difference. I do hate to see the Senate operate on a 12-hour basis. If we stopped to consider the welfare of this institution and, incidentally, the administration, all Senators would be far better off by cooperating to expedite the business in an orderly way so that we would not have to undergo 12-hour sessions.

My wife is in Montana. I have lots of time. I sleep very well. I do not need too much slumber in fact to be reinvigorated each morning. But I think that the Senate ought to be aware of what confronts it. Only the Senate can change what has occurred by showing a little more sense, by employing fewer dilatory procedures, and by demonstrating a little more consideration.

Mr. GOLDWATER. Mr. President, I might suggest that we went into session at 10 o'clock this morning and have stood in recess, as we did yesterday. It would be my thought that someone could have been on the floor from among those who support the Cooper-Church amendment or oppose the Dole amendment and spent some time discussing those amendments, instead of waiting until 2:30, at which time there is two and a half hours left in which to discuss the matter. And knowing the gentlemen involved in the discussion, two and a half hours go by rather fleetingly.

Mr. MANSFIELD. That is true. And the older one gets, the faster time goes. But I would point out that there have been dilatory tactics used on the Republican side and, I must say incidentally, on the Democratic side as well.

Sometimes I think we act like school boys who have not been instructed by the teacher as to how to conduct ourselves.

Mr. AIKEN. Mr. President, the Senator is referring to 17-year-olds and not 18-year-olds.

Mr. MANSFIELD. 17-year-olds, yes.

Mr. FULBRIGHT. Mr. President, the Senator mentioned a lot of other amendments, possibly one by the Senator from Arizona.

I would be very willing to have a limitation on debate on all other amendments. However, after 6 weeks of filibustering on the Cooper-Church amendment, it seems to be very unfair to have a time limitation on this amendment.

If the Senator wants to ask for unanimous consent on all other amendments so that we can bring the bill to a vote before the 1st of July, I would not object.

I understood generally, without it being in writing, that the Senator from Kansas (Mr. DOLE) and others were engaging in a filibuster until July 1 so that they could then say that the troops are out of Cambodia. That was a sort of tacit understanding. Nothing could be done about it, and I was not about to try.

Mr. MANSFIELD. Mr. President, I cannot understand the argument for prolonging the debate on the legislation until the troops are out of Cambodia by the first of next month. They will be out; I am very sure of that. I believe implicitly what the President has said. But the Cooper-Church amendment does not go into effect until that happens.

The Senator from Arkansas made a very good suggestion. And frankly, let me say before I approach the acting minority leader with a unanimous-consent proposal, that in my opinion the Senator from Kansas (Mr. DOLE) was not delaying the Senate on yesterday. He was prepared to have a vote on his amendment. The delay came from our side of the aisle.

Mr. President, I should like to have the attention of the acting minority leader while I propose a unanimous-consent request that there be 2 hours spent on each amendment hereafter and 6 hours on the bill.

Mr. GRIFFIN. Mr. President, let me respond to the majority leader in this way. As he well knows, there are a number of amendments to be offered on our side. I certainly could not respond without checking with members on our side. And I will be glad to do that and will try

to give the majority leader some kind of answer later on in the day.

Mr. MANSFIELD. Mr. President, that is fair enough. Would it be possible on the Democratic side for the distinguished Senator from Arkansas to agree to a time limitation on the Dole amendment, so that in that way a good precedent might be set and the other side perhaps could agree?

Mr. FULBRIGHT. Mr. President, if the Senator could cite me a good example of a good precedent in the Senate, I would be glad to do so.

Mr. MANSFIELD. I probably could. But it would probably take a week to do so.

Mr. FULBRIGHT. If the Senator can cite an example, I would be glad to do so.

Mr. MANSFIELD. Then, the answer is no.

Mr. FULBRIGHT. The Senator is correct. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BYRD of Virginia). 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.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow.

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

(Subsequently, this order was modified to provide for the Senate to adjourn until 10 a.m. tomorrow.)

ORDER FOR RECOGNITION OF SENATOR HANSEN TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the disposition of the Journal tomorrow the distinguished Senator from Wyoming (Mr. HANSEN) be recognized for not to exceed one-half hour.

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

ORDER FOR RECOGNITION OF SENATOR CHURCH AND SENATOR FULBRIGHT TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the remarks of the Senator from Wyoming (Mr. HANSEN) tomorrow the Senator from Idaho (Mr. CHURCH) and the Senator from Arkansas (Mr. FULBRIGHT) be recognized for not to exceed one-half hour.

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

ORDER FOR TRANSACTION OF ROUTINE BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the two distinguished Senators just referred to, there be a period for the transaction of routine morning business tomorrow with statements therein limited to 3 minutes.

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

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.

The PRESIDING OFFICER (Mr. BYRD of Virginia). The question is on agreeing to the amendment of the Senator from Kansas (Mr. DOLE).

Who seeks recognition?

Mr. FULBRIGHT. Mr. President, I had hoped that particularly the Senator from North Carolina (Mr. ERVIN) and the Senator from Mississippi (Mr. STENNIS) could participate in the consideration of this repeal of the Gulf of Tonkin resolution because it is essentially a constitutional question.

Mr. STENNIS. Mr. President, may we have order down in the well and elsewhere in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. FULBRIGHT. Mr. President, I know the Senator from Mississippi is deeply interested in this question and I know the Senator from North Carolina (Mr. ERVIN) is deeply interested in it.

Mr. President, this is a constitutional question which, as I see it, primarily involves the role of the Senate in our constitutional system. This has been the central question, highlighted by the passage of the Gulf of Tonkin resolution. It is far more important than just what it, in itself, may do, and what effect it may have on the war in Vietnam or Cambodia. It is part of the situation to which the commitments resolution last year was directed.

To put it another way, the question involved is: Does the Senate, as part of the Congress, still have, under the Constitution, the responsibility for the declaration of war, the initiation of war? I think it does. This is a matter about which it is difficult to be precise. I do not think that, by the neglect of the exercise of a constitutional power, it is lost, or that my saying it or anyone else saying it changes the Constitution; but we can create a psychology, an attitude on the part of the Senate, so that they simply decline to exercise or use a particular power. That is the point I was making yesterday.

I do not like to proceed simply to give a speech I have already gone over and that has been ready a long time without the participation in the discussion by Senators such as the Senator from North Carolina, who has spent a great deal of time on this matter and who is recognized as a great authority and expert on the Constitution. I have a few remarks to make and I do hope the Senator from North Carolina and the Senator from Mississippi will participate.

Before I start my prepared speech I want to say one word about the comments of the distinguished Senator from New Hampshire last night, which apparently received a great reaction from Members of the Senate. Unfortunately, I did not have any notice that he was going to speak so fully about an incident and the comments I had made, but in the RECORD which I saw this morning I am bound to say I think the distinguished Senator from New Hampshire misconstrued the whole thrust of my objection to the consideration of the Dole amendment at this time.

He said, as shown on page 20823 of the RECORD, that I was objecting to the amendment because hearings had not been held on it. He stated:

> 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.

Well, of course, I do not think I said that at all. I certainly did not intend to say that. On the contrary, I said the opposite, that this matter had been considered at length by hearings and in executive sessions of the committee. I said a thorough and a good report had been issued on it. The last thing I would say was that it did not have any hearings.

My objection is that, having done it in the regular fashion, having been given adequate and full hearings, having had the proposal reported by the committee, it ought to be considered by the Senate in a regular manner with some notice to the Members involved. We certainly had no notice that it would be brought up in this way. The matter ought to be considered on the basis of the report and the reasoning that had gone into the report, and, if there were disagreement, it might then be contested and argued and debated on the floor in an orderly manner.

As I have already indicated, it strikes me that the most important part of this consideration is the understanding that is generated by a debate on the Senate floor by such colleagues as the Senator from North Carolina (Mr. ERVIN), the Senator from Mississippi (Mr. STENNIS), the Senator from Kansas (Mr. DOLE), the Senator from New Hampshire (Mr. COTTON), who is also a very distinguished legal mind, or other Senators. All I wish to do is correct the RECORD, that I was not complaining that the Foreign Relations Committee had not heard this amendment. I was complaining that, having heard it at length, its actions should be given some deference here, that is, it should be recognized as a standing committee created by the rules of the Senate, and what it does should be taken seriously enough to be heard in the regular order.

So the criticism or suggestion that I was complaining about its not having been heard was in error, as a matter of fact.

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

Mr. FULBRIGHT. I yield.

Mr. COTTON. The Senator from Arkansas is completely correct. As a matter

of fact, my recollection is that I did say that in this particular case it had been considered by the Committee on Foreign Relations, but that the Senator from Arkansas, I thought, was unnecessarily rebuking the Senator from Kansas because he presumed to have anticipated that report and offered in advance an amendment dealing with that matter. The Senator is absolutely right about his position, and the Senator from New Hampshire intended to represent it in that manner.

Mr. FULBRIGHT. Well, later, in a different part of his statement, the Senator from New Hampshire does refer to the fact, which appears a little later on down on the same page, and I will read it:

> 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.

Well, if I looked down my nose, I was not aware of it, but, anyway, the Senator from Kansas is a very eloquent orator, and I noticed he got a number of laughs, which is most unusual. If anyone has talent enough to generate a laugh in times like this, he deserves a "chromo," as my mother used to say, and the Senator from Kansas has brought a talent to this body unequaled by anybody.

But, to set the record straight, I was not complaining that this matter had not had a hearing. It had had a hearing. What I was complaining about was that the Senator had chosen to ignore this body's own constituted committee. That is not comparable to the situation of offering an amendment on the floor to an appropriations or any other bill that has not had a hearing by anybody at all. That is quite a different matter. At least that I think should be kept straight.

Mr. President, I understand that the distinguished Senator from Missouri (Mr. EAGLETON) had, by prearrangement, an understanding with the Senator from Kansas, to whom he wished to put certain questions. I ask unanimous consent that I may yield to the Senator from Missouri without losing my right to the floor, for that purpose.

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

The Senator from Missouri.

Mr. EAGLETON. I thank the distinguished Senator from Arkansas for his courtesy. I would like to propound certain questions to the Senator from Kansas, the author and principal sponsor of amendment No. 715.

Mr. STENNIS. Mr. President, will the Senator yield to me for a question?

Mr. EAGLETON. I am pleased to yield.

Mr. STENNIS. Mr. President, I do not object to this procedure, but I came here really to hear the Senator from Arkansas. May I ask him when he expects to resume the floor?

Mr. EAGLETON. Mr. President, I hope the Senator from Mississippi will remain for a few minutes to hear some pearls of wisdom from me.

Mr. STENNIS. I had another, mandatory meeting, and I really should be there, but I will remain for now.

Mr. EAGLETON. Mr. President, I think it would be of interest for the Senate to discover what might follow in the wake of the repeal of the Gulf of Tonkin resolution, which is the gravamen of the Dole Amendment No. 715. Perhaps the best way to get at that would be to propound some questions to the principal author of the amendment (Mr. DOLE). If he would be so kind as to respond to these questions, then perhaps we might see a little better down the road where we would be if the amendment were adopted and subsequently enacted by the House and later signed by the President.

First, I would like to ask, in the opinion of the Senator from Kansas, under what authority troops are presently stationed or found in Southeast Asia.

Mr. DOLE. Let me respond with the knowledge gained in the short time I have been in the Senate. The Senator from Missouri and I arrived at the same time.

On July 1, 1964, there were approximately 17,000 troops in Vietnam. At the end of August 1964 there were 18,000 troops in South Vietnam. By June of 1965 there were some 52,000 troops in Vietnam.

It is my understanding that the Johnson administration and the Kennedy administration based their commitment in Vietnam on a number of factors: First, the Southeast Asia Treaty, which was almost unanimously approved by the Senate; second, pledges made of promised support by three successive Presidents of the United States; third, an assistance program that was granted annually beginning in 1965 by a bipartisan majority in both Houses of Congress; fourth, the declaration which we joined our SEATO and ANZUS allied in making; fifth, our ministerial council meetings in 1964 and 1965; and finally, of course, the Gulf of Tonkin resolution itself, which was approved August 10, 1964, by a combined vote of the House of Representatives and the Senate of 514 to 2.

Mr. EAGLETON. I thank the Senator for his recitation of how the Johnson and Kennedy administrations, especially the Johnson administration, may have viewed their authorization to go into Southeast Asia; but my question to the Senator from Kansas, as author of amendment 715, was under what authority is the present President, in the month of June 1970, found in Southeast Asia? What does he consider to be the present authority for the presence of American troops in South Vietnam?

Mr. DOLE. I would suggest that the representation just made would indicate, of course, that they were there in January of 1969, when President Nixon took office. I considered and voted for the Gulf of Tonkin resolution as a Member of the other body and am aware of that resolution. I frankly did not consider it necessary at that time, to become more involved in South Vietnam. It may have been necessary at that time, as the Senator from Arkansas and others pointed out, to give some direction and support to the President of the United States.

That was during a time of escalation, I might say to the Senator from Missouri. The Gulf of Tonkin resolution was an instrument of escalation. It was sort of the "get in" resolution passed by Congress. Now we are in the process of getting out. We are not in the process of escalation at this time, so I do not know quite how to respond to the question of the Senator from Missouri, except to say that now we are now deescalating. We are bringing troops home. The troop level has been reduced by 115,500 men. Another 50,000 reduction has been announced and will be carried out by October 15; and another 100,000 by next May 1. Now we are in a process of disengagement; we are not in a process of escalation. I would point out, the committee report which accompanied the resolution to the Senate floor in August of 1964, contained the following statement:

> Senate Joint Resolution 189 is patterned quite closely upon precedents afforded by similar resolutions: the Formosa resolution of 1955, the Middle East resolution of 1957, and the Cuba resolution of 1962.
>
> The phrasing in section 2, "in accordance with its obligations under the Southeast Asia Collective Defense Treaty," comprehends the understanding in that treaty that the U.S. response in the context of article IV(1) is confined to Communist aggression. It should also be pointed out that U.S. assistance, as comprehended by section 2, will be furnished only on request and only to a signatory or a state covered by the protocol to the SEATO Treaty. The protocol states are Laos, Cambodia, and South Vietnam.

So I say that the Tonkin Gulf resolution was only one in a series of justifications or reasons for commitment in South Vietnam, and that as to its repeal, as stated on March 12, 1970, in a letter from H. D. Torbert, Jr., Acting Assistant Secretary of State for Congressional Relations, addressed to the Honorable J. WILLIAM FULBRIGHT, chairman of the Committee on Foreign Relations:

> We neither advocate nor oppose congressional action—with reference to the Tonkin Gulf resolution.

The point, I might say, is that this administration has not relied upon the Gulf of Tonkin resolution and does not now rely upon the Gulf of Tonkin resolution. I assume the Senator from Missouri favors repeal of the Gulf of Tonkin resolution, as does the Senator from Kansas. There is no opposition to its repeal from the administration. They are not relying on the Gulf of Tonkin resolution. They have not relied on the Gulf of Tonkin resolution. There has been no escalation by this administration. There has been no escalation in the number of troops nor in the bombing.

That is my response.

Mr. FULBRIGHT. Mr. President, could I interject, just to clarify, this inquiry? The Senator says they do not rely on it. What do they rely on?

Mr. DOLE. I am not certain, but I believe they rely primarily on the fact

that, on January 20, 1969, there were 550,000 troops in Southeast Asia, and the President is charged with their protection in the exercise of his authority as Commander in Chief.

I believe the President relies on the facts, and the facts have been cited, and the President is in the process of disengagement, not as rapidly as some would like, but I believe he is relying on the fact that we were there, that when he took the oath of office American troops were there, and that he had a duty as Commander in Chief, which we have discussed at some length in the past several weeks, not only to protect American troops but, in accordance with a plan announced last May, to pursue the success of the Vietnamization program and to bring those troops home.

Mr. EAGLETON. Mr. President, I am not quite certain I fathom what the Senator is saying. If I am doing him an injustice, I am sure he will correct me, but I take it he is saying that one item we can definitely eliminate is the Gulf of Tonkin resolution, that the President of the United States under no circumstances and under no set of facts says he is relying on the Gulf of Tonkin resolution at all; is that correct?

Mr. DOLE. From what I understand of the administration's position, I think that is correct.

Mr. EAGLETON. There are 400,000-plus troops now in South Vietnam, in various stages of demobilization, deescalation, or whatever term is applicable, but there are 400,000-plus troops there. I take it they are there under some authority, either constitutional, statutory, or by treaty. Is that correct?

Mr. DOLE. That is right. Basically it is constitutional authority—the same constitutional authority President Kennedy had, President Truman had, President Eisenhower had, and President Johnson had.

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

Mr. DOLE. The Senator from Missouri has the floor. Will he yield to the Senator from Arizona?

Mr. EAGLETON. Mr. President, I would like to finish this series of interrogations first, if I may.

May we eliminate, by the process of elimination, some of the others? We have eliminated the Gulf of Tonkin resolution. That is not our authorization for being there.

Mr. DOLE. If I might respond. That may have been used at the time as a justification for having more troops there. At that time, as I recall, we were, of course, threatened. The *Turner Joy*, the *Maddox*, and other ships were threatened on the high seas; at least that was the report many of us had. We believed that report, and some of us still believe it. But the Gulf of Tonkin resolution was important because it did give new impetus; it did provide a rallying point for America; and it gave President Johnson an opportunity, which I supported, to increase the number of troops in South Vietnam, with congressional support.

Let me say that President Johnson did consult with the leaders. He consulted with the leaders of the House of Representatives and the Senate after there had already been retaliation, but there was consultation. The Gulf of Tonkin resolution was used quite broadly. I shared some of the apprehension of the Senator from Arkansas with reference to its interpretation, and perhaps some of the abuses, of the Gulf of Tonkin resolution. But we were there, American military personnel were in South Vietnam prior to the Gulf of Tonkin resolution, this is the point I am making, so we do not rely on it for getting out.

Mr. EAGLETON. Mr. President, I am a bit more confused now. I thought I was on the track of clarification.

At the time of the Gulf of Tonkin resolution, which was passed in August 1964, there were in South Vietnam some 20,000-odd troops

Mr DOLE. I beg the Senator's pardon.

Mr. EAGLETON. At the time of the Gulf of Tonkin resolution, in August 1964, am I correct that there were some 20,000 troops in South Vietnam?

Mr. DOLE. That is right. I mistakenly said earlier 180,000. There were about 18,000

Mr. FULBRIGHT. 16,000 to 18,000.

Mr. EAGLETON. 18,000 or 20,000 at the time of the Gulf of Tonkin resolution; and there are today in excess of 400,000 troops in South Vietnam—which I admit, of course, is a reduction from the high of 550,000 plus.

But my question again is, does President Nixon, insofar as the Senator knows, rely on the Gulf of Tonkin resolution as has authorization for having more than 400,000 troops in South Vietnam?

Mr. DOLE. Of course, I am not certain what the President may have in mind, but it may be well, at this point, to have printed in the RECORD, if the Senator from Missouri has no objection, a paper entitled "Legality of United States Participation In Defense of Vietnam," prepared by the Department of State, Office of the Legal Adviser, dated March 4, 1966, which covers the very basic questions now being asked. I can recite from that document, but it might be well to have it in the RECORD in full.

Mr. EAGLETON. Mr. President, I ask unanimous consent that it be printed at this point in the RECORD.

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

THE LEGALITY OF UNITED STATES PARTICIPATION IN THE DEFENSE OF VIET-NAM

(This legal memorandum was prepared by Leonard C. Meeker, Legal Adviser of the Department, and was submitted to the Senate Committee on Foreign Relation on March 8.)

I. THE UNITED STATES AND SOUTH VIET-NAM HAVE THE RIGHT UNDER INTERNATIONAL LAW TO PARTICIPATE IN THE COLLECTIVE DEFENSE OF SOUTH VIET-NAM AGAINST ARMED ATTACK

In response to requests from the Government of South Viet-Nam, the United States has been assisting that country in defending itself against armed attack from the Communist North. This attack has taken the forms of externally supported subversion, clandestine supply of arms, infiltration of armed personnel, and most recently the sending of regular units of the North Vietnamese army into the South.

International law has long recognized the right of individual and collective self-defense against armed attack. South Viet-Nam and the United State are engaging in such collective defense consistently with international law and with United States obligations under the United Nations Charter.

A. South Viet-Nam is being subjected to armed attack by Communist North Viet-Nam

The Geneva accords of 1954 established a demarcation line between North Viet-Nam and South Viet-Nam.[1] They provided for withdrawals of military forces into the respective zones north and south of this line. The accords prohibited the use of either zone for the resumption of hostilities or to "further an aggressive policy."

During the 5 years following the Geneva conference of 1954, the Hanoi regime developed a covert political-military organization in South Viet-Nam based on Communist cadres it had ordered to stay in the South, contrary to the provisions of the Geneva accords. The activities of this covert organization were directed toward the kidnaping and assassination of civilian officials—acts of terrorism that were perpetrated in increasing numbers.

In the 3-year period from 1959 to 1961, the North Viet-Nam regime infiltrated an estimated 10,000 men into the South. It is estimated that 13,000 additional personnel were infiltrated in 1962, and, by the end of 1964, North Viet-Nam may well have moved over 40,000 armed and unarmed guerrillas into South Viet-Nam.

The International Control Commission reported in 1962 the findings of its Legal Committee:

"There is evidence to show that arms, armed and unarmed personnel, munitions and other supplies have been sent from the Zone in the North to the Zone in the South with the objective of supporting, organizing and carrying out hostile activities, including armed attacks, directed against the Armed Forces and Administration of the Zone in the South.

"There is evidence that the PAVN [People's Army of Viet Nam] has allowed the Zone in the North to be used for inciting, encouraging and supporting hostile activities in the Zone in the South, aimed at the overthrow of the Administration in the South."

Beginning in 1964, the Communists apparently exhausted their reservoir of Southerner's who had gone North. Since then the greater number of men infiltrated into the South have been native-born North Vietnamese. Most recently, Hanoi has begun to infiltrate elements of the North Vietnamese army in increasingly larger numbers. Today, there is evidence that nine regiments of regular North Vietnamese forces are fighting in organized units in the South.

In the guerrilla war in Viet-Nam, the external aggression from the North is the critical military element of the insurgency, although it is unacknowledged by North Viet-Nam. In these circumstances, an "armed attack" is not as easily fixed by date and hour as in the case of traditional warfare. However, the infiltration of thousands of armed men clearly constitutes an "armed attack" under any reasonable definition. There may be some question as to the exact date at which North Viet-Nam's aggression grew into an "armed attack," but there can be no doubt that it had occurred before February 1965.

B. International law recognizes the right of individual and collective self-defense against armed attack

International law has traditionally recognized the right of self-defense against armed attack. This proposition has been asserted by writers on international law through the several centuries in which the modern law of nations has developed. The proposition has

Footnotes at end of article.

been acted on numerous times by governments throughout modern history. Today the principle of self-defense against armed attack is universally recognized and accepted.[2]

The Charter of the United Nations, concluded at the end of World War II, imposed an important limitation on the use of force by United Nations members. Article 2, paragraph 4, provides:

"All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

In addition, the charter embodied a system of international peacekeeping through the organs of the United Nations. Article 24 summarizes these structural arrangements in stating that the United Nations members:

"Confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf."

However, the charter expressly states in article 51 that the remaining provisions of the charter—including the limitation of article 2, paragraph 4, and the creation of United Nations machinery to keep the peace—in no way diminish the inherent right of self-defense against armed attack. Article 51 provides:

"Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."

Thus, article 51 restates and preserves, for member states in the situations covered by the article, a long-recognized principle of international law. The article is a "saving clause" designed to make clear that no other provision in the charter shall be interpreted to impair the inherent right of self-defense referred to in article 51.

Three principal objections have been raised against the availability of the right of individual and collective self-defense in the case of Viet-Nam: (1) that this right applies only in the case of an armed attack on a United Nations member; (2) that it does not apply in the case of South Viet-Nam because the latter is not an independent sovereign state; and (3) that collective self-defense may be undertaken only by a regional organization operating under chapter VIII of the United Nations Charter. These objections will now be considered in turn.

C. The right of individual and collective defense applies in the case of South Viet-Nam whether or not that country is a member of the United Nations

1. South Viet-Nam enjoys the right of self-defense.—The argument that the right of self-defense is available only to members of the United Nations mistakes the nature of the right of self-defense and the relationship of the United Nations Charter to international law in this respect. As already shown, the right of self-defense against armed attack is an inherent right under international law. The right is not conferred by the charter, and, indeed, article 51 expressly recognizes that the right is inherent.

The charter nowhere contains any provision designed to deprive nonmembers of the right of self-defense against armed attack.[3] Article 2, paragraph 6, does charge the United Nations with responsibility for insuring that nonmember states act in accordance with United Nations "principles so far as may be necessary for the maintenance of international peace and security." Protection against aggression and self-defense against armed attack are important elements in the whole charter scheme for the maintenance of international peace and security. To deprive nonmembers of their inherent right of self-defense would not accord with the principles of the organization, but would instead be prejudicial to the maintenance of peace. Thus article 2, paragraph 6—and, indeed, the rest of the chapter—should certainly not be construed to nullify or diminish the inherent defensive rights of nonmembers.

2. The United States has the right to assist in the defense of South Viet-Nam although the latter is not a United Nations member.—The cooperation of two or more international entities in the defense of one or both against armed attack is generally referred to as collective self-defense. United States participation in the defense of South Viet-Nam at the latter's request is an example of collective self-defense.

The United States is entitled to exercise the right of individual or collective self-defense against armed attack, as that right exists in international law, subject only to treaty limitations and obligations undertaken by this country.

It has been urged that the United States has no right to participate in the collective defense of South Viet-Nam because article 51 of the United Nations Charter speaks only of the situation "if an armed attack occurs *against a Member of the United Nations.*" This argument is without substance.

In the first place, article 51 does not impose restrictions or cut down the otherwise available rights of United Nations members. By its own terms, the article preserves an inherent right. It is therefore, necessary to look elsewhere in the charter for any obligation of members restricting their participation in collective defense of an entity that is not a United Nations member.

Article 2, paragraph 4, is the principal provision of the charter imposing limitations on the use of force by members. It states that they:

"Shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

Action taken in defense against armed attack cannot be characterized as falling within this proscription. The record of the San Francisco conference makes clear that article 2, paragraph 4, was not intended to restrict the right of self-defense against armed attack.[4]

One will search in vain for any other provision in the charter that would preclule United States participation in the collective defense of a nonmember. The fact that article 51 refers only to armed attack "against a Member of the United Nations" implies no intention to preclude members from participating in the defense of nonmembers. Any such result would have seriously detrimental consequences for international peace and security and would be inconsistent with the purposes of the United Nations as they are set forth in article 1 of the charter.[5] The right of members to participate in the defense of nonmembers is upheld by leading authorities on international law.[6]

D. The right of individual and collective self-defense applies whether or not South Vietnam is regarded as an independent sovereign state

1. South Viet-Nam enjoys the right of self-defense.—It has been asserted that the conflict in Viet-Nam is "civil strife" in which foreign intervention is forbidden. Those who make this assertion have gone so far as to compart Ho Chi Minh's actions in Viet-Nam with the efforts of President Lincoln to preserve the Union during the American Civil War. Any such characterization is an entire fiction disregarding the actual situation in Viet-Nam. The Hanoi regime is anything but the legitimate government of a unified country in which the South is rebelling against lawful national authority.

The Geneva accords of 1954 provides for a division of Viet-Nam into two zones at the 17th parallel. Although this line of demarcation was intended to be temporary, it was established by international agreement, which specifically forbade aggression by one zone against the other.

The Republic of Viet-Nam, in the South has been recognized as a separate international entity by approximately 60 governments the world over. It has been admitted as a member of a number of the specialized agencies of the United Nations. The United Nations General Assembly in 1957 voted to recommend South Viet-Nam for membership in the organization, and its admission was frustrated only by the veto of the Soviet Union in the Security Council.

In any event there is no warrant for the suggestion that one zone of a temporarily divided state—whether it be Germany, Korea, or Viet-Nam—can be legally overrun by armed forces from the other zone, crossing the internationally recognized line of demarcation between the two. Any such doctrine would subvert the international agreement establishing the line of demarcation, and would pose grave dangers to international peace.

The action of the United Nations in the Korean conflict of 1950 clearly established the principle that there is no greater license for one zone of a temporarily divided state to attack the other zone than there is for one state to attack another state. South Viet-Nam has the same right that South Korea had to defend itself and to organize collective defense against an armed attack from the North. A resolution of the Security Council dated June 25, 1950, noted "with grave concern the armed attack upon the Republic of Korea by forces from North Korea," and determined "that this action constitutes a breach of the peace."

2. The United States is entitled to participate in the collective defense of South Viet-Nam whether or not the latter is regarded as an independent sovereign state.—As stated earlier, South Viet-Nam has been recognized as a separate international entity by approximately 60 governments. It has been admitted to membership in a number of the United Nations specialized agencies and has been excluded from the United Nations Organization only by the Soviet veto.

There is nothing in the charter to suggest that United Nations members are precluded from participating in the defense of a recognized international entity against armed attack merely because the entity may lack some of the attributes of an independent sovereign state. Any such result would have a destructive effect on the stability of international engagements such as the Geneva accords of 1954 and on internationally agreed lines of demarcation. Such a result, far from being in accord with the charter and the purposes of the United Nations, would undermine them and would create new dangers to international peace and security.

E. The United Nations Charter does not limit the right of self-defense to regional organizations

Some have argued that collective self-defense may be undertaken only by a regional arrangement or agency operating under chapter VIII of the United Nations Charter. Such an assertion ignores the structure of the charter and the practice followed in the more than 20 years since the founding of the United Nations.

Footnotes at end of article.

The basic proposition that rights of self-defense are not impaired by the charter—as expressly stated in article 51—is not conditioned by any charter provision limiting the application of this proposition to collective defense by a regional arrangement or agency. The structure of the charter reinforces this conclusion. Article 51 appears in chapter VII of the charter, entitled "Action With Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression," whereas chapter VIII, entitled "Regional Arrangements," begins with article 52 and embraces the two following articles. The records of the San Francisco conference show that article 51 was deliberately placed in chapter VII rather than chapter VIII, "where it would only have a bearing on the regional system." [7]

Under article 51, the right of self-defense is available against any armed attack, whether or not the country attacked is a member of a regional arrangement and regardless of the source of the attack. Chapter VIII, on the other hand, deals with relations among members of a regional arrangement or agency, and authorizes regional action as appropriate for dealing with "local disputes." This distinction has been recognized ever since the founding of the United Nations in 1945.

For example, the North Atlantic Treaty has operated as a collective security arrangement, designed to take common measures in preparation against the eventuality of an armed attack for which collective defense under article 51 would be required. Similarly, the Southeast Asia Treaty Organization was designed as a collective defense arrangement under article 51. Secretary of State Dulles emphasized this in his testimony before the Senate Foreign Relations Committee in 1954.

By contrast, article 1 of the Charter of Bogotá (1948), establishing the Organization of American States, expressly declares that the organization is a regional agency within the United Nations. Indeed, chapter VIII of the United Nations Charter was included primarily to take account of the functioning of the inter-American system.

In sum, there is no basis in the United Nations Charter for contending that the right of self-defense against armed attack is limited to collective defense by a regional organization.

F. The United States has fulfilled its obligations to the United Nations

A further argument has been made that the members of the United Nations have conferred on United Nations organs—and, in particular, on the Security Council—exclusive power to act against aggression. Again, the express language of article 51 contradicts that assertion. A victim of armed attack is not required to forgo individual or collective defense of its territory until such time as the United Nations organizes collective action and takes appropriate measures. To the contrary, article 51 clearly states that the right of self-defense may be exercised *"until* the Security Council has taken the measures necessary to maintain international peace and security." [8]

As indicated earlier, article 51 is not literally applicable to the Viet-Nam situation since South Viet-Nam is not a member. However, reasoning by analogy from article 51 and adopting its provisions as an appropriate guide for the conduct of members in a case like Viet-Nam, one can only conclude that United States actions are fully in accord with this country's obligations, as a member of the United Nations.

Article 51 requires that:

"Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."

The United States has reported to the Security Council on measures it has taken in countering the Communist aggression in Viet-Nam. In August 1964 the United States asked the Council to consider the situation created by North Vietnamese attacks on United States destroyers in the Tonkin Gulf.[9] The Council thereafter met to debate the question, but adopted no resolutions. Twice in February 1965 the United States sent additional reports to the Security Council on the conflict in Viet-Nam and on the additional measures taken by the United States in the collective defense of South Vietnam.[10] In January 1966 the United States formally submitted the Viet-Nam question to the Security Council for its consideration and introduced a draft resolution calling for discussions looking toward a peaceful settlement on the basis of the Geneva accords.[11]

At no time has the Council taken any action to restore peace and security in Southeast Asia. The Council has not expressed criticism of United States actions. Indeed, since the United States submission of January 1966, members of the Council have been notably reluctant to proceed with any consideration of the Viet-Nam question.

The conclusion is clear that the United States has in no way acted to interfere with United Nations consideration of the conflict in Viet-Nam. On the contrary, the United States has requested United Nations consideration, and the Council has not seen fit to act.

G. International law does not require a declaration of war as a condition precedent to taking measures of self-defense against armed attack

The existence or absence of a formal declaration of war is not a factor in determining whether an international use of force is lawful as a matter of international law. The United Nations' Charter's restrictions focus on the manner and purpose of its use and not on any formalities of announcement.

It should also be noted that a formal declaration of war would not place any obligations on either side in the conflict by which that side would not be bound in any event. The rules of international law concerning the conduct of hostilities in an international armed conflict apply regardless of any declaration of war.

H. Summary

The analysis set forth above shows that South Viet-Nam has the right in present circumstances to defend itself against armed attack from the North and to organize a collective self-defense with the participation of others. In response to requests from South Viet-Nam, the United States has been participating in that defense, both through military action within South Viet-Nam and actions taken directly against the aggressor in North Viet-Nam. This participation by the United States is in conformity with international law and is consistent with our obligations under the Charter of the United Nations.

II. THE UNITED STATES HAS UNDERTAKEN COMMITMENTS TO ASSIST SOUTH VIETNAM IN DEFENDING ITSELF AGAINST COMMUNIST AGGRESSION FROM THE NORTH

The United States has made commitments and given assurances, in various forms and at different times, to assist in the defense of South Viet-Nam.

A. The United States gave undertakings at the end of the Geneva Conference in 1954

At the time of the signing of the Geneva accords in 1954, President Eisenhower warned "that any renewal of Communist aggression would be viewed by us as a matter of grave concern," at the same time giving assurance that the United States would "not use force to disturb the settlement." [12] And the formal declaration made by the United States Government at the conclusion of the Geneva conference stated that the United States "would view any renewal of the aggression in violation of the aforesaid agreements with grave concern and as seriously threatening international peace and security." [13]

B. The United States undertook an international obligation to defend South Vietnam in the SEATO Treaty

Later in 1954 the United States negotiated with a number of other countries and signed the Southeast Asia Collective Defense Treaty.[14] The treaty contains in the first paragraph of article IV the following provision:

"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."

Annexed to the treaty was a protocol stating that:

"The Parties to the Southeast Asia Collective Defense Treaty unanimously designate for the purposes of Article IV of the Treaty the States of Cambodia and Laos and the free territory under the jurisdiction of the State of Vietnam."

Thus, the obligations of article IV, paragraph 1, dealing with the eventuality of armed attack, have from the outset covered the territory of South Viet-Nam. The facts as to the North Vietnamese armed attack against the South have been summarized earlier, in the discussion of the right of self-defense under international law and the Charter of the United Nations. The term "armed attack" has the same meaning in the SEATO treaty as in the United Nations Charter.

Article IV, paragraph 1, places an obligation on each party to the SEATO treaty to "act to meet the common danger in accordance with its constitutional processes" in the event of an armed attack. The treaty does not require a collective determination that an armed attack has occurred in order that the obligation of article IV, paragraph 1, become operative. Nor does the provision require collective decision on actions to be taken to meet the common danger. As Secretary Dulles pointed out when transmitting the treaty to the President, the commitment in article IV, paragraph 1, "leaves to the judgment of each country the type of action to be taken in the event an armed attack occurs." [15]

The treaty was intended to deter armed aggression in Southeast Asia. To that end it created not only a multilateral alliance but also a series of bilateral relationships. The obligations are placed squarely on "each Party" in the event of armed attack in the treaty area—not upon "the Parties," a wording that might have implied a necessity for collective decision. The treaty was intended to give the assurance of United States assistance to any party or protocol state that might suffer a Communist armed attack, regardless of the views or actions of other parties. The fact that the obligations are individual, and may even to some extent differ among the parties to the treaty, is demonstrated by the United States understanding, expressed at the time of signature, that its obligations under article IV, paragraph 1, apply only in the event of *Communist* aggression, whereas the other parties to the

Footnotes at end of article.

treaty were unwilling so to limit their obligations to each other.

Thus, the United States has a commitment under article IV, paragraph 1, in the event of armed attack, independent of the decision or action of other treaty parties. A joint statement issued by Secretary Rusk and Foreign Minister Thanat Khoman of Thailand on March 6, 1962,[16] reflected this understanding:

"The Secretary of State assured the Foreign Minister that in the event of such aggression, the United States intends to give full effect to its obligations under the Treaty to act to meet the common danger in accordance with its constitutional processes. The Secretary of State reaffirmed that this obligation of the United States does not depend upon the prior agreement of all other parties to the Treaty, since this Treaty obligation is individual as well as collective."

Most of the SEATO countries have stated that they agreed with this interpretation. None has registered objection to it.

When the Senate Committee on Foreign Relations reported on the Southeast Asia Collective Defense Treaty, it noted that the treaty area was further defined so that the "Free Territory of Vietnam" was an area "which, if attacked, would fall under the protection of the instrument." In its conclusion the committee stated:

"The committee is not impervious to the risks which this treaty entails. It fully appreciates that acceptance of these additional obligations commits the United States to a course of action over a vast expanse of the Pacific. Yet these risks are consistent with our own highest interests."

The Senate gave its advice and consent to the treaty by a vote of 82 to 1.

C. The United States has given additional assurances to the Government of South Viet-Nam

The United States has also given a series of additional assurances to the Government of South Viet-Nam. As early as October 1954 President Eisenhower undertook to provide direct assistance to help make South Viet-Nam "capable of resisting attempted subversion or aggression through military means."[17] On May 11, 1957, President Eisenhower and President Ngo Dinh Diem of the Republic of South Viet-Nam issued a joint statement[18] which called attention to "the large build-up of Vietnamese Communist military forces in North Viet-Nam" and stated:

"Noting that the Republic of Viet-Nam is covered by Article IV of the Southeast Asia Collective Defense Treaty, President Eisenhower and President Ngo Dinh Diem agreed that aggression or subversion threatening the political independence of the Republic of Viet-Nam would be considered as endangering peace and stability."

On August 2, 1961, President Kennedy declared that "the United States is determined that the Republic of Viet-Nam shall not be lost to the Communists for lack of any support which the United States Government can render."[19] On December 7 of that year President Diem appealed for additional support. In his reply of December 14, 1961, President Kennedy recalled the United States declaration made at the end of the Geneva conference in 1954, and reaffirmed that the United States was "prepared to help the Republic of Viet-Nam to protect its people and to preserve its independence."[20] This assurance has been reaffirmed many times since.

III. ACTIONS BY THE UNITED STATES AND SOUTH VIET-NAM ARE JUSTIFIED UNDER THE GENEVA ACCORDS OF 1954

A. Description of the accords

The Geneva accords of 1954[21] established the date and hour for a cease-fire in Viet-Nam, drew a "provisional military demarcation line" with a demilitarized zone on both sides, and required an exchange of prisoners and the phased regroupment of Viet Minh forces from the south to the north and of French Union forces from the north to the south. The introduction into Viet-Nam of troop reinforcements and new military equipment (except for replacement and repair) was prohibited. The armed forces of each party were required to respect the demilitarized zone and the territory of the other zone. The adherence of either zone to any military alliance, and the use of either zone for the resumption of hostilities or to "further an aggressive policy," were prohibited. The International Control Commission was established, composed of India, Canada and Poland, with India as chairman. The task of the Commission was to supervise the proper execution of the provisions of the cease-fire agreement. General elections that would result in reunification were required to be held in July 1956 under the supervision of the ICC.

B. North Viet-Nam violated the accords from the beginning

From the very beginning, the North Vietnamese violated the 1954 Geneva accords. Communist military forces and supplies were left in the South in violation of the accords. Other Communist guerrillas were moved north for further training and then were infiltrated into the South in violation of the accords.

C. The introduction of United States military personnel and equipment was justified

The accords prohibited the reinforcement of foreign military forces in Viet-Nam and the introduction of new military equipment, but they allowed replacement of existing military personnel and equipment. Prior to late 1961 South Viet-Nam had received considerable military equipment and supplies from the United States, and the United States had gradually enlarged its Military Assistance Advisory Group to slightly less than 900 men. These actions were reported to the ICC and were justified as replacements for equipment in Viet-Nam in 1954 and for French training and advisory personnel who had been withdrawn after 1954.

As the Communist aggression intensified during 1961, with increased infiltration and a marked stepping up of Communits terrorism in the South, the United States found it necessary in late 1961 to increase substantially the numbers of our military personnel and the amounts and types of equipment introduced by this country into South Viet-Nam. These increases were justified by the international law principle that a material breach of an agreement by one party entitles the other at least to withhold compliance with an equivalent, corresponding, or related provision until the defaulting party is prepared to honor its obligations.[22]

In accordance with this principle, the systematic violation of the Geneva accords by North Viet-Nam justified South Viet-Nam in suspending compliance with the provision controlling entry of foreign military personnel and military equipment.

D. South Viet-Nam was justified in refusing to implement the election provisions of the Geneva accords

The Geneva accords contemplated the reuification of the two parts of Viet-Nam. They contained a provision for general elections to be held in July 1956 in order to obtain a "free expression of the national will." The accords stated that "consultations will be held on this subject between the competent representative authorities of the two zones from 20 July 1955 onwards."

There may be some question whether South Viet-Nam was bound by these election provisions. As indicated earlier, South Viet-Nam did not sign the cease-fire agreement of 1954, nor did it adhere to the Final Declaration of the Geneva conference. The South Vietnamese Government at that time gave notice of its objection in particular to the election provisions of the accords.

However, even on the premise that these provisions were binding on South Viet-Nam, the South Vietnamese Government's failure to engage in consultations in 1955, with a view to holding elections in 1956, involved no breach of obligation. The conditions in North Viet-Nam during that period were such as to make impossible any free and meaningful expression of popular will.

Some of the facts about conditions in the North were admitted even by the Communist leadership in Hanoi. General Giap, currently Defense Minister of North Viet-Nam, in addressing the Tenth Congress of the North Vietnamese Communist Party in October 1956, publicly acknowledged that the Communist leaders were running a police state where executions, terror, and torture were commonplace. A nationwide election in these circumstances would have been a travesty. No one in the North would have dared to vote except as directed. With a substantial majority of the Vietnamese people living north of the 17th parallel, such an election would have meant turning the country over to the Communists without regard to the will of the people. The South Vietnamese Government realized these facts and quite properly took the position that consultations for elections in 1956 as contemplated by the accords would be a useless formality.[23]

IV. THE PRESIDENT HAS FULL AUTHORITY TO COMMIT UNITED STATES FORCES IN THE COLLECTIVE DEFENSE OF SOUTH VIETNAM

There can be no question in present circumstances of the President's authority to commit United States forces to the defense of South Viet-Nam. The grant of authority to the President in article II of the Constitution extends to the actions of the United States currently undertaken in Viet-Nam. In fact, however, it is unnecessary to determine whether this grant standing alone is sufficient to authorize the actions taken in Viet-Nam. These actions rest not only on the exercise of Presidential powers under article II but on the SEATO treaty—a treaty advised and consented to by the Senate—and on actions of the Congress, particularly the joint resolution of August 10, 1964. When these sources of authority are taken together—article II of the Constitution, the SEATO treaty, and actions by the Congress—there can be no question of the legality under domestic law of United States actions in Viet-Nam.

A. The President's power under Article II of the Constitution extends to the actions currently undertaken in Viet-Nam

Under the Constitution, the President, in addition to being Chief Executive, is Commander in Chief of the Army and Navy. He holds the prime responsibility for the conduct of United States foreign relations. These duties carry very broad powers, including the power to deploy American forces abroad and commit them to military operations when the President deems such action necessary to maintain the security and defense of the United States.

At the Federal Constitutional Convention in 1787, it was originally proposed that Congress have the power "to make war." There were objections that legislative proceedings were too slow for this power to be vested in Congress; it was suggested that the Senate might be a better repository. Madison and Gerry then moved to substitute "to declare war" for "to make war," "leaving to the Executive the power to repel sudden attacks." It was objected that this might make it too easy for the Executive to involve the nation in war, but the motion carried with but one dissenting vote.

Footnotes at end of article.

In 1787 the world was a far larger place, and the framers probably had in mind attacks upon the United States. In the 20th century, the world has grown much smaller. An attack on a country far from our shores can impinge directly on the nation's security. In the SEATO treaty, for example, it is formally declared that an armed attack against Viet-Nam would endanger the peace and safety of the United States.

Since the Constitution was adopted there have been at least 125 instances in which the President has ordered the armed forces to take action or maintain positions abroad without obtaining prior congressional authorization, starting with the "undeclared war" with France (1798–1800). For example, President Truman ordered 250,000 troops to Korea during the Korean war of the early 1950's. President Eisenhower dispatched 14,000 troops to Lebanon in 1958.

The Constitution leaves to the President the judgment to determine whether the circumstances of a particular armed attack are so urgent and the potential consequences so threatening to the security of the United States that he should act without formally consulting the Congress.

B. The Southeast Asia Collective Defense Treaty Authorizes the President's Actions

Under article VI of the United States Constitution, "all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land." Article IV, paragraph 1, of the SEATO treaty establishes as a matter of law that a Communist armed attack against South Viet-Nam endangers the peace and safety of the United States. In this same provision the United States has undertaken a commitment in the SEATO treaty to "act to meet the common danger in accordance with its constitutional processes" in the event of such an attack.

Under our Constitution it is the President who must decide when an armed attack has occurred. He has also the constitutional responsibility for determining what measures of defense are required when the peace and safety of the United States are endangered. If he considers that deployment of U.S. forces to South Viet-Nam is required, and that military measures against the source of Communist aggression in North Viet-Nam are necessary, he is constitutionally empowered to take those measures.

The SEATO treaty specifies that each party will act "in accordance with its constitutional processes."

It has recently been argued that the use of land forces in Asia is not authorized under the treaty because their use to deter armed attack was not contemplated at the time the treaty was considered by the Senate. Secretary Dulles testified at that time that we did not intend to establish (1) a land army in Southeast Asia capable of deterring Communist aggression, or (2) an integrated headquarters and military organization like that of NATO; instead, the United States would rely on "mobile striking power" against the sources of aggression. However, the treaty obligation in article IV, paragraph 1, to meet the common danger in the event of armed aggression, is not limited to particular modes of military action. What constitutes an adequate deterrent or an appropriate response, in terms of military strategy, may change; but the essence of our commitment to act to meet the common danger, as necessary at the time of an armed aggression, remains. In 1954 the forecast of military judgment might have been against the use of substantial United States ground forces in Viet-Nam. But that does not preclude the President from reaching a different military judgment in different circumstances, 12 years later.

C. The joint resolution of Congress of August 10, 1964, authorizes United States participation in the collective defense of South Viet-Nam

As stated earlier, the legality of United States participation in the defense of South Viet-Nam does not rest only on the constitutional power of the President under article II—or indeed on that power taken in conjunction with the SEATO treaty. In addition, the Congress has acted in unmistakable fashion to approve and authorize United States actions in Viet-Nam.

Following the North Vietnamese attacks in the Gulf of Tonkin against United States destroyers, Congress adopted, by a Senate vote of 88–2 and a House vote of 416–0, a joint resolution containing a series of important declarations and provisions of law.[24]

Section 1 resolved 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." Thus, the Congress gave its sanction to specific actions by the President to repel attacks against United States naval vessels in the Gulf of Tonkin and elsewhere in the western Pacific. Congress further approved the taking of "all necessary measures . . . to prevent further aggression." This authorization extended to those measures the President might consider necessary to ward off further attacks and to prevent further aggression by North Viet-Nam in Southeast Asia.

The joint resolution then went on to provide in section 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."

Section 2 thus constitutes an authorization to the President, in his discretion, to act—using armed force if he determines that is required—to assist South Viet-Nam at its request in defense of its freedom. The identification of South Viet-Nam through the reference to "protocol state" in this section is unmistakable, and the grant of authority "as the President determines" is unequivocal.

It has been suggested that the legislative history of the joint resolution shows an intention to limit United States assistance to South Viet-Nam to aid, advice, and training. This suggestion is based on an amendment offered from the floor by Senator [Gaylord] Nelson which would have added the following to the text:

"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 a greater response, we should continue to attempt to avoid a direct military involvement in the Southeast Asian conflict." [25]

Footnotes at end of article.

Senator [J. W.] Fulbright, who had reported the joint resolution from the Foreign Relations Committee, spoke on the amendment as follows:

"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 response should be appropriate and limited to the provocation, which the Senator states 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." [26]

Senator Nelson's amendment related the degree and kind of U.S. response in Viet-Nam to "provocation" on the other side; the response should be "limited and fitting." The greater the provocation, the stronger are the measures that may be characterized as "limited and fitting." Bombing of North Vietnamese naval bases was a "limited and fitting" response to the attacks on U.S. destroyers in August 1964, and the subsequent actions taken by the United States and South Viet-Nam have been an appropriate response to the increased war of aggression carried on by North Viet-Nam since that date. Moreover, Senator Nelson's proposed amendment did not purport to be a restriction on authority available to the President but merely a statement concerning what should be the continuing policy of the United States.

Congressional realization of the scope of authority being conferred by the joint resolution is shown by the legislative history of the measure as a whole. The following exchange between Senators Cooper and Fulbright is illuminating:

"Mr. COOPER [John Sherman Cooper]. . . . 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." [27]

The August 1964 joint resolution continues in force today. Section 2 of the resolution provides that it 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 President has made no such determination, nor has Congress terminated the joint resolution.[28]

Instead, Congress in May 1965 approved an appropriation of $700 million to meet the expense of mounting military requirements in Viet-Nam. (Public Law 89–18, 79 Stat. 109.) The President's message asking for this appropriation stated that this was "not a routine appropriation. For each Member of Congress who supports this request is also voting to persist in our efforts to halt Communist aggression in South Vietnam." [29] The appropriation act constitutes a clear congressional endorsement and approval of the actions taken by the President.

On March 1, 1966, the Congress continued to express its support of the President's policy by approving a $4.8 billion supplemental military authorization by votes of 392–4 and 93–2. An amendment that would have limited the President's authority to commit forces to Viet-Nam was rejected in the Senate by a vote of 94–2.

D. No Declaration of War by the Congress is required to authorize United States Participation in the collective defense of South Viet-Nam

No declaration of war is needed to authorize American actions in Viet-Nam. As shown in the preceding sections, the President has ample authority to order the participation of United States armed forces in the defense of South Viet-Nam.

Over a very long period in our history, practice and precedent have confirmed the constitutional authority to engage United States forces in hostilities without a declaration of war. This history extends from the undeclared war with France and the war against the Barbary pirates at the end of the 18th century to the Korean war of 1950–53.

James Madison, one of the leading framers of the Constitution, and Presidents John Adams and Jefferson all construed the Constitution, in their official actions during the early years of the Republic, as authorizing the United States to employ its armed forces abroad in hostilities in the absence of any congressional declaration of war. Their views and actions constitute highly persuasive evidence as to the meaning and effect of the Constitution. History has accepted the interpretation that was placed on the Constitution by the early Presidents and Congresses in regard to the lawfulness of hostilities without a declaration of war. The instances of such action in our history are numerous.

In the Korean conflict, where large-scale hostilities were conducted with an American troop participation of a quarter of a million men, no declaration of war was made by the Congress. The President acted on the basis of his constitutional responsibilities. While the Security Council, under a treaty of this country—the United Nations Charter—recommended assistance to the Republic of Korea against the Communist armed attack, the United States had no treaty commitment at that time obligating us to join in the defense of South Korea. In the case of South Viet-Nam we have the obligation of the SEATO treaty and clear expressions of congressional support. If the President could act in Korea without a declaration of war, *a fortiori* he is empowered to do so now in Viet-Nam.

It may be suggested that a declaration of war is the only available constitutional process by which congressional support can be made effective for the use of United States armed forces in combat abroad. But the Constitution does not insist on any rigid formalism. It gives Congress a choice of ways in which to exercise its powers. In the case of Viet-Nam the Congress has supported the determination of the President by the Senate's approval of the SEATO treaty, the adoption of the joint resolution of August 10, 1964, and the enactment of the necessary authorizations and appropriations.

V. CONCLUSION

South Viet-Nam is being subjected to armed attack by Communist North Viet-Nam, through the infiltration of armed personnel, military equipment, and regular combat units. International law recognizes the right of individual and collective self-defense against armed attack. South Viet-Nam, and the United States upon the request of South Viet-Nam, are engaged in such collective defense of the South. Their actions are in conformity with international law and with the Charter of the United Nations. The fact that South Viet-Nam has been precluded by Soviet veto from becoming a member of the United Nations and the fact that South Viet-Nam is a zone of a temporarily divided state in no way diminish the right of collective defense of South Viet-Nam.

The United States has commitments to assist South Viet-Nam in defending itself against Communist aggression from the North. The United States gave undertakings to this effect at the conclusion of the Geneva conference in 1954. Later that year the United States undertook an international obligation in the SEATO treaty to defend South Viet-Nam against Communist armed aggression. And during the past decade the United States has given additional assurances to the South Vietnamese Government.

The Geneva accords of 1954 provided for a cease-fire and regroupment of contending forces, a division of Viet-Nam into two zones, and a prohibition on the use of either zone for the resumption of hostilities or to "further an aggressive policy." From the beginning, North Viet-Nam violated the Geneva accords through a systematic effort to gain control of South Viet-Nam by force. In the light of these progressive North Vietnamese violations, the introduction into South Viet-Nam beginning in late 1961 of substantial United States military equipment and personnel, to assist in the defense of the South, was fully justified; substantial breach of an international agreement by one side permits the other side to suspend performance of corresponding obligations under the agreement. South Viet-Nam was justified in refusing to implement the provisions of the Geneva accords calling for reunification through free elections throughout Viet-Nam since the Communist regime in North Viet-Nam created conditions in the North that made free elections entirely impossible.

The President of the United States has full authority to commit United States forces in the collective defense of South Viet-Nam. This authority stems from the constitutional powers of the President. However, it is not necessary to rely on the Constitution alone as the source of the President's authority, since the SEATO treaty—advised and consented to by the Senate and forming part of the law of the land—sets forth a United States commitment to defend South Viet-Nam against armed attack, and since the Congress—in the joint resolution of August 10, 1964, and in authorization and appropriations acts for support of the U.S. military effort in Viet-Nam—has given its approval and support to the President's actions. United States actions in Viet-Nam, taken by the President and approved by the Congress, do not require any declaration of war, as shown by a long line of precedents for the use of United States armed forces abroad in the absence of any congressional declaration of war.

FOOTNOTES

[1] For texts, see *American Foreign Policy, 1950–1955; Basic Documents*, vol. I, Department of State publication 6446, p. 750.

[2] See, *e.g.*, Jessup, *A Modern Law of Nations*, 163 ff. (1948); Oppenheim, *International Law*, 297 ff. (8th ed., Lauterpacht, 1955). And see, generally, Bowett, *Self-Defense in International Law* (1958). [Footnote in original.]

[3] While nonmembers, such as South Viet-Nam, have not formally undertaken the obligations of the United Nations Charter as their own treaty obligations, it should be recognized that much of the substantive law of the charter has become part of the general law of nations through a very wide acceptance by nations the world over. This is particularly true of the charter provisions bearing on the use of force. Moreover, in the case of South Viet-Nam, the South Vietnamese Government has expressed its ability and willingness to abide by the charter, in applying for United Nations membership. Thus it seems entirely appropriate to appraise the actions of South Viet-Nam in relation to the legal standards set forth in the United Nations Charter. [Footnote in original.]

[4] See 6 UNCIO Documents 459. [Footnote in original.]

[5] In particular, the statement of the first purpose:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace. . . . [Footnote in origihal.]

[6] Bowett, *Self-Defense in International Law*, 193–195 (1958); Goodhart, "The North Atlantic Treaty of 1949," 79 *Recueil Des Cours*, 183, 202–204 (1951, vol. II), quoted in 5 *Whiteman's Digest of International Law*, 1067–1068 (1965); Kelsen, *The Law of the United Nations*, 793 (1950); see Stone, *Aggression and World Order*, 44 (1958). [Footnote in original.]

[7] 17 UNCIO Documents 288. [Footnote in original.]

[8] An argument has been made by some that the United States, by joining in the collective defense of South Vietnam, has violated the peaceful settlement obligation of article 33 in the charter. This argument overlooks the obvious proposition that a victim of armed aggression is not required to sustain the attack undefended while efforts are made to find a political solution with the aggressor. Article 51 of the charter illustrates this by making perfectly clear that the inherent right of self-defense is impaired by "Nothing in the present Charter," including the provisions of article 33. [Footnote in original.]

[9] For a statement made by U.S. Representative Adlai E. Stevenson in the Security Council on Aug. 5, 1964, see Bulletin of Aug. 24, 1964, p. 272.

[10] For texts, see *ibid.*, Feb. 22, 1965, p. 240, and Mar. 22, 1965, p. 419.

[11] For background and text of draft resolution, see *ibid.*, Feb. 14, 1966, p. 231.

[12] For a statement made by President Eisenhower on June 21, 1954, see *ibid.*, Aug. 2, 1954, p. 163.

[13] For text, see *ibid.*, p. 162.

[14] For text, see *ibid.*, Sept. 20, 1954, p. 393.

[15] For text, see *ibid.*, Nov. 29, 1954, p. 820.

[16] For text, see *ibid.*, Mar. 26, 1962, p. 498.

[17] For text of a message from President Eisenhower to President Ngo Dinh Diem, see *ibid.*, Nov. 15, 1954, p. 735.

[18] For text, see *ibid.*, May 27, 1957, p. 851.

[19] For text of a joint communique issued by President Kennedy and Vice President Chen Cheng of the Republic of China, see *ibid.*, Aug. 28, 1961, p. 372.

[20] For text of an exchange of messages between President Kennedy and President Diem, see *ibid.*, Jan. 1, 1962, p. 13.

[21] These accords were composed of a bilateral cease-fire agreement between the "Commander-in-Chief of the People's Army of Viet Nam" and the "Commander-in-Chief of the French Union forces in Indo-China," together with a Final Declaration of the Conference, to which France adhered. However, it is to be noted that the South Vietnamese Government was not a signatory of the cease-fire agreement and did not adhere to the Final Declaration. South Viet-Nam entered a series of reservations in a statement to the conference. This statement was noted by the conference, but by decision of the conference chairman it was not included or referred to in the Final Declaration. [Footnote in original.]

[22] This principle of law and the circumstances in which it may be invoked are most fully discussed in the Fourth Report on the Law of Treaties by Sir Gerald Fitzmaurice, articles 18, 20 (U.N. doc. A/CN.4/120(1950)) II. Yearbook of the International Law Commission 37 (U.N. doc. A/CN.4/SER.A/1959/Add.1) and in the later report by Sir Humphrey Waldrock, article 20 (U.N. doc. A/CN.4/156 and Add. 1–3 (1963)) II Yearbook of the International Law Commission 36 (U.N. doc. A/CN.4/ SER.A 1963/Add.1). Among the authorities cited by the fourth report for this proposition are: II Oppenheim, *International Law* 136, 137 (7th ed. Lauterpacht 1955); I Rousseau, *Principes généraux du droit international public* 365 (1944); II Hyde, *International Law* 1660 et seq. (2d ed. 1947); II Guggenheim, *Traité de droit international public* 84, 85 (1935); Spiropoulos, *Traité théorique et pratique de droit international public* 289 (1933); Verdross, *Völkerrecht*, 329 (1950); Hall, *Treatise* 21 (8th ed. Higgins 1924); 3 Accioly, *Tratado de Direito International Publico* 82 (1956–57). See also draft articles 42 and 46 of the Law of Treaties by the International Law Commission, contained in the report on the work of its 15th session (General Assembly, Official Records, 18th Session, Supplement No. 9(A/5809)). [Footnote in original.]

[23] In any event, if North Viet-Nam considered there had been a breach of obligation by the South, its remedies lay in discussion with Saigon, perhaps in an appeal to the cochairmen of the Geneva conference, or in a reconvening of the conference to consider the situation. Under international law, North Viet-Nam had no right to use force outside its own zone in order to secure its political objectives. [Footnote in original.]

[24] For text, see BULLETIN of Aug. 24, 1964, p. 268.

[25] 110 *Cong. Rec.* 18459 (Aug. 7, 1964). [Footnote in original.]

[26] *Ibid.*

[27] 110 *Cong. Rec.* 18409 (Aug. 6, 1964). Senator [Wayne] Morse, who opposed the joint resolution, expressed the following view on August 6, 1964, concerning the scope of the proposed resolution:

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. (110 *Cong. Rec.* 18426–7 (Aug. 6, 1964)). [Footnote in original.]

[28] On March 1, 1966, the Senate voted, 92–5, to table an amendment that would have repealed the joint resolution. [Footnote in original.]

[29] For text, see BULLETIN of May 24, 1965, p. 822.

Mr. EAGLETON. May I readdress my question to the Senator?

Mr. DOLE. I cannot respond as to what may be going on in President Nixon's mind.

Mr. EAGLETON. As the author of the Dole amendment, which would repeal the Gulf of Tonkin resolution, does the Senator, as the principal author of the amendment, view the Gulf of Tonkin resolution as authority for 400,000 troops being in South Vietnam today?

Mr. DOLE. No, and President Nixon has not relied on it.

Mr. EAGLETON. Now, can we go down the list and eliminate further? Does the Senator view the SEATO Treaty as being authority for the presence of 400,000-plus troops in Vietnam?

Mr. DOLE. As I indicated earlier, that is one of the pegs that might have been cited previously.

Mr. EAGLETON. Perhaps it was the peg that might have been used in the past. I am not going to quarrel with the Senator's recitation of history, at least through the Johnson administration. The history through that period has a way of changing even now.

I want to know whether the Senator from Kansas, as the proponent of this amendment, views the SEATO Treaty as authority for the presence of 400,000 plus troops in South Vietnam.

Mr. DOLE. I would guess not, but, again, I do not know whether it can be answered precisely yes or no. There are a number of considerations. I would guess not, if that would satisfy the Senator.

Mr. EAGLETON. The Senator's guess today is that the SEATO Treaty is not authority for troops being in South Vietnam?

Mr. DOLE. I refer to paragraph 1, article 4 of the SEATO Treaty, which provides that each party thereto "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" of the other signatories.

Mr. EAGLETON. I wish the Senator would read on.

Mr. President, I ask unanimous consent that article IV of the SEATO Treaty be printed at this point in the RECORD.

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

ARTICLE IV

1. Each party recognizes the 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 Senate 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.

Mr. EAGLETON. The Senator read up to the words "common danger." It goes on to say "in accordance with its constitutional processes."

Mr. DOLE. That is correct.

Mr. EAGLETON. Then it goes on to say:

Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations.

The Senator is guessing that the SEATO Treaty really is not any authority for our being there. Is that correct?

Mr. DOLE. I am guessing that it is one of many pegs used by previous administrations to become involved in South Vietnam.

Mr. EAGLETON. I am speaking as of this date, in June 1970. Is it authority for 400,000 troops being there today?

Mr. DOLE. I would guess it may be some authority, but not the sole authority for our presence there today.

Mr. EAGLETON. It is some authority. Is that like being a little bit pregnant? Is it authority upon which a President of the United States or a Congress that appropriates moneys can rely insofar as retention of 400,000-plus troops in South Vietnam is concerned?

Mr. DOLE. Of course, I could not respond to the Senator's first question, but,

with reference to the second part of the question, I would point out that the underlying authority that any President has in this area is his rights and powers as Commander in Chief.

Mr. EAGLETON. With respect to the SEATO Treaty, the Senator from Kansas read from article 4. Is it his opinion that under that authority, affirmative action by Congress is necessary?

Mr. DOLE. Affirmative action was necessary to do what?

Mr. EAGLETON. Under the SEATO Treaty, in order to comply with section 4, when each party recognizes that aggression against the one 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. Is affirmative action by Congress necessary in order to trigger the application of the SEATO Treaty?

Mr. DOLE. Let me say to the Senator from Missouri that I did not find that statement included in the report from the Committee on Foreign Relations, dated August 6. It might be done under Executive authority. But I do not find that as a requisite in the report of the committee chaired by the Senator from Arkansas when the Gulf of Tonkin resolution was reported to the floor of the Senate.

Mr. EAGLETON. My question related to the SEATO Treaty and especially to the words, "in accordance with its constitutional processes." Is not affirmative action by Congress necessary in order to actuate the SEATO Treaty, and could not that affirmative action be, among other things, a declaration of war or the Gulf of Tonkin resolution?

Mr. DOLE. Or the ratification of the SEATO Treaty.

Mr. EAGLETON. I beg to differ with the Senator from Kansas. There is nothing self-implementing about the SEATO Treaty, by its own language, because, in order for it to be binding and for it to be implemented in an actual situation, it has to be done in accordance with the constitutional processes of each Nation that is a signatory.

Mr. DOLE. That is correct. Of course, the constitutional processes mentioned could include executive action under our Constitution. The President, of course, is the chief maker of foreign policy; he is the Commander in Chief; he does have a right to take executive actions. I assume that is included in the broad phrase "constitutional processes."

Mr. EAGLETON. Then, the Senator takes it that the Gulf of Tonkin resolution, which he deems to be surplusage, is a historical appendage that can be done away with. In the Senator's opinion, it is not construed to be the congressional action that would comply with the phrase "in accordance with its constitutional processes."

Mr. DOLE. Would the Senator please rephrase the first part of that?

Mr. EAGLETON. The Gulf of Tonkin resolution, in the Senator's opinion, is no current authority for the continued maintenance of troops in South Vietnam; hence, it can be done away with.

Mr. DOLE. That is correct.

Mr. EAGLETON. I, therefore, ask, in reading the SEATO Treaty, especially article 4, is not the Gulf of Tonkin resolution congressional authorization of the war in Southeast Asia, and thus would it not be in compliance with the language "in accordance with its constitutional processes"?

Mr. DOLE. I do not share the view just expressed. But I would point out again that, of course, in the Gulf of Tonkin resolution there is a provision—which made possible congressional action by concurrent resolution. I recall this was an effort to placate some of those in Congress concerned about it being used as a declaration of war. In fact, if the Senator will read the House debate on the Gulf of Tonkin resolution, he will find that one of the Members of the House referred to the Gulf of Tonkin resolution as a declaration of war. I never considered it a declaration of war but the congressional processes were carried out.

As I said before, and, so far as the junior Senator from Kansas is concerned, it is not needed now, because we are not in the process of escalation. We are in the process of disengagement.

Mr. EAGLETON. One final question—perhaps I can get at it this way: Standing alone, since the Gulf of Tonkin resolution is no authority for the presence of 400,000 troops today in South Vietnam—standing alone and by itself, in its pristine glory, would the SEATO Treaty, in and of and by itself, be authority for the presence of 400,000 in Southeast Asia today?

Mr. DOLE. Again, the junior Senator from Kansas is not certain he understands the basic nature of the question. But the Senate did ratify the SEATO treaty, as I recall, by a vote of 82 to 1. It took effect on February 19, 1955. It was in effect in 1964 when the Gulf of Tonkin resolution was adopted. It is in effect now.

Again, if I were going to rely on anything—and I am not the President—I would rely on basic powers, as clearly defined under the Constitution as Commander in Chief, rather than on some treaty. Again the basic fact is that President Nixon, when he took office, found x number of troops in South Vietnam. I supported President Johnson in that, as I did President Kennedy. But I do not say, today, that the President is relying on the SEATO Treaty for the presence of 400,000 American troops. I do not know why he would rely on that treaty, and do not think the Senator from Missouri does.

Mr. EAGLETON. Let me summarize it this way, to see if I am stating it accurately: That is the Senator's interpretation of it, because he is the principal author of the amendment to strip away the Gulf of Tonkin resolution, but this raises the basic question of the authority for the presence today of 400,000 troops in South Vietnam, notwithstanding past history. You have cleared up the Gulf of Tonkin issue. It is not authority for the presence of 400,000 men there today. The Senator stated he believes it is exclusive of the authority that the President has as Commander in Chief.

I take it the Senator does not think he needs SEATO, but it is a little bit of something extra there, a little bit of frosting on the cake.

Mr. DOLE. He did not get that from SEATO.

Mr. EAGLETON. He gets it in terms of authority under SEATO.

Mr. DOLE. It depends on how one interprets SEATO. The Senator from Missouri has interpreted it as a little bit of frosting. It might be interpreted by the President in some other way. I do not interpret it as being binding whatsoever upon the President. I would rely on the Constitution and the inherent powers of the office of the Presidency.

Mr. EAGLETON. As Commander in Chief.

Mr. DOLE. And as the Chief Executive officer of this country, with authority to carry out the rules promulgated under the Constitution. By being the Chief Executive, he is also the chief foreign policymaker.

Mr. EAGLETON. I should like to strip away a little more of the deadwood. I think the Senator has stripped away the Tonkin Gulf issue and has also stripped away the SEATO issue.

Does the Senator think that the presence of 400,000 American troops in South Vietnam today is in any way authorized by President Eisenhower's letter of October 1, 1954, to President Diem?

Mr. DOLE. Would the Senator please read that letter?

Mr. EAGLETON. It is four paragraphs long. I will read it. It is a letter from President Eisenhower to President Diem dated October 1, 1964:

DEAR MR. PRESIDENT: I have been following with great interest the course of developments in Vietnam, particularly since the conclusion of the conference at Geneva. The implications of the agreement concerning Vietnam have caused grave concern regarding the future of a country temporarily divided by an artificial military grouping, weakened by a long and exhausting war and faced with enemies without and by their subversive collaborators within.

Your recent requests for aid to assist in the formidable project of the movement of several hundred thousand loyal Vietnamese citizens away from areas which are passing under a *de facto* rule and political ideology which they abhor, are being fulfilled. I am glad that the United States is able to assist in this humanitarian effort.

We have been exploring ways and means to permit our aid to Vietnam to be more effective and to make a greater contribution to the welfare and stability of the Government of Vietnam. I am, accordingly, instructing the American Ambassador to Vietnam to examine with you in your capacity as Chief of Government, how an intelligent program of American aid given directly to your Government can serve to assist Vietnam in its present hour of trial, provided that your Government is prepared to give assurances as to the standards of performance it would be able to maintain in the event such aid were supplied.

The purpose of this offer is to assist the Government of Vietnam in developing and maintaining a strong, viable state, capable of resisting attempted subversion or aggression through military means. The Government of the United States expects that this aid will be met by performance on the part

of the Government of Vietnam in undertaking needed reforms. It hopes that such aid, combined with your own continuing efforts, will contribute effectively toward an independent Vietnam endowed with a strong government. Such a government would, I hope, be so responsive to the nationalist aspirations of its people, so enlightened in purpose and effective in performance, that it will be respected both at home and abroad and discourage any who might wish to impose a foreign ideology on your free people.

Sincerely,

DWIGHT D. EISENHOWER.

Now, that is the letter which President Eisenhower wrote to President Diem.

Does the Senator in any way consider that letter as authority for the presence today of 400,000 American troops——

Mr. DOLE. No.

Mr. EAGLETON. In South Vietnam?

Mr. DOLE. No.

Mr. EAGLETON. Insofar as the right to wage a defensive war, relating back to the debate and the exchange with the Senator from North Carolina (Mr. ERVIN) a day or so ago, insofar as that concept is concerned with the established constitutional concept, that is, the right of a President to wage a defensive war, does the Senator consider the presence of 400,000 American troops in South Vietnam today as being authorized under that constitutional precept—to wit, the right to wage a defensive war?

Mr. DOLE. First of all, of course, we have undertaken steps and commitments. President Eisenhower did so in the letter which the Senator just read. President Kennedy did so in sending troops to South Vietnam. President Johnson did so, and President Nixon has. They have the right under international law to participate in the collective defense of South Vietnam against armed attack. But our country made a commitment to give assistance, back as far as President Truman's time, in various forms and at different times, in the defense of South Vietnam. At the time of the Geneva Accords in 1954, President Eisenhower warned:

Any renewal of Communist aggression would be viewed by us as a matter of grave concern.

At the same time he gave assurance that the United States would not, with force, disturb the settlement. The formal declaration made by the United States Government at the conclusion of the Geneva Conference stated that the United States would view any renewal of aggression in violation of the aforesaid agreement with grave concern which seriously threatens international peace and security.

Later, in 1954, the United States negotiated with a number of other countries and signed the SEATO treaty. It contains in addition to the paragraph previously quoted, of course, other provisions.

So I would say "No" in answer to the question with reference to President Eisenhower's letter, and "Yes" with reference to the Senator's last question.

Let me add that if the Senator from Missouri is attempting to justify the presence of 400,000 American troops in Southeast Asia today, then I cannot answer that. I do not know precisely why President Johnson sent 550,000 American troops to Southeast Asia——

Mr. EAGLETON. I do not, either.

Mr. DOLE. The Senator from Kansas was not privy to that.

Mr. EAGLETON. I share the Senator's mystery. Let me rephrase the——

Mr. DOLE. If the Senator is trying to charge the presence of 400,000 American troops in South Vietnam today to President Nixon, we may be here for some time, because they were there when he took office.

Mr. EAGLETON. I am not making any charges or countercharges. All I know is that there are 400,000-plus American troops in Southeast Asia today and I want to find out under what authority they are there. But let me phrase my question this way, if I may: Let me read two sections of the Constitution and ask the Senator if either one of those sections is authority for the presence of 400,000 American troops in Southeast Asia today.

Article I, section 10, clause 3 of the Constitution reads, in part:

No State shall, without consent of Congress, engage in war, unless actually invaded, or in such eminent danger as will not admit of delay.

That is one section.

Let me read Article IV, section 4 of the Constitution:

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; . . .

Now my specific question: Are either one of those two constitutional sections authority for the presence today in South Vietnam of 400,000 American troops?

Mr. DOLE. They might be, in part.

Mr. EAGLETON. They might be in part. Could the Senator elaborate on how 400,000 troops in Southeast Asia today could be protecting any one of the 50 sovereign States from invasion?

Mr. DOLE. Mr. President, I am certain the Senator from Missouri has read the excellent law review article that was printed in the RECORD a few weeks ago explaining how this section and other sections of the Constitution referring to the power of the President as Commander in Chief and chief maker of foreign policy have been interpreted through the years by any number of Presidents.

I go back basically to the power of the President as Commander in Chief and as to what he may have gotten out of the SEATO Treaty, out of the aid programs, and our commitments by Presidents Truman, Eisenhower, and Kennedy.

When we add all of these up, there was enough justification for sending troops to Southeast Asia.

I am still at a loss to know what the Senator from Missouri really wants to know.

Mr. EAGLETON. My question, I think, is quite simple. It has been phrased and rephrased in different ways to try to elicit a more precise answer.

I am not quarreling with the Senator from Kansas about what President Johnson thought he ought to do in 1965, or what he thought the Gulf of Tonkin authorized him to do.

I am concerned more about the present and the future. I am concerned about the President today, in the month of June 1970. There are 400,000 troops in Southeast Asia. I want to know under what authority they are there.

The Senator tells me they are not there under the Gulf of Tonkin resolution. He tells me they are not there under the Eisenhower letter.

The Senator tells me they are not there under the SEATO Treaty. The Senator has not told me why they are there under these two sections of the Constitution involving the right of the 50 States to be protected from invasion without.

Mr. DOLE. Mr. President, it has been suggested that they are there by inheritance. But that would not answer the question of the Senator from Missouri.

We have a right to collective self-defense between our Nation and other nations.

Again, I will attempt to respond, but do not know why President Johnson sent all of these American troops to South Vietnam.

Mr. EAGLETON. I do not know either. But I want to know why and under what authority President Nixon is maintaining 400,000 troops in Southeast Asia, under what constitutional or legal justification.

I am mystified by the actions of Lyndon Johnson, too. We can be in agreement on that. But as of today in relation to the amendment of the Senator from Kansas, what is the opinion of the Senator as to the authority for the 400,000 troops being in Southeast Asia today?

Mr. DOLE. Mr. President, I do not know the justification used by President Johnson. However, President Nixon is now engaged in the process of bringing American boys home. He is not in the process of retaining troops in Southeast Asia for any longer than it might require to have the Vietnamization program become effective.

If I were President, I would rely on my power as Commander in Chief and on any of the allied agreements we might have, and on commitments made by other presidents.

We can not isolate it and say that this is the reason they are there, that this is the reason that they were sent, or that this is the reason they are still there.

There are a number of reasons and justifications.

As I view the action of President Nixon, it is one of disengagement. Perhaps the Senator from Missouri does not recognize we are disengaging in Vietnam.

Mr. EAGLETON. Mr. President, I am not certain. But perhaps that can be the subject of a future discussion.

Mr. DOLE. Will the Senator yield?

Mr. EAGLETON. I have the floor at the sufferance of the Senator from Arkansas. I was about to elaborate, but the Senator may go ahead.

Mr. DOLE. Mr. President, I have said many times that another justification for the action was the action taken by the great Missourian, President Truman, when he ordered troops into Korea. The justification for that was never made clear.

He came to Congress after it was done. Congress had 4 months of debate on that, as I recall. There was no declaration of war. There was no Gulf of Tonkin type resolution passed by Congress.

Mr. EAGLETON. Mr. President, I think this has been a very useful debate. The Senator says that there is no justification. He says that he finds no justification and no authority for the presence of 400,000 troops in Southeast Asia today.

Mr. DOLE. No. You see, Congress does play a role. We do not do it always by declaring war. We appropriate money in Congress from time to time. We cannot maintain an army without money.

Congress wanted to go further with respect to the Korean war. There was, if I might say so, a rather "hawkish" Congress then. Many Members of Congress were ready to do more than Truman wanted. But they did appropriate money. And that fact, in and of itself, amounts to tacit approval and tacit endorsement by the Congress.

So, that was justification. This Congress, the last Congress, and the previous Congresses have appropriated money for the war in South Vietnam.

That may be another justification for the presence of troops. We are still appropriating money. Congress is a partner in this matter.

As the Senator knows, it is proposed in the Cooper-Church proposal, and perhaps will be later in the Hatfield-McGovern proposal, that funds be cut off. We have that constitutional power.

The debate has been helpful. It might not have been helpful to the Senator from Missouri, but it has been helpful to the Senator from Kansas.

Mr. EAGLETON. Mr. President, it is becoming more helpful, because I think it is now becoming clear to me—and I ask the Senator if this is his position—that the authority for the presence of troops in Southeast Asia today is one involving the authority of the President of the United States coupled with the appropriations process. Is that in the opinion of the Senator the authority for having troops there today?

Mr. DOLE. That is part of it.

Mr. EAGLETON. What are the other parts of it?

Mr. DOLE. Mr. President, a quiz program like this is a new experience for the Senator from Kansas. It takes a little while to think. However, yes, it was the SEATO Treaty; yes, it was the pledges made by President Truman—who was a great President—by President Kennedy, and President Johnson; yes, it was by appropriations of Congress; and yes, it was by the Gulf of Tonkin resolution. So we have to consider all of these.

And we will probably appropriate some more money this year. That would be justification for the action. But let me point out a very basic difference, and not to discredit President Johnson, because as a Member of the House, I supported President Johnson and voted for the Tonkin Gulf resolution.

The Senator from Missouri did not have that opportunity, but the Senator from Kansas voted for the Gulf of Tonkin resolution.

Congress has participated very actively. We have appropriated over $100 billion for South Vietnam. But the basic difference now is that we are in the process of disengagement. We can disengage. Any President can disengage from any conflict with the kind of power he has under the Constitution.

Mr. EAGLETON. Where there was light, there is now darkness.

Mr. DOLE. It is getting later.

Mr. EAGLETON. I thought we had established that insofar as the presence of troops in Southeast Asia today is concerned, the Gulf of Tonkin resolution was no authority or authorization for them being there.

I had already checked that point off, because that was the answer the Senator had given me earlier.

Do I understand that, after a few minutes have expired, the Senator contends that the presence of troops in Southeast Asia today is in some way buttressed on the Gulf of Tonkin resolution in part, a little bit?

Mr. DOLE. The Senator is talking about numbers and I am discussing Vietnamization and disengagement.

Mr. EAGLETON. I am just talking about American bodies in Vietnam, soldiers, airmen, and so forth—400,000-plus. I want to know under what authority they are there. I thought we had gotten it down to authority under the Commander in Chief plus the continuing appropriation process. I thought we had eliminated the Gulf of Tonkin resolution, that we had eliminated SEATO, and Eisenhower was never in the picture.

Mr. DOLE. In fairness we must share the burden in this matter. There was a commitment by President Eisenhower with respect to material aid. When he left office in 1961 there were 600 or 700 Americans in Vietnam. None of them had been killed but they were there.

The aid programs go back to President Truman's time. This is not the fault of one party as opposed to the righteousness of the other.

But to be candid with the Senator from Missouri, the presence of American troops there now is justified in large part by the constitutional power of the President and the acts of Congress in appropriating money; but underlying and underscoring those points has been the Gulf of Tonkin resolution. President Johnson did not send 545,000 men there until after the Gulf of Tonkin resolution was approved on August 10, 1964.

Mr. EAGLETON. Again, I was with the Senator from Kansas until he threw in the phrase "underlying and underscoring" in reference to the Gulf of Tonkin resolution. If the Gulf of Tonkin resolution is repealed, and it is eliminated by being repealed, then, is there still remaining some authority for the presence of troops in South Vietnam?

Mr. DOLE. Oh, yes.

Mr. EAGLETON. And that authority is the power of the Commander in Chief coupled with the appropriation process?

Mr. DOLE. There are a number of bases. The SEATO Treaty, the pledges made by three or four Presidents, now, the appropriations made by Congress, plus the constitutional power which any President has and that President still has.

Mr. EAGLETON. If I may, I would like to ask a few final questions on the Gulf of Tonkin resolution. Is there any basic difference between what the Senator from Kansas seeks to do by amendment 715, and that which is sought to be accomplished by Concurrent Resolution 42?

Mr. DOLE. No. The intent is the same.

Mr. EAGLETON. The Senator earlier in this exchange referred to a letter from Mr. H. G. Torbert, Jr., Acting Assistant Secretary for Congressional Relations, in March 1970.

Mr. DOLE. Yes, March 12.

Mr. EAGLETON. March 12. I would like to call the attention of the Senator to a letter dated December 4, 1969, by the same Mr. Torbert.

Mr. DOLE. That would be prior to March 12.

Mr. EAGLETON. That would be an earlier letter, yes. In that letter he said, speaking for the State Department on the Gulf of Tonkin resolution:

> The existence of the Tonkin Gulf Resolution also has consequences for Southeast Asia which go beyond the war in Viet-Nam. The question of its termination must be considered carefully in terms of our other international obligations in the area, particularly the Southeast Asia Collective Defense Treaty which the Tonkin Gulf Resolution specifically cites.

He states:

> We would oppose passage of this resolution.

My first question is, Why did Mr. Torbert and the State Department change their minds, in the Senator's judgment, between December 4, 1969, and March 12, 1970?

Mr. DOLE. I have been around 10 years, and have never been able to fully understand why the State Department changes its mind.

Mr. EAGLETON. But it goes without saying they had a change of heart insofar as the utilitarian value is concerned, as expressed in these two letters.

Mr. DOLE. Basically there was a recognition when the Vietnamization program was implemented by President Nixon that it was successful and that we were on our way out of Vietnam. It is generally believed that we have passed the road of no return insofar as further escalation is concerned. I cannot, however, answer the question as to why someone in the State Department changed his mind.

Mr. EAGLETON. Could the Senator speculate on what Mr. Torbert meant by this sentence in his December 4 letter, the first letter that opposed repeal of the Gulf of Tonkin resolution?

> The existence of the Gulf of Tonkin Resolution also has consequences for Southeast Asia which go beyond the war in Vietnam.

Can the Senator interpret that for

me? Does that convey any message to the Senator?

Mr. DOLE. Yes.

Mr. EAGLETON. Would the Senator care to elucidate for my benefit what message that conveys?

Mr. DOLE. I do not speak for anyone in the Department of State—not that I do not have great respect for the Department of State and the person who may have written that letter——

Mr. EAGLETON. Mr. H. G. Torbert, Jr., the same man who wrote the letter of March 12.

Mr. DOLE. I believe he was accurately stating a real fear that if the Gulf of Tonkin resolution were repealed then it might create some apprehension or fear on the part of other free countries in Southeast Asia that we were pulling out prematurely, pulling the rug out from under our friends and allies. But again, I cannot answer the question. I do not know why that particular language was used but would guess there was a feeling in some way it would undermine our policy in Southeast Asia.

Mr. EAGLETON. Mr. President, I am about finished, to the delight of the Senator from Arkansas.

Mr. FULBRIGHT. It is very interesting but I did not realize the Senator was going to be quite so long. I do have a speech to make.

Mr. EAGLETON. I thank the Senator.

When this exchange is boiled down to its distilled essence, what may have occurred in the past insofar as what previous Presidents, previous Senates, and previous Secretaries of State used as their authority for going into and staying in Vietnam, the fact remains that today, President Nixon, our President on this date, who is the Commander in Chief of 400,000 troops in Southeast Asia, does not rely on the Gulf of Tonkin resolution. The State Department said it can be repealed without its objection; and at least the Senator from Kansas does not take much solace in either SEATO or other provisions. It boils down to the power as Commander in Chief coupled with the appropriation process in this matter.

Mr. DOLE. The Senator is talking about the presence there now?

Mr. EAGLETON. Yes; the presence there today.

Mr. DOLE. Yes.

Mr EAGLETON. Would that Commander in Chief authority, followed up on an annual basis by appropriations, be enough for him to send additional troops to South Vietnam?

Mr. DOLE. Perhaps as we have discussed in the Senate, it would depend on the purpose for which they might be sent. If it is to expand the war it might be questionable. Perhaps he can do it, as President Truman did in Korea.

Mr. EAGLETON. My question is now, predicated on the repeal of the Gulf of Tonkin resolution.

Mr. DOLE. Yes. We have established the fact that the President does have rather broad powers as Commander in Chief. It has been the subject of debate for several days on the floor of the Senate. It has been argued by the proponents of the Cooper-Church amendment that the President can go back into Cambodia, order air strikes in Cambodia send troops into Cambodia, and clean out sanctuaries in Cambodia; so if it were necessary, God forbid, that we send more troops to South Vietnam that it could be done. We are not talking about President Nixon, but rather the office of the President and the occupant of the office of the President.

Mr. EAGLETON. And this would be done under his authority as Commander in Chief?

Mr. DOLE. Yes; that and other related items the Senator from Kansas has mentioned two or three times.

Mr. EAGLETON. But not the Gulf of Tonkin resolution; we are repealing that.

Mr. DOLE. Is the Senator from Missouri for repeal?

Mr. EAGLETON. I am going to vote for repeal.

Mr. DOLE. That resolves one question I had.

Mr. EAGLETON. Would that authority be broad enough for the Commander in Chief, without the Gulf of Tonkin resolution, to initiate bombing raids against China?

Mr. DOLE. Under what circumstances?

Mr. EAGLETON. Under circumstances wherein the President thought it would be propitious to strike out certain productive areas of Red China wherein they were making war machinery, armaments, et cetera, that were finding themselves in the hands of the North Vietnamese or the Vietcong.

Mr. DOLE. Perhaps the question is a little speculative. Unless there were some imminent danger to American forces or some imminent danger to American nationals or some imminent danger to American property, then I certainly would think any President would first consult with the Congress and obtain some congressional approval. But, again, the junior Senator from Kansas, having been in this body only 17 months, does not have the precise answer to that very difficult question.

Mr. EAGLETON. But the Senator predicates his answer on the assumption that the President would consult with Congress before he made that decision.

Mr. DOLE. Yes; contrary to what President Nixon did in Cambodia or what President Truman did in Korea, it would be my suggestion, at least, that they call someone.

Mr. EAGLETON. Would this be a suggestion or would it be required under the Commander in Chief authority that they consult with Congress?

Mr. DOLE. It is not required.

Mr. EAGLETON. It is not required. So it is the thought of the Senator that as Commander in Chief, with no Gulf of Tonkin resolution, the President could have an air strike in Red China?

Mr. DOLE. That is right. I assume so. I am not advocating it, as the Senator from Missouri knows.

Mr. EAGLETON. But the Commander in Chief authority is, in its phraseology and in its historical implications, broad enough to embrace that of action unilaterally by the President without consultation with Congress, even though consultation might be had if he had time?

Mr. DOLE. That is right. Before World War II we sent troops into Greenland and Iceland and committed other warlike acts before becoming involved directly in World War II and before Congress declared war.

Again I would refer, and surely the learned Senator from Missouri has read it, to the Harvard Law Review article, 81 Howard Law Review 1771, previously referred to with reference to the powers and rights of the President from the time of George Washington down to the present time. There have been actions taken by the Commander in Chief—yes, without consultation with the Congress. In some cases the President reported to Congress afterward. In some cases he notified Congress in advance.

But there have been cases, and they are recited in great detail, whether it was Polk who went into Mexico, or Jefferson who got involved in the Bay of Tripoli. There are numerous examples of where the President of the United States exercised his right as Commander in Chief. These acts were generally followed by some voice of dissent from Congress. In fact, George Washington had the first confrontation with Congress when he obtained the treaty or proclamation of neutrality with France and England. As I understand it, some Members of Congress did not agree with it and thought it went beyond his constitutional powers.

So, if we want to speculate, we can assume the Commander in Chief's powers are quite broad; but the junior Senator from Kansas does not want to state on the floor that any President should bomb any place without consulting Congress.

Mr. EAGLETON. But the Senator does state that the powers are broad enough to permit him to act, and that such consultation with Congress comes after the fact, by courtesy of the President, after the decision has been made or after the die has been cast?

Mr. DOLE. The invasion of Korea is an historical precedent, to answer the Senator from Missouri, but I that action taken by the President marked a clear departure from precedent in exercising the powers of Commander in Chief. Commanders in Chief had been rather timid up to that time, but President Truman was not a timid man. He acted when an emergency required him to act. He acted properly. And since that time, more and more power has been vested in the Commander in Chief.

Mr. EAGLETON. Well, then, the Commander in Chief power for the President to act by himself is broad enough to permit the bombing of China, the invasion of Korea, or any unilateral military decision the President sees fit to make, being the Commander in Chief?

Mr. DOLE. Will the Senator repeat the first part of the question?

Mr. EAGLETON. The Commander in Chief power, as the Senator views it, is broad enough to support what President Truman did in Korea, and a unilateral decision to invade or move into South

Korea, his premise being assistance of Syngman Rhee, or is broad enough to have deployed troops to South Vietnam, bomb North Vietnam, or bomb anyplace in the world, if he is premising it on his authority as Commander in Chief?

Mr. DOLE. I would, in a general sense, agree, but that is the view only of a junior Member of this body. It is not the President's view, probably. It may not be another President's view. It may not be the view of the Senator from Arkansas. But it depends on circumstances. Are Americans in danger? I would assume that any President who failed to act if Americans were in danger would be subject to impeachment by the Congress.

Mr. EAGLETON. I thank the Senator from Arkansas and the Senator from Kansas.

I would like to make a 1-minute comment, if I may, by way of a wrap-up of this rather prolonged exchange. I think it has served one purpose. It has pointed out that, at least in the view of the principal author of the Gulf of Tonkin repealer, the Commander in Chief authority of the President of the United States is so broad, so all-encompassing, as to permit any unilateral military act by the President, almost anywhere in the world, with no previous consultation with the Congress.

I point out to the Senate the danger of that assumption, the danger of that interpretation of the Constitution, because when and if we repeal the Gulf of Tonkin resolution, as I presume the Senate is about to do, to be concurred in by the House, and when that legislative authorization of the war has been removed from the statute books—and it was an authorization for this war and it was relied on by President Johnson, and its phraseology is broad enough to permit a war, even to permit an expanded war, as I read it—we then find the war being conducted, under the theory of the Senator from Kansas, solely and exclusively under the Commander in Chief authority, buttressed on occasion by the appropriations process. I consider this to be a very dangerous constitutional precedent.

I thank the Senator from Arkansas for yielding to me.

Mr. DOLE. Mr. President, will the Senator from Arkansas yield to me briefly?

Mr. FULBRIGHT. I will yield to the Senator from Kansas for a comment; yes.

Mr. DOLE. First of all, I appreciate the opportunity to discuss what is a very vital area of this debate with the junior Senator from Missouri. His wrap-up does not reflect the views of the junior Senator from Kansas completely. It does occur to the junior Senator from Kansas that, of course, the President has rather vast powers as Commander in Chief, and I could read the Senator the statement made by the junior Senator from Arkansas when the Gulf of Tonkin resolution was being considered by this body on August 7, 1964. But we are not in Vietnam just because of the appropriation process and the authority of the President as Commander in Chief. As the Senator intimated, there are certain other factors involved. So when the Senator characterizes my assessment, it is only the assessment of the junior Senator from Missouri and it is only the assessment of the junior Senator from Kansas, and not the assessment of anyone in the administration or of any President or of anyone in the State Department.

I thank the Senator from Arkansas for yielding.

Mr. GOLDWATER. Mr. President, will the Senator from Arkansas yield for an observation? I tried to get the Senator to yield, and he did not feel he could.

Mr. FULBRIGHT. Of course, I am going to make some remarks and then I shall be delighted to yield to the Senator from Arizona, if he wishes me to.

Mr. GOLDWATER. I think it would be more appropriate at this time.

Mr. FULBRIGHT. How long does the Senator wish?

Mr. GOLDWATER. Maybe 2 minutes.

Mr. FULBRIGHT. Mr. President I yield for that purpose.

Mr. GOLDWATER. Mr. President, I have been more and more impressed, throughout this lengthy debate, with the need for a different approach to the two problems we face than we are making here.

I do not think there is any question about the power of the President as Commander in Chief. I agree with the language of Prof. Edgar E. Robinson, of Stanford University, that:

> The President's power as Commander-in-Chief of the Armed Forces are of greater significance than all the other powers prescribed in the Constitution.

I have detected, during the course of this debate, in the mail I have received, and at talks I have made around this country, that the American people really do not understand the limited action that we as Congress can take in the area of war, or the extreme action the President can take in the area of war.

I have come to the conclusion, Mr. President, particularly after having listened to this very interesting discussion today, that we would be better off discussing two constitutional amendments: one to better describe and prescribe the powers of Congress in the area of warmaking, and a second to describe and prescribe, if we have to, the powers of the President; because until we do either, I think we are going to go on with a very misunderstood idea of what the Constitution gives to both Congress and the President as powers. I would hope, Mr. President, that when we have finished voting on the Cooper-Church amendment and the McGovern-Hatfield amendment, this body can get down to the serious business of discussing—I do not say writing, but discussing—the need for a constitutional amendment.

Personally, I think we have to have one or two, if we are going to better understand what we were trying to understand today and what we have been trying to understand through 6 weeks of discussion on the Cooper-Church amendment.

With those words, Mr. President, I thank my distinguished friend from Arkansas for yielding.

Mr. GURNEY. Mr. President, will the Senator yield very briefly for an observation?

Mr. FULBRIGHT. I yield.

Mr. GURNEY. I, too, was present during the colloquy between the junior Senator from Missouri and the junior Senator from Kansas—a very interesting and, I thought, very illuminating discussion of the whole subject of the powers of the Commander in Chief.

My own impression, though, was that the last statement by the junior Senator from Missouri of his impression of the position of the junior Senator from Kansas was not accurate, and I take exception to it.

I did not gain any impression from the colloquy that the President of the United States at any time, any place, anywhere has the power or the right to inject American troops or to launch this country into war. It is my impression from what the Senator from Kansas said that the powers of the Commander in Chief are very broad, and that under certain facts and circumstances, when, indeed, American lives and the national security are in danger, the President does have broad powers to react, and I would go back to just one example—perhaps one of the very latest examples—which I think bears out what the Senator from Kansas is talking about. That was during the Cuban missile crisis, when President Kennedy declared a quarantine around Cuba and against the Russians, and mobilized the Air Force, the Army, and the Navy—as a matter of fact, my State of Florida was like an armed camp, with airplanes flying over day and night and troops moving in. We were actually on the threshold of war.

I think what President Kennedy did was exactly right. In this day and time, when we have to move quickly, he had to move quickly, too, in that instance, to protect the national security of this country.

That is what I think the Senator from Kansas was talking about, that the Commander in Chief does have broad powers in matters of emergency such this to do the things that are necessary for the national security of this country.

I thank the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, before I make my comments, I think, for the record, in view of this colloquy, it would be useful to put in one or two excerpts from the committee report on the national commitments resolution.

Much has been said about Korea by the Senator from Kansas and the Senator from Missouri. On page 18 of the committee report there appears the following passage:

> Senator Watkins of Utah questioned the authority of the President to commit the country to war without consulting Congress, even in compliance with a recommendation of the United Nations Security Council, and said that, if he were President, he "* * * would have sent a message to the Congress of the United States setting forth the situation and asking for authority to go ahead and do whatever was necessary to protect the situation." In January 1951 Senator Taft said that President Truman had no authority whatever to commit American troops to Korea without consulting Congress and without congressional approval. "The President," he said, "simply usurped authority, in violation of the laws and the Constitution, when he sent troops to Korea to carry out the resolu-

tion of the United Nations in an undeclared war."

I submit that Senator Taft was no mean authority on matters legal and constitutional. My own view is that he stated it correctly.

Of course, in many cases, the Korean action has been cited as a precedent. In my view, it was an unconstitutional precedent; and I have never been reconciled to the principle that, because some President, or anyone else, has done an unconstitutional or illegal act, that is a good precedent for now saying it is constitutional or legal.

But, I think, in many cases that has happened, and I believe the Korean case to be a very good example of it. There is further discussion on that particular aspect of it.

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

Mr. FULBRIGHT. I yield.

Mr. TOWER. If that is the view held by the Senator from Arkansas in concurring with the distinguished Republicans who commented on it, it is no doubt also the view of the Senator from Missouri; and I suggest that it might be well for him to write a letter to a distinguished constituent of his and scold him for getting involved in that unconstitutional act.

Mr. FULBRIGHT. Mr. President, I do not wish to involve myself in matters between citizens of Missouri.

Mr. President, as I have said, we have considered the Gulf of Tonkin resolution at great length in the committee. We had hearings on the background of it, and an investigation, I might say, that went on over a period of many months prior to our consideration of the idea of repealing it.

REPEAL OF THE GULF OF TONKIN RESOLUTION

There has been talk in recent weeks of a constitutional crisis over the power to commit our country to war. Whether it amounts to that or not, there is certainly a disagreement between the Executive and Congress as to where that authority properly lies. It is the Executive's view, manifested in both words and action, that the President, in his capacity as Commander in Chief, is properly empowered to commit the Armed Forces to hostilities in foreign countries. It is the view of many of us in the Senate—conviction may be the better word—that the authority to initiate war, as distinguished from acting to repel a sudden attack, is vested by the Constitution in the Congress and in the Congress alone.

That view, I believe, was expressed pretty forcefully by the Senator from North Carolina last night. That conviction was recorded last year when, by a vote of 70 to 16, the Senate adopted the national commitments resolution expressing the sense of the Senate that:

> A national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment.

Quite obviously, repeal of the Gulf of Tonkin resolution will not resolve the constitutional issue with respect to the Indochina war. From the Executive's standpoint, repeal of the Tonkin resolution will in no way impair what it believes to be its authority to conduct the present war. The executive branch has already, in its letter to the Foreign Relations Committee of March 12, 1970, disavowed reliance on the Gulf of Tonkin resolution as authority or support for its conduct of the war in Indochina. From the standpoint of Congress, on the other hand—and, I would add, the Constitution—repeal of the Tonkin resolution will leave the Executive in the legal position of continuing to conduct an unauthorized war. For reasons which I will discuss—although I believe they are well known—I do not think the Tonkin resolution can be regarded as a valid legal authorization for the war in Indochina. This being the case, repeal of the resolution will not create but simply confirm and clarify the existence of a legal vacuum. In the words of the Senator from Maryland (Mr. MATHIAS), who initiated this proposed repealer, the action contemplated will serve principally as a means of clearing the congressional ledger of the debris of briefly considered and broadly permissive cold war postures.

I. THE CONGRESSIONAL WAR POWER

The notion that the authority to commit the United States to war is an Executive prerogative, or even a divided or uncertain one, is one which has grown up only in recent decades. It is the result, primarily, of a series of emergencies alleged emergencies which have enhanced Executive power, fostered attitudes of urgency and anxiety, and given rise to a general disregard for constitutional procedure.

In fact, there was neither uncertainty nor ambiguity on the part of the framers of the Constitution as to their determination to vest the war power exclusively in Congress. As Thomas Jefferson wrote in a letter to Madison in 1789:

> We have already given in example one effectual check to the Dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.

As to the powers of the President as Commander in Chief, Alexander Hamilton, an advocate of strong Executive power, wrote in Federalist No. 69:

> 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 do not know how one could get a more clear description of this matter than by one of the architects of the Constitution.

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

Mr. FULBRIGHT. I yield.

Mr. TOWER. Will the Senator enumerate again the powers that the King of Great Britain at that time possessed, as outlined by Hamilton in the Federalist Papers?

Mr. FULBRIGHT. I think this is a very pertinent passage, myself.

Mr. TOWER. I think that included in that was the royal power to declare war, which has never existed in the hands of the President of this country, and I do not think anybody has contended that it has. That alone would make the power enjoyed by the President vastly inferior to that enjoyed by George III.

Mr. FULBRIGHT. It depends upon what the Senator means by "declare war." I think it means to initiate, to start, a war of an offensive nature, as distinguished from a defensive war, one which is a reaction to an attack. I think this is exactly what is involved here.

Mr. TOWER. But in 1787, did the British Constitution require that the Parliament ratify an act of declaration of war by the King?

Mr. FULBRIGHT. I would judge from this that the British king had the right to declare a war and to initiate a war against whomever he chose.

Mr. TOWER. That is correct.

Mr. FULBRIGHT. But this is, in effect, what I understand the reasoning of some Senators to be about the power of the President as Commander in Chief, that he has this power. Alexander Hamilton says he does not have the power.

Mr. TOWER. All Hamilton said was that the power enjoyed by the President is inferior to that enjoyed by the king of Great Britain at that time, and that certainly was true. It is no longer true, because the President of the United States has vastly more power than the queen does in these matters, in reality.

Mr. FULBRIGHT. There has been quite a change between the present queen and the king at that time.

Mr. TOWER. That is why the Senator's reference is not relevant at the present time.

Mr. FULBRIGHT. I find myself quite unable to follow the logic of the Senator from Texas. I think it is utterly irrelevant to this.

Mr. ERVIN. Mr. President, will the Senator yield to me, with the understanding that he will not lose his right to the floor?

Mr. FULBRIGHT. I yield.

Mr. ERVIN. I think that the quotation from Alexander Hamilton, to which the Senator from Arkansas has called attention, points out the difference between the power of the King and the power of the President as Commander in Chief. He says both of them, as I construe his statement, have virtually the same power as Commander in Chief of the Armed Forces of their Nations, but that the King has the power to declare war, whereas the President of the United States does not.

Mr. FULBRIGHT. That is correct. He said: "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."

This is very specific. It fortifies—reenforces, I would say—the power to declare war; because the Congress also has

to raise the armies and to regulate them, and it has that authority. The King had all his power, which the framers of our Constitution deliberately gave to Congress, leaving the President as the first general—as Hamilton says, "as first general and admiral of the Confederacy." In other words, he is the primary general, and he has the power pertinent to the general.

Hamilton was no less positive in his understanding of the Senate's treaty powers and in his opposition to the contention that the President might have the authority on his own to make significant foreign commitments. In Federalist No. 75, Hamilton wrote:

> The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate created and circumstanced as would be the President of the United States.

This language used by Hamilton might be taken as an 18th century equivalent of the National Commitments Resolution.

I think that language is exactly within the spirit of the National Commitments Resolution.

The Supreme Court has also declared, in unequivocal language, that the power to initiate war is an exclusively congressional one. In the "Prize Cases" of 1862 the Supreme Court said:

> By the Constitution, Congress alone has the power to declare a national or foreign war. . . . The Constitution confers on the President the whole executive power. . . . He is Commander-in-Chief of the Army and Navy of the United States. . . . He has no power to initiate or declare a war either against a foreign nation or a domestic state.

From the standpoint of the Presidency, there has been a striking change of attitude toward the war power, especially in recent years. Presidents of recent decades have not only committed the country to war without congressional authorization but openly asserted their right to do so. A number of their predecessors, especially in the late 19th and 20th centuries, usurped the war powers of the Congress on certain occasions, but on a small scale and without openly asserting the right to do so. Earlier Presidents explicitly acknowledged the exclusive war powers of Congress. President Madison, for example, who had been one of the principal framers of the Constitution, sent a message to Congress on June 1, 1812, in which, after recounting the depredations of British ships on American commerce on the Atlantic, he referred the matter to Congress in these words:

> Whether the United States shall continue passive under these progressive usurpations and these accumulating wrongs, or, opposing force to force in defense of their national rights, shall commit a just cause into the hands of the Almighty disposer of events, avoiding all connections which might entangle it in the contests or views of other powers, and preserving a constant readiness to concur in an honorable reestablishment of peace and friendship, is a solemn question which the Constitution wisely confides to the legislative department of the Government.

President Buchanan, to cite another example, was even more explicit. In his annual message to Congress of December 6, 1858, he said:

> The executive government of this country in its intercourse with foreign nations is limited to the employment of diplomacy alone. When this fails it can proceed no further. It cannot legitimately resort to force without the direct authority of Congress, except in resisting and repelling hostile attacks.

I submit, Mr. President, that is a classic and succinct drawing of the distinction between the powers of the President as Commander in Chief and the war powers of Congress.

Daniel Webster, who served as Secretary of State in the early 1850's, was also one of our greatest constitutional lawyers. On July 14, 1851, during his tenure as Secretary of State, he wrote as follows:

> In the first place, I have to say that the warmaking power in this Government rests entirely in Congress; and that the President can authorize belligerent operations only in the cases expressly provided for the Constitution and the laws.

One final, modern example is noteworthy. In his concurring opinion in the case of Youngstown against Sawyer, Justice Jackson, replying to the assertion of Solicitor General Perlman that the American troops in Korea "were sent into the field by an exercise of the President's constitutional powers," said:

> I cannot foresee all that it might entail if the Court should endorse the argument. Nothing in our Constitution is plainer than that declaration of war is entrusted to Congress.

The passing of the actual means—as distinguished from the legal authority—to initiate war out of the hands of the Congress into the hands of the Executive has been one of the most remarkable, and unnoticed, developments in the constitutional history of the United States. As Prof. Ruhl J. Bartlett of the Fletcher School of Law and Diplomacy, commented in his testimony before the Foreign Relations Committee on the National Commitments Resolution:

> The positions of the executive and legislative branches of the Federal Government in the area of foreign affairs have come very close to reversal since 1789, a change that has been gradual in some degree but with acceleration during the past half century and breakneck speed during the last twenty years. The President virtually determines foreign policy and decides on war and peace and the Congress has acquiesced in or ignored, or approved and encouraged this development.[1]

The contrast between present practice and constitutional tradition could hardly be greater. On the one hand, the Executive both asserts and practices its power to wage war. Arrayed against these claims and practices are the explicit language of the Constitution, the interpretation of the Constitution provided in the Federalist Papers, a number of Supreme Court rulings, the writings of leading constitutional lawyers, and even the recorded attitudes of Presidents and their Secretaries of State. It is hardly a matter of "strict construction." Even the most liberal and emancipated of constitutional thinkers are bound to recognize the congressional war power. The alternative is to decline to think about the Constitution at all.

II. THE EXECUTIVE ATTITUDE

Brutally but effectively, the attitude of modern executives toward the authority to commit the Armed Forces abroad was expressed by Secretary of State Dean Acheson in a statement before the Senate Armed Services and Foreign Relations Committee in 1951 regarding President Truman's plan for sending six divisions of American soldiers to Europe. Secretary Acheson's comment was as follows:

> Not only has the President the authority to use the Armed forces in carrying out the broad foreign policy of the United States and implementing treaties, but it is equally clear that this authority may not be interfered with by the Congress in the exercise of powers which it has under the Constitution.[2]

Even more strikingly indicative of the Executive attitude since World War II has been the conduct of two full-scale wars without valid congressional authorization. Indeed, the Korean war was conducted without even the pretense of congressional authorization. President Truman himself offered no explanation of his use of the war power, but an article published in the Department of State Bulletin in the summer of 1950 asserted that:

> The President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof.

And further asserted that there was a "traditional power of the President to use the Armed Forces of the United States without consulting Congress." [3]

More recent assertions of this expanded concept of Executive authority are found in the various statements of the Johnson and Nixon administrations regarding their conduct of the war in Indochina.

In March 1966, for example, the legal adviser to the Department of State wrote:

> There can be no question in present circumstances of the President's authority to commit U.S. forces to the defense of South Vietnam. The grant of authority to the President in article II of the Constitution extends to the actions of the United States currently undertaken in Vietnam.

Speaking of the Gulf of Tonkin Resolution in his news conference on August 18, 1967, President Johnson said:

> . . . We stated then, and we repeat now, we did not think the resolution was neces-

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[1] "U.S. Commitments to Foreign Powers," Hearings before the Committee on Foreign Relations, U.S. Senate, 90th Cong., 1st Sess. (Washington: U.S. Government Printing Office, 1967), pp. 19–20.

[2] "Assignment of Ground Forces of the United States to Duty in the European Area," Hearing by Committee on Foreign Relations and Armed Services, U.S. Senate, 82d Cong., 1st Sess., on S. Con. Res. 8, Feb. 1–28, 1951 (Washington: U.S. Government Printing Office, 1951), pp. 92–93.

[3] Department of State Bulletin, vol. 23, No. 578, July 31, 1950, pp. 173–177.

sary 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.

The Nixon administration has apparently taken a similar view. In its comments of March 10, 1969, on the then pending National Commitments Resolution, the Department of State made the following assertion:

As Commander in Chief, the President has the sole authority to command our Armed Forces, whether they are within or outside the United States. And, although reasonable men may differ as to the circumstances in which he should do so, the President has the constitutional power to send U.S. military forces abroad without specific congressional approval.

The same assumption of Executive war-making authority is expressed in the Department of State's comments of March 12, 1970, on the original Mathias proposal calling for repeal of the Formosa, Cuba, Middle East, and Tonkin resolutions. Declining either to advocate or to oppose such action, the State Department took the position that:

The Administration is not depending on any of these resolutions as legal or constitutional authority for its present conduct of foreign relations, or its contingency plans.

More specifically, as to the war in Indochina, the State Department asserted that:

This Administration has not relied on or referred to the Tonkin Gulf Resolution of August 10, 1964 as support for its Vietnam policy.

Since the executive branch explicitly disavows the Tonkin resolution and the other resolutions as authorizations for its policy, a question remains as to where, in its view, the executive does get its authority to conduct war. Unfortunately, the administration has not seen fit to address itself to this question. On the basis of its own previous statements, however, as well as its explicit disavowal of those legislative enactments which might provide even some semblance of congressional authorization, it seems evident that the present administration, like a number of its predecessors, is basing its claim to war powers on either a greatly inflated concept of the President's authority as Commander in Chief, or on some vague doctrine of inherent powers of the Presidency, or both. Another possibility is that the matter simply has not been given much thought.

There has grown up in recent decades a notion that great Presidents are those who act effectively to strengthen the Office of the Presidency as distinguished from strengthening the constitutional system as a whole. This attitude, in the view of the committee, is an unfortunate one. As the historian Thomas Bailey has written:

The bare fact that a President was a strong one, or a domineering one, does not necessarily mean that he was a great one or even a good one. The crucial questions arise: Was he strong in the right direction? Was he a dignified, fair, constitutional ruler, serving the ends of democracy in a democratic and ethical manner? [4]

III. THE GULF OF TONKIN RESOLUTION

Often referred to loosely as an act of congressional authorization for the President to commit the United States to full scale war in Vietnam if he saw fit, the Gulf of Tonkin Resolution is in fact not an authorization at all. The resolution says nothing about authorizing or empowering anybody to do anything. The critical language, from a legal and constitutional viewpoint, is the statement that Congress "approves and supports the determination of the President, as Commander in Chief," to take military measures to repel attack and "prevent further aggression." Being already determined to take the action referred to, the President could not have regarded the resolution as a necessary conferral of authority; and, as I have already noted, the Johnson administration did not in fact regard the resolution as a necessary grant of authority. In the administration's view, it was more in the nature of a courtesy extended to Congress, permitting it, as President Johnson explained on August 18, 1967, to "be there on the takeoff" as well as on the "landing."

In retrospect, it appears to me that the major significance of the wording of the Tonkin resolution was not the Executive's claim of authority to initiate hostilities, but rather Congress' acknowledgment and approval of that claim. There being not the slightest doubt as to the intent of the framers of the Constitution that, except for the obligation of the President to repel an attack on the United States, the war power would be exercised by Congress alone, resolutions such as the Gulf of Tonkin resolution amount to congressional acquiescence in the exercise by the Executive of a power which the Constitution vested in Congress and which the Congress has no authority to give away. In this respect, the distinction between an expression of approval and a grant of authority would seem to be of critical importance.

The reasons for the Congress' hasty enactment of the Tonkin resolution have been recounted many times. I review them here only very briefly:

First, Congress was confronted in August 1964 with a situation that was described to it as urgent, requiring prompt acquiescence in an expedient that seemed likely to meet the needs of the moment, of which the foremost need —or so we allowed ourselves to be persuaded—was a resounding expression of national unity at a moment when it was believed that the country had been attacked.

Second, in the course of two decades of cold war and chronic foreign policy crisis, we had grown so preoccupied with threats to our national security and with measures for dealing wit heach such threat that arose, that we had become neglectful of legal and constitutional matters. Owing to the newness of America's role as a world power, historical guidelines for the exercise of Congressional authority in a real or seeming emergency were lacking, and Congress felt itself at a loss to do anything but acquiesce in measures urged upon it by the Executive.

This was all the more the case because of what might be called the tyranny of the experts. Armed with computers and an opaque jargon, a veritable army of foreign policy experts, employed by the Executive, have successfully perpetrated the myth in recent years that foreign policy is an exact science which only they can truly understand. A rather uncritical acceptance of this myth added to Congress' willingness to submit to Executive direction, but, as the gap between the promise and performance of a computerized foreign policy grows ever wider, one suspects that the "tyranny of the experts" will soon enough be overthrown.

Still another factor, brought to light in early 1968, is the strong possibility that the Gulf of Tonkin Resolution was enacted on the basis of what may be described charitably as incomplete information. Adoption of the Resolution was based on the firm conviction of Congress—spelled out in the first two "whereas" clauses—that the naval units of North Vietnam had deliberately and repeatedly attacked U.S. vessels in international waters in violation of international law and that these attacks were, in the words of the Resolution itself, "part of a deliberate and systematic campaign of aggression" on the part of North Vietnam. It has since been established that the *Maddox* and the *Turner Joy* were engaged in intelligence activities in the Gulf of Tonkin, a fact that was not vouchsafed to Congress when it considered the Resolution. In addition, considerable doubt has been raised as to the exact circumstances of the alleged second attack on the two vessels, most particularly as to whether this attack occurred at all, whether the administration had proof of it at the time that it ordered its retaliatory air strike on August 4, 1964.

A final and extremely important factor in the concession of sweeping powers to the Executive was the existence of a major discrepancy between the language of the resolution and the intentions and expectations of Congress. The resolution said in effect that the President could use force as he saw fit in Southeast Asia; the nonpartisan expectation of Congress, clearly expressed even in the attenuated Senate debate of August 6 and 7, 1964, was that the President had no intention of engaging in large-scale war in Asia, that, indeed, by adopting the resolution, Congress was helping to prevent a large-scale war.

During debate I was asked, in my capacity as floor manager of the resolution, whether the resolution would authorize or approve the landing of large American armies in Vietnam or China. I replied that "there is nothing in the resolution, as I read it, that contemplates it," although, I conceded:

The language of the resolution would not prevent it. Speaking for my own Committee,

[4] Thomas A. Bailey, "Presidential Greatness" (New York; Appleton-Century, 1966), p. 227.

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.[5]

In an exchange with the Senator from Wisconsin (Mr. NELSON) I said:

I personally feel it would be very unwise under any circumstances to put a large land army on the Asian continent.

I said also that I would deplore the landing of a large army on the Asian mainland.[6] A little later in the debate I added:

I have no doubt that the President will consult with Congress in case a major change in present policy becomes necessary.[7]

I may say that that assurance was given by the President, as well as by his representative.

Other Senators also expressed the general expectation that the resolution would help to prevent a large-scale war. The Senator from Georgia (Mr. RUSSELL) said:

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.[8]

The Senator from Idaho (Mr CHURCH) expressed his general understanding that it was not the President's purpose to expand the war.[9] Senator KEATING of New York expressed his understanding that the resolution was not a "blank check" for expanded hostilities to be undertaken without the consent of Congress.[10]

The Senator from Wisconsin (Mr. NELSON) offered an amendment to the Gulf of Tonkin resolution which would have expressed the sense of Congress that the United States sought no extension of the war and would continue to attempt to avoid a direct military involvement. In my capacity as floor manager—and to my regret, as I have often acknowledged—I said that I could not accept the amendment but only because it would necessitate a conference with the House of Representatives, which would have delayed final adoption. I made it clear, however, that I thought that Senator NELSON'S amendment was not contrary to the resolution, but an "enlargement" of it. I also expressed my belief that Senator NELSON'S amendment was "an accurate reflection of what I believe is the President's policy, judging from his own statements." [11]

What the foregoing illustrates is that, in adopting the Gulf of Tonkin resolution, Congress, and certainly the Senate, had no intention whatever of authorizing the commitment of the Armed Forces to full-scale war in Asia. The language of the resolution, it is true, lends itself to that interpretation, but, as the Executive well knew, that unfortunate language was accepted only in response to its urgent pleadings and assurances that the administration had no intention whatever of plunging into an Asian land war.

Those expectations were by no means without foundation. The country, it will be recalled, was engaged in an election campaign in which President Johnson repeatedly expressed his determination not to involve the United States in a large-scale war in Asia. To cite just a few of the many presidential statements to that effect.

On August 12, 1964, the President said in New York:

Some others are eager to enlarge the conflict. They call upon us to supply American boys to do the job that Asian boys should do. They ask us to take reckless action which might risk the lives of millions and engulf much of Asia and certainly threaten the peace of the entire world. Moreover, such action would offer no solution at all to the real problem of Vietnam.

I call attention to the fact that this was only approximately 6 days after the resolution had been presented, discussed, and passed by the Senate.

In a speech in Texas on August 29, the President said:

I have had advice to load our planes with bombs and to drop them on certain areas that I think would enlarge the war and escalate the war, and result in our committing a good many American boys to fighting a war that I think ought to be fought by the boys of Asia to help protect their own land. And for that reason, I haven't chosen to enlarge the war.

And in Akron, Ohio, on October 21, he declared:

We are not about to send American boys 9,000 to 10,000 miles away from home to do what Asian boys ought to be doing for themselves.

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

Mr. FULBRIGHT. I yield.

Mr. NELSON. What was the date of the last quotation?

Mr. FULBRIGHT. October 21, 1964.

Mr. NELSON. That was a month after the adoption of the resolution?

Mr. FULBRIGHT. About 2 months.

Mr. NELSON. Two months after the adoption of the resolution. Would that not be a good indication of the intention of the President with respect to the resolution?

Mr. FULBRIGHT. Of course. The first one is 6 days after the Gulf of Tonkin resolution, or almost simultaneously. It was on August 12. Our debate was on August 6 and 7. Did the Senator hear the other quotation I read, dated August 12? That was just 6 days afterward, or almost simultaneous with the resolution.

This is the type thing he told us. He said we were consulted. We were brought to the White House and consulted. But the purpose of the consultation was to deceive us, in light of what happened, and not to tell the truth. It was not to consult. Usually, when the President consults with us, he tells us the truth and advises us; he does not usually use the consultation to deceive us.

In reliance on what President Johnson said to me, and what his Secretary of State and his Secretary of Defense said in committee, and what the President said at the White House, I responded on the floor of the Senate. It is in the RECORD. I responded with respect to the President's policy. The premise on which we acted was not that the resolution might get us into war on the mainland, but that, since our power was on the sea and in the air, at most the resolution would be useful in causing the North Vietnamese to desist. It was not to authorize what the President actually did.

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

Mr. FULBRIGHT. I yield.

Mr. NELSON. Perhaps the Senator has this quotation to which I am about to refer. In interpreting any kind of resolution, the legislative history revolves around what spokesmen for the resolution—in this case the chairman of the Committee on Foreign Relations—state the President himself said about it, and determined what the language of the resolution means.

Mr. FULBRIGHT. That is the generally accepted consensus.

Mr. NELSON. I know the Senator has read extensively in this field, and I am sure he has read this quotation before, but I would like to place it in the RECORD, if the Senator will yield for that purpose.

Mr. FULBRIGHT. I yield for that purpose.

Mr. NELSON. As late as March 1965, which is 7 months after the passage of the Gulf of Tonkin resolution, the President said on March 20 about his policy, which seems to me with real finality to settle the question of what his intent was in asking for the Gulf of Tonkin resolution, as follows:

Our policy in Vietnam is the same as it was one year ago. And to those of you who have inquiries on the subject, it is the same as it was ten years ago.

Is it not correct that 10 years ago our policy precisely was to give only aid and technical assistance?

Mr. FULBRIGHT. The Senator is correct. That is about the time of the letter referred to from President Eisenhower to President Diem. It related only to material aid and technical assistance. It had not contemplated in any respect any kind of troops whatever. President Eisenhower did not send any troops. As the Senator knows, he had declined to send troops. The Senator is quite correct.

In making any contract, and in the interpretation of the resolution, the intent of the contracting party in this case, the Senate—is a most pertinent element in considering what it means.

Mr. NELSON. May I interrupt the Senator at this point?

Mr. FULBRIGHT. I yield.

Mr. NELSON. On March 7, 1968, in a colloquy on the floor of the Senate the distinguished chairman of the Committee on Foreign Relations made a statement, which was a terrific statement of what I thought the Gulf of Tonkin resolution was all about. I wish to quote the words of the chairman:

In fact, I was persuaded that the purpose of the resolution was to show the unity of

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[5] CONGRESSIONAL RECORD, 88th Cong., 2d Sess., Vol. 110, Pt. 14, Senate, Aug. 6, 1964, pp. 18403–4.

[6] *Ibid.*, pp. 18406–7.

[7] *Ibid.*, p. 18420.

[8] *Ibid.*, pp. 18410–11.

[9] *Ibid.*, pp. 18415–16.

[10] *Ibid.*, p. 18456.

[11] *Ibid.*, p. 18459. See also p. 18462.

this body, and that this would deter the North Vietnamese from any further attacks. That was the entire theory. I repeated it on the floor of the Senate. The RECORD will show it.

Mr. FULBRIGHT. That is correct. That is what I was told.

The psychology of the Johnson administration's approach was that, to be persuasive, it must be done immediately. They had alleged this attack that occurred on the 4th of August. The retaliation took place before they submitted the resolution. As I recall it, planes had flown some 64 times, bombing near a town called Vinh. That took place in immediate reaction to what they thought was an attack, which turned out later not to be an attack. No one will ever know if the President believed it to be based on false information or whether it had gone so far he thought it should be done anyway.

I have a letter I will refer to later from one of his secretaries. But in any case the President and his Secretary of State emphasized that to get any value out of this there must be the unity of everyone acting immediately; that such a display of determination would deter the North Vietnamese.

I think the Administration's psychology was one calling for this entire country to show unity that would be overwhelming. They completely misjudged the capacity or attitude of the North Vietnamese. Instead of being overwhelmed, they were grossly offended by what they considered and still consider to be unprovoked attacks on them. They thought it was an outrageous attack on them by our planes. So you have this different point of view. But I was the hapless victim of misinformation. I did not recognize it until later when we had a long investigation by the committee. We got the documents and worked on it for many months. Subsequent to that Mr. Goulden followed up in interviews of practically all the members of the crew of the *Maddox*, and maybe the *Turner Joy*, and wrote a book about it.

The committee obtained most of the pertinent documents, that is, the official communications from the *Maddox* and *Turner Joy*, through the Pentagon and they are set out in a committee report. I think it makes very clear what actually took place. I think further that the record of what actually happened in the Gulf of Tonkin bears upon the validity of the resolution and its binding quality upon the Senate. It presents a very difficult and, to me, a rather unprecedented situation.

On the face of it, the Gulf of Tonkin resolution is an action by the Congress which the Johnson administration took to be the equivalent of a declaration of war. It was not a formal declaration of war, but it was considered and relied upon in that fashion. Many times, both I and others had the experience, when we criticized it, that President Johnson pulled it out and said:

> Look, you passed this resolution by a vote of 88 to 2 in the Senate and it was unanimously passed in the House.

This was supposed to, and it did, muzzle anybody who sought to criticize the administration's policy. So in that sense it served the President well, because it muzzled Members of Congress. It removed the freedom of action and freedom of judgment through which Congress is supposed to exercise its constitutional responsibility.

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

Mr. FULBRIGHT. I yield.

Mr. NELSON. The Senator stated the administration interpreted the Gulf of Tonkin resolution as equivalent to a declaration of war, but in view of what happened, it was a long-time-after-the-fact interpretation.

Mr. FULBRIGHT. Subsequently, yes.

Mr. NELSON. Because, in view of what the President said 6 days after the passage of the Tonkin Gulf resolution and before the election and in March of 1965, if somebody had said that is what it means and had said, "We are changing our role in Vietnam," would not the President have repudiated it?

Mr. FULBRIGHT. It was to alter the whole course of the war. The significance of it was to show unity in the face of an ostensibly unprovoked attack upon us. Had those assertions been true, if there actually had been an unprovoked attack on our ships on the high seas, where they had a right to be, the President, as Commander in Chief, had a right to repel the attack. He had that authority. It did not happen to be so. What we actually did was to initiate an offensive war across the seas, not in defense of our own ships and our own country.

Mr. NELSON. I would like to make this observation to the Senator. I do not think the Senator need apologize to anybody if his interpretation of that resolution was as it was—and it was the same as mine, and the fact that it was later——

Mr. FULBRIGHT. The same as the President's at that time.

Mr. NELSON. The same as the President's. The fact that it was later pulled out to support action that the Tonkin Gulf resolution had not authorized in the first place was not the fault of the manager of the resolution.

Mr. FULBRIGHT. The fault was that I was not as skeptical as I now am of official pronouncements. As Senators we have a duty and responsibility to look at these matters very closely. That is what we are attempting to do in the case of the Cambodian affair. It is our duty to look into just what the significance of it is.

People take offense at the idea that we question the word of the President. I do not mean anything personal about him, but if he has said he is going to get out of Cambodia and not go back in, we ought to put it in the law. People may be Presidents, but in many cases they are just former Senators. His predecessor was a former Senator. We cannot operate a constitutional system on any such basis as that which allows the President a kind of immunity from questions and scrutiny and still preserve a democracy.

The Senate debate of August 6 and 7, 1964, shows clearly that, in adopting the Gulf of Tonkin resolution, the Senate thought that it was acting to prevent a large-scale war, not to authorize one.

Though obviously and profoundly related to the war in Indochina, repeal of the Gulf of Tonkin resolution goes beyond the present war and differing attitudes toward it. It goes to the question of whether the Executive is to be permitted to take over a power which the Constitution clearly vests in the Congress and which Congress itself has no constitutional authority to give away. It goes to the question of our regard for our own institutions, of the firmness of our determination to maintain, even in this nuclear age, that separation of governmental powers whose major purpose, as Justice Brandeis pointed out, was "not to promote efficiency but to preclude the exercise of arbitrary power." [12]

IV. THE UNRESOLVED ISSUE

Repeal of the Gulf of Tonkin resolution, I emphasize again, will not resolve the great issues related either to the war in Indochina or to the constitutional division of foreign policy powers between the President and Congress. On the contrary, this proposed repealer can be no more than a significant first step toward the resolution of these issues.

The war in Indochina has been conducted from its outset without constitutional authorization.

I might say that is quite similar to Senator Taft's opinion about the Korean war. They were both without constitutional authorization.

The Gulf of Tonkin resolution, as I have tried to show, is not a valid authorization for that war, providing as it does only a frayed facade of constitutional legitimacy. Its removal would serve at least to clear the air of a legacy of confusion and illegitimacy. It would remain then for Congress to determine how the constitutional vacuum should be filled.

Repeal of the Tonkin resolution will in no way affect existing treaty commitments; nor would repeal of the resolution prejudge American policy for the future. The major purpose of repeal, as the Senator from Maryland (Mr. MATHIAS) suggested in proposing it, is that it would "symbolically remove the mortmain of the past from the present posture of the Congress, and would signal a new determination by Congress to exercise fully its powers on the vital questions of war and peace." In so doing, Congress would reaffirm in a decisive way its commitment to the principle set forth in the National Commitments Resolution of 1969. It would reaffirm the constitutional principle that, in the absence of specific congressional authorization, the President may use the Armed Forces only to repel a sudden attack upon the United States or to meet some foreign obligation previously and explicitly authorized by treaty or other legislative enactment. Repeal of the Tonkin resolution, in short, will serve to reaffirm—though not yet to reestablish—the constitutional war power of Congress.

Mr. President, with regard to the very intriguing question about the origin of the resolution, a former assistant to both

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[12] *Myers* v. *United States*, 1926, 272 U.S. 293, Mr. Justice Brandeis dissenting.

President Kennedy and President Johnson, who was in the White House at the time of the Tonkin resolution, wrote me a memorandum relative to this matter. It was very interesting, and I requested his permission to use it as historical background to the issue now under discussion. I want to read it now. He gave me authority to. He said it was perfectly all right to use it anywhere I liked. It is a very interesting document. It was obtained from Mr. Kenneth O'Donnell. Many people know him. He was in the White House and was one of the aides of the President at that time.

The memorandum is dated February 11, 1970. It reads as follows:

Apropos of our conversation, I am sending in this form my recollections as to the conversations and my part relative to the Tonkin Gulf Resolution.

In order to clarify my role, I would like to point out that my relationship with President Kennedy and my relationship with President Johnson was considerably different. My role under John F. Kennedy was, as you know, mainly, administering the problems of the White House and as liaison with the President to all of the Departments. Obviously, I had to be current and aware of the President's concerns in the area of foreign policy, but naturally, this was principally the problem of Mac Bundy.

My personal and peculiar relationship with President Kennedy involved me more deeply than perhaps people are publicly aware. Naturally, being with him almost all of the time, we discussed almost every facet of our policy and what his views were.

With President Johnson, my role was almost exclusively political. His interest in foreign policy, frankly, through the first months of his administration were extremely limited. His almost total effort was to prove to the people his leadership which he considered vital in seeking his own election to the Presidency. His own staff was obviously not adequate to handle the political chores and so he placed almost this entire burden on me. I continued to be Appointment Secretary, but I also became Executive Director of the National Committee responsible for the direction of the whole campaign.

In early August, I was present at the normal Tuesday Congressional Leadership meeting and the President and the leadership began their discussions of the alleged attack upon the American Destroyers in the Tonkin Gulf.

Now in my own personal opinion, there was not the slightest question in the President's mind that the attack had occurred and that some American response was necessary. He felt, and everyone agreed, both for our posture abroad and at home, he must act swiftly. After the leadership left, the President and I walked back to the White House and he was wondering aloud as to the political repercussions and questioned me rather closely as to my political reaction as to his making a military retaliation. We agreed as politicians that the President's leadership was being tested under these circumstances and that he must respond decisively. His opponent was Senator Goldwater and the attack upon Lyndon Johnson was going to come from the right and the hawks, and he must not allow them to accuse him of vacillating or being an indecisive leader.

The emergence of the resolution itself was nothing but political coloration for a decision already taken. Knowing Lyndon Johnson, as both you and I know, he was, and perhaps rightfully, making certain that he would involve the Republicans and, in case of unfavorable repercussions, everyone was to blame.

I was never aware that, in fact, the resolution had already been fleshed out by the State Department prior to the alleged attack and my impression is that—neither did Johnson.

We discussed the whole matter at length—and there was never one single mention—inferred in any fashion that it would ever involve the use of American troops. Quite to the contrary, my very strong impression was that the Mr. Johnson of 1964 was the same Lyndon Johnson who was so horrified at the thought of American intervention in 1954.

In August I went to the National Committee on a full-time basis as Executive Director. In the process of our campaign, we held staff meetings every Monday morning in Chairman Bailey's office to formulate the schedule, speech content, television and the available resources. I was Chairman of these meetings and present at all of them was Fred Dutton who was in charge of overall policy as far as content, Dick Goodwin, who was doing most of the writing with Bill Moyer, who attended quite often, Robert Short, who represented the candidate for Vice President, Mr. Richard Maguire and, quite often, John Bailey.

The contents of the speeches that the President gave were quite clearly our views and views which he totally accepted and agreed with. Mr. Goodwin was obviously the chief architect and, if one is to read them quite closely, they clearly indicate that we were the candidates of peace and of no involvement in Southeast Asia in any military fashion. The entire staff was committed to this approach and all of us were totally confident that that was the view of the President of the United States.

There is only one possible conclusion after last week's Television Broadcast.

I point out that this was precipitated by the broadcast by the President on this subject—

that either the President was being less than truthful with the American people and his own staff when he campaigned or, he is being less than truthful now. The facts to me are quite clear.

Mr. President, I think that is a very interesting historical document relating to the Tonkin Gulf resolution and its original adoption.

Lastly, there is another matter, which developed yesterday, that is of great concern to me.

It is with the utmost concern that I view our action yesterday in adopting the Byrd amendment, and our action today in moving toward possible adoption of the Dole amendment repealing the Tonkin resolution, if that is the will of the Senate.

We are in the process of making legislative history of the kind which, I predict, we will regret as much as many of us have regretted our precipitate approval of the Tonkin resolution in 1964.

By adopting the Byrd amendment to the Cooper-Church amendment yesterday, the language and the bulk of the legislative record supports the proposition that, "wherever deployed," the President has the power, without any congressional action whatsoever, to do whatever may be necessary to protect the lives of U.S. Armed Forces. That may seem a reasonable proposition on superficial examination. But the fact is that American Armed Forces are "deployed" in practically every country in the world.

Thus, the President can cite the Byrd amendment for starting a shooting war whenever he finds the lives of American forces threatened, wherever they are—indeed, wherever the President as Commander in Chief may have ordered them to be.

As for the legislative history of the repeal of the Tonkin Gulf resolution, every Member of this body should be aware that two contradictory constitutional theories underly its interpretation. I have described these, but I shall summarize them briefly again.

One theory—the one to which I subscribe—as do most members of the Committee on Foreign Relations—is that the Tonkin resolution when passed had meaning, although, as I said earlier, it could not be regarded as a valid authorization for the war in Indochina. And now when we repeal that resolution, the act of repeal has meaning. In 1964, we gave the President, mistakenly, I believe, under dubious circumstances, what the President interpreted as a blank check for waging war in Southeast Asia. The point is that, whatever we gave, we can take away.

The second theory is the one accepted and promoted by this President, the past President, and most supporters of the principle that the Commander in Chief operates virtually without congressional limitation. According to this theory, when the President, acting as Commander in Chief, involves this Nation in war, all the Congress can do is to accept that fact. The only way Congress can limit the power of the President as Commander in Chief is, in effect, to deny funds to the troops.

The Cooper-Church amendment, as amended by Senator Byrd, limits the President's use of funds for certain purposes in Cambodia, but seems to confirm his blank check authority everywhere else.

In short, what we have done the last 2 days, by adoption of the Byrd amendment and by action on the Dole amendment repealing the Tonkin resolution, is to give the President a clear legislative history that Tonkin meant nothing when it was passed and means nothing by its repeal—thus confirming the President's claim to the power to do what he pleases as Commander in Chief.

This action, read in parallel with the Byrd amendment, constitutes a legislative surrender of power to the President was precedented, I believe in our history. It is a precedent to which I do not wish to subscribe.

But, Mr. President, having taken the position that I have with regard to the Tonkin Gulf resolution, and in opposing and voting against the Byrd resolution, I still think it will remain the responsibility of the Senate and of Congress to step into the breach after the repeal of the Tonkin Gulf resolution.

Mr. President, I yield the floor.

Mr. NELSON. Mr. President, on September 1, 1967, I made some comments about my interpretation of the Gulf of Tonkin resolution. I ask unanimous consent to have those comments printed at this point in the RECORD.

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

STATEMENT BY SENATOR GAYLORD NELSON ON VIETNAM, SEPTEMBER 1, 1967

In recent weeks there have been renewed and vigorous discussions about the meaning and intent of the Tonkin Bay Resolution. It has lately been repeatedly asserted by Administration spokesmen, writers and others that the overwhelming vote for the resolution in 1964 expressed Congressional approval of whatever future military action the Administration deemed necessary to thwart aggression in Vietnam including a total change in the character of our mission there from one of technical aid and assistance to a full scale ground war with our troops.

This, of course, is pure nonsense. If such a proposition had been put to the Senate in August, 1964, a substantial number of Senators, if not a majority, would have opposed the resolution. What we are now witnessing is a frantic attempt by the Hawks to spread the blame and responsibility for Vietnam on a broader base. They should not be allowed to get away with it. It is not accurate history and it is not healthy for the political system. The future welfare of our country depends upon an understanding of how and why we get involved in a war that does not serve our national self interest. If we don't understand the mistakes that got us into this one we won't be able to avoid blundering into the next.

The intent and meaning of any proposition before the Congress is determined by the plain language of the act itself, the interpretation of that language by the official spokesman for the measure and the context of the time in which it is considered.

Because of my concern about the broad implications of some of the language I offered a clarifying amendment. The official Amendment was unnecessary because the intent of the resolution was really the same as my more specific amendment. In short, according to Mr. Fulbright, the resolution did not intend to authorize a fundamental change in our role in Vietnam.

Three President had made it clear what that limited role was, and this resolution did not aim or claim to change it.

If the official Administration spokesman for a measure on the floor is to be subsequently repudiated at the convenience of the Administration, why bother about such matters as "legislative intent?" In fact, why bother about Administration spokesmen at all? At the conclusion of these remarks I will reprint from the Congressional Record my colloquy with Mr. Fulbright which formed the basis for my vote on the Tonkin Bay Resolution. Had he told me that the resolution meant what the Administration now claims it means I would have opposed it and so would have Mr. Fulbright.

However, an even more important factor in determining the intent of that resolution is the political context of the times when it was considered by the Congress. It was before the Senate for consideration on August 6 and 7, 1964. We were in the middle of a Presidential campaign. Goldwater was under heavy attack for his advocacy of escalation. The Administration clearly and repeatedly insisted during that period that we should not fight a ground war with our troops. No one in the Administration was suggesting any change in our very limited participation in the Vietnam affair.

The whole mood of the country was against Goldwater and escalation and particularly against the idea that "American boys" should fight a war that "Asian boys" should fight for themselves, as the President put it in September of that year.

For the Administration now to say that the Tonkin Resolution considered during this period had as part of its purpose the intent to secure Congressional approval for fundamentally altering our role in Vietnam to our present ground war commitment is political nonsense if not in fact pure hypocrisy.

If Mr. Fulbright, speaking for the Administration, had in fact asserted that this was one of the objectives of the resolution the Administration would have repudiated him out of hand. They would have told him and the Congress this resolution had nothing to do with the idea of changing our long established role in Vietnam. They would have told Congress as they were then telling the country that we oppose Goldwater's irresponsible proposals for bombing the North and we oppose getting involved in a land war there with out troops. That was the Administration position when the Tonkin Resolution was before us. They can't change it now. It is rather ironic now to see how many otherwise responsible and thoughtful people have been "taken in" by the line that Congress did in fact by its Tonkin vote authorize this whole vast involvement in Vietnam. The fact is neither Congress nor the Administration thought that was the meaning of Tonkin—and both would have denied it if the issue had been raised.

The current intensity of the discussion over the military status of Vietnam, the Tonkin Resolution and the elections signal a new phase of the war dialogue. What's really new in the dialogue now is the sudden, almost universal recognition by a majority of the Hawks that this is after all a much bigger war than they had bargained for.

They now realize for the first time that to win a conventional military victory will require a much more massive commitment of men and material than they ever dreamed would be necessary. How many men? A million at least and perhaps two million without any assurance that a clear cut military victory would result in any event. Furthermore, it has finally dawned on the Hawks that a military victory does not assure a political victory—in fact there is no connection between the two and one without the other is of no value whatsoever.

This new recognition of the tough realities of Vietnam afford the opportunity for a reappraisal of our situation in Vietnam and a redirection of our efforts.

The danger we now face is the mounting pressure from military and political sources for a substantial escalation of the bombing attack in the North. The fact is the whole military-political power establishment (both Republican and Democratic) has been caught in a colossal miscalculation. They have been caught and exposed in the very brief period of 24 months since we foolishly undertook a land war commitment.

They did not then nor do they now understand the nature, character and vigor of the political revolution in Vietnam. But in order to save face they are now demanding an expansion of the war. If they prevail we will then see another fruitless expansion which will not bring the war to a conclusion but will extend our risk of a confrontation with China.

Unfortunately the Administration continues its policy of so called controlled expansion of pressure on the North which really is nothing more nor less than endless escalation which will likely lead to a vast expansion of the war. It ought to be understood once and for all that no amount of pressure on the North will settle the war in the South. A complete incineration of the North will not end the capacity of the guerrilla to continue the fight in the South.

Though we committed a grave blunder in putting ground troops into Vietnam in the first place, it does not make sense to compound the blunder by pouring in additional troops. The Administration proposal for 45,000 additional troops with tens of thousands more demanded by the military is simply a blind and foolish move in the wrong direction.

What the military really needs is a million or two million ground troops for the war they want to fight. Furthermore, no one can explain what possible proportional benefit this country or the free world will get for this kind of massive allocation of resources—even assuming this would win the military-political war which I think is highly doubtful.

There is no easy solution to our involvement, but now, before it is too late, is the time to decide what direction from here we are going to go in Vietnam.

There is, it seems to me, only one sensible direction to go and that is toward de-escalation and negotiations.

It was a mistake for us to Americanize this war in the first place, and it is an even greater mistake to continue it as an American war. As soon as the elections are over this Sunday we should cease bombing the North in order to afford the opportunity to explore the possibility of negotiations. It is rather ironic that Chief of State Thieu, the military candidate for President, favors a bombing pause but our military oppose it. Whose war is this?

Next we should fundamentally alter our military and political policies in the South. We should notify the South that henceforth it will be the job of South Vietnamese to do the chore of political and military pacification of the South. While our troops occupy the population centers, furnish the supplies, transportation and air cover, it must be the job of the Vietnamese to win the political and military war in the South. If they do not have the morale, the interest, the determination to win under these circumstances then their cause can't be won at all.

Surely it ought to be understood by now that if there is going to be a meaningful solution to the Vietnam problem they must be the ones who make it meaningful.

Furthermore, if it is true, as our State Department says, that all other Southeast Asian countries feel they have a stake in Vietnam, let them send some troops of their own to prove their interest.

Under this approach we will reduce the loss of our troops to a minimum and we will find out whether our allies in the South really believe they have something to fight for. If they do, they have the chance to build their own country. If they don't, then we should get out.

This it seems to me is our best alternative to the fruitless policy of endless escalation.

Mr. TOWER. Mr. President, I have listened with great interest to this constitutional discussion, and I am somewhat delighted to see that some Members of this body are now taking an interest in the intent of the framers of the Constitution. I wish that this concern had manifested itself much earlier on some other matters that vitally concern the American people. It seems that some Members of the Senate are turning into strict constructionists, and I hope that this attitude will prevail on some other matters.

In discussing the intent of the framers of the Constitution, I do think we have to consider the context of the time in which the Constitution was framed and was adopted. I think that a better case could have been made in those days for more heavy reliance on congressional action as a predicate to the use of military power. The fact was in those days that our lines of communication were not what they are today. It took a great deal of time to communicate from one part of the world to another.

The distinguished Senator from Arkansas has mentioned the recommendation from President Madison for a declaration of war against Great Britain, with the stipulations about the offenses that the British had committed against our

ships. The fact was that the very issue over which we went to war with Great Britain in 1812 had already been resolved in London, but the message had not reached these shores. It is probable that if they had waited 30 days, that war could have been avoided.

I think that a good case could have been made in those days for not taking precipitate action by virtue of the fact that it took a great deal of time to communicate across the ocean. I think, too, that from the standpoint of telegraphing the punch to the enemy, from the standpoint of preserving the element of surprise, in a military operation, we had a far different situation then than we have now. Indeed, precipitate action was really virtually impossible in those days.

I think we must look at our current situation in the context of the time in which we have rapid, instant communication with all parts of the globe, in which our ships can move across the Atlantic Ocean within 5 days, a time in which we can reach any point of the globe by air in 24 hours, when our military forces are highly mobile, and when we must view everything that happens in the international arena in its world context. We must view it in the context of the fact that there is currently a polarization of power in the world between the Soviet bloc on the one hand and the United States on the other. I think we must think of it in the context that the Soviet Union is an aggressor power, as is Red China; that they do have designs on the rest of the world; that we must be prepared to react quickly.

We, in Congress, have already recognized that. To say that we are surprised when, perhaps, our troops are engaged in some act of belligerence would be to say that, actually, we do not really understand what we have been doing all these years since World War II. When it became apparent that the Soviets had designs on other parts of the world, we felt it necessary in our own interest to maintain our defense perimeter as far from our own shores as possible and as close to the enemy's shores as possible. We in this body must have understood, when we authorized the prepositioning of American troops, the deployment of American forces, in a state of combat readiness all over the world, that the chance was very good that at some point in time they might be committed to some kind of belligerent act. Therefore, I do not think we can say that Congress had not concerned itself with this, that Congress had not already deliberated on it.

We have two divisions and an artillery brigade in Korea now. They are authorized to be there. And from time to time some of our boys die in Korea because of incursions across the border by the North Koreans. We know that is going to happen.

We have troops stationed in Western Europe. Do we say to all the world that those troops are there, but we are not going to employ those troops, in the event of some Soviet military adventure into Western Europe, until we have had a chance to debate it thoroughly in Congress?

We currently have the 6th Fleet deployed in the Mediterranean, and there is a real tinder box. If we are going to avoid any contact that might result in some kind of belligerent activity, some kind of hostile action, we had better get the 6th Fleet out of there, because it is a tinder box. If this thing blows up and if the President is called on to make some kind of quick response, are we going to say, "No, you must wait until we can debate this thoroughly in the Congress of the United States?" I say that the Congress of the United States has acquiesced to what we are doing in Southeast Asia, because for years we have authorized and we have appropriated the money that has gone into one of the most massive military construction programs in Southeast Asia. We have authorized the procurement and the deployment of weapons of war and troops. Therefore, I submit that we have performed our constitutional functions and that we have, in effect, authorized what the President is now doing.

If we are to proceed on the basis that the President has no power to respond immediately to a critical situation, then we are rendering ourselves impotent in the eyes of the rest of the world, and I do not see how we can purport to be a credible deterrent to potential aggression.

I believe that the power the President possesses is broad. We have had the opportunity to constrict that power in the past, and we have not done so. There are no less than 130 precedents for Presidents deploying military forces—indeed, engaging them in some instances in combat—without consulting Congress. Many of these have been cited here today. And we have not acted to prevent that kind of activity on the part of the President.

Therefore, I think that custom and usage would suggest and dictate—our constitutional system has a very strong element of custom and usage—that the President was acting within the purview of his constitutional power as we understand it and as we allow it to be practiced in this country. I do not think that in critical international situations, in which quick responses are required, we could give the President any less power.

I am dismayed that, although in the Koren war, President Truman acted on his own initiative, without consultation with Congress, that President Kennedy acted on his own initiative, that President Johnson acted on his own in placing the Hawk Battalion in the I Corps area, sending the 3d Marines in, and subsequently sending in the 1st Cavalry, through all this we did not get into this constitutional discussion to any appreciable extent; that we did not attempt to tie the hands of the President. But now, when we have a President of the United States who is trying to extricate us from Southeast Asia, who is trying to reduce the level of our involvement, who is trying to disengage us, and who is doing it by promoting the Vietnamization of the war, we do it by reducing the capacity of the enemy to wage main force engagement against us, we decide that now is the time to stay the President's hand. It suggests to me that there are those who prefer that we do not achieve any of our objectives in Southeast Asia.

ORDER OF BUSINESS

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

The PRESIDING OFFICER (Mr. SPONG). 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.

PUBLIC OPINION ON BANKING

Mr. JAVITS. Mr. President, the banking industry has had its share of abuse, because high-interest rates have been such an obvious symptom of our economic difficulties. On the other hand, rising interest rates on bank loans may have been a response to market forces of inflation rather than a conscious attempt by banks to lend money at unnaturally high rates.

Therefore, I believe that a recent speech by Louis Harris, of the public opinion survey firm, should be given careful attention. Mr. Harris makes the point that in a national cross-section of 3,000 households, only 6 percent of those interviewed singled out banks as a major cause of inflation. Sixty percent of those interviewed believed that banks cannot be held responsible for high-interest rates; 55 percent said that banks are doing all they can to control inflation and high-interest rates.

Mr. Harris had some other things to say about banks as well. Forty-nine percent of the households interviewed viewed the banks as making a lot of profits; this coming at a time when individuals and corporations are facing cash squeezes does not sit very well in the public eye.

Harris also pointed out that public opinion no longer expects bankers merely to do well at the business of banking but also to perform new roles to solve some of our social problems. In this regard, the banks have apparently not done especially well in communicating to the public the banking contribution to solving social issues.

The same communications gap exists, according to Mr. Harris, with regard to the one-bank holding company issue.

Mr. President, there has been a good deal of emotion about the various issues covered by Mr. Harris, and it is, therefor, instructive to read a dispassionate examination of the public's opinion on them.

I ask unanimous consent that Mr. Harris' speech be printed in the RECORD.

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

ADDRESS OF LOUIS HARRIS, PRESIDENT, LOUIS HARRIS & ASSOCIATES, INC.

We have just finished probably the most comprehensive survey of public and leadership opinion ever conducted in this country

to find out what the state of public opinion is about banks and banking. We were commissioned by the Foundation for Full Service Banks to survey a national cross-section of 3,000 households, along with a design that allowed us to break out 10 separate states for separate scrutiny. In addition, we surveyed 809 leaders, including top businessmen, educators, communicators, local, state and Federal officials and legislators, plus voluntary organization leaders. We asked them what they think of banks and banking today in rather considerable depth.

Make no mistake about it, there is truly a spring of economic discontent across the land today. By 5 to 1, the public reports having more trouble making ends meet today than a year ago. Three out of four believe the prices of most things they buy are still rising rapidly, no matter what economists or government leaders may say to reassure people that inflation is coming under control. By 3 to 1, the public says it is saving less today than a year ago.

Among the leaders, many of whom are businessmen, 46 percent report that economic conditions in their own home area are negative. A clear majority of 58 percent say that the health of the economy has declined over the past 12 months. By 45–42 percent, the leadership group in this country thinks we are headed straight toward a recession.

Against this bleak backdrop, it might well seem to require a miracle for any financial institution to escape with anything short of its life in terms of its credibility and reputation. Yet, when we asked both the public and the leaders who was most to blame for inflation, only 6 percent of the public and 12 percent of the leaders—and we asked about it directly; we did not ask for them to volunteer it—singled out banks as a major cause. In sharp contrast, 64 percent of the public and 86 percent of the leaders put the blame on the Federal Government; 57 percent of the public and 60 percent of the leaders blame big business; and 55 percent of the public and 69 percent of the leaders hold labor unions responsible for inflation.

Put in different terms, by 55 to 26 percent, people say that banks are doing all they can to control inflation and high interest rates. An even higher 60 to 21 percent of the public believe banks can't be held responsible for high interest rates, since these are mainly set by governmental action. On responsibility directly for high interest rates, 41 percent of both the public and the leaders lay the blame at the doorstep of the Federal Government; 26 percent of the public and much higher 43 percent of the leaders blame the Federal Reserve Board; and no more than 4 percent of the leaders and 2 percent of the public blame banks for high interest rates.

The fact is that with certain pinpointed exceptions, the American people give banks, bankers, and banking almost uniformly high marks on the performance of the retail banking function. The great challenge to banks in the 1960's was whether they could expand their retail function to penetrate the widest segment of the public with their services and at the same time initiate new services which would meet growing and more sophisticated financial needs.

The record on usage of banks from this latest survey is impressive:

On a household basis, regular checking accounts have increased 12 points since 1966 from 56 to 68 percent of all families.

Savings accounts have risen even more, 15 points, from 52 to 67 percent of all households.

Cashing personal checks up 24 points from 29 to 53 percent.

Cashing pay checks up 13 points from 39 to 52 percent.

Use of drive-in banking, up 16 points from 23 to 39 percent.

Banking by mail, up 10 points from 11 to 21 percent.

Personal loans up 6 points, from 11 to 17 percent of all households.

Use of travelers checks, up 8 points from 11 to 19 percent.

Use of certified checks, up 6 points, almost doubled from 7 to 13 percent.

Ownership of savings certificates, more than doubled from 3 to 8 percent.

At the same time, competition to banks from the lower strata of society, use of money orders is down two points from 28 to 26 percent. And competition to banks from the upper strata, stocks and bonds, down 2 points from 13 to 11 percent.

The rises reported in retail bank usage are dramatic evidence in their own right of changing and increasingly affluent money market. They also document the revolution in retail banking which you gentlemen are leading in this country today. By any measure, retail banking has been successful in performing its function in America over the past four or five years.

In addition, banks have come up with the major innovation in the credit business to hit this country in many years: the bank-affiliated credit card. The survey shows that over half the households in the country, 54 percent, now have either charge or credit card accounts. Other than gasoline credit cards, bank cards now lead the way. The results show that 28 percent of the public owns Bank Americard and 26 percent Master Charge cards. Another 7 percent have other bank-affiliated cards. This contrasts with only 6 percent who use American Express and three percent who use Diners Club. What is more by four to one, bank credit cards are rated positively by a majority of the public. No more than 37 per cent give positive marks to the travel and entertainment cards.

In a direct test, bank credit cards are believed by a seven to one margin to be easier to sign up with than other cards, by six to one are more accurate in their record-keeping of accounts, by five to one are more convenient to use, by three to one are believed to be more widely accepted, and by four to one are preferred to the cards. A big advantage to bank credit cards is that annual dues are not required to own one.

Given this kind of public satisfaction with bank services and bank innovations, it is little wonder that by 65 to 21 per cent, the American people agree that "banks and banking are more important than nearly any other institution because they help individuals handle their money and help local businessmen when they need it." By six to one, people say they feel banks welcome their business and by five to one deny the allegation that banks want to take their deposits but then tend to forget them once they are customers.

The key to the record of success is the concept of the Full Service Bank. By 54 to 26 per cent, the public believes that "without Full Services Banks, it would be impossible for people to pay bills by check, borrow money, or have a savings account in the same place."

The power of the Full Service concept should not be underestimated. It is a central concept which has probably done more to sell banking to the American public than any other innovation in the last 50 years.

Given this generally glowing public reaction to how bankers are handling the banking function in this country today, how can one account for the serious trouble banks are in in Washington?

Four serious problem areas emerge from the surveys we conducted for the Foundation for Full Service Banks. The first is in the profits area. By 49 to 30 per cent among the public and by 51 to 41 per cent among the leaders, banks are viewed as "making a lot of profits with the high interest rates they have been charging." This claim of profiteering at a time when the public feels the pinch of less money in its pockets and the crunch of ever higher prices is a serious one. It is a glaring flaw in an almost cloudless sky in the specific banking areas.

A second major problem area is not so much a criticism of banks and banking as much as it is a reflection of the explosion that is taking place in the financial condition of the country. Probably the most decisive financial fact for the '60's and even more in the 1970's is the growth of discretionary income; that is, money left over for saving and investment after essentials have been paid for.

In 1955, an estimated $56 billion were generated in discretionary income. This had risen to $60 billion in 1960 and then really took off. By 1965, it had risen to $120 billion, or doubled in five years. By 1970, today, it has gone up 50 per cent again to $180 billion, by 1975 will likely be at $250 billion and by 1980, the end of this decade, will be an estimated $350 billion in discretionary or optional income.

The long-term thrust for discretionary income is up, and sharply so. This means that people have financial options beyond anything the world has ever seen on a mass basis. For the first time, on a mass basis, people are learning that one can earn money not only by the sweat of his brow, but also that money can earn money. This surely is the most explosive fact facing banks and every financial institution as we head into the 1970's.

For banks, this means that the revolution that has taken place in retail banking up to this point in time simply is only a small, modest beginning. The past is truly prologue.

The future of banking in terms of range of services to be offered is just at a starting point. Among the public, 47 per cent would like to see banks go to a single monthly statement for all business transacted with the bank. A substantial 37 per cent would like help from their banker in preparing their taxes. Fully 33 per cent of the public would like to see their bank offer mutual fund shares for sale. A significant 35 per cent say they would like to be able to obtain all financial services under one roof—and that should be the retail bank.

Among the leaders, 58 per cent favor banks—favor banks—going into the data processing service business, 53 per cent favor banks going into mutual funds, 44 per cent into travel services, and 36 per cent into life insurance selling. These are major and significant areas for future bank expansion for which there is a substantial mandate from both the public and the leadership of this country.

As if to underscore their determination to see banking expand the Full Service concept well beyond where it is today, by 58 to 30 per cent the American people say they are willing to pay for help from banks in providing them with this integrated financial service. And this comes at a time when people don't want to pay more for anything.

The marketplace is ripe for banks to take on these added functions. The mandate, the demand is there. There is also a threat to banks implicit in deciding or not deciding to embark on these new areas of expansion. When asked which of various alternatives were better, short-run institutions for savings and investment, Full Service Banks won handily over the competition. But when the focus was shifted and the time horizon was made the long-term, then stocks and mutual funds finished on top by a substantial margin, double the number who singled out Full Service Banks.

The message is right there: if the banks don't take up the mandate to expand into complete and full financial institutions, handling a full roster of financial needs, then the public will turn elsewhere.

So, a second major problem arises whether banks will move rapidly enough in the other areas of financial services to take advantage of the enormous opportunity afforded by the burgeoning growth of discretionary income in this country.

The third serious problem closely relates to the second. Many bankers see the one-bank holding company concept as the umbrella under which banks can expand into broader financial services. You all know the trouble you are having in Washington on this one. You heard about it this morning. Well, in the survey of leaders, we found only 34 per cent familiar with the one-bank holding company concept. Among those familiar with it, by 44–40 per cent, a very slim margin, they favored the one-bank holding company concept. But the other two-thirds who are unfamiliar, when it was described to them, came down on the negative side by a 34 to 42 per cent margin.

It is obvious that the banking industry—and let's face it—has done a dismal job in explaining the one-bank holding company idea. The big fear of the leaders is that one-bank holding companies might lead to monopoly and will concentrate too much economic power in one place, one institution. Thus, we found on projective testing that by 47–43 per cent, the leaders are worried that one-bank holding companies will allow banks to enter fields they have no business in, by 51 to 40 percent that banks will turn into powerful conglomerates with too much influence on the economy, and by a thumping 70 to 19 percent that big banks will get bigger and more powerful.

On the other hand, the survey also proved beyond a shadow of a doubt that a winning story could be told about the one-bank holding company: by 61 to 31 percent, they agree that allowing banks to broaden and expand their services is good because it will permit maximum use of bank assets through diversification; by 67 to 24 percent, they believe that the concept of expansion and diversification will attract more top talent to banking as a profession; and by 65 to 22 percent that the concept will allow banks to have a full and positive impact on the community.

The evidence suggests that bankers in this country have hidden their positive reputation with the public under a bushel. Although healthy majorities ranging from 59 to 74 percent expressed the view that banks are well regarded by local public officials, local businessmen, the Republicans, the Nixon Administration, and the people of the community in which they operate, only 53 percent feel the Governor of their State has a positive view of banks; only 51 percent believe their Congressman is positive, less than a majority—48 percent—believe that their State's U.S. Senator has a positive outlook toward banks, only 47 percent that their state legislature sees banks favorably, and only 40 percent that the Democrats look with favor on banking. Obviously, the governmental area is believed to be the soft underbelly of banking in the United States. This was borne out further when the leaders were asked to rate the effectiveness of bankers. Only 47 percent thought bankers were very effective with local public officials, 44 percent with the Nixon Administration, 39 percent with Congress, and the same number with the Democrats. Leaders themselves are puzzled at a situation—and this is a message beamed straight to you gentlemen here today—in which men who have moved to new heights in banking service could be so ineffectual in communicating their point of view in the state legislatures and in the Nation's capital. Your center of focus has been your own home town, as though the rest of the states and country will take care of itself. As a result, the real questions being asked across this country today is who is really speaking for banking?

In some ways, this all leads to the last major problem area to emerge from the study: the role banks and bankers play in the local community. By sizable majorities, bankers are looked on as leaders in the community. By 57–23 percent among the public and 73 to 16 percent among the leaders, bankers receive a mandate that they *should* take leadership in community problems. The leaders go even further. By 80 to 18 percent, they reject the traditional notion that bankers should stick to banking and not get involved in community problems. By 68 to 29 percent, they say that banks have a responsibility in helping solve community social problems—it is their duty. By 62 to 32 percent, they say that banks are in a financial position to take the leadership to solve social problems. An almost unanimous 87 percent of the leaders say it is to banks' best interest to take leadership to be able to operate in a stable community.

Yet, when asked how well banks operate in the community area, only 40 percent of the leaders said bankers were very effective in helping build the local economy, a smaller 26 percent very effective in helping young people go to college, 18 percent in helping maintain law and order, 18 percent in helping to improve the calibre of local government, 15 percent effective in improving public education, 10 percent in helping ease racial tensions, 6 percent in helping the needy, and 4 percent in helping to control air and water pollution.

With the public, bank reputations in the community area are scarcely better: 3 to 2 negative on helping rebuild American cities and in helping the needy and nearly 3 to 1 negative in helping find solutions to racial problems. Only 38 percent of the public believes bankers have a "high concern" in helping the community.

The fact is that the public is not content to allow bankers simply to perform well in their own area. The public and leadership now demand that bankers take on a new role of leading the way toward the solution of the larger problems of society. They will judge bankers in the future every bit as much by how they conduct themselves in this broader area of society as in the banking field itself. To be sure, they want expanded, first-rate service in banking. But that is no longer enough.

The irony is that the big gap in bank communications on matters such as one-bank holding companies and in relations with government are clearly related to the lagging reputation of banks and bankers in the community and social areas. If banks, banking, and bankers were known for their good works in the community, were believed to be forces working conscientiously for the benefit of the whole community in a public-spirited way, then the job in the state capitols and in Washington would be infinitely easier, indeed.

What really is happening is this: You are well regarded in your narrow role as bankers, but this is no longer enough. You are expected to take over community leadership, along with banking leadership. This would be a flattering mandate, for not many industries are offered this mantle.

But if the positive attractions are not enough to command your attentions, in the broader social sphere, then the threat of being seriously emasculated in Washington and in dozens of state legislatures should be a powerful negative motivation for you to do the job. It is my judgment that traditional lobbying, pleading of special interests or even narrow self-interests simply will no longer work for bankers, or for that matter very many special interests. To the contrary, only be a positive and total identification with the well-being of the community and the Nation itself can banks, banking, and bankers extricate themselves in the crisis which now faces them and take full advantage of the future opportunities for truly Full Service Banking.

Now, gentlemen, you are entering a period where the thrust of new leadership is upon you. You will surely fail if your response is reactive rather than active. It is a time to initiate boldly, with confidence. You cannot fight today's battles with yesterday's narrow weapons. You are either going into a new, flowering period of banking—the era of broad financial and community leadership—or you will end up in tight, restrictive straitjacket. For generations to come bankers—and, indeed, the American people themselves—will ask: Where were you in that great turning point in the early 1970's? The promise is yours to take—but now, not later. Take it firmly, boldly, now, before it is too late.

Thank you very much.

SENATE ACTION ON NEIGHBORHOOD YOUTH CORPS SUMMER PROGRAM

Mr. JAVITS. Mr. President, the Senate's action last night by a 51-to-29 vote approving a supplemental appropriation totaling $100 million for the neighborhood youth summer program represents an historic commitment to tackle one of the most critical problems facing our troubled cities today—teenage joblessness. The additional funding provides the full amount recommended by the U.S. Conference of Mayors as required to meet the minimum needs of the Nation's cities—large and small—to take disadvantaged youths off the streets and to put them into meaningful summer employment. It also comes to grips with the growing national unemployment problem. These summer jobs offer teenagers from ghetto areas the opportunity to earn enough money to allow them to remain in school during the rest of the year and, in some cases, to acquire skills that will be useful in the years to come.

When I appeared last month before the Supplemental Appropriations Subcommittee to testify in behalf of my amendment for the additional funding of $100 million, I noted that the situation was particularly critical this summer in view of the special impact of high national unemployment in poverty areas. Since I testified on May 27, the national unemployment level has increased from 4.8 to 5 percent—a jump that will be felt especially in the ghettos and slums where the teenage jobless rate was already close to 16 percent back in March. The unemployment rate among black teenagers during the first quarter of this year was 32.7 percent compared with 20.9 percent in the first quarter of 1969.

The subcommittee, under the chairmanship of the Senator from West Virginia (Mr. BYRD), is to be highly commended for its response to the problem in reporting out a supplemental for the summer jobs program of $50 million—a figure which also won the support of the administration. The Senate, in agreeing to a total supplemental of $100 million, has shown a keen awareness of the mammoth proportions of the teenage unemployment problem. If the Labor Department follows the need figures of the Conference of Mayors—as I hope very

much it will—the addition $100 million could provide 165.298 additional summer job slots for the Nation's 50 largest cities and 61,875 additional slots for the smaller cities above the total of 333,000 slots provided under the current appropriation of $147.9 million. For my own city of New York, an additional 37,081 summer jobs are needed according to the Mayors Conference above the 125,419 jobs covered by the current appropriation, and could be provided under the $100 million supplemental.

It is vital that the House of Representatives sees fit to concur in the additional $100 million funding for the summer program so that the Nation can keep the summer cool and the future promising for the disadvantaged youth in our cities.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President again, with the indulgence of the Senate, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SPONG). 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.

RESTORATION OF THE GOLDEN EAGLE PROGRAM TO THE LAND AND WATER CONSERVATION FUND ACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2315. The title of this measure as it was passed by the Senate on September 24 last year was "To restore the Golden Eagle program to the Land and Water Conservation Fund Act." The other body amended the title to read—"To amend the Land and Water Conservation Fund Act of 1965, as amended."

The PRESIDING OFFICER (Mr. SPONG) laid before the Senate the amendments of the House of Representatives to the bill (S. 2315) to restore the Golden Eagle program to the Land and Water Conservation Fund Act which was to strike out all after the enacting clause, and insert:

That subsection 1(d) of the Act of July 15, 1968 (Public Law 90-401, 82 Stat. 354), is amended by deleting "March 31, 1970." and inserting in lieu thereof "December 31, 1971."

SEC. 2. Section 2(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-5(a)(1)) is amended by deleting "not more than $7" and inserting in lieu thereof "not more than $10".

SEC. 3. Section 8 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 4601-10a), is amended by deleting "of fiscal years 1969 and 1970" and inserting "fiscal year".

SEC. 4. On or before February 1, 1971, the Secretary of the Interior shall complete a survey as to the policy to be implemented with regard to entrance and user fees and report his findings to the Senate and House Committees on Interior and Insular Affairs.

And amend the title so as to read: "An Act to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes."

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a statement by the distinguished chairman of the Committee on Interior and Insular Affairs, the Senator from Washington (Mr. JACKSON), be printed in the RECORD.

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

STATEMENT OF SENATOR JACKSON

Mr. President, as the author of the bill and the Chairman of the Interior Committee which considered the measure, I move, on behalf of the Committee, that the Senate concur in the House amendments to S. 2315.

I make this motion with no little reluctance, Mr. President. The heart of the bill as considered and passed by the Senate was the restoration, on a continuing basis for the life of the Land and Water Conservation Fund program, of the provision under which an entire family was entitled to admission to several thousand Federal outdoor recreation areas during a full year for the payment of a single fee, which was established in the bill at $10. This provision had been drafted in response to literally thousands of requests we had had from all parts of the nation requesting restoration of the program after its deletion in the 90th Congress as a result of House action. The program was particularly beneficial to retired persons and to large families.

The House amendment, however, extends the restoration only to December 31, 1971. Happily, it does direct the Secretary of the Interior to complete by February 1, 1971, a survey as to the policy to be implemented with regard to entrance and user fees. I am hopeful that this period of time will give us opportunity to work out a program meaningful to the Land and Water Conservation Fund and equitable to the millions of our citizens who need and use the splendid outdoor recreation opportunities provided at so many Federal facilities.

While I am deeply disappointed at the limitation on the Golden Eagle program, I am pleased that the House did accept the extension of my "anti-inflation" provision which enables Federal agencies to acquire real property for outdoor recreation under advance contract authorization. This provision enables the Secretary of the Interior to enter into land purchase contracts immediately after authorization of a project without waiting for the actual appropriation. Experience showed that during the interval between the authorization and the appropriation land prices tended to skyrocket. Such inflation seriously curtailed expansion of the outdoor recreation program. The total advance contract authority continues to be limited to $30 million a year, and can be used only for authorized projects, but it is extended to the life of the Land and Water Conservation Fund program.

Mr. President, in bringing these brief remarks to an end on the House amendments to S. 2315, I want again to express my deep regret that the other body saw fit to restore the Golden Eagle only until the end of 1971. Granted the program did not, in its initial stages, bring as much money into the Land and Water Conservation Fund as had been anticipated. However, the program had been seriously hampered by a prohibition written into the basic law against any use of funds for educational, advertising, or public information purposes. Far too few groups and individuals were aware of what a truly great bargain it was, and how to go about taking advantage of it.

Attention is directed to the findings in the study conducted for the Bureau of Outdoor Recreation, which administers the Land and Water Conservation Fund, by Arthur D. Little, Inc., a prestigious private fact-finding and engineering organization, that is quoted in our Committee Report on S. 2315, filed on September 9, 1969. That is Senate Report 91-395.

Also, of course, the immediate revenues are not the sum total of the benefits derived from an entrance and user fee system. Both the Park Service and the Forest Service testified to us that there was substantially less vandalism and far greater regard for the facilities when the very reasonable entrance and user fees were charged.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

ACREAGE LIMITATION PROVISIONS OF FEDERAL RECLAMATION LAW—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a 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. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. SPONG). 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 16, 1970, p. 19835, 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. MANSFIELD. Mr. President, I ask unanimous consent that a statement by the distinguished chairman of the Committee on Interior and Insular Affairs, the Senator from Washington (Mr. JACKSON), be printed in the RECORD.

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

STATEMENT OF SENATOR JACKSON

Mr. President, the Solicitor of the Department of the Interior has ruled that lands on a reclamation project owned by a State or State agency which may receive water must be limited to 160 acres, as are lands of a private owner. The purpose of S. 2062 is to clarify the intent of the acreage limitation provisions of Reclamation Law by exempting State lands in certain instances.

S. 2062 as passed by the Senate provides for three kinds of exemptions from the acreage limitation as it is presently being administered: *Section 1* would exempt from the acreage limitation State lands which are operated for non-profit, public purposes. Examples are hospital and prison farms and university agricultural stations.

Section 2 would permit a State to sign recordable contracts to sell excess lands within ten years, but at appreciated values (such as at auction, which is common state practice) and to receive project water in the interim.

Section 3 would permit a State to retain ownership of excess lands and lease them for revenue purposes to farmers. Each lessee, however, would be subject to the same acreage limitation as a private landowner.

The House amended the measure in two respects. (1) It added language to Section 1 to broaden the provision to include instances (such as the Small Reclamation Loan program and the Rehabilitation and Betterment program) in which excess landowners are permitted to retain their holdings through the payment of interest. The States would then no longer need to pay such interest.

(2) The other House amendment is the deletion of Sec. 3 in its entirety.

The conferees recommend that the Senate recede from its disagreement to the first amendment. The intention of the amendment is in conformance with the intent of the bill as a whole.

The conferees recommend that the Senate recede from its disagreement with the second amendment but agree with an amendment. The new language would retain the provisions of Sec. 3 as contained in the Senate version but limit their duration to 25 years. This compromise would give the States time to consider and carry out an orderly process of divestiture of lands which will assist in the management of such lands for revenue purposes.

Mr. MANSFIELD. Mr. President, I move that the Senate agree to the conference report on S. 2062.

The motion was agreed to.

TOUCHET DIVISION, WALLA WALLA PROJECT, OREGON-WASHINGTON—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a 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. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. SPONG). 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 16, 1970, p. 19834, 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. MANSFIELD. Mr. President, I ask unanimous consent that a statement by the distinguished chairman of the Committee on Interior and Insular Affairs, the Senator from Washington (Mr. JACKSON), be printed in the RECORD.

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

STATEMENT OF SENATOR JACKSON

Mr. President, the Touchet division would be located in southeastern Washington. It would develop the flows of the Touchet River for irrigation, municipal, and industrial water supply and would provide flood control, fish and wildlife enhancement, and recreation. The project works would include the Dayton dam and reservoir on the Touchet River, fish passage facilities, and recreation facilities.

The House amended the bill in two respects:

(1) A technical amendment to correct a misspelled word was made in Sec. 2.

(2) Sec. 6, authorizing appropriation, was stricken and a new section was inserted which requires the part of the appropriation associated with the anadromous fisheries to be appropriated to the Bureau of Sport Fisheries and Wildlife for transfer to the Bureau of Reclamation.

The Committee of conference recommends that the Senate recede from its disagreement to the first amendment and recede from its disagreement to the second amendment with an amendment.

The result of the compromise would be that the appropriation provisions of the House bill would remain but the anadromous fishery appropriations would be made to the Fish and Wildlife Service rather than to the Bureau of Sport Fisheries and Wildlife. This will provide some additional latitude for the inclusion of the funds in budget requests.

Although this amendment is not in accord with the general trend of Congressional action to recognize the multiple purpose utility of water resource development, and although it will make the appropriation of funds for construction unnecessarily complex, in view of the important values of the Touchet Division and the long delay we have already had in its authorization, the Senate conferees agreed to the language.

Mr. MANSFIELD. Mr. President, I move adoption of the conference report.

The motion was agreed to.

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.

MESSAGE OF THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 17399) making supplemental appropriations for the fiscal year ending June 30, 1970, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MAHON, Mr. WHITTEN, Mr. EVINS of Tennessee, Mr. NATCHER, Mr. FLOOD, Mr. STEED, Mrs. HANSEN of Washington, Mr. JONAS, Mr. CEDERBERG, Mr. MICHEL, and Mr. LANGEN were appointed managers on the part of the House at the conference.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 6049. An act to amend the definition of "metal bearing ores" in the Tariff Schedules of the United States; and

H.R. 9183. An act to amend the Tariff Schedules of the United States to provide that imported articles which are exported and thereafter reimported to the United States for failure to meet sample or specifications shall, in certain instances, be entered free of duty upon such reimportation.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred to the Committee on Finance:

H.R. 6049. An act to amend the definition of "metal bearing ores" in the Tariff Schedules of the United States; and

H.R. 9183. An act to amend the Tariff Schedules of the United States to provide that imported articles which are exported and thereafter reimported to the United States for failure to meet sample as specifications shall, in certain instances, be entered free of duty upon such reimportation.

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.

UNANIMOUS-CONSENT AGREEMENT ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, before I ask unanimous consent to set aside temporarily, the pending business, I would like to propound a unanimous-consent request having to do with the pending amendment, the Dole amendment.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. There will be order in the Senate.

The Senator may proceed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending amendment occur at 1 o'clock tomorrow afternoon.

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

Mr. MANSFIELD. Mr. President, it is my understanding—and I would like to have the attention of the distinguished Senator from North Carolina—that the distinguished Senator from Iowa (Mr. MILLER) will offer an amendment next and that he is prepared to agree to a 4-hour limitation with the time to be equally divided between the Senator from Idaho (Mr. CHURCH) and the sponsor of the amendment. Would that be satisfactory?

Mr. ERVIN. Yes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the amendment to be offered by the distinguished Senator from Iowa (Mr. MILLER), there be a time limitation of 4 hours, the time to be equally divided between the Senator from Idaho (Mr. CHURCH) and the sponsor of the amendment.

The PRESIDING OFFICER. The Chair asks the Senator from Montana if, as part of his unanimous-consent request on the Dole amendment he wishes the time to be equally divided prior to 1 o'clock.

Mr. MANSFIELD. Yes. I was coming to that after this last one is agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent, with apologies to the Senator from Wyoming (Mr. HANSEN), that when the Senate adjourns tonight, it stand in adjournment until 10 o'clock tomorrow morning; and that the Senator from Wyoming (Mr. HANSEN) be recognized for a half hour immediately after the disposition of the Journal.

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

The unanimous-consent agreement, subsequently reduced to writing, is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That the Senate proceed to vote at 1 p.m. on Wednesday, June 24, 1970, on the amendment of the Senator from Kansas (Mr. DOLE), numbered 715, to the bill (H.R. 15628) to amend the Foreign Military Sales Act, with the time for debate from 11:30 a.m. until 1 p.m. on that date to be equally divided and controlled by the Senator from Kansas (Mr. DOLE) and the Senator from Arkansas (Mr. FULBRIGHT).

Ordered further, That following the above vote, debate on an amendment to be offered by the Senator from Iowa (Mr. MILLER) be limited not to exceed 4 hours to be equally divided and controlled by the Senator from Iowa (Mr. MILLER) and the majority leader, or his designee.

ORDER FOR RECOGNITION OF SENATORS CHURCH AND FULBRIGHT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at 10:30 tomorrow morning the distinguished Senator from Idaho (Mr. CHURCH) and the distinguished Senator from Arkansas (Mr. FULBRIGHT) be recognized for not to exceed one-half hour; that there be a brief morning hour following that; and that for the last hour and a half the time is to be equally divided between the distinguished Senator from Kansas (Mr. DOLE) and the distinguished Senator from Idaho (Mr. CHURCH) or the distinguished Senator from Arkansas (Mr. FULBRIGHT).

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

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

The PRESIDING OFFICER (Mr. SPONG). The Senator will state it.

Mr. MANSFIELD. Mr. President, have I made a request to divide the time on the Miller amendment?

The PRESIDING OFFICER (Mr. SPONG). The Senator from Montana has named in his request the length of time, which is 4 hours, and has divided the time. However, he has not stated when it was to begin.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time on the Miller amendment begin immediately after the vote on the Dole amendment, the time to be equally divided between the distinguished Senator from Iowa (Mr. MILLER) and the majority leader or whomever he may designate.

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

The Senate will be in order.

FINANCE COMMITTEE MEETING DURING THE SESSION OF THE SENATE TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent, with the concurrence of the joint leadership, that the Finance Committee be authorized to meet during the session of the Senate tomorrow.

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

OFFICE OF EDUCATION APPROPRIATIONS, 1971

Mr. MANSFIELD. Mr. President, under the terms of the unanimous-consent agreement to conduct other business after 5 p.m., I call up Calendar No. 875, H.R. 16916, the education appropriations measure, and ask that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER (Mr. SPONG). The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 16916) making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes, reported with amendments.

The PRESIDING OFFICER (Mr. SPONG). Without objection, the Senate will proceed to the consideration of the bill.

Mr. MAGNUSON. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. SPONG). The Senate will be in order. Attachés will retire to the rear of the Senate Chamber. Senators will please take their seats.

Mr. PELL. Mr. President, I ask unanimous consent that the staff of the Committee on Labor and Public Welfare be permitted to be on the floor of the Senate without the usual limitation.

Mr. STENNIS. Mr. President, reserving the right to object—and I shall not object—I hope that the Senator will ask the staff to remain seated and remain quiet, so that we can hear the debate. We have much business to attend to.

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

Mr. MAGNUSON. 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.

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

Mr. STENNIS. Mr. President, would the Chair see that we have order?

The PRESIDING OFFICER (Mr. SPONG). The Chair will repeat that if the attachés cannot be in order, they will be removed from the Chamber. Senators are asked to take their seats.

Is there objection?

Mr. ERVIN. Mr. President, I object to the unanimous-consent request if it applies to what are known as the Whitten amendments or the Jonas amendments.

Mr. MAGNUSON. Mr. President, I will say to the Senator from North Carolina, the Senator from Mississippi, who is also interested, the Senator from Alabama, and the Senator from Pennsylvania that the motion does not apply to the so-called Whitten and Jonas amendments, because that is House language. They are not committee amendments, and we just retained the House language. They are in the bill.

Mr. ERVIN. I was raising the point because I was under the impression that the House bill carried the Jonas amendment, but that the Senate committee had eliminated the Jonas amendment.

Mr. MAGNUSON. No; no change at all.

Mr. ERVIN. With the assurance of the distinguished Senator from Washington I do not object.

Mr. MAGNUSON. There is no change at all.

I must say we expect there will be a motion by some Senator to strike these amendments, and then we can debate that, at the proper time.

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

The amendments agreed to en bloc are as follows:

On page 1, line 11, after "(20 U.S.C., ch. 19)", strike out "$440,000,000" and insert "$673,800,000"; on page 2, line 1, after the word "which", strike out "$425,000,000" and insert "$658,800,000"; and, in line 7, after the word *"Provided,"*, strike out "That this appropriation shall not be available to pay local educational agencies pursuant to the provisions of any other section of said title I until payment has been made of 90 per centum of the amounts to which such agencies are entitled pursuant to section 3(a) of said title and 100 per centum of the amounts payable under section 6 of said title." and insert "That $8,800,000 of this appropriation shall be available to pay full entitlement under section 3(a) of said title to a local educational agency where the number of children eligible under said section 3(a) represent 25 per centum or more of the total number of children attending school at such local educational agency.".

On page 2, line 21, after "title I", strike out "A"; in line 22, after "title III", strike out "($137,393,000)" and insert "($140,393,000)"; on page 3, at the beginning of line 2, strike out "($20,000,000)" and insert "($79,200,000)"; in the same line, after the amendment just above stated, strike out "$1,808,968,000" and insert "$1,873,168,000"; in line 3, after the word "to", strike out "State and" and insert "States on behalf of; and, in line 4, after the word "under", strike out "said".

On page 3, line 11, after "$105,000,000", insert a comma and "including $1,000,000 for special programs under part G of the Education of the Handicapped Act".

On page 3, line 16, after "($20,000,000)", insert "section 151 ($4,000,000),"; in line 17, after "B", insert "and C"; in the same line, after the amendment just above stated, strike out "($350,336,000)" and insert "($346,336,000)"; in the same line, after "F", strike out "($17,500,000)" and insert "($25,000,000)"; in line 18, after "($18,500,000)" strike out "and";

in line 19, after "($5,500,000)", insert "and I"; in line 23, after "1967", strike out "$490,446,000" and insert "$497,946,000"; and, in the same line, after the word "including", strike out "$20,000,000" and insert "$16,000,000".

On page 4, line 5, after "(except part F)", strike out "and"; in the same line, after "title V", insert "and part A of title VI"; in line 7, after "section 306", strike out "and title" and insert a comma and "titles I and"; at the beginning of line 16, strike out "$899,880,000" and insert "$970,720,000"; in the same line, after the word "which", insert "$14,500,000 shall be for instructional equipment under part A of title VI of the Higher Education Act of which amounts reallotted shall remain available until June 30, 1972, and"; and, at the beginning of line 21, insert "$43,000,000 for grants for construction of public community colleges and technical institutes under title I of the Higher Education Facilities Act of 1963,".

One page 5, line 9, after the word "and", strike out "parts" and insert "subpart 2 of parts"; in the same line, after "($15,000,000)", strike out "for subpart 2"; and, in line 13, after "1967", strike out "$135,800,000" and insert "$105,000,000".

On page 5, after line 13, insert:

"TEACHERS CORPS

"For carrying out subpart 1 of part B of title V of the Higher Education Act of 1965, as amended, $30,800,000: *Provided*, That none of these funds may be used to pay in excess of 90 per centum of the salary and other emoluments in the Teacher Corps: *Provided further*, That none of these funds may be spent on behalf of any Teacher Corps program in any; local school system prior to approval of such program by the State educational agency of the State in which the school system is located."

On page 6, line 9, after "(47 U.S.C. 390–395)", strike out "$71,636,000" and insert "$101,794,000"; in line 10, after the word "which", strike out "$5,000,000" and insert "$9,185,000"; and, in line 13, after the word "and", where it appears the second time, strike out "$6,000,000" and insert "$15,000,000".

On page 6, line 20, strike out "$105,325,000" and insert "$90,077,000".

On page 7, line 8, after "District of Columbia", strike out "$46,107,000" and insert "$45,164,000".

Mr. MAGNUSON. Mr. President, this is a very important bill and I wish to make a statement, as the chairman of the subcommittee, and the Senator from New Hampshire may want to make his statement later—on the bill.

Mr. President, the Senate bill, as reported, provides a total amount of $4,517,421,000. This is $703,643,350 greater than the comparable appropriations for 1970, taking into consideration the 2-percent reduction of the total amount of last year's education appropriation.

This bill is $638,453,000 less than the amended budget estimates for 1971, but in all fairness, I must say that in arriving at that figure we are including the request for advanced funding for ESEA, title I, of $1,339,040,000 which the committee rejected. If advance funding were excluded—and I do not know why it should be, since the Department appealed for restoration of the House reduction of this item—the present bill is $700,597,000 over the budget estimate.

The Senate committee bill is $390,307,000 more than the House-passed bill. Most of this increase is for impacted aid—to which I will allude in a moment—but I think the Senate basically understands this program.

Mr. President, perhaps a $4.5 billion Federal contribution sounds like a lot of money to meet the needs of the American educational system. It is. I remind the Senate, however, that the programs considered by the committee in making this recommendation have authorization levels in excess of $11.5 billion already signed into public law. I would further remind the Senate that the Congress recently passed, and the President recently signed, an authorization bill—Public Law 91-230—that extends existing programs and provides new programs in education at an authorization level of $24 billion over the next 3 years. When these factors are taken into account, it is obvious that the appropriation provided in this bill is reasonable and hardly excessive. We are still nowhere near what is called full funding.

The total Federal contribution is still in the neighborhood of 6½ percent to 7 percent of the total expenditures for education in the country.

Before the question is asked, let me emphasize that every program provided for in this bill has already been authorized, so there will be no delay in early passage of this bill on account of pending authorizations.

EARLY FUNDING OF EDUCATION PROGRAMS

It is the hope of the chairman and the members of the committee that this bill before us now will be on the President's desk, ready for his signature, before the July 4 recess. This bill was reported on May 15, in an effort to secure early passage. I need not go into the reason for the delay here in the Senate over the last 40 days. Our May 15 reporting date was made possible by considering the Office of Education appropriation separately, and in advance of, the remainder of the HEW appropriation. This "innovative" reform will help to provide greater lead-time to State and local authorities in preparing for the next school year. It is the opinion of the committee, however, that even greater reforms of the appropriations process are needed to allow Federal funds in all areas to achieve optimum results. Specifically, on page 2 of the report accompanying this bill, the committee has urged the passage of pending legislation that would change the Federal fiscal year to coincide with the calendar year.

This legislation (S. 3113), which the Senator from Washington has continually introduced for at least 10 Congresses, now has well over 40 sponsors in the Senate and companion legislation has been introduced in the House. The committee feels that the streamlining of the appropriations/authorization process which this legislation represents is crucial if Federal funds are to mesh successfully with State and local planning-funding cycles.

THE COMMITTEE RECOMMENDATIONS

Mr. President, in order to facilitate the study of the committee recommendations by Members of the Senate, their staffs, and others, I ask unanimous consent to have inserted in the RECORD at this point a table showing the amount of major increases and decreases in the Senate bill compared with the House-passed bill, together with an all-purpose table showing the program and activities breakdown as contained in the Senate report and the comparisons to last year's appropriation, the budget estimate and House action.

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

H.R. 16916—Office of Education appropriations—Fiscal 1971 major increases and decreases compared to the House allowances.

Impaced aid—P.L.–874 (allows 90 percent payment of entitlements for both "A" and "B" students—House 90 percent "A" and 45 percent "B"), plus $233,800,000.

Elementary and secondary education, plus $64,200,000:

Guidance and Counseling Services, plus $3,000,000.

Equipment: Audio-Visual, Teaching Aids (all matching funds), plus $59,200,000.[1]

Dropout Prevention Program (project grants), plus $2,000,000.

Education for the handicapped, no increase, but a special earmark of $1,000,000 allows the initiation of programs for specific learning disabilities.

Vocational and adult education, Consumer and Homemaking Education, plus $7,500,000.

Higher education, plus $70,840,000:

Land-Grant College aid, Bankhead-Jones Act, plus $4,040,000.

Foreign Language Training (NDEA Title 6), plus $9,300,000.

Instructional Equipment: Audio-Visual, Teaching aids, plus $14,500,000.[1]

Construction: grants for academic facilities community colleges, matching funds, plus $43,000,000.[1]

Community education, plus $30,158,000.

Public Libraries, construction matching grants, plus $4,185,000.[1]

College Library Resources—matching grants, plus $10,850,000.[1]

Librarian Training programs: pre-service & inservice, plus $4,350,000.

Library of Congress cataloging services, plus $1,773,000.

Educational Broadcasting, equipment matching grants, plus $9,000,000.[1]

Research and training, minus $15,248,000.

Regional Educational Laboratories, plus $700,000.

General Education, research and development, minus $4,208,000.

Evaluations, research and training, minus $250,000.

Experimental Schools (Report language approves use of ESEA, Supplementary Services funds for this program), minus $5,000,000.

Dissemination of Research, minus $1,740,000.

Training Programs, minus $4,250,000.

Statistics, minus $500,000.

Salaries and expenses (holding to 1970 funding levels), minus $943,000.

Total committee recommendation, $4,517,421,000.

Over House Allowances, plus $390,307,000.

Under Budget Requests, minus $638,453,000.

Over fiscal year, plus $703,643,350.

Fiscal 1971 authorizations, $11,502,516,000.

[1] Matching Grant Programs.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1970 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1971

OFFICE OF EDUCATION—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Note: All amounts are in the form of definite appropriations unless otherwise indicated]

Appropriation/activity	New budget (obligational) authority fiscal year 1970 (enacted to date)[1]	New budget (obligational) authority fiscal year 1970 (enacted to date)[1] after 2 percent reduction	Budget estimates of new budget (obligational) authority fiscal year 1971	New budget (obligational) authority recommended in the House bill	New budget (obligational) authority recommended in the Senate committee bill	Senate bill compared with— New budget (obligational) authority fiscal year 1970 (enacted to date)	Senate bill compared with— Budget estimates of new budget (obligational) authority fiscal year 1971	Senate bill compared with— New budget (obligational) authority in House bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
School assistance in federally affected areas:								
1. Maintenance and operations (874)	$505,400,000	$505,400,000	[2] $425,000,000	$425,000,000	$658,800,000	+$153,400,000	+$233,800,000	+$233,800,000
2. Construction (815)	15,181,000	15,181,000		15,000,000	15,000,000	−181,000	+15,000,000	
(Obligations)	(15,167,000)	(14,416,000)	(21,049,000)	(36,049,000)	(36,049,000)	(+21,633,000)	(+15,000,000)	
Total	520,581,000	520,581,000	425,000,000	440,000,000	673,800,000	+153,219,000	+248,800,000	+233,800,000
Elementary and secondary education:								
1. Aid to school districts:								
(a) Educationally deprived children (ESEA I)	[3] 1,396,975,000	1,339,050,900	[5] 1,339,050,000	1,500,000,000	1,500,000,000	+160,949,100	+160,950,000	
(b) Supplementary services (ESEA III)	133,393,000	130,843,000	[6] 120,393,000	137,393,000	140,393,000	+9,550,000	+20,000,000	+3,000,000
(c) Library resources (ESEA II)	50,000,000	42,500,000	[7] 80,000,000	80,000,000	80,000,000	+37,500,000		
(d) Equipment and minor remodeling (NDEA III)	[4] 43,740,000	[4] 37,179,000		20,000,000	79,200,000	+42,021,000	+77,200,000	+59,200,000
Subtotal	1,624,108,000	1,549,572,900	1,539,443,000	1,737,393,000	1,799,593,000	+250,020,100	+260,150,000	+62,200,000
2. Dropout prevention (ESEA VIII)	5,000,000	5,000,000	15,000,000	8,000,000	10,000,000	+5,000,000	−5,000,000	+2,000,000
3. Bilingual education (ESEA VII)	25,000,000	21,250,000	[8] 21,250,000	25,000,000	25,000,000	+3,750,000	+3,750,000	
4. Strengthening State departments of education (ESEA V)	29,750,000	29,750,000	29,750,000	29,750,000	29,750,000			
5. Planning and evaluation (ESEA 1967, sec. 402)	9,250,000	8,825,000	9,250,000	8,825,000	8,825,000		−425,000	
Total	1,693,108,000	1,614,397,900	1,614,693,000	1,808,968,000	1,873,168,000	+258,770,100	+258,475,000	+64,200,000
Education for the handicapped:								
1. State grant programs (ESEA VI)	29,190,000	29,190,000	31,900,000	35,000,000	34,000,000	+4,810,000	+2,100,000	−1,000,000
2. Early childhood projects (Public Law 90-538)	4,000,000	3,000,000	4,000,000	7,000,000	7,000,000	+4,000,000	+3,000,000	
3. Teacher education and recruitment:								
(a) Teacher education (Public Law 85-926)	36,000,000	30,000,000	31,600,000	32,600,000	32,600,000	+2,600,000	+1,000,000	
(b) Recruitment and information (ESEA VI-D)	610,000	475,000	500,000	500,000	500,000	+25,000		
Subtotal	36,610,000	30,475,000	32,100,000	33,100,000	33,100,000	+2,625,000	+1,000,000	
4. Research and innovation:								
(a) Research and demonstration (Public Law 88-164, sec. 302)	16,375,000	13,360,000	14,450,000	15,300,000	15,300,000	+1,940,000	+850,000	
(b) Regional resource centers (ESEA VI-B)	2,900,000	1,800,000	3,550,000	3,550,000	3,550,000	+1,750,000		
(c) Deaf-blind centers (ESEA VI-C)	4,000,000	2,000,000	2,500,000	4,500,000	4,500,000	+2,500,000	+2,000,000	
(d) Media services and captioned films (Public Law 85-905)	6,500,000	4,750,000	6,000,000	6,000,000	6,000,000	+1,250,000		
Subtotal	29,775,000	21,910,000	26,500,000	29,350,000	29,350,000	+7,440,000	+2,850,000	
5. Specific learning disabilities					1,000,000	+1,000,000	+1,000,000	+1,000,000
6. Planning and evaluation (ESEA, 1967, sec. 402)	425,000	425,000	500,000	550,000	550,000	+125,000	+50,000	
Total	100,000,000	85,000,000	95,000,000	[9] 105,000,000	105,000,000	+20,000,000	+10,000,000	
Vocational and adult education:								
1. Basic vocational education grants:								
(a) Grants to States (VEA, part B)	300,336,000	300,336,000	[10] 300,336,000	350,336,000	346,336,000	+46,000,000	+46,000,000	−4,000,000
(b) Consumer and homemaking education (VEA, part F)	17,500,000	15,000,000	15,000,000	17,500,000	25,000,000	+10,000,000	+10,000,000	+7,500,000
(c) State advisory councils (VEA, part B)	2,800,000	2,380,000	[11] 2,380,000	2,380,000	2,380,000			
(d) National advisory council (VEA, part B)	200,000	200,000	330,000	330,000	330,000	+130,000		
Subtotal	320,836,000	317,916,000	318,046,000	370,546,000	374,046,000	+56,130,000	+56,000,000	+3,500,000
2. Work-study (VEA, part H)	5,000,000	4,250,000		5,500,000	5,500,000	+1,250,000	+5,500,000	
3. Cooperative education (VEA, part G)	14,000,000	14,000,000	24,000,000	18,500,000	18,500,000	+4,500,000	−5,500,000	
4. Research and innovation (VEA, parts C and D)	[12] 31,980,000	[12] 14,980,000	25,000,000	20,000,000	20,000,000	+5,020,000	−5,000,000	
5. Adult basic education (Adult Education Act)	[13] 49,900,000	[13] 49,900,000	55,000,000	55,000,000	55,000,000	+5,100,000		
6. Planning and evaluation (ESEA, 1967, sec. 402)	1,100,000	1,000,000	1,000,000	900,000	900,000	−100,000	−100,000	
7. Students with special needs (VEA, sec. 102(B)	20,000,000	17,000,000	[14] 17,000,000	20,000,000	20,000,000	+3,000,000	+3,000,000	
8. Residential vocational schools					4,000,000	+4,000,000	+4,000,000	+4,000,000
Total	442,816,000	419,046,000	440,046,000	490,446,000	497,946,000	+78,900,000	+57,900,000	+7,500,000
Higher education:								
1. Student assistance:								
(a) Educational opportunity grants (HEA IV-A)	164,000,000	164,600,000	185,600,000	167,700,000	167,700,000	+3,100,000	−17,900,000	
(b) Work-study and cooperative education (HEA-IV C, D)	154,000,000	154,000,000	160,000,000	160,000,000	160,000,000	+6,000,000		
(c) Loans:								
(1) Direct (NDEA-II)	229,000,000	195,685,000	[15] 176,925,000	229,000,000	229,000,000	+33,315,000	+52,075,000	
(Teacher cancellations)	(4,900,000)	(4,900,000)	(4,500,000)	(4,500,000)	(4,500,000)	(−400,000)		
(2) Insured: HEA IV-B):								
(A) Advances for reserve funds								
(Obligations)	(2,800,000)	(2,800,000)	(4,441,022)	(4,441,022)	(4,441,022)	(1,641,022)		
(B) Interest payments	62,400,000	62,400,000	143,200,000	143,200,000	143,200,000	+80,800,000		
(Accrued costs)	(109,454,000)	(109,454,000)	(143,200,000)	(143,200,000)	(143,200,000)	(+33,746,000)		
(New loans subsidized)	(794,241,000)	(794,241,000)	(940,428,000)	(940,428,000)	(940,428,000)	(+146,187,000)		

Footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1970 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1971—Continued
OFFICE OF EDUCATION—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued
[Note: All amounts are in the form of definite appropriations unless otherwise indicated]

Appropriation/activity	New budget (obligational) authority fiscal year 1970 (enacted to date) [1]	New budget (obligational) authority fiscal year 1970 (enacted to date) [1] after 2 percent reduction	Budget estimates of new budget (obligational) authority fiscal year 1971	New budget (obligational) authority recommended in the House bill	New budget (obligational) authority recommended in the Senate committee bill	Senate bill compared with— New budget (obligational) authority fiscal year 1970 (enacted to date)	Senate bill compared with— Budget estimates of new budget (obligational) authority fiscal year 1971	Senate bill compared with— New budget (obligational) authority in House bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
(A) (C) Computer services	$1,500,000	$1,500,000	$2,200,000	$2,200,000	$2,200,000	+$700,000		
(Obligation)	(1,697,990)	(1,697,990)	(2,200,000)	(2,200,000)	(2,200,000)	(+502,010)		
Subtotal	63,900,000	63,900,000	145,400,000	145,400,000	145,400,000	+81,500,000		
(d) Special programs for the disadvantaged: (HEA—sec. 408):								
(1) Talent search	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000			
(2) Upward Bound	29,683,000	29,637,000	30,000,000	30,000,000	30,000,000	+363,000		
(3) Special services in college	10,000,000	10,000,000	15,000,000	15,000,000	15,000,000	+5,000,000		
Subtotal	44,683,000	44,637,000	50,000,000	50,000,000	50,000,000	+5,363,000		
Subtotal, student assstance	656,183,000	622,822,000	717,925,000	752,100,000	752,100,000	+129,278,000	+$34,175,000	
2. Institutional assistance:								
(a) Aid to land-grant colleges (Bankhead-Jones Act)	19,361,000	19,361,000		8,080,000	12,120,000	−7,241,000	+12,120,000	+$4,040,000
(b) Strengthening developing institutions (HEA III)	30,000,000	30,000,000	33,850,000	33,850,000	33,850,000	+3,850,000		
(c) University community services (HEA I)	[16] 9,500,000	[16] 9,500,000		9,500,000	9,500,000		+9,500,000	
(d) Foreign language training and area studies (NDEA–VI)	[17] 18,000,000	[17] 15,300,000	15,300,000	6,000,000	15,300,000			+9,300,000
(e) Title VI—HEA instructional equipment					14,500,000	+14,500,000	+14,500,000	+14,500,000
(f) Construction:								
(1) Grants (HEFA I and II)	76,000,000	71,050,000			43,000,000	−28,050,000	+43,000,000	+43,000,000
(Obligations)	(76,000,000)	(72,650,000)			(43,000,000)	[1](−29,650,000)	(+43,000,000)	(+43,000,000)
(2) Subsidized loans (HEFA III)	11,750,000	11,750,000	21,000,000	21,000,000	21,000,000	+9,250,000		
(Obligations)	(11,750,000)	(10,920,000)	(25,250,000)	(25,250,000)	(25,250,000)	(+14,330,000)		
Loans subsidized	(435,000,000)	(393,000,000)	(520,000,000)	(520,000,000)	(520,000,000)	(+127,000,000)		
(3) State administration and planning (HEFA I)	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000			
(4) Technical services (HEFA I, sec 105)	5,417,000	5,417,000	5,100,000	5,100,000	5,100,000	−317,000		
Subtotal, construction	99,167,000	94,217,000	32,100,000	32,100,000	75,100,000	−19,117,000	+43,000,000	+43,900,000
Subtotal, institutional assistance	176,028,000	168,378,000	81,250,000	89,530,000	160,370,000	−8,008,000	+79,120,000	+70,840,000
3. College personnel development:								
(a) College teacher fellowships (NDEA IV)	56,163,000	48,813,000	47,350,000	47,350,000	47,350,000	−1,463,000		
(b) Training programs (EPDA, part E)	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000			
Subtotal	66,163,000	58,813,000	57,350,000	57,350,000	57,350,000	−1,463,000		
4. Planning and evaluation (ESEA, 1967, sec. 402)	1,000,000	900,000	1,000,000	900,000	900,000		−100,000	
Total	899,374,000	850,913,000	857,525,000	899,880,000	970,720,000	+119,807,000	+113,195,000	+70,840,000
Education professions development:								
1. State grants (EPDA-part B–2)	18,250,000	15,512,500	15,000,000	15,000,000	15,000,000	−512,000		
2. Personnel development programs (EPDA-parts C, D and F)	88,348,000	79,098,000	88,500,000	88,500,000	88,500,000	+9,402,000		
3. Planning and evaluation (ESEA 1967, sec. 402)	477,000	477,000	1,300,000	1,000,000	1,000,000	+523,000	−300,000	
4. Encouragement of educational careers (EPDA—Sec. 504)	425,000	425,000	500,000	500,000	500,000	+75,000		
Total	107,500,000	95,512,500	105,300,000	105,000,000	105,000,000	+9,487,500	−300,000	
Teacher Corps: (EPDA-part B–1)	[18] 21,737,000	21,737,000	30,800,000	30,800,000	30,800,000	+9,063,000		
Community education:								
1. Public libraries:								
(a) Services (LSCA I, III, IV A)	40,709,000	35,459,000	[20] 35,459,000	40,709,000	40,709,000	+5,250,000	+5,250,000	
(b) Construction (LSCA II)	9,185,000	7,807,250		5,000,000	9,185,000	+1,377,750	+9,185,000	+4,185,000
(Obligations)	(10,911,034)	(9,533,284)		(5,000,000)	(9,185,000)	(−348,284)	(+9,185,000)	(+4,185,000)
Subtotal	49,894,000	43,266,250	35,459,000	45,709,000	49,894,000	+6,627,750	+14,435,000	+4,185,000
2. College library resources (HEA II–A)	20,750,000	9,816,000	9,900,000	9,900,000	20,750,000	+10,934,000	+10,850,000	+10,850,000
3. Librarian training (HEA II–B)	6,833,000	4,000,000	3,900,000	3,900,000	8,250,000	+4,250,000	+4,350,000	+4,350,000
4. Cataloging by the Library of Congress (HEA II–C)	6,732,000	5,721,450	[21] 5,727,000	5,727,000	7,500,000	+1,778,550	+1,773,000	+1,773,000
5. Educational broadcasting facilities (title II, Communications Act of 1934)	5,083,000	4,320,550	4,000,000	6,000,000	15,000,000	+10,679,450	+11,000,000	+9,000,000
(Obligations)	(5,396,639)	(5,396,634)	(4,000,000)	(6,000,000)	(15,000,000)	(+9,603,366)	(+11,000,000)	(+9,000,000)
6. Planning and evaluation (ESEA 1967, Sec. 402)	89,000	89,000	460,000	400,000	400,000	+311,000	−60,000	
Total	[22] 89,381,000	[22] 67,213,250	[22] 59,446,000	71,636,000	101,794,000	+34,580,750	+42,348,000	+30,158,000
Research and training:								
1. Research and development (Cooperative Research Act):								
(a) Educational laboratories	25,125,000	25,106,000	25,106,000	24,406,000	25,106,000			+700,000
(b) Research and development centers	10,000,000	9,800,000	9,500,000	9,300,000	9,300,000	−500,000	−200,000	
(c) General education	22,862,000	22,562,000	22,562,000	19,208,000	15,000,000	−7,562,000	−7,562,000	−4,208,000
(d) Evaluations	3,000,000	2,796,000	5,000,000	4,250,000	4,000,000	+1,204,000	−1,000,000	−250,000
(e) National achievement study	2,000,000	1,900,000	4,500,000	4,500,000	4,500,000	+2,600,000		
(f) Special library research	2,171,000	2,171,000	2,171,000	2,171,000	2,171,000			
(g) Nutrition and health			2,500,000	2,000,000	2,000,000	+2,000,000	−500,000	
Subtotal	65,158,000	64,335,000	71,339,000	65,835,000	62,077,000	−2,258,000	−9,262,000	−3,758,000

Footnotes at end of table.

Appropriation/activity	New budget (obligational) authority fiscal year 1970 (enacted to date)[1]	New budget (obligational) authority fiscal year 1970 (enacted to date)[1] after 2 percent reduction	Budget estimates of new budget (obligational) authority fiscal year 1971	New budget (obligational) authority recommended in the House bill	New budget (obligational) authority recommended in the Senate committee bill	Senate bill compared with— New budget (obligational) authority fiscal year 1970 (enacted to date)	Senate bill compared with— Budget estimates of new budget (obligational) authority fiscal year 1971	Senate bill compared with— New budget (obligational) authority in House bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Research and training—Continued								
2. Major demonstration (Cooperative Research Act)	$1,000,000	$1,000,000	$5,000,000	$3,000,000	$3,000,000	+$2,000,000	−$2,000,000	
D.C. Model School	(1,000,000)	(1,000,000)	(4,750,000)	(2,750,000)	(2,750,000)	(+1,750,000)	(−2,000,000)	
3. Experimental schools (Cooperative Research Act)			25,000,000	20,000,000	15,000,000	+15,000,000	−10,000,000	−$5,000,000
4. Dissemination (Cooperative Research Act and sec. 303 VEA)	7,200,000	6,740,000	6,740,000	6,740,000	5,000,000	−1,740,000	−1,740,000	−1,740,000
5. Training	6,750,000	6,350,000	6,250,000	6,250,000	2,000,000	−4,350,000	−4,250,000	−4,250,000
6. Statistics	2,000,000	1,900,000	4,000,000	3,500,000	3,000,000	+1,100,000	−1,000,000	−500,000
7. Construction								
(Obligations)	(11,291,202)	(11,291,202)				(−11,291,202)		
Total	[24] 82,108,000	[24] 80,325,000	118,329,000	[23] 105,325,000	90,077,000	+9,752,000	−28,252,000	−15,248,000
Educational activities overseas (special foreign currency program) (Public Law 480)	1,000,000	1,000,000	3,000,000	3,000,000	3,000,000	+2,000,000		
(Obligations)	(1,029,405)	(1,029,405)	(3,000,000)	(3,000,000)	(3,000,000)	(+1,970,595)		
Salaries and expenses	[25] 44,308,000	[25] 44,308,000	46,733,000	46,107,000	45,164,000	+856,000	−1,569,000	−943,000
Student loan insurance fund (HEA IV–B)	10,826,000	10,826,000	18,000,000	18,000,000	18,000,000	+7,174,000		
(Obligations)	(16,388,000)	(16,388,000)	(18,182,000)	(18,182,000)	(18,182,000)	(+1,794,000)		
Higher education facilities loan fund, (HEFA III):								
1. Loans to higher education institutions								
(Obligations)	(25,000,000)	(15,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(−5,000,000)		
2. Participation sales insufficiencies	2,918,000	2,918,000	2,952,000	2,952,000	2,952,000	+34,000		
(Obligations)	(31,651,000)	(31,651,000)	(25,293,000)	(25,293,000)	(25,293,000)	(−6,358,000)		
Total	2,918,000	2,918,000	2,952,000	2,952,000	2,952,000	+34,000		
Total, OE	4,015,657,000	3,813,777,650	3,816,824,000	4,127,114,000	4,517,421,000	+703,643,350	+700,597,000	+390,307,000
Title I advance funding:								
1970 advance (in 1969 bill)	−1,010,814,300	−1,010,814,300						
1972 advance (in 1971 bill)			[26] 1,339,050,000					
Total, education appropriation bill	3,004,842,700	2,802,963,350	5,155,874,000	4,127,114,000	4,517,421,000	+1,714,457,650	−638,453,000	+390,307,000

[1] 1970 appropriations are adjusted to be comparable to the 1971 estimates and to reflect the limitation contained in section 410 of public Law 91–204.
[2] To implement proposed reform legislation, proposed for separate transmittal.
[3] Includes $1,010,814,300 appropriated in the 1969 bill.
[4] Carried under "Instructional equipment" in 1970.
[5] Includes a budget amendment of $39,050,000 submitted in H. Doc. 91–285.
[6] Includes a budget amendment of $4,000,000 submitted in H. Doc. 91–285.
[7] Includes a budget amendment of $80,000,000 submitted in H. Doc. 91–285.
[8] Includes a budget amendment of $11,250,000 submitted in H. Doc. 91–285.
[9] Department distribution among activities.
[10] Includes a budget amendment of $70,000,000 submitted in H. Doc. 91–285.
[11] Includes a budget amendment of $700,000 submitted in H. Doc. 91–285.
[12] Includes $1,100,000 carried under "Research and training" in 1970.
[13] Carried under "Libraries and community services" in 1970.
[14] Includes a budget amendment of $17,000,000 submitted in House Document 91–285.
[15] Includes a budget amendment of $35,025,000 submitted in House Document 91–285.
[16] Carried under "Libraries and community services" in 1970.
[17] Carried under "education in foreign languages and world affairs" in 1970.
[18] Includes a budget amendment of $9,300,000 not considered by the House.
[19] Carried as a separate appropriation in 1970.
[20] Includes a budget amendment of $12,510,000 submitted in House Document 91–285.
[21] Includes a budget amendment of $924,000 submitted in House Document 91–285.
[22] Included under "Libraries and community services" in 1970.
[23] Department distribution among activities.
[24] Excludes $1,100,000 carried under "Vocational and adult education" in 1971 and $2,528,000 proposed transfer to "Salaries and expenses" for increased pay costs.
[25] Includes $2,528,000 proposed transfer from "Research and training" for increased pay costs.
[26] Includes a budget amendment of $39,050,000 submitted in House Document 91–285.

Note: Key to abbreviations of Legislative authorities: ESEA (Elementary and Secondary Education Act); ESEA 1967 (Elementary and Secondary Education Act Amendments of 1967); NDEA (National Defense Education Act); VEA (Vocational Education Act of 1963); HEA (Higher Education Act); HEFA (Higher Education Facilities Act); EPDA (Education Professions Development Act); and LSCA (Library Services and Construction Act).

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1970 AND THE BUDGET ESTIMATES FOR 1971
PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—FEDERAL FUNDS

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus, these amounts are not included in the accompanying bill]

Agency and item	New budget (obligational) authority, 1970	Budget estimate of new (obligational) authority, 1971	Increase (+) or decrease (−)
(1)	(2)	(3)	(4)
Office of Education:			
Payment to States and territories for colleges of agriculture and mechanical arts (act. of Mar. 4, 1907)	$2,600,000	$2,600,000	
Payments to States for promotion of vocational education (act of Feb. 23, 1917)	7,161,455	7,162,455	
Payment of participation sales insufficiencies, indefinite (Independent Offices Appropriation Act 1967)	1,591,000	1,743,000	+$142,000
Total, permanent new budget (obligational) authority, Federal funds	11,352,455	11,494,455	+142,000

GENERAL VIEWS OF THE COMMITTEE

Mr. MAGNUSON. Mr. President, I think every Member of the Senate realizes the significance of this appropriations bill. Only 5 months ago, the President vetoed the HEW appropriation for fiscal year 1970. In so doing, he called particular attention to the appropriation for the Office of Education and asked specifically that the appropriation be reduced. Now we have recommended an appropriation that once again exceeds his request, yet we must hope that he will sign this bill after it emerges from conference and not regard last year's veto as a precedent.

Mr. President, the committee has not exceeded the President's request out of any arbitrary desire to force a confrontation with him; on the contrary, another confrontation on this issue could be disastrous for the very system of education we are trying to preserve and enhance. Neither has the committee sought to challenge the authority and responsibility of the President to curb Federal expenditures and to control inflation. The recommendations that we have made in excess of the President's requests are based solely on our best judgment—after an exhaustive program-by-program review—of the acceptable minimum response to the educational needs this country faces.

Throughout the remainder of my remarks, and in the report accompanying this bill, an attempt has been made to explain why we felt compelled to appropriate at least this level of funding for these programs. Much of these remarks, and much of the report, is technical in nature, dealing with marginal adjustments and "dollars and cents" considerations. But the central issue—the issue to which the committee has sought to respond—is much more clear. That issue is the future course of education in the United States.

Today, there is a dual crisis in education. It is a crisis, first, of the quality of education—a crisis whose origins are intimately connected with an inadequate level of funding for educational programs, training facilities, and institutions. This crisis engulfs the entire spectrum of education—rural and urban school districts, kindergartens and colleges, vocational institutes and secondary school systems. The issue today is whether the threat to the quality of education inherent in this crisis can be reversed, or whether Americans must look forward to a progressive deterioration of education as we know it.

The second facet of the crisis in education today transcends the crisis in quality. This second facet is a crisis in confidence; confidence in the true extent of this Nation's commitment to excellence in education; confidence in our willingness to deliver needed funds instead of airy promises; confidence in the rationality of the priorities within the Federal budget. If this crisis is not met today, it is highly likely that the disillusionment and defection of educational personnel will reach proportions that will make the crisis in quality infinitely more difficult to resolve in the future.

Mr. President, the committee is under no illusion that the amount of our recommendations here is sufficient to relieve the crisis in quality at all levels of our educational system. This appropriation, after all, represents far less than the amount authorized to be appropriated under existing education legislation. It is an appropriation far too modest to reverse the trend toward lower quality education. It is an appropriation that can only be termed a stop-gap response in this era of stringent fiscal policy. Even if the House agrees to the Senate recommendations, and even if the President refrains from vetoing this appropriation again, the contribution of the Federal Government to the total educational outlays of this Nation will remain considerably below 10 percent—as I pointed out, somewhere around 7 percent.

By approving these recommendations, however, the Senate can take an important first step toward resolving the crisis in confidence in education—a confidence that can only be shaken further if these recommendations are compromised. By approving these recommendations, we can demonstrate to educational personnel, to parents, and to students that the Federal Government is fully committed to the twin concepts of quality education and equal educational opportunity for everyone, and that we in the Senate are willing to take some risks and make some sacrifices in order to see that commitment met.

We can demonstrate further that we are unwilling to condone policies that sacrifice educational quality in order to achieve budgetary constraints of dubious value. We can demonstrate that we in the Senate will not preside over the destruction of American education at a time when countless millions are being wasted on programs that clearly rate a lower priority

The committee and the chairman support the administration in its efforts to plan and evaluate our educational process. I would remind the administration, however, that students cannot wait to be educated until the completion of studies by task forces, commissions, and so forth. The students are in the classrooms now. Upon completion of major efforts to revamp the process of education, these studies and one that have been made should not be allowed to gather dust in some warehouse. In the meantime, we cannot permit our students to gather dust in warehouses we refer to as educational facilities. We must move ahead on two fronts—the development of new teaching and learning techniques and the pursuit of educational quality through techniques available today.

In sum, Mr. President, we know full well that the present recommendations are insufficient to meet the many and varied needs in education today. But we know, too, that these recommendations represent the most we can hope for, without provoking another administration confrontation, and that these recommendations are the absolute minimum necessary to maintain the confidence of those millions of Americans who look to the Federal Government for a meaningful commitment to educational quality and opportunity.

More than this we cannot expect to provide in the present bill; less than this we cannot and must not accept. At stake is the future of education—and the future of youth—in this country.

IMPACTED AID

Mr. President, perhaps no section of this bill has provoked greater discussion and controversy than the impacted area aid funds under Public Laws 874 and 815. This was probably the most difficult single program which the committee had to deal with and this is the program in which the Congress and the administration seem the furthest apart on—not only this administration but others.

The impacted aid program relies on formulas and categories that cannot help but be confusing to the layman. But these technicalities must not obscure the true purpose of the impacted aid program—to guarantee an education to every eligible child of a Federal employee, and to guarantee that school districts forced to accommodate such children will not have the quality of their educational program compromised by the added burden that these children represent.

The President has offered a proposal to change the basic impacted aid legislation, yet the law has not been changed. Neither House of Congress has approved a change in the basic formula for allocating these funds.

If we pass this bill, and if the President signs it into law, we will have appropriated education funds for fiscal year 1971 at an earlier date than at any time in recent history. Yet the school districts will have long since made their plans for next fall—contracts will have been signed with teachers and books will have been ordered. The whole budget of most school districts, in fact, will have been settled. The binding contracts into which these school districts have entered were based on expectations of the impacted aid law as it was—and as it is today—not on what that law might be if Congress had changed it.

We have recommended, therefore, that $658.8 million be appropriated for the Public Law 874 program—and the Senator from New Hampshire and I underline this, because we were taken to task about it last year—which is an amount sufficient to provide 90 percent of entitlements for class "A" students—those whose parents both work and live on Federal property. Where such class "A" students exceed 25 percent of total enrollment in the district, the committee has provided funds sufficient to pay a full 100 percent of entitlement.

For class "B" students—those whose parents work at a Federal installation but live within the community—we will also be able to pay 90 percent of entitlements. According to the distribution formula, of course, it takes about two class "B" category students to equal one class "A" category student, so the advantage that this presents to school districts is more apparent than real. Accommodating either category of student is still a burden to the school district, especially where Federal property is exempt from local property taxes. If 100 percent of entitlements for both "A" and "B" category students were appropriated, however, the total cost of this program would be increased $66.2 million to a total of $725 million. The formula the House suggested provided entitlement at 90 percent for "A" students and 45 percent for "B" students.

Nonetheless, our recommendation for "B" category students provides a much-needed increase from the 77 percent of entitlements covered by the 1970 budget, and from the 45 percent provided in the House allowance. An even smaller amount for "B" category students was provided in the promise to submit a budget request following passage of reform legislation.

So much for impacted aid. I understand there will be an amendment to this bill from the floor that would also include—in impacted aid—students whose parents reside in public housing projects. We will discuss that when the amendment is actually presented.

ELEMENTARY AND SECONDARY SCHOOL EDUCATION

Title I of the Elementary and Secondary Education Act provides formula grants for educationally deprived children. The appropriation for this title recommended by the committee will serve nearly 8 million disadvantaged children next year.

I repeat, 8 million, and we still have not covered them all; but this is very substantial coverage, we hope. A review of title 1 within the Office of Education is still underway, and the committee looks forward to seeing the results of this review. In the meantime, needed funds have been recommended, and the committee hopes that local school districts will exercise their best professional judg-

ment in allocating these funds to meet their individual needs, and the needs of the particular disadvantaged children involved.

Funds have also been provided for parts B and C of title I, which include special incentive grants and special grants to urban and rural schools. The new authorization of these parts in the recently enacted ESEA legislation has made funding of these parts possible this year for the first time.

The committee has also increased by $3 million the funds available for guidance and counseling—an activity, the committee feels, that has been underfunded previously. With $20 million now earmarked for these services, the committee is hopeful that the national ratio of counselors to students—now higher than 1 to 1,000—can be improved. This, combined with a doubling of last year's funds for dropout prevention, should help more students to remain in school and to realize their educational potential more fully.

The committee has also taken a special interest in the physical resources of elementary and secondary schools. Library programs, for example, were increased to $80 million—an amount suggested by both the House, and somewhat belatedly, the administration.

We also have recommended that funding of equipment and remodeling, for which no provision was made in the budget requests, be maintained at the level of previous years. This will provide a minimal but urgently needed amount of audio-visual equipment, closed circuit television, teaching machines and materials. These latter funds, incidentally, matching funds, and the success of this program, in terms of response by school districts, is well documented, and these funds are allocated State-by-State and applied for. This is one of the most popular programs we have, as far as the school authorities are concerned, throughout the Nation, and includes a great deal of local and State funds.

The committee, as well as the House of Representatives, has increased funds for bilingual education. I think all of us on the committee, Mr. President, were somewhat surprised to learn that there were a great number of children in this country who needed bilingual education. I could not even come near to guessing the total number in need.

We find that more than 5 million children with limited ability in English and from homes where English is not spoken need this assistance, since most of them attend schools where all classes are currently conducted in English. I have been told that 5 million is a conservative figure, but at least that is the best figure we have. The expansion of pilot and demonstration projects in bilingual education is imperative, and the Office of Education should interpret the committee and House action as a directive to expand these programs as rapidly as possible.

Funds for planning and evaluation are scattered throughout this budget, and, consequently, the committee has agreed with the House action in reducing the planning and evaluation request under ESEA by $425,000. There is no indication that this amount will in any way be inadequate to meet the needs of the Office of Education.

EDUCATION FOR THE HANDICAPPED

Now, by "handicapped" we mean people who are physically or mentally handicapped, but not necessarily disadvantaged. I think we ought to make this distinction. Much of title I funds are for disadvantaged and deprived children, but there are a great many handicapped children as well, and no Federal program has a more dedicated group of supporters or potential recipients than the education for the handicapped. The increase recommended over 1970 by the House and Senate committee is over 10 percent. This is the least we should do. I personally would wish we could do more. The total effort falls short of meeting the needs. In 1966 over 72 percent of handicapped children in our Nation were not receiving special educational programs.

Even today, less than two out of every five handicapped children are receiving appropriate special educational services. I was probably not as much aware of this need as some other Senators, because it happens that in the State of Washington, we have had a program in which we are somewhat ahead in this field. The citizens of my State have supported these programs with very substantial amounts of public funds. Even there, we do not do the whole job, but we take care of at least three out of every five handicapped children with these programs. Other States may be doing the same, but the national average is only two out of five. It should be five out of five, and I only wish we could approve more funds. That is difficult for many reasons.

But at least this is a step forward, and these programs have been supported continuously by very substantial commitments of local public funds. So we ought to do our part.

Within the increase provided by the House, and recommended by the Senate committee, we provided $1 million for start up costs of special programs for children with specific learning disabilities. These are children with perceptual handicaps. Some progress has been made in assisting these handicapped children, but a greater effort needs to be made.

The million dollars is to make the initial start, and then we are going to take a look at it and see if we can do much more in the next appropriation bill.

VOCATIONAL EDUCATION

The importance of vocational educational programs was recognized by our colleagues in the House when they increased the budget requests by over $50 million. We approved those increases and added $7.5 million especially for consumer and homemaking education.

The increase in consumer and homemaking education will help meet the needs of today's youth and adults who require this knowledge—especially those coming from economically depressed areas—and those entering into marriage and family life. These small classes, which are so important, are usually found in the community colleges along with other vocational education programs, as well as in secondary schools.

Problems will not be resolved by halfhearted efforts. These programs must be improved and expanded.

Every student in any of these vocational education programs is seeking a course of study that will give him a marketable skill. This is a goal we all endorse.

We earmarked $4 million as initial funding—I emphasize "initial"—of the residential vocational schools program—an activity first authorized in 1963—which we feel deserves a start, if only on a demonstration basis. By "residential programs" we mean bringing the student to the program, particularly in those States in which there are long distances, and low density of population.

The total increase for vocational education amounts to $57,900,000—which is 13 percent more than the budget requests, and a 19-percent increase over 1970. Considering not only the needs within this area of education, but the much larger dollar contribution the States make toward vocational education, we all feel these increases are merited and justified within any restraints placed upon the Federal budget.

HIGHER EDUCATION

Higher education is just barely under the $1 billion mark and includes programs vital to private and public institutions, hundreds of thousands of students, and millions of parents.

The total increases for higher education over the 1970 amount is almost $120 million. Out of the total increase we provided $43 million earmarked for community colleges.

According to reliable estimates, total outlays during the 1970–71 academic year for higher education will amount to over $23 billion, and the total Federal portion is about $5 billion, or approximately 22 percent.

This includes all kinds of other programs—defense programs, National Science Foundation research, National Institutes of Health, and so forth. But, again, I think it bears repeating that the total outlay for higher education in this country will amount to over $23 billion. We have almost $1 billion here, and $4 billion more in other appropriations as the Federal portion, or share.

We did not agree with administration proposals that would have instituted major changes in existing programs through the appropriation process.

Some of the budget request would have eliminated programs existing over decades of time, and drastically changed others—without benefit of clergy, if you will. Because authorizations still exist on the books, the laws have not been changed, and proposed changes either have not been acted upon by Congress, or they have not even been introduced by the President.

Except in the most emergent of circumstances, sufficient leadtime must be given to institutions, administrators, and students before longstanding programs are abandoned or sharply curtailed.

Equally important, the buildup of new

programs must be orderly, and staged to avoid the waste which so often occurs with massive infusions of new funds.

Both extremes have been avoided by my colleagues in the recommendations we have made.

Student financial assistance received the greatest increase, almost 21 percent over 1970.

With some reluctance, we have agreed with the House to keep the educational opportunity grants at relatively the same level as the current academic year. The grants go to the most needy students attending an academic institution full time, and averaged $550 per grant in 1970.

The participating institution making the grant must also match the amount of each award with a loan, work-study, or other funds which, in essence, double the amount of financial aid given these students most in need of assistance. Our recommendation will allow for such EOG grants to almost 280,000 students.

Student loan programs involve some of the most important decisions we make.

Budget requests would phase out and curtail the national defense student loans—shifting the emphasis over to the guaranteed, or federally insured loans made by private financial institutions and the banks.

The national defense student loans, often called direct loans—because participating schools make the loan directly to the student—is the oldest student aid program—established in 1958.

Almost 3 million students or former students held outstanding direct loans in June, 2 years ago, and current repayments are running over 99 percent.

The most popular, with students and parents, undoubtedly because of the 3-percent interest, and availability at the schools, they are equally popular with institutions, even though they must put up 10 percent matching, and administer the program at their own expense.

The federally insured, or guaranteed loan program was first authorized in 1965. Although these loans, being made by private financial institutions, appear—I use the word "appear"—to be assisting a substantial number of students, the availability of these loans is not universal either on a geographic basis, or on the basis of individual need and other personal factors.

Considerable evidence was presented to the committee that such loans—remember now, this is what the administration is apparently trying to shift to—are not being made to first and second year students, thus precluding those in community colleges, or vocational/technical schools.

Restriction of loans to established customers or depositors appears to be fairly common practice—instances where applicants were required to purchase life insurance were even reported in a very questionable study paid for by the Department. So we can see the problem involved if we switch it all to bank loans. I know that some banks have required that the parents or the cosigners of the note be customers or depositors in the bank. This is not right.

Conflicting evidence indicates this program requires far more accurate review. The fact that these loans averaged $860 per student, or 36 percent more on the average than national defense student loans, raises questions, and the long term costs of the interest subsidy involved was even raised by the administration budget director and chairman of the Council of Economic Advisors.

Both the House and Senate approved the budget request for support of these guaranteed loans, because they must contribute, even though we think there should be more of the so-called institutional loans.

The combination of financial aid programs—EOG, college work study, and direct loans—made available to participating schools have proven most successful. All of these programs require certain degrees of institutional matching funds, and in addition, every institution expends considerable funds for skilled personnel, guidance counselors, and financial aid officers.

So it seems to me that these are so much better than the guaranteed loans or bank loans, because the institution puts up 10 percent and pays for the cost of administration. The officials of the institution are available to counsel and advise the students. The students feel better dealing with the school administration than they would by going to a bank, which is a somewhat cold type of institution to begin with, and not qualified to judge the educational abilities of applicants.

The personal attention to the individual needs of students is only possible at the school such students are attending. The acceptability of these programs by students, parents, and educators is proof such personal decisions have been made most fairly over the years. The high rate of repayments now is proof that those decisions on loan applicants in the past have been made most wisely. The record is well over 90 percent, better than the record of many financial institutions that make the guaranteed loans.

Institutional assistance for higher education is actually $8 million less than we appropriated for 1970—and that is after considering the $70.8 million additions our committee has recommended.

The budget proposals eliminated the annual appropriation for land grant colleges under the Bankhead-Jones Act. We recommended complete restoration to last year's level of funding.

If someone downtown does not want to carry out the land-grant college program, he ought to come up here and suggest out in the open the repeal of the Bankhead-Jones Act, and not act through financial manipulations, as the Budget did in recommending no funds at all.

The committee was unanimous in feeling that the proposal to eliminate this program was made precipitously, without any consultation or warning to those land-grant institutions who have depended upon these funds for so long, or even consultation with the Congress. We recognize this is one of the oldest Federal programs of assistance—and a good one—to higher education, and recipients are among the most prestigious institutions of higher learning but these funds we also counted as an important source for our black universities.

In most instances, these funds support in whole or in part teaching faculties within undergraduate programs. They have already been budgeted by recipient schools and they could not be easily replaced.

Each of these land-grant institutions is State supported. The long history of both congressional and Presidential support of these programs was relied upon by colleges and State fiscal authorities alike. This literally revolutionary proposal to eliminate this formula-grant program could not have been predicted by anyone.

To adopt this method of repeal of existing law by lack of appropriations is unconscionable to me. If the President, or anyone else downtown, wants to repeal the Bankhead-Jones Act, then suitable legislation should be introduced and acted upon by the appropriate legislative committee.

University Community Services is another program which the budget requests eliminated—repealed by malnutrition as it were.

Somewhat similar to the Agricultural Extension Service which has done so much to aid American agriculture, this program was intended to focus the capabilities of colleges and universities on solving the problems of the communities where they are located, especially those of urban and suburban America.

This again, is a matching program—participating institutions must furnish at least one-third from non-Federal sources.

More important, perhaps, these funds helped to reform, revitalize, and enable higher education itself to provide relevant participation in community problem-solving services for faculty members and students. Departmental witnesses told us these same goals would be incorporated in new legislative proposals—not yet submitted to Congress—and we feel this program should be continued until a new one is enacted.

Here is another way in which a program can be killed. Foreign Language Training and Area Studies is yet another program initially proposed for phaseout by the budget requests. Only one-third of last year's appropriation was recommended. Of course, this would abolish about two-thirds of the special programs at the various universities, and a hint was made to drop the program the following year.

Such a storm of valid protest arose from this action that we finally received a budget amendment which would continue this program at last year's funding levels.

Again, this is a program which generates far more at the State and local level. My own University of Washington is a typical example. With a total of $385,000 from the Office of Education, the State of Washington places $1,400,-

000 annually, exclusive of operational overhead, into academic administration, instructional staff, library and language laboratory personnel and staff. Over $225,000 more came from private foundations, Ford, Rockefeller and Mellon, or a total of $2,010,000—of which only 19 percent was Federal funds.

These programs are a most important national resource. The students most directly involved have become the teachers of more than 70 foreign languages and cultures in our elementary/secondary schools, as well as higher educational institutions. Many foreign service officers and business executives come out of these programs.

The presence of these special resources upon the geographically dispersed campuses make possible a more sophisticated introduction to foreign languages and cultures to hundreds of thousands of students not specializing in these fields, and through summer institute programs, the improvement of teaching skills of thousands of teachers of foreign language in elementary and secondary education.

I applaud the good judgment of the administration in reversing its initial recommendation for these foreign language training and area studies programs. I personally hope their enthusiasm grows, and their recommendations for next year reflect that approval.

Yet another program, entirely eliminated in the budget requests—was that of undergraduate instructional equipment. Of course, this again is a matching program, and there is no other Federal program under which eligible institutions can secure funds for these needs.

Like its counterpart for elementary-secondary, this program helps institutions to acquire expensive audiovisual equipment, teaching machines and materials, and closed-circuit TV.

The requirements of matching from institutional resources insure that these funds do go for intended purposes, and that the equipment purchased is utilized to the fullest. The House did not provide for this program, either, but our recommendation of $14.5 million would restore this program to the 1969 level. Nothing was provided in the final appropriations signed by the President for fiscal 1970.

Construction funds for academic facilities in higher education presented our committee with another bundle of thorny issues.

According to budget documents and departmental witnesses, just to keep pace with projected enrollments, approximately $2.8 billion in construction funds will have to be committed annually over the next 5 years by private and public institutions of higher learning. Unless very substantial new construction is undertaken immediately, we were told that there will be a deficiency of almost 90 million assignable square feet of academic space by the fall of 1974.

As in the past, most of those funds must come from non-Federal sources. Yet considering all the building that is now going on across the campuses of our Nation, we will be 20 million assignable square feet of academic area short this fall at the start of the new academic year.

There is existing legislation that provides for another interest subsidy program—that of subsidized loans under the Higher Education Facilities Act, title III. Authorized in 1968, first funded in the Second Supplemental Appropriations Act in the spring of 1969, additional funds were contained in the regular appropriation act now available. At least $435 million of these loans could be made immediately—according to testimony in the House.

In the fact of these obvious needs and impressive statistics, the Commissioner of Education informed our committee, on April 23, that not one loan or project had yet been approved under this program.

Perhaps we will just be perpetuating inactivity, but our recommendation does approve the budget request for additional funds for this highly touted program.

As a small hedge against this avalanche of needs for academic facilities, we have recommended $43 millions over the budget and House allowance—which was zero—in construction grants for community colleges and technical institutions. This is the same level as appropriated for 1970. It, of course, does not adequately meet all the needs.

These new funds will support an additional 100 projects to help States and local communities meet these tremendous demands for additional classroom space, and this is another program that requires matching.

Frankly, I hesitate to comment upon the situation that is being created in this area—the truly critical situation we could face just a few years hence—if we continue to delay new starts on badly needed academic facilities.

If institutions do not build the needed facilities, then students will not be admitted.

If they do build them, footing the entire bill themselves, at existing inflated prices, and high interest rates, then their only recourse is to raise tuition and fees. Increased student costs at the same time Federal student aid programs are proposed for curtailment will be pricing out those very students who need in so badly.

In this instance, I do not wish to be a prophet. I would hope my colleagues in the Congress would join us in approving this recommendation, and that the administration would support our efforts to meet these needs—and in the future, challenge our dedication by recommendations more in line with meeting those needs realistically.

EDUCATION PROFESSIONS DEVELOPMENT

For education professions development, we agree with the House allowances, which approved all of the budget requests except for $300,000 in planning and evaluation.

We have also recommended that the Teacher Corps be retained as a separate line item, and not consolidated with this title and lose its visibility.

I must say that we were a little confused in this because actually the budget gave them more money than they had last year as a separate line item and the House agreed to this increase for the first time in my memory. But this is what they wanted. And so we adhered to their wishes in committee.

These programs deal with the professional staff needs of elementary and secondary education, preschool and vocational-technical education.

In granting the Teacher Corps continued visibility and viability—by approving a 42-percent increase over last year—we applaud the administration and the House for their support of this program.

COMMUNITY EDUCATION

Community education is a new budget heading this year. It combines those programs formerly under "Libraries and Community Services." Two other programs under that old heading—university community services and adult education—have been shifted into higher education and vocational education, respectively.

So, when Senators look at the report, they might be better able to understand this. Community education now includes assistance programs for public libraries, college library resources, librarian training programs, educational television, and special cataloging services of the Library of Congress.

The programs that comprise community education have experienced a more or less constant reduction of funds in recent years. The committee's recommendations would check that trend. Not only do these programs generate a high level of local financial support, but they are all intimately connected with the so-called right to read program. The price of books has risen more rapidly than most other inflation indexes, and action must be taken to maintain and expand library collections—particularly when the number of check-outs in most libraries continues to rise dramatically.

The budget request contained no funds for library construction, a pattern that the request followed for all construction programs. The committee recommended restoring last year's level of funding for library construction, an increase of $4,185,000 over the House. The amount of this appropriation should help provide some 80 library construction or expansion projects, with local matching funds dramatically increasing the impact of this program.

The basic grants for college library resources require dollar-for-dollar matching. Certain supplemental grants are also available under this program in cases of special need. The unique needs of community colleges have also been provided for within this recommendation.

Librarian training programs have been drastically curtailed in the budget request, and the committee has moved to restore these programs to funding at the 1969 level. Without these programs, and the extension of new techniques they represent, little real progress on the highly-touted "right to read" program can be expected. The administration has expressed such enthusiasm for the "right to read" program that we are confident the merit of our recommendation will be recognized.

The committee was unanimous in its decision to increase the funds available for the cataloging service of the Library of Congress, although the committee hopes that this program will be carried

under a consolidated Library of Congress budget in the future. The program is vital to libraries of all types around the Nation, since it consists of providing catalog cards compiled by the Library. The libraries pay for this service, but the total savings to all libraries through this program is roughly $34 million annually, and hence well justified.

Educational broadcasting facilities—a special concern of mine—are to be funded at a level of $15 million under the committee recommendation. These matching grants, for educational television, and noncommercial radio, can be made only for equipment—not for construction or repair of facilities. Under the budget requests, only 19 television grants and 13 radio grants would have been possible. With 650 educational television channels reserved, and with only 204 in operation, a higher level of funding was obviously necessary.

This is quite an increase from the time when we started with this worthwhile program which the Senator from New Hampshire (Mr. COTTON) and the Commerce Committee and I helped to enact, So, we are making progress. This program provides substantial educational benefits not only for the classroom, but for the adult community as well.

RESEARCH AND TRAINING

Research and training budget requests reflected large increases over last year increases for programs whose success is unproved. At the very least, increases in research and training at a time when no funds at all were requested for proven and popular programs of important priority seem to have been unjustified.

We recommended, for example, a reduction of $5 million in the proposed experimental schools programs. Considerable experimental work proposed under this program can be carried out under Title III of the Elementary and Secondary Education Act, instead of under this wholly Federal program.

Our total recommendation for all of research and training would be a reduction of more than $15 million from the House allowances, and $28 million from the budget requests. Our recommendation, however, would still exceed available funds for 1970 by nearly $10 million. This should be sufficient to allow the most important research and training to continue, while at the same time emphasizing the hard choices the committee had to make in setting its priorities within this limited budget.

In conclusion, once again, Mr. President, our recommendation that is now before you provides appropriations of $4,517,421,000. This is $390 million over the House, and $638 million under the budget requests.

If approved the support for these programs would be $703.6 million more in fiscal 1971 than during fiscal 1970.

I would like to stress again, that of our increases—or add-ons over the House, a very significant portion is in matching grants to States and local governmental agencies.

A very significant portion of our recommended increase is in matching grants, programs that have matching funds from State and local governmental agencies. We know they will be administered better when there is State and local governmental participation and fiscal commitment. They are going to see that the money is used the best way it can be used. Outside of that $233.8 million for impacted aid, over 81 percent is in matching grants, 11 percent is for programs with very high multiplier factors where these funds stimulate local activities, and only 8 percent is for programs where the support is totally Federal.

The total amount recommended is only 18 percent above fiscal 1970. I say only, because that is the gross increase—18 percent—and does not take into account inflation. The latest figures we have show that the consumer price index rose 6 percent this year—and there is every indication that it will continue to rise. Most of the factors that influence the costs of education have risen faster and higher than the average. The cost of books is up almost 20 percent over 1 year ago.

Therefore, any of the comparisons that I make, or anyone else makes about this bill and the programs supported by these recommendations must consider the inflationary factor.

The budget requests reflected an increase over fiscal 1970 of only eight-tenths of 1 percent.

Considering inflation, our increase at best will net out to about 10 percent—and I do not believe anyone concerned about the children and young adults who are dependent upon these programs can justly call this bill inflationary.

I am still old fashioned enough to believe that by increasing learning capacity, we are increasing earning capacity—so that a person becomes a taxpayer instead of a welfare recipient—and that just to stay even—in educating over 52 million students, the Federal contribution to education must be increased.

We must encourage meaningful change in the systems of education. A national system which provides 50 cents of the tax dollar to help our young people to grow up right—and makes them healthy, well-educated, and provides for their welfare—while it continues to spend the other 50 cents to kill them—is unreasonable. We must, as a minimum, provide the funds recommended in this bill.

Mr. COTTON. Mr. President, I commend the distinguished Senator from Washington (Mr. MAGNUSON), the chairman of our subcommittee, not only on this very comprehensive, clear-cut, and meaningful explanation of the rather complicated bill that is now before the Senate, but also I want to express to him and to the Senate the admiration that I feel and that I am sure is shared by other members of our subcommittee for the leadership which he has again displayed this year, as he has in the past, in consideration of this very complex, and in many respects, difficult bill.

We met with the first problem this year when we realized and remembered what happened last year when, after reporting on the entire Health, Education, and Welfare appropriation, the report had come in so late, then was delayed by a presidential veto, that education especially, the school districts, the school officials and administrators of this country were left until practically the end of November or the 1st of December before they even knew what they could depend upon. Health and Welfare also were affected.

Facing that situation, as the Senate knows, the House separated education appropriations from health and welfare, held hearings, marked up the bill, sent it over to the Senate, and the distinguished Senator from Washington, the chairman of the subcommittee, immediately went to work on it. In some cases, working literally night and day, the subcommittee heard the evidence, marked up the bill, took it to the full committee, and the full committee sent it to the Senate so that it was on the calendar on the 15th of May.

Since that time we have been held up by the debate that has been taking place concerning Southeast Asia. I am appreciative of the action of the distinguished majority leader and the distinguished minority leader, along with the distinguished Senator from Washington, in arranging matters so that we could get this bill finally before the Senate, schools having closed and the zero hour having arrived when it is necessary for the school authorities to know what they can depend upon.

Now, I wish to comment on one statement made by the distinguished Senator from Washington, the chairman of my subcommittee. I obtained a copy of this paragraph. I wish that all Senators were in the Chamber because I think this one paragraph should be impressed in the mind of every Senator. The Senator from Washington stated as follows:

> In sum, Mr. President, we know full well that the present recommendations are insufficient to meet the many and varied needs in education today. But we know, too, that these recommendations represent the most we can hope for, without provoking another administration confrontation, and that these recommendations are the absolute minimum necessary to maintain the confidence of those millions of Americans who look to the Federal government for a meaningful commitment to educational quality and opportunity.

Mr. President, those words express the exact situation that confronts us.

Your subcommittee and your committee, Democrats and Republicans alike, have tried to provide a bill that went as far as it is possible to do to meet the demands upon the Federal Treasury for education in this country this coming year. We hope that in future years the situation will be different.

On the other hand, it should be remembered what happened last year; that when the bill which finally went to the White House was larger than the President felt the burden would bear, we had a veto. The loss of time in using the appropriations cost the cause of education in this country far more than it would have cost if we had received a lesser amount in the districts and in the States sooner.

Mr. President, numerous amendments will be offered to increase the bill in various details. Different Senators are keenly interested in different programs. Your committee—at least my side of the committee—tried to go just as far as it could go, still agreeing with the distin-

guished Senator from Washington and the other side of the committee, to reach a figure that would, if it did exceed the budget, not exceed it to the point where we would run into the kind of roadblock we ran into last year. It does exceed the budget.

I sincerely hope each Senator will bear in mind the practicalities of the situation. It is easy to load up this bill as we consider it and easy to increase the appropriation. Then we may get it to the President's desk and have another go-round such as we had last year. I hope that will not take place.

So I trust there will be some restraint. We tried to do our part by going further than the administration or the Bureau of the Budget wanted us to go. We tried to go as far as we felt we could safely go and not imperil the bill.

I hope, as we proceed to the consideration of various amendments, many of which will substantially increase the appropriations, Senators will bear in mind that the adoption of too many of those amendments may well defeat their own purpose.

I again compliment my chairman on his statement and on the work he has done on this measure.

Mr. MAGNUSON. I thank the Senator.

Mr. JAVITS. Mr. President, I wish to announce, for the information of the Senate, that on tomorrow, or whenever it can be reached, I will offer an amendment to the appropriation bill to add $150 million to implement the desegregation of public school systems along the lines of the debate of yesterday which failed and was aborted by a point of order in respect of the same measure. I have consulted upon this amendment with various interested parties, including the administration. However, the amendment will not be printed and available to Senators tonight. I serve this notice for the RECORD.

AMENDMENT NO. 729

Mr. SCOTT. Mr. President, I offer an amendment on page 11, line 8, beginning with section 211, to strike out all through the period on line 12. I send the amendment to the desk and ask that the clerk read it.

The PRESIDING OFFICER. The amendment offered by the Senator from Pennsylvania will be read.

The bill clerk read the amendment, as follows:

On page 11, line 8, beginning with Sec. 211 strike out all through the period on line 12.

The language proposed to be stricken is as follows:

SEC. 211. No part of the funds provided in this Act shall be used to formulate or implement any plan which would deny to any student, because of his race or color, the right or privilege of attending any public school of his choice as selected by his parent or guardian.

Mr. MAGNUSON. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. I yield.

Mr. MAGNUSON. There has been a suggestion that the Senator from New Hampshire and I take up the money items first, if we could dispose of those, or possibly that there be some kind of time limitation on the Whitten-Jonas amendment, or perhaps we could go back to that and take it up at a later time.

Mr. SCOTT. Mr. President, if the Senator does not mind, I have certain time problems of my own, but I would be glad to agree to a time limitation on the Jonas amendment. I am sure the Senator from Maryland would agree to a time limitation on the Whitten amendment that is coming up. However, I have some commitments.

Mr. MAGNUSON. The Senators from Alabama, North Carolina, and Mississippi inquired about this. I do not think it will take too much time, but perhaps we could suggest the absence of a quorum so we could discuss this with them.

Mr. SCOTT. Mr. President, I shall have to stand on the position in which I find myself, that this be the pending business, because I have certain compelling problems which force me to do it.

First of all, Mr. President, the distinguished chairman of the subcommittee——

Mr. MAGNUSON. The Senator from Mississippi is here.

Mr. SCOTT. The distinguished chairman of the subcommittee has, as usual, evidenced his great knowledge of this subject and his desire to secure a good and an acceptable bill, and the distinguished senior Senator from New Hampshire has been heard to make some points which are not only extremely valid but most important for all of us to remember, because the plain and simple fact is that the President of the United States simply cannot allow his budget to be busted beyond the opportunity for repair.

Mr. STENNIS. Mr. President, may we have quiet in the Chamber? Will the Chair insist on people in the Chamber taking seats?

The PRESIDING OFFICER. Senators will please take their seats. The Senate will be in order.

Mr. SCOTT. I want to congratulate myself on having finished a complete sentence.

The difficulty with mandatory spending requirements in this or any other bill is that it puts the Congress in the position of saying to the President, "Your budget is thus and so. We know best how much to cut this budget. We saved the country a lot of money. But we are also going to impose a lot of mandatory spending provisions and if you sign the bill and do not spend it, we will go forth through the country and say, 'He signed the bill and did not spend the money.' On the other hand, if you spend the money and bust the budget, who is to blame for that?"

Mr. President, I know who is to blame, but that is another matter.

Therefore, I think it is appropriate to warn the Senate in the most fair and amiable terms I know that if such mandatory spending requirements continue in such rates as to cause excessive expenditures beyond the budget, it is my expectation—and I speak with some authority on this—that you may find a succession of vetoes, and therefore we will have to do the job all over again.

Therefore, I think it is in our common interest—executive and legislative—to try to keep as reasonably as we can within the budget.

I might add, "Let him that is without sin cast the first stone," and I must admit that my own hurling arm has been in condition at times in that regard, so I am not without sin, but I am obligated to issue this caveat because it is going to happen. It has already happened with one veto, and I would hate to see it with others.

We are not against the South; we are not against education. We are spending more on those items than we have ever spent before in the history of the Nation.

We will continue to do it. We will continue to meet the needs of the disadvantaged, the retarded, the left behind, and the underprivileged. We will spend more and more money. But we can only spend it within the limitations of the ability of the people, the taxpayers, to meet it; and if, due to excess of generosity or through a highly laudable desire to be reelected which I am sure most of us share, we go beyond the reasonable boundaries which the Executive has placed, we shall only have lengthened our duties here in the Senate, we shall have postponed the adjournment, and we shall not have succeeded in our expectation of having distributed more largesse than the revenues permit.

Having said that, I return to section 211.

SECTION 211

Mr. President, section 211 of the pending bill is identical to a provision which was rejected by the Senate last February 28.

Known as the Jonas amendment, section 211 directly conflicts with the constitutional obligation to end discrimination.

The amendment provides that no funds may be used in connection with a desegregation plan which is contrary to freedom of choice.

That is, school districts may not use Federal education funds to "formulate or implement" a plan for desegregation which has the effect of denying to parents the right of free choice.

The crux of the matter is that most school desegregation plans call for more than freedom of choice, in line with judicial developments.

The courts have ruled that in most instances, affirmative measures other than freedom of choice are required in order to eliminate unconstitutional segregation.

In essence, where racial discrimination is shown to prevail, school districts have implemented desegregation plans which involve the reassignment of pupils on the basis of race in order to effectively disestablish the dual school system. Such measures as the pairing of schools and grade reorganization within a school system are affirmative steps, designed to reassign students in such a manner as to break up the historic pattern of separate schools for minorities.

Ever since the Green case decided by the Supreme Court in 1968, the courts have ruled that school districts must take affirmative pupil assignment meas-

ures in order to end the discriminatory effects of the dual school system.

But it is precisely such affirmative measures which section 211 would disallow.

For the purpose of receiving Federal education aid, section 211 would return to an obsolete and unconstitutional standard—the standard of freedom of choice, which in practice is nothing but a euphemism for segregation forever.

Section 211 removes the test of effectiveness and provides every noncomplying school district with the means—freedom of choice—to defy the requirements of the law.

Freedom of choice soi-disant, which section 211 would make mandatory for the purpose of receiving Federal funds, is not the standard followed by the courts and by the Department of Justice.

Therefore the result would be the imposition of contradictory legal requirements which can only serve to confuse school officials as to their responsibilities under the law.

Most former dual school systems are obligated to implement districtwide desegregation plans. Federal education funds are therefore directly implicated in the desegregation process. If a school district implemented an effective court-ordered desegregation plan which in effect denied freedom of choice to parents, the school district would lose Federal funds under section 211.

The provision therefore would tempt school districts to defy court orders in order to remain safely eligible for Federal assistance.

But there is still more to this mischief.

For, in defying the courts in order to comply with section 211, school districts will inevitably run afoul of title VI of the Civil Rights Act of 1964. Title VI provides for the termination of all Federal aid to any school district which practices racial discrimination or fails to eliminate de jure segregation. The funds provided under freedom of choice in section 211 will be taken away under title VI because freedom of choice may not be constitutional.

In the words of Health, Education, and Welfare Secretary Finch, enactment of section 211 would produce "administrative chaos" at all levels. He said so in a letter to the Senate Labor–HEW Appropriations Subcommittee last February in regard to the earlier, identical provision.

The administration remains opposed to section 211. In testimony before the subcommittee on April 21, Secretary Finch stated:

> Section 211 would sabbotage the efforts of the Federal Government and local school officials to carry out the requirements of the Constitution . . . What this provision does is to impose a penalty on a school district for carrying out its legal obligation to desegregate.

As I indicated, school districts across the country have been adopting and implementing desegregation plans either in response to Federal court orders, in conformity with State or local law, or in accordance with title VI of the Civil Rights Act.

In the event such plans conflict with freedom of choice—and by and large they do—Federal education aid could be cut off to the school system.

In a different context, this provision also violates the traditional right of States and local communities to determine educational policy. So, as Senators will see, Mr. President, I am advocating a "States Rights" provision.

Section 422 of the Elementary and Secondary Education Amendments of 1970 prohibits Federal control of public education. Specifically, Federal agencies are barred from exercising direction over the administration of local school systems.

It occurs to me that section 211 transgresses the spirit, if not the letter, of section 422 of ESEA, which reflects the longstanding intent of Congress to preserve local authority.

Section 211 conflicts with the right of school boards voluntarily to implement school desegregation plans. If such plans, designed to overcome racial isolation, remove freedom of choice, then the school districts would lose eligibility for Federal aid.

It is clear that at this stage Congress should encourage local authorities to try to resolve the problems of racial isolation in the schools. But section 211 would discourage school districts from doing so.

Indeed, for those who are urging that all segregation be ruled illegal, and that the law be made applicable to de facto segregation, section 211 affords no remedy. In fact, it would have the opposite effect, by threatening a cutoff of Federal aid to districts which move affirmatively to reduce or eliminate racial segregation in the schools.

Section 211 also runs contrary to the thrust of President Nixon's comprehensive message on school desegregation.

The President committed this administration to enforcement of Supreme Court decisions, to the effect that—

> The obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools. (Alexander v. Holmes, (396 U.S. 19, 1969).)

Section 211 would undermine Supreme Court rulings by forcing school districts to do less than the law requires.

The President, recognizing the need to give every possible assistance to school districts in this situation, intends to make financial resources available. I might add, with regard to the President's intention to make financial resources available, that if it had not been for a point or order, which of course was quite properly made, those resources, in part, would be available now. At the same time, his message was not an invitation to defy the law, but a commitment to school districts to help them meet their responsibilities.

Section 211 would not give needed support to desegregating school districts. It would only complicate their task and penalize them for carrying out court orders.

Mr. President, 15 years after the Supreme Court threw out the separate-but-equal doctrine, the Congress should not now turn its back on millions of children who have yet to realize their constitutional rights.

I urge Senators to support the motion to strike section 211 from the bill, as indeed they have before, and in no uncertain terms, viewing the measure of their decision by their votes cast.

Mr. President, on May 26, 1970, I received a letter from the Secretary of Health, Education, and Welfare, Mr. Finch, which I ask unanimous consent to have printed in the RECORD at this point.

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

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., May 26, 1970.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: This is in response to your request for my views on Sections 209, 210 and 211, the school desegregation amendments, in H.R. 16916, for fiscal year 1971 Office of Education Appropriation Bill, as approved by the Senate Labor-HEW Appropriations Committee. I am pleased to respond.

As you know, on April 21, I testified on this matter before the Committee on Appropriations. At the time, I expressed the Administration's opposition to these sections, which we regard as unnecessary and undesirable. An excerpt from my testimony is enclosed.

I wish to reaffirm that opposition. While Sections 209 and 210, the so-called Whitten Amendments, would not, if enacted, alter school desegregation requirements under Title VI of the Civil Rights Act of 1964, they would, nevertheless, encourage some people to believe that there has been a change in basic law when there has not, and thus serve to confuse local authorities as to their constitutional responsibility.

Section 211, the so-called Jonas Amendment, would deny vital Federal education aid to many school districts which implement desegregation plans contrary to "freedom of choice." Under this section, school districts would be penalized for carrying out desegregation plans ordered by the Federal courts, in conformity with State law, or in accordance with the Civil Rights Act of 1964. The effect of enacting Section 211, therefore, would be to tie the hands of local officials and encourage defiance of the constitutional obligation to desegregate.

As the President indicated in his comprehensive message on school desegregation, the appropriate role for the Federal Government is to assist school districts in meeting the requirements of the law in this difficult area. Sections 209, 210 and 211 would not serve that purpose. Your assistance in urging deletion of these sections when the Senate considers the Bill would be appreciated.

With kind regards, I am
Sincerely,

BOB FINCH,
Secretary.

Mr. SCOTT. That letter includes an excerpt from a statement of the Secretary of Health, Education, and Welfare which I also ask unanimous consent to have printed in the RECORD.

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

STATEMENT OF THE HONORABLE ROBERT H. FINCH, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, BEFORE THE SENATE COMMITTEE ON APPROPRIATIONS, APRIL 21, 1970

GENERAL PROVISIONS

The bill as passed by the House also includes three general provisions which were not requested by the Administration. These are Sections 209 and 210 which pertain to busing, and Section 211 which pertains to "Freedom-of-choice" desegregation plans.

Section 211 should be stricken from the bill for several reasons. First, it would sabotage the efforts of the Federal government and local school officials to carry out the requirements of the Constitution—requirements which this section does not and cannot remove. What this provision does is to impose a penalty on a school district for carrying out its legal obligation to desegregate. The Department would be put in the position of having to prohibit many school districts from using Federal funds to draw up and implement desegregation plans pursuant to court order.

Section 211 would also jeopardize the substantial progress made to date in school desegregation, and make more difficult the application of uniform standards in accordance with the Constitution. Furthermore, the amendment directly contravenes the President's March 24 statement on school desegregation in which he pledges to support the recent Supreme Court decisions mandating immediate desegregation. Freedom-of-choice plans, the courts have said, would not be an effective method of doing this. Court decisions are unequivocal on this point. Because section 211 is not consistent with court rulings on "freedom-of-choice plans," it could only produce an administrative nightmare for the Department. I strongly urge the Senate to remove it from the bill.

I am also concerned about sections 209 and 210 which pertain to school busing although I am convinced that these provisions would change neither basic law nor HEW regulations. A school district which has not completed its Constitutional obligation to achieve a unitary system would not be "desegregated" within the meaning of the proposed Sections 209 and 210. Such a district, therefore, would be unaffected by these Sections. My concern, rather, is that the enactment of these two provisions would encourage some people to believe that, in fact, there has been a change in basic law and thus the provisions would give rise to much confusion. Further, it is my belief that language which pertains to the enforcement of school desegregation belongs in substantive legislation rather than in an appropriation bill. Therefore, I am asking that these two provisions be stricken from the bill.

Mr. SCOTT. The Secretary expresses the administration's opposition to section 211, the Jonas amendment, and to sections 209 and 210, the so-called Whitten amendments, which they state clearly are in conflict with title VI of the Civil Rights Act of 1964. On the Jonas amendment, Secretary Finch says it would "deny vital Federal education aid to many school districts which implement desegregation plans contrary to freedom of choice."

He goes on to say:

The effect of enacting section 211, therefore, would be to tie the hands of local officials and encourage defiance of the constitutional obligation to desegregate.

He reminds us that the President indicated that the appropriate role for the Federal Government is to assist school districts in meeting the requirements of the law in this difficult area, and sections 209, 210, and 211 would not serve that purpose. He concludes by stating:

Your assistance in urging deletion of these sections when the Senate considers (the bill) would be appreciated.

Of course, some may say, "But Secretary Finch is no longer Secretary of Health, Education, and Welfare." So, today, June 23, I have a letter from the Secretary-designate of the Department of Health, Education, and Welfare, Elliot Richardson, and I ask unanimous consent to have his letter printed at this point 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 23, 1970.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: This is in response to your request for my views on Sections 209, 210 and 211, the school desegregation amendments, in H.R. 16916, the fiscal year 1971 Office of Education Appropriation Bill, as approved by the Senate Appropriations Committee. I am pleased to respond.

On April 21, my predecessor in this office, former Secretary Robert H. Finch, testified on this matter before the Committee on Appropriations. At the time, he expressed the Administration's opposition to these sections, which are unnecessary and undesirable.

I wish to reaffirm that opposition. While Sections 209 and 210, the so-called Whitten Amendments, would not, if enacted, alter school desegregation requirements under Title VI of the Civil Rights Act of 1964, they would, nevertheless, encourage some people to believe that there has been a change in basic law when there has not, and thus serve to confuse local authorities as to their constitutional responsibility.

Section 211, the so-called Jonas Amendment, would deny vital Federal education aid to many school districts which implement desegregation plans contrary to "freedom of choice." Under this section, school districts would be penalized for carrying out desegregation plans ordered by the Federal courts, in conformity with State law, or in accordance with the Civil Rights Act of 1964. The effect of enacting Section 211, therefore, would be to tie the hands of local officials and encourage defiance of the constitutional obligation to desegregate.

As the President indicated in his comprehensive message on school desegregation, the appropriate role for the Federal Government is to assist school districts in meeting the requirements of the law in this difficult area. Sections 209, 210 and 211 would not serve that purpose. I know that you have been a leading opponent of similar amendments in the past. Your assistance in urging deletion of these sections when the Senate considers H.R. 16916 would be appreciated.

For your information I am enclosing an excerpt from Secretary Finch's testimony of April 21 in reference to the aforementioned sections.

With kind regards, I am
Sincerely,

ELLIOT RICHARDSON,
Secretary-designate.

Mr. SCOTT. In responding to my letter, he notes the letter of his predecessor, Mr. Finch, expressing the administration's opposition to these sections, which are unnecessary and undesirable. He goes on:

I wish to reaffirm that opposition.

He states the same reasons and the same objections as before, in very much the same language as in the letter from Secretary Finch. Therefore, the outgoing and the incoming Secretaries are of the same mind.

Mr. President, I realize that we must have adequate debate on any amendment. I have no objection to any limitation of time. I want to make it clear that I am doing nothing to hold up action on this important bill. I have tried to confine myself to the bare essentials of a presentation. I hope we can reach soon a prompt and just conclusion of this matter.

At this time, I yield the floor.

Mr. BOGGS. Mr. President, I would like to commend the distinguished Senator from Washington (Mr. MAGNUSON) and the distinguished Senator from New Hampshire (Mr. COTTON) for the work they have done on this bill and for the expeditious way in which it has been handled.

The other members of the subcommittee and the full committee also have worked hard on the bill and deserve congratulations.

It is most important, I believe, that the Congress act with dispatch on this measure. In the past, our school districts have been left wondering until well into the fiscal year what appropriations might be available to them and when. The timetable this year represents a great improvement; and I am hopeful we will be even more expeditious in the future.

Mr. President, I would like to address myself to one small section of this bill, but one in which I have a keen interest.

I am speaking of the appropriations for various library programs under the heading of "Community Education."

This measure would appropriate $45,685,000 to stock our college libraries, to train able librarians and to assist in the construction of public library facilities.

This, I would point out, does not even restore these programs to the level they enjoyed 2 years ago. In fiscal year 1969 we supported these programs to the tune of $50,935,000. During fiscal year 1970, funding support for these important programs slipped all the way to $29,433,450.

This legislation would appropriate $9,185,000 for public library construction and renovation. The need for this money is demonstrated by an eligible backlog of 271 construction projects representing a total need for more than $51 million. Thus, this appropriation would meet less than one-fifth of the demonstrated need.

The rest of this money would be appropriated under title II of the Higher Education Act of 1965, college library assistance and library training and research.

A total of $20,750,000 would be appropriated for college library resources under part A of title II. This money would go far toward establishing the "instant libraries" needed by the 50 or 60 new junior colleges created each year. It also would help stock existing college libraries, many of which fall far short of accepted national minimums.

Part B of the act would provide $8,250,000 for library training. Library schools now graduate about 6,000 new professionals each year to meet the requirements of nearly 18,000 school districts, 7,000 public library systems, and 2,500 institutions of higher education. All these institutions need skilled professional librarians, and we have not been providing them in the quantity needed.

Finally, part C of the act would provide $7.5 million for the Library of Congress shared cataloging program. This pro-

gram, established in 1966, eliminates the costly and illogical practice by which each library cataloged each book it acquired. It has increased the efficiency and speed with which the cataloging has been completed, printed, and made available.

Mr. President, I would like to emphasize that these expenditures do not represent a step forward in the funding of these library programs. They do not even represent a maintenance of the status quo.

The current economic situation dictates against a dramatic increase in these programs. But I believe we can do no less than support them at the level proposed in this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. STENNIS. 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. ERVIN. 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. ERVIN. Mr. President, I am astounded that the Republican leader should move to strike out a provision of the bill which is in perfect harmony with the 14th amendment, the Civil Rights Act of 1964, the first school desegregation decision—Brown against Board of Education of Topeka—and the latest decisions of the Supreme Court on this subject—namely, the decisions with respect to which Chief Justice Burger recently announced that the definition of a unitary school is a school from which no pupil is effectively excluded on account of his race.

I wish to read the words of section 211:

> No part of the funds provided in this act shall be used to formulate or implement any plan which would deny to any student, because of his race or color, the right or privilege of attending any public school of his choice as selected by his parents or guardian.

Mr. SCOTT. Mr. President, will the Senator yield to permit me to ask for the yeas and nays?

Mr. ERVIN. I yield.

Mr. SCOTT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered. .

Mr. SCOTT. I thank the distinguished Senator.

Mr. ERVIN. I am likewise astounded to hear read a letter from the Secretary of Health, Education, and Welfare in which he says that this provision has no place——

Mr. STENNIS. Mr. President, may we have order, so that the Senator can be heard?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ERVIN. I would like to ask this question of the Secretary of Health, Education, and Welfare: Does he want to use the funds appropriated by this bill to deny any child, black or white, the right to attend the school chosen by his parent or his guardian? That is exactly what section 211 forbids.

Mr. SCOTT. Mr. President, will the Senator yield so that I may answer?

Mr. ERVIN. Yes. I would like to hear the Senator from Pennsylvania answer that question.

Mr. SCOTT. Mr. President, on behalf of the outgoing Secretary of Health, Education, and Welfare and the incoming Secretary of Health, Education, and Welfare, let me say that all they are seeking to accomplish is that every child in America shall be entitled to an education in consonance with the Constitution of the United States and the statutes and interpretations of the Supreme Court of the United States.

That means a freedom of democracy's choice in America.

Mr. ERVIN. I would say to the Senator from Pennsylvania that if the retiring Secretary of Health, Education, and Welfare Finch and the incoming Secretary of Health, Education, and Welfare Richardson had that purpose in mind, they would be here now urging adoption of this provision of the bill, because that is exactly what the provision of the bill says. It says to Mr. Richardson, "You cannot use any of the money appropriated by this bill to deny to any child in the United States the right to attend any school in the United States on account of his race."

That is what this section says. It merely undertakes to insure that all school children of all races shall enjoy the right to attend the schools chosen for them by their parents or guardians. That is freedom as well as democracy.

Mr. SCOTT. Of course that is not what it means.

Mr. ERVIN. No, it means that we have to be honest about this thing, that we have to have the same law in Pennsylvania as in North Carolina. That is what it says.

Mr. SCOTT. And I would add or vice versa.

Mr. ERVIN. It is "vice" in Pennsylvania and "versa" in North Carolina.

Mr. SCOTT. And "versa"—I agree.

Mr. ERVIN. The object of the motion to strike section 211 is to perpetuate a disgraceful practice under which a law of the United States applies in one manner to one section of this country and in another manner to another section of this country.

I say further, Mr. President, that the reason the Department of HEW is opposed to this provision of the bill, which is known as the Jonas amendment and which was introduced by a Representative from my State, is that the Department of HEW wants to be permitted to continue to pervert, to distort, and to prostitute the meaning of the equal protection clause of the 14th amendment, as it has been doing for some years. Moreover, the Department wishes to persevere in the tyrannies which it has been practicing on the South in complete disregard of the Civil Rights Act of 1964.

All of these things are being done under the pretense that they are justified by the equal-protection clause of the 14th amendment.

Notwithstanding all of the jargon of the Department of HEW, and those who wish to preserve its power to practice tyranny on the people of the South, the equal-protection clause of the 14th amendment is one of the simplest clauses in the Constitution.

It says this:

> ". . . No state shall . . . deny to any person within its jurisdiction the equal protection of the laws."

That is a simple sentence. It has a simple meaning. It has been interpreted by the Supreme Court of the United States hundreds of times. What it means is this: It forbids a State to treat differently persons similarly situated.

Putting this limitation upon the States in a positive rather than a negative form, it means that the State must treat all persons in its jurisdiction in like circumstances in like manner.

That is all that the Jonas amendment says. The Jonas amendment says that the schoolchildren of Pennsylvania, the schoolchildren of Minnesota, and the schoolchildren of Rhode Island shall be treated in like manner as the schoolchildren of North Carolina, Kentucky, Alabama, Arkansas, and Texas. That is all the Jonas amendment undertakes to do. And it forbids HEW to withhold any of the funds appropriated by the bill from any school district which is treating all schoolchildren of all races in like manner in compliance with the equal-protection clause. How can anyone who believes in fair and square dealing object to this?

It says that none of this money shall be used by Mr. Richardson, as Secretary of Health, Education, and Welfare to deny to any student because of his race the right or privilege of attending any public school of his choice selected by his parent or guardian. That is a nationwide provision. It says in effect, just as the 14th amendment says, that one State north of the Mason-Dixon Line and another State south of the Mason-Dixon Line shall be covered by the same law, and that as long as they treat all children, black or white, alike, and allow them to attend the schools of their choice as selected by their parents or guardians, Mr. Richardson shall not spend any of the money appropriated by this bill to deny them that right. That is all it says.

Mr. President, not only is this provision in harmony with the equal protection clause of the 14th amendment, it is likewise in complete harmony with the declaration of Congress upon the subject as set forth in the Civil Rights Act of 1964.

I invite the attention of the Senate to section 401 of title IV of the Civil Rights Act of 1964—Public Law 88-352. The section says that, as used in this title, desegregation means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin.

That is just exactly what the Jonas amendment, as set forth in section 211 of this bill, says to the Department of HEW, "No child shall be denied the right to attend any school selected by his parent or guardian on account of his race."

That is what the equal protection clause of the 14th amendment was interpreted to mean in Brown against Board of Education of Topeka, Kans.

That is exactly what Congress said in the Civil Rights Act of 1964.

That is exactly what the Jonas amendment says.

Congress was not content in 1964 merely to say what desegregation means. It says what desegregation does not mean. It says:

> Desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance.

That is precisely what the Jonas amendment provides. It says that the Department of HEW shall not use any of the funds appropriated by this act to compel any child, black or white, to attend any school against his will as manifested by this parent or his guaridan because of his race.

What could be fairer than that? We are supposed to be a free society. This Nation is supposed to have been founded upon the principle that the most precious value afforded by civilization is the right of individual freedom.

There is not a word in the equal protection clause of the 14th amendment that undertakes to deprive any person or any child of his freedom in any respect.

Yet that is exactly what HEW has been doing to schoolchildren in the South.

The equal protection clause of the 14th amendment, applies only to State action. And all that the Jonas amendment does to the Department of Health, Education, and Welfare is to say that the Department of Health, Education, and Welfare shall honor the equal protection clause as interpreted by the Supreme Court in the Brown case and not use its funds to deny to any student, because of his race or color, the right or privilege of attending the public school selected by his parent or guardian.

There is another provision in the Civil Rights Act of 1964, section 407, subsection (a), subsection (2) which declares:

> Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve * * * racial balance, or otherwise enlarge the existing power of the court to assure compliance with constitutional standards.

That is an act of Congress which, according to its language, covers every State in the Union and every schoolchild in the Union. Although the Constitution applies in like manner to all 50 of the States and although the Civil Rights Act of 1964 applies in like manner to all 50 of the States, HEW acts as if we have one Constitution and one law in the States lying south of the Potomac River and another Constitution and another law in the States which lie north of the Potomac River.

The Department of Health, Education, and Welfare does not want to have the Constitution and the law applied equally to this Nation because it is not politically profitable in this particular area to apply the same law to the North that is applied to the South.

So, what do we have? In 1954, de jure segregation in the public schools of this Nation was outlawed by the Supreme Court under a decision which held this, and nothing else, that the equal protection clause of the 14th amendment prohibits a State from segregating children in the public schools on the basis of race.

Congress enacted the Civil Rights Act of 1964 to implement this decision. And as I suggested in my opening remarks, this decision is still in harmony with the latest utterances of the Supreme Court of the United States which declare that the 14th amendment forbids a State effectively to exclude any child from any school solely upon the basis of the race of that child.

Yet we have in the southern States the Department of Health, Education, and Welfare telling the school districts of the South:

> You will be denied Federal funds if you do not bus little children hither and yon and mix them up in such proportions as is pleasing to us.

If that is good for the South, why is it not good for the North? I do not believe it is good for either section. I regret that the distinguished minority leader had to leave the floor. If the distinguished minority leader believes that all States are parts of the same country, he should support the Jonas amendment and thus enable us to have the same law in Pennsylvania as we have in North Carolina.

Is that the kind of country we want? Do we want a country where, although the Constitution reads the same and the statutes of Congress read the same, as though they are applicable in all sections of the Nation, they actually mean one thing in one section of the country and another thing in another section of the country as they are administered by HEW.

Under threats or deprivation of Federal funds by HEW, southern school districts are being coerced to transport children miles and miles from their homes and their neighborhood schools to district schools. In thousands and thousands of cases young children, both black and white, are denied the right to attend their neighborhood schools because someone in HEW, a nameless and faceless person, a person who has never been elected to any office of responsibility, a person who cannot be made answerable to anyone—concludes that they should be denied that right so that they can be mixed racially in district schools to his satisfaction.

I know instances in North Carolina where children have to ride on buses for as long as 2 hours or 2½ hours each schoolday merely to satisfy some bureaucrat's notion that the children should be denied the right to attend neighborhood schools directly across the streets from their homes in order that they might be racially mixed at some distant schools in proportions pleasing to him. It is time Congress takes southern schoolchildren away from HEW and give them back to those to whom God gave them—their parents.

Mr. President, all that the South is asking for in the Jonas amendment is that the Constitution as interpreted in the Brown case, the Constitution as interpreted in the latest decisions of the Supreme Court, and the Constitution as interpreted by all those who believe in equality of right for all persons regardless of their race, be applied to this situation. In other words, we ask that the words be retained in the bill:

> No part of the funds provided in this Act shall be used to formulate or implement any plan which would deny to any student, because of his race or color, the right or privilege of attending any public school of his choice as selected by his parent or guardian.

Mr. President, one of the saddest episodes of our history arises out of the fact that from 1861 until 1865 we had a bloody fratricidal war. The Southern States attempted to secede from the Union. They were told they could not secede from the Union. That was in 1861. There then occurred the bloody and fratricidal war to which I have referred. That unfortunate struggle came to an end in 1865.

Now we are told, in substance, by the motion of the distinguished minority leader that we should not expect to be in the Union on the same basis as the State of Pennsylvania and other States north of the Potomac River—that we should continue to have HEW apply the Constitution and the Civil Rights Act of 1964 in a manner which no northern State would tolerate for itself.

All the South is asking is that the funds appropriated by this bill be required to be expended in compliance with the 14th amendment as interpreted by the Supreme Court in the Brown case, and as interpreted by Congress in the Civil Rights Act of 1964.

I mean no criticism of any of my brethren. I notice, however, that some of my brethren are like the doctor who prescribed medicine for his patients he was not willing to take himself. So they vote to prescribe medicine for North Carolina and other Southern States which they are unwilling to have their States take.

It has been a long time since this unfortunate episode which my geology professor called the "uncivil" war occurred. Since that time people from my State have served and died in the Spanish-American War, people from my State have served and died in the First World War, people from my State have served and died in the Second World War, people from my State have served and died in the Korean conflict, and people from my State are now serving and dying in South Vietnam.

I hope that before I shuffle off this mortal coil I will see North Carolina admitted back into the Union as a full-fledged member and have the laws applied to it just as they are applied to Pennsylvania and other States of the North.

Mr. President, I do not like to make a sectional talk like this. But we have a Constitution that is supposed to be the

same all over the Nation. We have an act of Congress that is supposed to be the same all over the Nation. Yet we see them both being perverted, distorted, and prostituted by HEW in order to impose one thing upon the South which the North will not have. I confess that some of the bureaucrats are sincere but somewhat misguided men. I charge, however, that some of them are actuated purely and simply by political motives.

I sincerely hope that the Senate will reject the proposal to strike this section from the bill. The Jonas amendment is in perfect harmony with our organic law and it is in perfect harmony with fairness and justice and it treats all children of this Nation exactly alike whether they be black or whether they be white. And that is as it should be.

The PRESIDING OFFICER (Mr. JACKSON). The question recurs on the motion of the Senator from Pennsylvania to strike section 211.

Mr. KENNEDY. Mr. President, I have submitted amendment No. 645 to increase Federal student financial aid by $47.9 million for the coming year.

The amendment would increase the educational opportunity grant program to disadvantage students by $17.9 million; the direct loan program by $14 million; and the college work-study program by $16 million. It would aid an additional 65,300 students who might not otherwise be able to attend college or vocational school.

If the amendment passes, total Federal funds for the three programs would be $604.6 million. The Department of Health, Education, and Welfare estimates that the total amount of requests which it has already approved, or expects to approve, is $796 million.

Especially during this time of economic pressure, Federal student assistance is critically needed. Inflation means family budgets are more tight than usual. Rising deficits and growing enrollments leave colleges with less money available for scholarships. It is becoming more difficult to receive guaranteed student loans, and the current shortage of jobs is cutting students out of outside work to help finance their studies.

Passage of the amendment would bring badly needed assistance to students from middle-income families through the direct loan program and through freeing up resources which would otherwise be necessary for low-income students.

It would also be a solid step toward achieving equal educational opportunity. For at present, only 7 percent of undergraduates come from families in the lowest quarter of the income bracket, compared to 48 percent from the top income quartile.

When we consider that the return in Federal taxes is an estimated 14 times greater than the Federal cost of helping to send a youth through 4 years of college, this is a sound investment indeed.

JONAS AMENDMENT

Mr. MONDALE. Mr. President, I rise to support the amendment offered by the distinguished minority leader to strike section 211 of the education appropriations bill.

Section 211, the so-called Jonas amendment, attempts to establish in Federal law a statutory right of "freedom of choice" for all parents and students. It seeks to prohibit funds in this appropriation bill from being used to formulate or implement any school desegregation plan other than a freedom of choice plan.

As such, it directly contravenes the Supreme Court decision in Green against New Kent County Board of Education that freedom of choice plans are not constitutionally acceptable unless they eliminate de jure segregation in the schools. It ignores court decisions and seeks to impose a financial penalty on a school district that is carrying out its constitutional obligations to desegregate. In short, it would require HEW to terminate funds in many school districts which are implementing school desegregation plans pursuant to court order.

In addition, this provision appears to deny the use of Federal funds to school districts which are voluntarily desegregating their schools under any plan other than freedom of choice.

This provision cannot and does not remove the constitutional obligation to eliminate official discrimination in the schools. It does, however, threaten to penalize school districts which are seeking to desegregate either voluntarily or pursuant to court order. It does attempt to deny funds to those school districts that are trying to abide by the Constitution.

Mr. President, this provision contradicts recent decisions reached by each branch of Government. As I mentioned already, it contravenes Supreme Court rulings in the Green case and others. In addition, it stands in direct opposition to the President's statement on school desegregation in which he pledged to support recent Supreme Court decisions requiring immediate desegregation, and in which called for the elimination of official discrimination "root and branch," and "at once." Finally, it runs counter to congressional action only a few months ago in which an identical provision was dropped from the Labor-HEW appropriation bill for fiscal year 1970.

Mr. President, this anti-civil right provision is opposed by the leadership conference on civil rights. It is opposed by the administration. It was defeated less than 3 months in the Senate by a 43 to 32 vote. It should be defeated again today.

This dangerous provision, which Secretary Finch has said would "tie the hands of local officials and encourage defiance of the constitutional obligation to desegregate," is no stranger to any of us. I urge my colleagues to support the amendment offered by the Senator from Pennsylvania (Mr. SCOTT) and strike this provision from this bill.

THE WHITTEN AND JONAS AMENDMENTS

Mr. CASE. Mr. President, sections 209, 210, and 211 are not strangers to the Senate. In slightly modified form, we have seen them repeatedly over the past several years.

All three sections attempt—either through direct legal impact or through confusion—to hamstring efforts to carry out school desegregation required under the Constitution.

Sections 209 and 210, the so-called Whitten amendments, have been revised this year so that they would not alter school desegregation requirements under title VI of the Civil Rights Act of 1964. This title forbids discrimination in the use of Federal funds.

The change made in these amendments this year is that they would prohibit busing of students, abolishment of schools, or assignment of pupils at any school which is desegregated as that term is defined in title IV of the Civil Rights Act. This title excludes racial imbalance from the definition of segregation.

In this connection, it should be noted that the Fourth Circuit Court of Appeals, in a decision in Swann against Charlotte-Mecklenburg Board of Education on May 26, 1970, held that the definition of desegregation in title IV does not limit the power of school boards or courts to remedy unconstitutional segregation.

In other words, the incorporation of the definition included in title IV into sections 209 and 210 does not limit the power of school districts or courts to remedy unconstitutional segregation.

Despite their lack of legal effect, however, sections 209 and 210 could encourage some people, particularly those who have resisted desegregation in the past, to believe that, in fact, there has been a change in the basic law. These sections could serve to confuse local authorities as to their constitutional responsibilities.

I can see no reason to encourage confusion over the constitutional obligations of schools to desegregate and I support the effort to eliminate these provisions from the bill.

Section 211, the so-called Jonas amendment, is of even greater concern to me.

Unlike the Whitten amendments, the Jonas amendment would have a definite legal effect, although I cannot imagine how anyone could consider it to be a desirable effect. The Jonas amendment would deny vital Federal education aid to any school district which goes beyond "freedom of choice" in seeking to carry out its constitutional obligation to desegregate.

In this sense, the Jonas amendment would deny to school boards their freedom of choice as to the best and most effective way to desegregate schools.

The Supreme Court has ruled that these so-called "freedom of choice" plans to desegregate schools are acceptable only if they actually result in desegregating those which were, in fact, previously segregated.

The Department of Health, Education, and Welfare has found that "freedom of choice" plans are not effective in desegregating these districts in the vast majority of cases. These plans often fail to be effective because of fear of reprisals and intimidation and because of social custom which has grown up during centuries of discrimination.

This means that most previously segregated school districts are required by

law and by the Constitution to adopt some desegregation plan other than "freedom of choice."

The Jonas amendment would not change that.

Most school districts still would be required to go beyond "freedom of choice." The difference would be that the Federal Government would not be able to provide any assistance to help them work out their problems.

This would be directly contrary to the effort to provide additional Federal assistance to help our local schools overcome desegregation problems.

I hope that all Members of the Senate will seek to help our schools work out their problems rather than to put additional obstacles in the path of a good education for all children in this country.

Mr. ALLEN. 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. PELL. 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 INADEQUACY OF OVERALL EDUCATION FUNDING

Mr. PELL. Mr. President, as chairman of the Subcommittee on Education, I would like to comment on the level of appropriations recommended to the Senate by the Appropriations Committee.

While congratulating Senator MAGNUSON on the way he has handled the bill and the great heart he has shown when human needs are at stake, even that great heart is not great enough. Then I recall his words when the authorization bill was passed.

I am pleased with this bill for the following reasons:

The education appropriations bill represents a significant increase over the merger sums expended for education in fiscal year 1970; indeed, there is an increment of nearly $1.7 billion.

If enacted into law, this would probably be the largest sum the Federal Government has ever had available to spend on education.

The $4.5 billion which the Appropriations Committee recommends is $700 million more than the Nixon administration requested and $300 million more than the House of Representatives approved.

Nevertheless, I am afraid the gap between what should be spent in education and what is being spent in education remains far too wide. The $4.5 billion recommended represents not more than a third of Federal expenditures authorized for education, which have been adopted by the Congress as a realistic indication of the amount of Federal support.

For example, the Congress has approved an authorization of $4.2 billion for compensatory education for disadvantaged children under title I of ESEA. The appropriation is only 35 percent of the total, that is $1.5 billion, leaving a gap of $2.7 billion.

The Congress has authorized $980 million for a combination of grants, loans, and work-study programs for students who lack the funds for a college education. The present recommended appropriation is $556.7 million, a gap of $473 million, representing only 53 percent of the authorization.

The Congress has authorized $603 million for basic vocational educational grants, and $346 million has been recommended. At 55 percent of the authorization, this represents a gap of $257 million.

The Congress has authorized $30 million for a meager dropout prevention program. Only $10 million has been recommended, a third of the authorized level, a gap of $20 million.

Appropriations only meeting a small percentage of the authorizations level would not be so distressing to me if it were not for the fact that there are some authorizations which are not being funded this year and there are other authorizations which have never been funded.

The Congress has authorized $90 million for the International Education Act, which has been on the books since 1966. This act has never been funded.

Title VIII of the Higher Education Act which authorized $15 million for cooperative arrangements for shared facilities among colleges, title IX of the Higher Education Act which authorizes $13 million for a needed program of fellowship grants and institutional grants for public service education programs, title X of that same act which authorized $10 million for the improvement of graduate programs, and title XI which authorizes $7.5 million for a law school clinical experience program are all higher education programs which have been on the books since 1968 and have never been funded.

Earlier this year the Congress passed a hard-fought bill to extend and expand programs to aid elementary and secondary education programs. This law extended the impacted aid program to school systems burdened by low-income children from federally supported public housing. New authorizations were also added to aid local education agencies and to promote comprehensive educational planning and evaluation on the State and local level. These authorizations have also been left unfunded. A nutrition and health program for schools was authorized. This needed program was left unfunded, although minimal funds for a similar program are perhaps provided for under the vague authorities of the Cooperative Research Act.

Mr. President, I must say I am very concerned about the failure to fund so many programs. It is one thing to limit the funding of an education program to a small percentage of the authorization, but it is practically an annulment of the law not to fund, at all, legislation which the Congress has enacted.

The authorization levels set in the education legislation were not casually adopted. They were set as an indication of the real need on the basis of long hours of hearings held by the Education Subcommittee.

Our failure to fully fund our education programs are mistakes, I am afraid, which will be more costly for the country in the long run than the inflationary impact that increased funding might have.

Without an adequate compensatory education program, the poverty cycle will not be broken. Poor children will continue to fall back in the education process and this will result, in the long run, in further burdens on the welfare rolls.

Without adequate scholarship and loan aid, hundreds of thousands of young people will be denied a college education, and the country will be denied the extra productivity and increased taxes which would be derived from their added education and their resulting increased incomes.

Mr. President, pending before the Senate is a series of amendments to increase funding for different programs by a total estimate of $154 million. These amendments represent a very small percentage of the extra fundings that is needed. While I would like to believe I could offer a successful amendment to fully fund all of the education programs, I realize that possibility can only be a dream. Thus, I would hope and I would urge that the amendments to be offered this evening, or tomorrow, or whenever the opportunity arises, to increase funding be passed and supported in conference. These amendments are the least we can do.

I shall also offer, for myself, an amendment to the fund certain programs which have been authorized but have not been funded.

In conclusion, I would remind the Senator from Washington of the very correct words with which he warned me, when we have had a large and generous, but I think much needed, authorization bill: There is a great difference in amount between an authorization and an appropriation. It is this great difference I would like to see diminished.

Mr. MAGNUSON. Mr. President, the Senator from Rhode Island has an amendment that I am sure both the Senator from New Hampshire and I want to take a look at. If he would refrain from having a vote on it tonight and keep the amendment on the desk for further action, we would be very appreciative.

Mr. PELL. I would, however, ask unanimous consent that the amendment could be printed for the convenience of our colleagues tomorrow.

AMENDMENT NO. 730

The PRESIDING OFFICER (Mr. JACKSON). The Chair wishes to propound an inquiry of the Senator from Rhode Island. Has the amendment been offered or submitted, or was it submitted for printing?

Mr. PELL. I send it to the desk to be printed and lie at the desk.

Mr. COTTON. Mr. President, my understanding is that the amendment is simply laid on the table to be offered later. It is not offered at this time.

The PRESIDING OFFICER. That is correct. The amendment will be received and printed, and will lie at the desk.

Mr. MAGNUSON. However, it will be offered sometime during the debate on the bill.

Mr. PELL. That is correct.

JOHNNIE T. DENNIS, TEACHER OF THE YEAR FOR 1970

Mr. MAGNUSON. Mr. President, on May 19, I was especially honored in being asked to preside over a ceremony in recognition of the Teacher of the Year for 1970. Mr. Johnnie T. Dennis, a high school teacher in the public schools of Walla Walla, Wash., was selected from among thousands of teacher nominees for this signal honor.

A reception and press conference was held over in the New Senate Office Building, it was attended by the Commissioner of Education, other Members of the Congress, educators representing national associations concerned about educational affairs, and through the cooperation of the National Education Association we have a transcript of what took place that day.

I think it is most appropriate that we include these remarks in the RECORD today as we consider the funding for the Office of Education for fiscal 1971. The main thrust of all of these programs under discussion and consideration now is to bring the benefits of educational opportunity to a greater number of recipients, and to raise the quality of educational programs in our Nation.

The remarks of the Teacher of the Year, Johnnie Dennis, are more than appropriate at this time and worthy of our special attention. I would hope that his comments about his own philosophy as a teacher and his responsibilities toward his profession, his students, his community, and our Nation would also be brought to the attention of all who share our concerns about education in America.

Mr. President, I ask unanimous consent that a transcript of this ceremony be printed in the RECORD.

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

RECEPTION AND PRESS CONFERENCE FOR THE 1970 NATIONAL TEACHER OF THE YEAR

Senator MAGNUSON. This is a very happy occasion, particularly for me, because the recipient of this award, Johnnie T. Dennis, happens to come from not only my state of Washington, but a favorite part of my state: Walla Walla. We have with us today Dr. James Allen, Commissioner of Education, and he and I are a little bit weary. We have just finished the Education appropriation, and we hope to take it up in the Senate this week if we can get in between the filibuster that's going on. He and I thought we did mark up a pretty good bill; it's one that everybody can live with, but the main thing is we are going to get it down to the White House before the first of June so that you people will know what you're going to have to work with in the coming year, and not get involved like we did last year when it went on and on and on for months.

Now, Dr. Don Dafoe, Executive Secretary of the Council of Chief State School Officers, is here also to honor the recipient, and Mr. Jack Squires—where is he? Oh, there you are—who represents Look magazine and also represents Mr. Attwood their Editor-in-Chief who is sponsoring a part of this program. Also from the State of Washington, Dr. Chester Babcock who represents State Superintendent Louis Bruno. I understand Dr. Babcock nominated Johnnie for this award, is that correct?

Dr. BABCOCK. State Superintendent Louis Bruno made the nomination.

Senator MAGNUSON. And then we have, of course, Mrs. Johnnie Dennis. Will you stand up so everybody can see you? There she is.

And her daughters, Deanna and Maureen. They are both here. And two sons Charles and Kevin. There are two of them that look like Title I students to me. And then Johnnie's brother and his wife, Warrant Officer Joseph Dennis and Mrs. Dennis from Fort Meade. You're stationed over there, aren't you?

JOSEPH DENNIS. Yes, sir.

Senator MAGNUSON. All right. And then, as you know, the members of the Selection Committee who screened the 53 state teachers of the year who were candidates for the 1970 award. They selected 5 finalists from those, and they then picked our recipient here today. Johnnie T. Dennis. Now, are they here? The Selection Committee—stand up, those that are on the Selection Committee.

Thank you very much.

Now, we have many other members representing the educational field. I am going to ask Dr. Allen, if he will, to come up. We've a little biography of Johnnie Dennis, and I think people would be glad if you would read that for us.

Congressman Meeds of my state, who just came in, does very able work over in the House in the education field. He's a member of the committee.

Dr. ALLEN. Thank you very much, Senator, Congressman Meeds. I am pleased that you have included me and given me the honor to be included in these ceremonies. I want to say to the Senator that I never get weary of coming up and meeting with him and his committee when we are talking about more money for education; and as long as that can be possible I'll keep on coming, and I am always very pleased and very proud to have the opportunity to appear before him and his committee because of the deep interest he takes in the field of education.

I certainly want to extend my congratulations to Mr. Dennis on this recognition and high honor, of being the teacher of the year. And I congratulate the committee that selected him and the school system of Walla Walla where he has served so well. I am delighted to see his family here, and I just assume that the children have good excuses to be out of school today, but we welcome them here to Washington. And I extend also to you the welcome and congratulations of the Administration.

When we honor a teacher in this country, in any country, we honor the best among us. And we don't do enough, it seems to me, to recognize the great teaching force we have in this country, and the many, many fine teachers that daily serve millions of young people in our schools, in our colleges. So that I am delighted that the Council of Chief State School Officers and Look magazine jointly sponsor each year this selection of Teacher of the Year, one whom we can honor, and in honoring him, honor the great profession of teaching and the wonderful school system that we have in this country.

The man we honor today is a man who not only teaches the disciplines of the academic world, which prepare our students to meet the challenges of making their livelihood, but also help to equip them with the ability to grapple with the social environment in which they may exist in order to apply the formal knowledge they take with them from the classroom.

The son of a Mississippi sharecropper, Johnnie first moved to Walla Walla, the home of his wife Shirley, to attend Whitman College, receiving his B.A. degree in 1960. This was followed in 1965 by his M.S. degree in combined sciences which he earned at the University of Mississippi. For the past six summers, Johnnie has won National Science Foundation grants, being one of twelve high school science teachers in the nation chosen to participate in high energy physics research at the University of California Lawrence Radiation Laboratory during the past two years.

Johnnie's free time is spent narrowing the student-teacher gap, holing up with his children and with family projects in improving the quality of education in Washington state. This year, as we have indicated, he was also selected as the Washington Teacher of the Year. And, as I am sure the Senator would like for me to say, the Washington Congressional Delegation are proud to honor Johnnie.

Senator MAGNUSON. I was going to say that, but you can say it.

Dr. ALLEN. Well, I'll let you say it, and I'll let you carry on from here. I will just close by saying that it is an honor indeed for me to be here and to congratulate Johnnie and to congratulate all who had a part in his selection, and to wish you a good four days here in Washington. I look forward to seeing you at the White House later on this afternoon.

Thank you.

Senator MAGNUSON. Dr. Babcock was supposed to introduce Johnnie Dennis' family, but I took advantage of him and did it ahead of you. But we also have here Mrs. Dorothy Ann Dennis Wright, Johnnie's sister, and her husband, Dan Wright. We would like to see you.

Congressman Meeds, who plays an important part in the field of education, is a member of the House Committee on Education, is here, and I want to ask him if he would like to not only honor our recipient here today but say a few words about education.

Congressman MEEDS. Thank you, Senator Magnuson. Mr. Commissioner, Johnnie Dennis, other people involved in the selection, ladies and gentlemen. It is a pleasure for me to be here today and to participate in honoring Johnnie Dennis who has brought great prestige and honor to our state by winning this award.

We sometimes think that we in politics, Senators and Congressmen, that we greatly influence what happens in the world and in America (and I am sure we do), but I think there is no one that influences what happens in America and the world more than a good teacher. Because of the depth of the relationship, the time the teacher can spend with a student, it seems to me that a teacher has, next to a parent, the best opportunity to enrich the life and enhance the livelihood of a student

And so, in the final analysis, I am sure that good teachers are the ones that really make impressions upon young people's lives and we're greatly indebted to you, Johnnie, for not only winning this award but mostly for being a good teacher.

Senator MAGNUSON. Johnnie, as long as you come from the state, I am going to ask Dr. Babcock to say something here.

Dr. BABCOCK. Thank you, Senator Magnuson, Congressman Meeds, Mr. Commissioner. I think I need not say that we are extremely proud, Johnnie; we are also extremely proud, as I am sure the gentlemen are from our state, that this is the second occasion on which the nation's Teacher of the Year has come from the State of Washington.

I was glad to hear Senator Magnuson mention the children. Kevin, the older one, is a straight-A student from kindergarten, and he is now in junior high school, and he is here with a very guilty conscience because he was not just quite sure he should miss a week's school. But after conferences with his teachers, it was decided it would be all right. Kevin, we hope you have conquered that guilt complex which you brought with you.

We're very proud of this young teacher, this young man, because he represents, I think, the kind of leaders that our young people need today. And so I join all the rest of you in extending congratulations to

Johnnie Dennis as Teacher of the Year. Congratulations, Johnnie.

JOHNNIE DENNIS. Thank you.

Senator MAGNUSON. Now, Dr. Dafoe, do you want to make some introductions of people in the national organizations who are here to honor Johnnie?

Dr. DAFOE. Well, I think, Senator, we will just let you proceed with the press conference pretty soon, and then at the end we will bring those people up. I would just like to make a comment. We have Jack Squires from LOOK—representing William Attwood as you mentioned. We are proud to be associated with Look magazine in this program which emphasizes teaching excellence. This is the nineteenth year; this is the tenth year that we have been associated with Look.

We think what it honors is the superior ability to inspire love of learning in children regardless of backgrounds or abilities. Johnnie Dennis possesses that attribute, and we honor him today as the symbol of what is right with American education.

Senator, we will let you proceed with the press conference; at the end we will call on these people representing the national organizations.

Senator MAGNUSON. Thank you. Now if we have forgotten anyone we will get to you later, but I think we all want to hear from the man we honor today. Again, we're all proud of your work; and I needn't emphasize, as Dr. Allen mentioned, the importance in this country in these times for the kind of teacher that you typify. It is so important your story will be widely told, but I am sure you have a few remarks to share with us today.

He says that he is a little nervous, but I doubt that.

Let us know how you feel about receiving this award, number one; and how happy we all are to have your family here and those who have worked with you and your own people from the state that have worked with you. And after that, some one may ask you a few questions, and I am sure you can field those.

So, Johnnie, we're proud to have you here, and we want to welcome you.

(Applause.)

JOHNNIE T. DENNIS. Thank you, Senator. And it isn't every day, I think, that a fellow from what the magazines say is from Owl Hollow, Mississippi gets a chance to talk to such distinguished gentlemen and guests.

I am thankful for this opportunity to share with you some of my ideas, but first I want to express my personal appreciation to the Council of Chief State School Officers and to Look magazine for their concerted efforts in perpetuating this recognition program which focuses the attention of the nation on the policy side of education once each year by this symbolic award, the National Teacher of the Year.

I am sure the finalists in the awards program this year, Mrs. Roberta Alward from Alaska; Mr. James Braboy from South Carolina; Mrs. Trudy Plummer of Ohio; and Mr. Theodore Molitor of Minnesota, as well as the teachers of the year for 1970 from the other states and U.S. possessions, join me in saying thank you.

You might wonder what it is that labels a person to be given such an award. Well, I'm not quite sure. I'm just thrilled to death with it, but I can say that in my case it's not the result of pulling one's self up by his bootstraps. It is a combination of many things. I'd like to mention a few.

One is a concern for my relationship with my God. Two, a beautiful wife who is truly a helpmate and four lovely children who have been very patient with a father who finds himself working many evenings away from the family. Three, good teachers everywhere who have helped me during conferences throughout the United States through participation with them in National Science Foundation institutes, and then our local and state organization. Four, local and state administrators who have helped us develop a good working relationship, teachers with administrators. And five, a very important part: the interested citizens of the state and local community who provide suggestions and the funds to make the educational program a reality.

As we respond to all of these positive factors, all teachers can share in this award as teachers of the year. I think the primary concern here, however, is that of the students in our classrooms and in particular mine. I will attempt to outline some of the general ideas that I use and try to reveal to you some of my philosophy and hope that it will stimulate specific questions from you so that I can be at my best when I am fielding questions as opposed to lecturing. This is just not my cup of tea.

Believe it or not, kids in high school today are just like those we knew when you and I were in school. They are human and need to know that someone cares; not only by provision of funds, nice classrooms and good programs, but by individual attention each day and the reassurance that all is not lost if he fails. As a physics teacher, I use my subject matter as a vehicle to determine the needs of my students to the best of my ability, and to attempt to provide for those needs, and I do not treat the subject matter as an end of itself.

As teachers we attempt to do a twelve-month job in nine months as we work to help the students identify their strengths—God knows they are made well aware of their weaknesses from many other areas. We try to help the individual realize as much success as possible each day by continuing to impress upon him the importance of his solutions as a result of his own physical and mental activity.

The student is encouraged to outdo himself in mastering a skill or completing a task, as composed to competing with the brightest student in the classroom. The students are challenged to consider statements like "They are perpetuating the problems," and "They could end hunger in the United States." We ask the student if he is not a part of that nebulous "they" who always receives the blame.

We encourage the students to consider the power of individual action and discourage the lip service offered by many people concerning, one, the needs of the poor; two, the needs of those who are hungry; and three, the needs of those who do not have sufficient medical attention. We challenge the student to demonstrate his concern through positive action, whether he is given credit for his action or not.

Recently a group of our students took part in a controversial "hunger walk." This was sponsored by the local Lutheran churches in our community. The students took a hike for money for the hungry people, both in the United States and elsewhere. I don't think I've ever heard as much talk about the number of people in our country that are hungry as I did after the hunger walk. But there was a great deal of criticism, because some people can't see why in the world a person takes the time just to walk for the hungry; something positive should be done; something should be gained. But I think these students made a tremendous contribution.

Another example of this positive action that I mentioned is that by a group of Walla Walla college students who worked repairing and painting a structure in the city park while receiving a lecture and a barrage of hand bills from a group which yelled at them as they worked about the ills of the country. There are those who talk and those who act. I encourage my students, as much as I possibly can, that it is the individual action that is important.

This is the kind of action—the kind that I have just related—that I interpret as the result of responsible educational programs, not indoctrination but education.

Well, you might wonder what all this has to do with teaching science and mathematics. My students tell me that this is what it's all about. If they can associate basic concepts of physics and mathematics with the awesome unknown life that they face daily, they begin to feel the urgency to master needed concepts today. Sure, they are interested in tomorrow, but their primary interest is today, and building on the successes of yesterday and refraining from destroying all tomorrows.

Thank you.

(Applause.)

Senator MAGNUSON. Now, if any of you have any questions you would like to ask our recipient today, he'd be glad to answer them.

Mr. DENNIS. Attempt to answer them, yes, sir.

QUESTION. I have a rather personal, profound question. You are a native of Owl Hollow, Mississippi. Whatever prompted a man to move from a place like Owl Hollow to Walla Walla?

Mr. DENNIS. Well, first of all, I might clear something up. This statement Owl Hollow came from a biographical sketch I made myself, and I was really born in a near little town called Reinzi, Mississippi. That's about fourteen miles south of Corinth, and there were a couple of houses up in a little canyon and my parents fondly refer to this little canyon as Owl Hollow or Owl Holler, so suddenly there is a place in Mississippi called Owl Hollow and I am sure the Mississippi people are going out of their minds trying to find it.

But as far as what prompted me to leave that country, I really love the South but when I graduated from high school I wasn't able to get a job so I joined the Navy. And I found in the Navy that people felt a little differently about individuals. They encouraged us to develop our own abilities and to use them to the best of our ability and I kind of liked this. This is in the educational program of the Navy. And I met a lot of high school students who were coming into the Navy who needed training in the skills that are offered in the Navy. I liked to work with these people, and I felt that I would like to make teaching my life work.

As a young man, by the way, I grew up in Florence, Alabama. This is where I went to grade school and high school. As a young man, I didn't feel that I had much of a chance to go to college because of the lack of funds, and fortunately the Navy provided me with this opportunity to go to college and to become a teacher. And I try every day to show how grateful I am by doing the best darn job I can do each day.

(Applause.)

Senator MAGNUSON. Anything further? Yes.

QUESTION. In your own words, sir, what one attribute would you say distinguishes the really good teacher from the mediocre teacher?

Mr. DENNIS. Well, first of all, I have never met too many mediocre teachers. I think our teachers in the United States are very good teachers. My students tell me that the thing that makes them want to take my class—I'll put it that way—is that I have a concern for the individual and am truly interested in their problems and try to deal with those problems over my lunch hour, in the evenings, whenever I can get together with them.

Senator MAGNUSON. The lady in the first row there.

QUESTION. The newspapers are filled with stories of student unrest and teen-age riots and so on. Do you have these problems in your school, and also how do you feel educators in your school should deal with these?

Mr. DENNIS. That's a pretty big order. I think that these problems are in evidence everywhere, not only in the big city but in the small school; and I think administrators and teachers can deal with this problem best if they make every attempt to understand what got the problem started. And I think there are a lot of programs—there are at our local level—that are being tried to occupy the student with something that he is interested in—to make education more relevant as a partial answer to the demands of the riots.

But I think that we also have to be very careful about the very small percentage of people who are making what some people might call outrageous demands. We have a responsibility to all the children of all the people, and this is the thing that administrators as well as teachers have to keep in mind at all times.

Senator MAGNUSON. The lady in the back.

QUESTION. I think you partly implied an answer to my question. But after Sputnik there was a tremendous upsurge toward science and the study of science in our schools. Now there seems to be a veering away from space and science, and I was wondering whether you think there are going to be fewer students who select science now rather than humanities, and how do you, as a science teacher, balance these out?

Mr. DENNIS. Well, we have a humanities course in our school, just initiated a couple of years ago, and we are making every effort to show the students that science is going to play a big part in the humanities program of our society in the future. And, as I mentioned in some of my comments, I think the students have to be aware of the development of some of the scientific attitudes as the result of development of society; and that maybe if we are creative enough we can use our knowledge of science to help solve some of the problems I mentioned here earlier. Our science students are very much concerned in the humanities also.

Senator MAGNUSON. Any further questions? Well, again, we all congratulate you, Johnnie. He is to be honored this afternoon by the President of the United States at 3 o'clock. I can't invite you all down there, but I imagine some of you will be down there when he receives this honor from the President of the United States.

Correction—Mrs. Nixon is going to be there and give the honor.

So I want to thank you on behalf of the Washington delegation for coming here today, Dr. Allen and Dr. Babcock; particularly my congratulations to Look magazine for what you are doing in this field. I think it's a stimulating thing. And surely the example that Johnnie Dennis gives to the other people in this profession is well worth all the effort . . .

JACK SQUIRES. I would like to announce that our editor-in-chief, William Attwood is en route here now. He is at White Sulphur Springs at an important convention. We expect him momentarily and if anybody is present at the later ceremony we would love to have you meet him and talk to him.

Senator MAGNUSON. You go right ahead, Doctor, with the other awards.

Dr. DAFOE. We have some special awards for Johnnie, and while people are getting up here, Senator, if I may add a note, I was cheered to hear your remark that you hope things will all be cleared by the first of June. That's going to make a much easier summer for some of us . . .

The first special recognition to Johnnie Dennis will be made by Dr. John Mayor, Director of Education, American Association for the Advancement of Science.

Dr. MAYOR. Senator Magnuson, Dr. Dafoe, and Johnnie Dennis, I am proud to have the privilege of presenting you a membership in the American Association for the Advancement of Science. And this certificate, a part of which I would like to read has a heading American Association for the Advancement of Science:

"This is to certify that Johnnie T. Dennis was elected a fellow of the American Association for the Advancement of Science. In testimony whereof, the President and the Executive Officer have hereunto set their hand and the seal of the Association the 19th day of May, 1970."

From the evidence we have, Johnnie, you represent the best of America and the best of education. You are very young, you have only started your career, may this be a beginning, and the best of luck. We need you in science education.

(Applause.)

Senator MAGNUSON. Dr. Dafoe said I could interrupt here just a moment. Two distinguished members of the Washington state delegation just came in, and I want to introduce first Congressman Tom Foley from the eastern part of Washington. And then I am going to ask Catherine May to pay her respects to her honoree today because she represents his district and she is quite familiar with the school system in Walla Walla. Catherine May.

Congresswoman MAY. Thank you. I am very honored naturally to be able to claim in my district your wonderful young gentleman here that we have known about in my district for some time: Johnnie Dennis has been famous here. And to have him made National Teacher of the Year of course brings honor to all the people of our district. But much more important, Johnnie, to all the people of our state and to all the teachers in the United States. That's all I wanted to say; I didn't want to take a lot of time within the ceremonies but I appreciate the chance to congratulate you personally on behalf of all the people of our state. Thank you.

Senator MAGNUSON. Tom, do you want to join here a minute and pay your respects to the Teacher of the Year?

Congressman FOLEY. Well, I am sorry that I can't claim the privilege that Mrs. May has of representing Mr. Dennis and having him as a constituent, but I am going to expand it a little bit and claim you from eastern Washington, not only from the state but from the half of the state that both Mrs. May and I represent.

The importance of the teacher as the key and central professional in our society, I think, is clear to everyone. What sort of society are we going to have in the coming decade will largely depend on the quality of our education, and nothing is more central to that than the performance of our teachers.

We are delighted from the Washington State Delegation to have the signal honor of having the Teacher of the Year come from our state. We know that he represents the best in educational performance, and we know that he is repeated many hundreds of thousands of times around the United States by teachers in all of the state; so I add to Mrs. May's congratulations my own very warm congratulations on this very happy occasion.

Dr. DAFOE. I am going to lay a little of that claim too. I went to school at the University of Idaho just across the border a few years back. We're proud, too.

Next I'd like to call on Mrs. Joe Ann Stenstrom, Assistant Executive Secretary, American Association of School Librarians. Mrs. Stenstrom:

Mrs. STENSTROM. Senator Magnuson, members of the Washington delegation, Dr. Dafoe and Mr. Dennis. I too am very personally pleased to be able to present you an award, because I am also from Washington state. I would like to present to Mr. Dennis on behalf of the American Association of School Librarians this book published by the American Library Association entitled "Books by Junior College Libraries." We highly recommended this for use with high school students in program such as those in which Mr. Dennis in involved; and we hope that he will find it a useful guide to selecting sources of information for both he and his students. It is inscribed to you, Mr. Dennis, as Teacher of the Year. Our sincere congratulations.

Senator MAGNUSON. Dr. Dafoe is going to get a little bit weary of me interrupting here, but we have two other distinguished members of our delegation here, Johnnie, and I am sure they want to add their congratulations to your honor which you are going to receive today; and so I want to call on my distinguished colleague, Senator Jackson.

Senator JACKSON. Well thank you, Senator Magnuson. I regret we've got a hearing on that I am chairing down below. I was unable to get here until just now. From a personal point of view, I, of course, have nothing but the highest and greatest respect for the teaching profession. My oldest sister who passed away recently taught in the third grade in the Garfield School in the same classroom without interruption for 43 years. I think that's sort of a record, and I grew up in the tradition and therefore have a tremendous respect for those who follow this important profession.

I am reminded of just one example of the obvious importance of the role played by the teacher. In Budapest, Hungary, prior to World War II, there was a distinguished teacher of mathematics. This teacher had a profound influence on his pupils. This teacher was dedicated to excellence, and out of that classroom came five of the world's most famous scientists who have played an invaluable role in the security of our country and the free nations.

Out of that classroom was Dr. Theodore Von Neumann, the world's most famous mathematician; Dr. Theodore Van Karman, the world's most famous aeronautical engineer; Dr. Leo Szilard who played such an important role in the Manhattan Project; Dr. Eugene Wigner who is now at Princeton who played, and is playing, such an important role in the development of nuclear power plants. I don't know whether I named four or five—four?—there is one missing, but obviously he is famous.

I mentioned Theodore von Neumann—John von Neumann, Theodore von Karman, Leo Salard—well, Edward Teller, the father of the hydrogen bomb. This can of course be repeated in other areas of human endeavor, but I think in all of our concern about priorities, all of our concern about making a better society, we still it seems to me have a long way to go in providing for proper recognition for our teachers.

In Europe the most important person in the community is the professor. We have yet to reach that point of recognition, and I think that if America is going to play its proper role in the world we need to do more than what we have already done in giving to our teachers and the profession the recognition they deserve. So I want to express my congratulations to Mr. Dennis and his family for what he has done and what he is doing. More than that, I want to commend him for his good judgment, after having been exposed to Whitman College in making the northwest his residence.

Senator MAGNUSON. I might suggest, Johnnie, just wait till they start coming out of Walla Walla. Congressman Hicks is here and I am sure, Johnnie, he wants to also congratulate you on this high honor.

Congressman HICKS. Thank you, Senator.

It's a little difficult following Senator Jackson, but I am sure Mrs. May when she spoke told you that she spent some time teaching school. I spent a little longer; I spent seven years; and the reason that I left the classroom was that I didn't think that I was doing the job that should have been done for these youngsters. I have seen some very excellent teachers in the junior high schools and grade schools of our state and I have seen some very mediocre ones.

While I agree with Senator Jackson that in education, school teachers have not always received the recognition that they should, on the other hand you can't take mediocrity and freeze it into the system either. There are some wonderful things that can be done by really good teachers; I have seen them done. And there is some real harm that can be done by those who are there who meet the old adage of "those who can do, and those who cannot, teach;" and that's just wrong, but it's been true enough so that it gave such an adage currency.

I am more than pleased to do honor to a really fine teacher. Thank you very much.

Dr. DAFOE. Dr. Wallace A. Brode, Past President, American Chemical Society.

Dr. BRODE. Senator Magnuson, Senator Jackson . . . Johnnie, I take great pleasure in representing the Chemical Society here to present to you subscriptions to two of our magazines on chemical education, one which is designed for the high school student and the other for the high school teacher. I present this to you with my great congratulations. I can't help but add, however, that but by pure laws of chance and coincidence I was born in Walla Walla. I was selected to do this, representing the American Chemical Society, without knowing—they didn't know this—that I was to talk to a man from Walla Walla. I graduated from Walla Walla High School 53 years ago, and I graduated from Whitman College, so I think I truly represent the community and our Congresswoman in extending our congratulations.

May I add one other point which was brought up in the discussion here asking about whether people were turning away from science. There are more young people turning away from science, more young people, than ever before. And there are more young people turning toward science than ever before, just because there are more young people.

Dr. DAFOE. Dr. Howard Hitchens, Executive Director, Department of Audio-visual Instruction, NEA.

Dr. HITCHENS. Senator Magnuson, members of the Washington delegation. I am very pleased to represent the Department of Audio-visual Instruction, Mr. Dennis, in doing honor to you upon your selection as teacher of the year. I represent about 10,000 people who are out of the field of educational technology, and as a small token of the honor which we do you, we would like you to accept a year's subscription to our magazine, "Audio-Visual Instruction." Congratulations.

Dr. DAFOE. James D. Gates, Executive Secretary, National Council of Teachers of Mathematics. Jim.

Dr. GATES. Senator Magnuson, members of the Washington delegation, Dr. Dafoe. It gives me great pleasure to be here representing the National Council of Teachers of Mathematics to express my congratulations to you, Johnnie, as a science teacher and also a teacher of mathematics. It's extremely meaningful to us that a teacher of mathematics was selected during this year, the year 1970, because this is the year we are celebrating as our Golden Jubilee Year. Our theme this year has been "Excellence in mathematics education for all." So it is very gratifying, Johnnie, to hear you remark earlier that you would express great concern that we take into account the individual differences, the concerns of every student.

I'd like to read our Certificate of Merit: "The National Council of Teachers of Mathematics: This certificate is presented to Johnnie T. Dennis in recognition of exemplary contributions to the improvement of mathematics education. Teacher of the Year, 1970."

Congratulations, Johnnie.

Dr. DAFOE. Ralph Gray of the School Service Division of the National Geographic Society. Mr. Gray.

Mr. GRAY. Johnnie, the popular song says that what the world needs now is love, sweet love; but I believe that even as much as that is true, what the world needs now is teachers, good teachers. It's a great honor to share this stage with one of the best teachers, a teacher who has been accorded the accolade of being the Teacher of the Year; and as a token of the esteem of the National Geographic Society we want to present you with an honorary subscription to the magazine for the future, beginning with the May issue, which has a couple of science articles in it. Maybe not exactly your mathematical end of science, but there is one artcle about archeology and anthropology in Africa; and another one on natural history in this country.

We hope you will enjoy this through the year, as I know you will enjoy all the other honors that have been bestowed upon you today. And I would like to say that our editorial hats at National Geographic are off to Look magazine for maintaining this fine project of honoring a Teacher of the Year for each year. Johnnie, congratulations.

Dr. DAFOE. Dr. Thomas D. Fontaine, Deputy Assistant Director for Education, National Science Foundation.

Dr. FONTAINE. Senator Magnuson, members of the Washington delegation, Dr. Dafoe. It is a special pleasure for me to be here. I think I will try to rival to some extent our good friend Dr. Brode here. I welcome you, Fellow Mississippian. I am very appreciative of the fact that you explained where Owl Hollow was, because I had placed it in certain low hills where I was born.

In addition to this, of course, I think this is very nice on the 20th anniversary of the National Science Foundation that we have such a distinguished recipient this year for the teacher who represents the best, I am sure, in science and in mathematics. I would also at this moment too like to pay tribute to Senator Magnuson, who I am sure many of you know has really been the father of the National Science Foundation. So I think Senator Magnuson should take a special pride in the fact that his wisdom and the shepherding the National Science Foundation through many of its trial periods has paid off in such a significant way.

It was in 1954, Senator Magnuson, that the first summer institute for high school teachers was held in the state of Washington at the University of Washington. So it is with special pleasure I present to you, Johnnie, an investment in knowledge, which is the History of the Summer Institute Program of the National Science Foundation. Congratulations.

Senator MAGNUSON. I want to, before we adjourn, remind everyone that there are refreshments and coffee . . . I am sure that all of you want to meet Johnnie's fine family over here. We thank you all for coming. It's an event I am sure you wouldn't want to miss. So we stand adjourned. Thank you.

Mr. MAGNUSON. May I inquire from the Senator from Alabama if he has an amendment pending?

Mr. ALLEN. No. The amendment pending is the amendment of the Senator from Pennsylvania and, at the proper time, I wanted to address a few remarks to that amendment.

Mr. MAGNUSON. Mr. President, may I make an inquiry? I am doing this for many other Senators who have asked me, and I have not been able to answer. Will we have a vote tonight on either the Whitten amendment or the Jonas amendment?

Mr. COTTON. Mr. President, the Jonas amendment is the amendment pending.

Mr. ALLEN. The amendment to strike the Jonas amendment.

Mr. MAGNUSON. Perhaps the Senator from Alabama could help me determine if there could be any votes tonight.

Mr. ALLEN. I would not know. I had planned to address a few remarks to the amendment. I do not have a prepared address. It would be flexible, depending on the situation.

Mr. MAGNUSON. Would it be flexible short or flexible long?

Mr. ALLEN. That would depend.

Mr. MAGNUSON. That would depend. Then I cannot give my colleagues any definite answer right now.

Mr. ALLEN. Not at this time.

Mr. MAGNUSON. I thank the Senator.

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

Mr. KENNEDY. I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, if it meets with the agreement of the manager of the bill and the ranking minority member, I suggest that they consider adjournment, with the proviso that when the measure under consideration becomes the pending business again tomorrow night at approximately 5 o'clock, the distinguished Senator from Alabama (Mr. ALLEN) be recognized.

Mr. MAGNUSON. That is agreeable to me. Is it agreeable to the distinguished Senator from New Hampshire?

Mr. COTTON. Yes.

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

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

ADDITIONAL COSPONSORS OF BILLS

S. 3311 AND 3312

Mr. KENNEDY. Mr. President, on behalf of the Senator from Maryland (Mr. TYDINGS) I ask unanimous consent that, at the next printing, the name of the Senator from Michigan (Mr. HART) be

added as a cosponsor of S. 3311 and S. 3312, providing crime insurance to inner city businesses and homeowners.

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

OFFICE OF EDUCATION APPROPRIATION ACT, 1971—AMENDMENTS

AMENDMENT NO. 729

Mr. SCOTT proposed an amendment 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.

(The remarks of Mr. SCOTT when he proposed the amendment appear earlier in the RECORD under the appropriate heading.)

AMENDMENT NO. 730

Mr. PELL submitted an amendment, intended to be proposed by him to the bill (H.R. 16916), supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 731

Mr. KENNEDY submitted an amendment, intended to be proposed by him, to the bill (H.R. 16916), supra, which was ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 645

Mr. KENNEDY. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Oregon (Mr. HATFIELD), and the Senator from Michigan (Mr. HART) be added as cosponsors of amendment No. 645, to H.R. 16916, making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes.

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

AMENDMENT NO. 700

Mr. KENNEDY. Mr. President, on behalf of the Senator from Minnesota (Mr. MONDALE), I ask unanimous consent that, at the next printing, his name be added as a cosponsor of amendment No. 700 to 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.

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

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in adjournment, in accordance with the previous order, until 10 a.m. tomorrow.

The motion was agreed to; and (at 7 o'clock and 49 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, June 24, 1970, at 10 a.m.

NOMINATIONS

Executive nominations recessed by the Senate June 23, 1970:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Donald G. MacDonald, of Vermont, to be an Assistant Administrator of the Agency for International Development, vice Maurice J. Williams.

DEPARTMENT OF DEFENSE

Louis M. Rousselot, of New Jersey, to be an Assistant Secretary of Defense, new position.

EXTENSIONS OF REMARKS

VISIT TO WASHINGTON BY SIXTH GRADE STUDENTS OF CANTON SCHOOL INSPIRATION FOR PLAY

HON. EDWARD A. GARMATZ

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1970

Mr. GARMATZ. Mr. Speaker, many Members of the House and Senate make arrangements for the various school groups from their districts, which come to Washington usually during the spring session. It has been my belief for some time that a visit to Washington and an opportunity to see Congress in action is well worth a day's absence from school, when the students are old enough to understand what they are seeing and hearing.

Proof of the advantages of such a visit was furnished in a letter I received from Mr. Donald M. MacLean, the teacher of a sixth grade class at Canton Elementary School in my district. Their visit furnished the inspiration for a play, written by them, and presented at their graduation exercises.

The letter and the play are included herewith and I am sure they will help the Members to realize how much knowledge is gained on these visits.

CANTON SCHOOL,
Baltimore, Md., June 16, 1970.

EDWARD A. GARMATZ,
Congress of the United States, House of Representatives, Washington, D.C.

DEAR SIR: It has been a most rewarding pleasure and experience to have taken a class from Canton Elementary School 230 to visit Congress and your own office. The booklets and the tour were most appreciated by all students as well as the adults who supervised the trip. My class wrote a play after they returned (June 2) and we did include you in it. Today my class had their graduation exercises and the play was a great success. We feel that you contributed a great deal to their thought and program. Most every child had one parent and many children had two parents present. You will see in reading the play that you were influential . . . many parents will remember you and the good that only you have done for these children. I do wish you could have been here today to see the results; they were magnificent. If possible, I shall return next year with the hope of educating more children in the fine way that you offered . . . one that is most exceptional and rewarding. All children have received the pictures and they are delighted. Michael Gapa has received his picture this morning, via my address since it was remailed by you.

Read the play. Give a copy to each of those fine gentlemen who assisted us on the tour. They were marvelous. The boys and girls will never forget this wonderful trip and the literature and pictures they received. I must say that I am grateful, too. My wife and I both thank you most heartily. May you have many more years of service, as long as you desire, in Congress. God bless you. A real big, BIG "thank you" to Miss Tracey.

Respectfully,

DONALD R. MACLEAN.

PLAY BY SIXTH GRADE OF CANTON ELEMENTARY SCHOOL

JANICE. Mr. MacLean's Class presents some facts and skits on the importance of Canton and its activities in the community.

CHORUS

(Margaret, Janice, Kathy, Carmella, and Linda) All verses sung to the tune of "He's Got the Whole World in His Hands"; original lyrics by Margaret, Janice, and Kathy.

VERSE 1

"We've got sun and rain on our land,
We've got sun and rain on our land,
We've got sun and rain on our land,
To raise our crops on Canton's land."

VERSE 2

"The Canton Railroad is the best,
The Canton Railroad is the best,
The Canton Railroad is the best,
Bringing products from East to West."

VERSE 3

"We've got the world's trade in our port,
We've got the world's trade in our port,
We've got the world's trade in our port,
Bananas, cans, steel, and sugar in our port."

DANIEL J. One hundred eighty-five years ago this August Captain John O'Donnell sailed into Baltimore Town with a cargo of silks, satins, tea, china, and other Oriental goods. The crew was mostly Chinese, Malaysian, Japanese, and Moors, natively dressed. This was the beginning of trade with the Far East which became so valuable to Baltimore. From the profits, Captain O'Donnell purchased a large plantation of two thousand acres with three miles of waterfront. He named this estate "Canton" since his cargo had come from Canton, China. The land was bounded on the west by Alice Anne Street, on the east by Haven Street, on the North by Fait Avenue, and by the waterfront on the south. The name of Canton has stuck with this community ever since. The fame of Baltimore as a world port has never diminished.

(Skit.)

DANNY K. Sugar is imported through the port of Baltimore in great quantities from the cane fields of Cuba, Puerto Rico, and Central America. It is refined in Canton and shipped out by rail.

GARY. Canton is famous for shipping goods to all parts of the world. Ocean steamers carry many things such as steel products, bananas, canned goods, tea and spices, and cars from Japan.

CHARLES. Our merchant marine does a great job and Canton has a great responsibility both in sending and receiving goods.

DANNY K. Look at all those cans made here in Canton! They will be used as containers for beer, corn, tomatoes, crab meat, and other products made here.

CHARLES. Our can companies will always be in business.

GARY. We'll keep business at the highest record ever.

DANNY K. Lunch is over! Let's get back to work. We must get these cans shipped today. That sure was good coffee for lunch.